

## Draft Local Government (Code of Conduct) Bill 2022 Feedback

### Mayor Greg Howard on behalf of Dorset Council

#### **Standard Code of Conduct for Councils**

Dorset disagrees with this proposal and proposes that Councils should be able to vary their Code to prevent difficult residents or Councillors using the Code as weapon against Councillors.

When the Code of Conduct was first proposed it was meant to be a model upon which Councils could base their own Code. It was the Legislative Council who amended the legislation to make it compulsory to adopt the Model Code with the only opportunity for change is for Minister approved changes. No Minister has agreed to changes and in discussion with multiple ministers they have stated they would not consider changes to a Council's Code which stepped back from the minimum stated in the Model Code. This is despite the sector overwhelmingly approving a motion of no confidence in the Code of Conduct System and the Panel because of the gross bias against Councillors and lack of legal process displayed in the Code and by Panels.

#### **Behaviour Standards for Councillors**

Dorset disagrees that this proposal is even remotely necessary. No councillor in their right mind would impose upon themselves, extra opportunity and incentives for difficult individuals to take unreasonable and nonsensical action against them just to satisfy their own warped sense of right.

#### **Local dispute resolution policy**

Dorset agrees with this proposal and think it will work well between councillors where there is a genuine desire to find a solution to the issue. We doubt however that any resolution will be reached with the type of people that commonly lodge complaints against Councillors within our municipality.

[REDACTED]

General Managers must be given the power to dismiss complaints where the complainant does not genuinely participate in this process or wants the complaint to be sent for initial assessment even though the complaint is trivial, vexatious, frivolous or contains no substance.

#### **Making a Code of Conduct complaint**

Dorset agrees with this proposal.

#### **Timeframe for completing initial assessment and referral by the General Manager**

Dorset is concerned that 14 days is too short for respondents to access legal advice in relation to complaints and the appropriate course of action for them to take in regard to dispute resolution. Most councillors would not be even remotely familiar with legal process and would probably be in shock that they are the subject of a complaint.

There is genuine reluctance on the part of the legal fraternity to give advice or act on behalf of councillors because of the vagaries of the Code of Conduct system and the nonsense perpetrated by Panel Chairs and panel members. Lawyers consider it to be a waste of their time and of councillor's money because there is no security that even the very best legal advice will even be considered by the Panel.

Given that dispute resolution is the first port of call after initial assessment of statutory compliance, we would suggest 28 days would be a more realistic timeframe.

**Initial assessment of a Code of Conduct Complaint**

Dorset agrees with this proposal. For way too long have councillors been denied natural justice because Chairpersons operated with a very significant pecuniary interest in a complaint being elevated to investigation. Many of the complaints that have been investigated have been complete nonsense and a couple of Chairpersons have been responsible for most of these, as have they for most of the very worse determinations to come out of the Code of Conduct Panel investigations.

There also a need for clarification of what constitutes frivolous, trivial, vexatious and the guidelines for the public interest test plus clarification of a when a complainant/respondent hasn't satisfactorily participated in the resolution dispute process and clarification of the wording" where appropriate".

**Investigating Panel for a Code of Conduct complaint**

Dorset agrees with this proposal.

**Conflict of Interest**

Dorset agrees with this proposal.

**Costs and expenses to be borne by council**

Dorset Council disagrees with this proposal. Our view that where a complaint is dismissed the cost of the investigation should be borne by the complainant. It clearly unfair on all of the residents of a municipality for them to be funding a private vendetta by a disgruntled resident against a councillor or councillors.

[REDACTED]

Individuals running their own vendettas are well aware that they have the potential to financially destroy most councillors with their continual lodgement of complaints.

From experience typical legal fees for initial advice would be in the vicinity of \$2-3,000 and for advice where a hearing is to be held closer to \$5,000. An appeal where representation is required could cost anywhere from \$40,000 upwards.

## Summary

While some of these changes offer some relief to councillors, in reality they are only skirting around the edges of what is required.

The Code is still grossly ambiguous, poorly worded, biased against councillors and denies councillors natural justice on many levels even though that is almost impossible to prove. Just like the Government wanted.

The Code and the Legislation has no respect from the Local Government Sector and needs a major revamp before it will gain any sort support. It is so bad and so poorly administered that the Code is a major impediment to decent people standing for election.

Major incidents similar to the Wynyard Councillor incident should be dealt with under the L G Act and then there would be just cause for the public to be excluded from lodging complaints relating to Part 7 of the Code.

It is interesting that State and Federal politicians do not have to abide by a similar Code and their performance is judged at election time. Councillors which for the most part are volunteers are subjected to gross bureaucratic overreach by this Code. There are very just reasons why the Code should not even exist.

