

FACT SHEET

Local Government Amendment (Code of Conduct) Bill 2022

The Code of Conduct Framework (the Framework) was first introduced in 2016 at the request of the local government sector. It was designed as a measure of last resort and there was an expectation at the time that councils would develop dispute resolution policies to support the informal resolution of disputes between councillors.

Since the introduction of the Framework, concerns have been raised about the types of local government Code of Conduct complaints being investigated, their associated costs, and whether some complaints could have otherwise been resolved informally.

Between 2020 and 2021, the Local Government Division consulted with the Local Government Association of Tasmania, the sector and the public on several occasions to understand how to improve the operation of the Code of Conduct Framework. This included the release of a Discussion Paper for public consultation as approved by Cabinet.

As a result of these discussions, *Initial Assessment Guidelines for the Code of Conduct Panel* were developed and are now in use to assist the Chairperson carrying out an initial assessment of a complaint. The Government also released its response to the Local Government Code of Conduct Framework Review on 20 December 2021.

On 1 August 2022, a draft Local Government Amendment (Code of Conduct) Bill 2022 progressing some of the key reforms in the Government response was released for public consultation until 5 September 2022.

The Government has reviewed the submissions received and incorporated some of the feedback into the Local Government Amendment (Code of Conduct) Bill 2022.

The Bill:

- removes the requirement for councils to individually adopt and regularly review their Code of Conduct, and instead provides that the Code of Conduct issued by the Minister automatically applies to all Tasmanian councillors, without any variations at the local council level.
- requires all councils to adopt, within 12 months of the enactment of the amendments, a dispute resolution policy that establishes a dispute resolution process within each council that complies with a set of high level prescribed minimum requirements.
- requires a code of conduct complainant to provide relevant information about any attempts they have made to resolve their complaint through a council's established dispute resolution process.
- requires council general managers to process any code of conduct complaint they receive within 14 days.
- requires that the initial assessment of a complaint must be done by a legal member of the Code of Conduct Panel.
- requires that the initial assessor of a complaint must not be part of any subsequent investigating Panel that investigates that complaint.

- enables the initial assessor to dismiss a complaint if, in the view of the assessor, there has been no attempt, or an insufficient attempt to resolve the matter through the council dispute resolution process, and that that matter could have reasonably been dealt with through that process having regard to relevant facts and circumstances.
- introduces a new public interest test at the initial assessment phase, which enables the initial assessor to dismiss a complaint if they consider that it is not in the public interest to investigate it.
- extends the penalty provisions that apply to the release of a confidential determination report to any information, documents or records provided to any person by the Executive Officer or the investigating Panel in relation to a complaint, unless it has already been publicly disclosed in a determination report.
- enables a council general manager and mayor to discuss with each other a determination report before it is released for the purpose of arranging for the report to be tabled at a council meeting.
- requires that councillors notify the Executive Officer, rather than the general manager when they have complied with a sanction.
- requires the members of the Code of Conduct Panel to disclose and manage any actual, potential or perceived conflict of interest in a matter that is relevant to the investigation and determination of a code of conduct complaint.
- omits the restriction on persons who have been councillors or employees of any council within the immediately preceding two years of a complaint from being on the Code of Conduct Panel.
- assigns additional responsibilities of compliance monitoring and some other changes in the administrative framework to the Executive Officer.
- allows the Minister to appoint someone else to undertake the functions of the Director only in relation a code of conduct complaint lodged by the Director.
- allows the investigating Panel to recommend in the determination report that the Director considers making a recommendation to the Minister under section 214L of the *Local Government Act 1993* for the issuance of a performance improvement direction in respect of matters raised during the investigation of a complaint.
- makes other incidental amendments necessary to achieve or support the above measures.