



Mutual Liability Scheme

Local Government Association  
of South Australia

A dark blue-tinted photograph of a woman standing at the front of a room, presenting to a group of people seated at tables. A large screen is visible behind her.

# LGA Mutual Liability Scheme

Legatus Group  
March 2023



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## What we'll cover

1. LGAMLS Team
2. About the LGAMLS
3. Claims
4. Risk Management

# Today's Agenda



# Introducing the LGAMLS Team





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## What is the LGA Mutual Liability Scheme

The Local Government Association Mutual Liability Scheme is a Local Government indemnity Scheme established by the Local Government Act 1999.

Membership of the LGAMLS is compliance for the purposes of section 142 of the Local Government Act - membership of the Scheme complies with the duty to insure against liability.

### **S142 – Duty to insure against liability**

... (3) Membership of the *Local Government Association Mutual Liability Scheme* constitutes insurance for the purposes of this section.



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## What is the LGA Mutual Liability Scheme

The Mutual Liability Scheme (MLS) is

..... NOT insurance!

The Mutual Liability Scheme is a Local Government **mutual discretionary indemnity scheme**, which indemnifies Members for civil liabilities. The Mutual Liability Scheme provides cover and is backed by the Treasurer's Indemnity.



## Mutual Liability Scheme

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## How does the Scheme Operate

As a condition of membership of the LGAMLS, Members are bound by the Scheme Rules.

The LGAMLS Scheme Rules define the objectives, delegation, membership, Board arrangements, funding, contributions, powers, duties and functions of the LGA and the LGAMLS Scheme.

- The Scheme manages civil liability claims from the ground up
- Members have an excess payment of \$3,750
- The Scheme Rules are located on our Member Centre



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# Scheme Rules – Claim Procedure

## Scheme Rules – 10. Claims Procedure

### 10.2 Not Admit Liability

A member shall not admit liability for, compromise, settle or make or promise in respect of any Claim which may be the subject of indemnity hereunder or incur any costs or expenses in connection therewith without the written consent of LGA which if it so wishes shall be entitled to take over and conduct in the name of the member the defence and/or settlement of any such claim for which purpose the member shall give all such information and assistance as LGA may reasonably require





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## What is a Civil Liability?

A Civil Liability is where :

- A Duty of care is owed
- The Duty is breached
- Loss, damage or personal injury results

LGAMLS work through the whole mechanism of negligence together with the Member gathering evidence.

Civil Liability Act 1936 – definition

*‘Negligence’ means failure to exercise reasonable care and skill, and includes a breach of tortious, contractual or statutory duty of care*



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## Statutory Immunity

One of the most commonly applied Statutory immunities is S42 Liability of Roads – Civil Liability Act

S 42 (1) Liability of road authorities

A road authority is not liable in tort for a failure –

(a) to maintain, repair or renew a road; or

(b) to take other action to avoid or reduce the risk of harm that results from a failure to maintain, repair or renew a road

*S42 (2) - road* means a street, road or thoroughfare to which public access is available to vehicles or pedestrians.

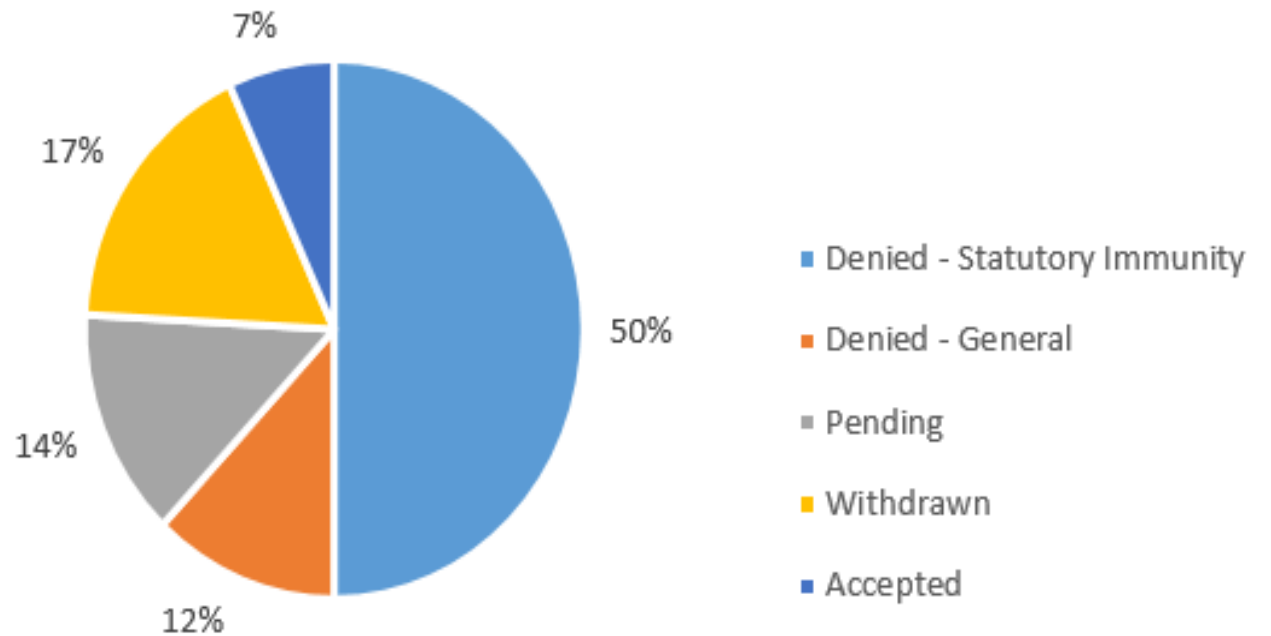


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## Statistics over the last 5 years

- In the last 5 years the members of the Legatus group have submitted 116 Claims
- The top 5 causes of claims are :
  - Road Surface / Potholes
  - Uneven Surface
  - New Construction
  - Protruding Object
  - Maintenance Repairs





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## Risk Management Products

The LGAMLS risk management programs are developed based on the risk profile of the sector together with Legislative changes. The risk profile is established by the claim experience and nature of risk enquiries that are received by the Scheme.

- Unsealed Roads Manual



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# Member Centre Resources

Local Government Risk Services

LGAAMF

LGAMLS

LGAWCS

LGIPF

SERVICES





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## Important Contact Points



### Member Centre related enquires

[LGRSadmin@jlta.com.au](mailto:LGRSadmin@jlta.com.au)



### Claim enquires

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### Risk Management / Program enquiries

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Thank you!