

“Have Your Say”

Draft Local Government Amendment (Code of Conduct) Bill 2022 and related matters

The Tasmanian Government is committed to providing open and transparent public consultation processes. We are seeking your input on the draft Local Government Amendment (Code of Conduct) Bill 2022 (the draft Bill) and related matters.

Following prior public consultation about potential targeted legislative changes to the Local Government Code of Conduct Framework between July and August 2021, the Tasmanian Government committed to reform across six key areas in December 2021. The draft Bill progresses some of these reforms by amending the *Local Government Act 1993* (the Act).

The main changes proposed in the draft Bill are a standard code of conduct for councils, voluntary adoption of a behaviour standard policy for councillors, mandatory local dispute resolution policy in councils, an improved process for the initial assessment of complaints, and the disclosure and management of interests by Panel members.

Councils will be required to adopt a dispute resolution policy within 12 months after the commencement of the amendments. The draft Bill provides that a dispute resolution policy is to contain the prescribed information and include the processes to be followed in respect of prescribed matters.

In anticipation of the commencement of the amendments, the Government has prepared a draft of the prescribed information to be included in every council's dispute resolution policy (the draft prescribed information) and is seeking public feedback on both the draft Bill and the draft prescribed information.

The feedback on both documents will inform concurrent amendments to the Act and the *Local Government (General) Regulations 2015*.

HOW TO MAKE A SUBMISSION

All written submissions on the draft Bill and the draft prescribed information must be received by **Monday, 5 September 2022**.

You can make your submission either by email or by post:

Email: lgconsultation@dpac.tas.gov.au with the subject heading as 'Local Government Amendment (Code of Conduct) Bill 2022 feedback'

Mail: Attention: Local Government Amendment (Code of Conduct) Bill 2022 feedback
Office of Local Government
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

PUBLISHING SUBMISSIONS

Other than as indicated below, submissions will be treated as public information and will be published on the website at https://www.dpac.tas.gov.au/divisions/local_government/local_government_code_of_conduct/code_of_conduct_framework_review.

Submissions will be published once the Government's consideration of submissions has concluded.

No personal information other than an individual's name or the organisation making a submission will be published.

For further information, please read the [Tasmanian Government Public Submissions Policy](#) or contact the Office of Local Government on (03) 6232 7022 or lgconsultation@dpac.tas.gov.au.

IMPORTANT INFORMATION TO NOTE

Your name (or the name of the organisation) **will** be published unless you request otherwise.

In the absence of a clear indication that a submission is intended to be treated as confidential (or parts of the submission), the Department will treat the submission as public.

If you would like your submission treated as confidential, whether in whole or in part, please indicate this in writing at the time of making your submission clearly identifying the parts of your submission you want to remain confidential and the reasons why. In this case, your submission will not be published to the extent of that request.

Copyright in submissions remains with the author(s), not with the Tasmanian Government.

The Department will not publish, in whole or in part, submissions containing defamatory or offensive material. If your submission includes information that could enable the identification of other individuals then either all or parts of the submission will not be published.

ACCESSIBILITY OF SUBMISSIONS

The Government recognises that not all individuals or groups are equally placed to access and understand information. We are therefore committed to ensuring Government information is accessible and easily understood by people with diverse communication needs

Where possible, please consider typing your submission in plain English and providing it in a format such as Microsoft Word or equivalent.

The Government cannot however take responsibility for the accessibility of documents provided by third parties.

The Right to Information Act 2009 and confidentiality

Information provided to the Government may be provided to an applicant under the provisions of the *Right to Information Act 2009* (RTI). If you have indicated that you wish all or part of your submission to be treated as confidential, your statement detailing the reasons may be taken into account in determining whether or not to release the information in the event of an RTI application for assessed disclosure. You may also be contacted to provide any further comment.

