



Summary of Legal Expenses Policy

Overview

The AEU Victorian Branch is active in protecting the legal rights of its members. Legal assistance is one of the most important services we offer to members. However, as legal assistance is expensive, the Branch cannot approve funding for all matters or unlimited funding for approved matters. The provision of legal assistance remains at the sole discretion of the Branch.

Matters that may be approved

AEU lawyers (including lawyers employed by the AEU) can provide free, comprehensive legal support and representation for current financial members in approved employment and industrial law matters and free initial legal consultation on most non-work related matters.

The union may provide legal assistance to members for work-related potential criminal cases (subject to strict limitations), complaints processes and disciplinary proceedings, professional registration and WorkCover claims.

Any legal assistance must be approved by the union, in accordance with its internal policies and procedures, prior to any legal referrals being made. The union will not meet any costs incurred by members prior to or without union approval for legal assistance. The union has established relationships with external lawyers who are approved by the union to provide services to members. The union does not refer members to other firms.

In addition, where the union provides payment of legal expenses and the member receives a lump sum settlement, the union may recover legal costs from the member, in whole or part, at the discretion of the Branch Executive. Before legal cover is provided in such cases, the member will be asked to sign a Representation Agreement that gives effect to the member's obligations.

Procedures to be followed

The Branch follows the following procedures when it comes to providing legal services:

1. A matter will be assessed for referral to an external lawyer where the AEU does not have internal expertise or resources to provide the required services.
2. Approval must be obtained for any legal assistance. In order to be approved for funding, the Union requires its lawyers to make a request for funding which provides guidance as to the merits of a member's matter. The Union will not be liable for costs and expenses incurred where a matter has not been approved.
3. If a matter is approved by the Branch, a member must sign and return to the Branch a representation agreement, which requires them to:
 - a. Provide all relevant factual details (this is particularly important in criminal law matters);
 - b. Cooperate fully with the union and its lawyers;
 - c. Comply with the union's directions and policies and allow the union to have joint

conduct of approved matters;

- d. Where the union provides payment of legal expenses or underwrites legal costs and the member receives a lump sum settlement, repay the union legal costs incurred in whole or in part at the discretion of Branch Executive.

Potential criminal law matters

Members will be offered initial advice and appropriate support in matters where they are charged, or there is some risk of them being charged, by the police with a criminal offence that is related to their work. The Union will meet associated costs if they have been referred to a lawyer by the AEU.

The union does not fund matters that involve intentional misconduct on the part of a member in relation to criminal law matters. That is any deliberately fraudulent or deliberately dishonest act or omission or any wilful violation of law or wilful breach of duty imposed by any law. The union requires that members declare that they have not engaged in intentional misconduct and make timely admissions where necessary. Members may be required to repay funds where they fail to do so.

Our solicitors undertake a detailed investigation into the circumstances of the charge following consultation with the union and a member (who is required to give comprehensive instructions) and provide advice as to whether the member has a sound defence. Branch Executive will rely on that advice as part of its deliberations as to whether to provide, or continue to provide, funding.

Funding amount

Branch Executive may fund cases up to \$30,000 (this is a cap and approved matters are not automatically entitled to this amount of funding), though in exceptional circumstances it may agree to a higher amount.

Exemptions

Except where in exceptional circumstances it is approved by Branch Executive, the AEU Victorian Branch shall not be liable for legal costs and expenses for circumstances including, but not limited to, the following:

- Where the event or behaviour leading up to the event occurred prior to financial membership. Financial members can only access legal assistance after contacting the union. A member must be a financial member for at least three (3) months before being eligible to seek legal assistance from the AEU;
- In relation to potential criminal law matters, where a member has engaged in intentional misconduct or it is not work-related;
- Fines, penalties, compensation, damages or punitive damages;
- Where litigation is proposed in relation to medical negligence claims;
- Where litigation is proposed in relation to alleged defamation.