



# Council Member Appointment to External Board

Responsible Officer	Chief Executive Officer
Relevant Delegations	Manager Corporate Services
Legislation and References	Local Government Act 1999

## Civil Liability Cover

For the purpose of compliance and in accord with s142 (3) of the Local Government Act 1999, Clare & Gilbert Valleys Council, as a member of the LGA MLS. s142 sets out:

### ***s142 Duty to Insure Against Liability:***

- (1) *A council must take out and maintain insurance to cover its civil liabilities at least to the extent prescribed by the regulations.*
- (2) *A regulation cannot be made for the purposes of this section except after consultation with the LGA.*
- (3) *Membership of the Local Government Association Mutual Liability Scheme constitutes insurance for the purposes of this section.*

Via Council's membership to the LGAMLS, Council Members have the benefit of a personal immunity, as set out in s39 of the Local Government Act

### ***s39—Protection of members***

- (1) *No civil liability attaches to a member of a council for an honest act or omission in the exercise, performance or discharge, or purported exercise, performance or discharge, of the member's or council's powers, functions or duties under this or other Acts.*
- (2) *A liability that would, but for this section, attach to a member of a council attaches instead to the council.*

S39 of the Local Government Act 1999 provides Council Members with a personal immunity if a third party alleges as the result of a negligent act on the part of a Council Member:

- The third party suffered personal injury, property damage or financial loss.
- If the alleged negligent act was as the result of the Council Member undertaking his/her role, function, duty as a Council Member, the Council Member will have the benefit of the (s39) personal immunity.

The extension of the personal immunity to a Council Member will depend on the circumstances of the alleged civil liability while the Council Member is acting "honestly" and *in the exercise, performance or discharge, or purported exercise, performance or discharge, of the member's or council's powers, functions or duties.*

File Path	Last review	Next review	Page
W:\Council Policies\CURRENT COUNCIL POLICIES\2018 Policies\Council Member Appointment To External Board.Docx	November 2018	November 2022	Page 1 of 2

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# Council Member Appointment to External Board

## Council Member Appointment to External Boards Policy

In a situation where a Council Member is appointed to an external board/committee, the Council Member assumes the status of member of the (name) external board/committee.

Any decision/actions of the member of the board/committee attach to the external board/committee - for which the board/committee need its own relevant liability cover.

That is, once appointed to an external board/committee the Council Member is no longer in the *exercise, performance or discharge of the Council's powers, functions or duties* .

In that circumstance, the benefit of s39 no longer follows the Council Member nor is available for the Council Member to rely on.

To ensure liability protection for a Council Member who is appointed to an external body, Clare & Gilbert Valleys Council has adopted a policy that reflects this situation.

Council will ensure that any external board, committees or group that a Council Member may be appointed to by Council are properly established and provide adequate and appropriate public liability and indemnity insurance for board members from the outset.

Council will require the external board, committee or group to provide evidence of their public liability and indemnity insurance on an annual basis to ensure it is valid from year to year for the period of the Council Member's appointment.

In addition Council will maintain a register of all/any Council Member appointments to external (non-Council) board, committee or group, to be updated annually or in accord with the period of appointment.

This policy will be reviewed every four years, or as required. The public may inspect a copy of this policy without charge at the Council offices during office hours and may obtain a copy for a fee fixed by Council. The policy is also available on Council's website

[www.claregilbertvalleys.sa.gov.au](http://www.claregilbertvalleys.sa.gov.au)

### Document History

Approved by	Issue Date	Minute Reference – Details of Review
CGVC	19/05/2004	Adopted by Council MB 207/04
CGVC	16/11/2015	Reviewed by Council
CGVC	26/11/2018	Reviewed by Council

File Path	Last review	Next review	Page
W:\Council Policies\CURRENT COUNCIL POLICIES\2018 Policies\Council Member Appointment To External Board.Docx	November 2018	November 2022	Page 2 of 2

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