SUBMISSION FORM

YOUR DETAILS

For individuals:

Full Name:	
Address:	
Email:	
Phone:	
Date of submission:	
Is this submission confidential?	Yes or No

For organisations:

Organisation Name:	Devonport City Council
Organisation Type: <i>ie not-for-profit, council, Government agencies etc.</i>	Council
Contact Person:	Jacqui Surtees
Address:	████████████████████
Email:	council@devonport.tas.gov.au
Phone:	██████████
Date of submission:	4 September 2022
Is this submission confidential?	No

Please ensure this form is submitted by Monday, 5 September 2022

YOUR SUBMISSION

a) Draft Local Government Amendment (Code of Conduct) Bill 2022

Please respond in the box provided below.

See attached.

b) Draft prescribed information

Please respond in the box provided below.

See attached.

Devonport City Council response to proposed changes to code of conduct legislation

Adopted by Council at its meeting on 22 August 2022 min 22/180 refers.

Proposed Legislative Change	DCC Comment
A standard code of conduct for councils	Mandating a standard code which applies for all councils is logical. It ensures consistency, is more efficient and will assist in the assessment of complaints
Behaviour standards policy for councillors	<p>The need to legislate that a council has the 'option' to adopt such a policy appears unnecessary.</p> <p>If the mandated code of conduct does not include sufficient definition regarding expected behaviours, then the standards policy should be mandated, however a simpler approach would be to ensure the code is sufficient and remove any reference to an 'optional' policy.</p> <p>Many councils already have various policies which reference actions and behaviours expected of elected members, this can continue regardless of any specific legislative reference.</p>
Local dispute resolution policy	<p>The mandating of a local dispute policy is cautiously supported. In some instances, it may assist in the resolution of community concerns, however it equally may result in further unintended consequences and the content and detail of any such policy would need careful consideration.</p> <p>Potential issues include:</p> <ul style="list-style-type: none"> • The local dispute policy, simply becoming another step for complainants of a frivolous and vexatious nature. The existing draft legislation appears deficient in preventing such from occurring. • The local dispute resolution process would need powers to dismiss rather than just mediate a complaint. The outcome from the local process should be upheld or at the very least hold weight if the matter was then referred as a code complaint. • Identifying who the suitable person/s are to consider complaints and the methodology to be applied will be difficult.

	<ul style="list-style-type: none"> • It should be noted that prior to the current code of conduct structure a local dispute process similar to that proposed was in existence and deemed ineffective. Learning from the failure of the previous 'local' system should be considered and where possible addressed in the new legislation.
<p>Making a code of conduct complaint</p>	<p>The additional information required as part of a complaint should include the two items noted plus a further requirement to detail not only the outcome of any local dispute process but also the specific reasons why the outcome is not accepted.</p>
<p>Timeframe for completing initial assessment and referral by general manager</p>	<p>Proposed amendments are supported</p>
<p>Initial assessment of a code of conduct complaint</p>	<p>Removing the initial assessment from the Panel Chair is supported. As is, the requirement of the assessment to be by a lawyer, who cannot then be part of the Panel for that specific matter. This could be further enhanced by removing the initial assessing lawyer/s from all Panel roles. A pool of 2 to 3 lawyers could be used to undertake all initial assessments and be fully independent from the Panel process. These lawyers should be obligated twice yearly to meet with the LGAT President and CEO to remain abreast of current local government matters specifically those that may be impacting the complaint process.</p> <p>The current ground for dismissing complaints is not sufficient and repeatedly allows complaints of a minor and trivial nature to progress to an investigation stage. While the two suggested additional grounds for dismissal have merit, they are insufficient to prevent the current deficiencies.</p> <p>Grounds for dismissing a complaint should include a clause which allows dismissal to occur based on the outcome of the local process being considered reasonable.</p> <p>In undertaking the initial assessment, patterns of complaints from regular complainants should form part of the consideration for dismissal.</p>

Investigating Panel for a code of conduct complaint	Proposed amendments are supported, the initial assessor should not then be a member of the Panel.
Conflict of interest	No concerns identified, administrative in nature
Costs and expenses to be borne by council	No concerns identified, administrative in nature
Confidentiality of determination report and related document, report or information	No concerns identified, administrative in nature
Notification of compliance with sanctions	Proposed amendments requiring notification to Executive Officer, rather than General Manager are supported.
Refund of fee accompanying lodgement of code of conduct complaint	No concerns identified, administrative in nature
Transitional provisions	No concerns identified, administrative in nature

