

TASMANIA

---

**LOCAL GOVERNMENT AMENDMENT (CODE OF  
CONDUCT) BILL 2022**

---

**CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Part 3, Division 3AA inserted
  - Division 3AA – Behaviour standards and dispute resolution procedures*
  - 28JA. Policies as to behaviour standards for councillors
  - 28JB. Dispute resolution policies
6. Section 28K amended (Code of Conduct Panel)
7. Section 28L amended (Investigating Panel)
8. Section 28O amended (Payment of remuneration and allowances to members of Code of Conduct Panel and Executive Officer)
9. Section 28OA inserted
  - 28OA. Disclosure of interest
10. Section 28R amended (Code of conduct)
11. Section 28S amended (Contents of code of conduct)
12. Section 28T repealed
13. Section 28U amended (Compliance with code of conduct)
14. Section 28V amended (Making code of conduct complaint against councillor)
15. Section 28W amended (Withdrawal of or from code of conduct complaint)

16. Section 28X amended (Amendment of code of conduct complaint)
17. Section 28Y amended (Initial assessment of complaint by general manager)
18. Section 28Z amended (Referral of code of conduct complaint by general manager)
19. Section 28ZA amended (Initial assessment of code of conduct complaint)
20. Section 28ZB amended (Dismissal of code of conduct complaint on initial assessment)
21. Section 28ZC amended (Referral of code of conduct complaint on initial assessment)
22. Section 28ZCA inserted  
28ZCA. Convening of investigating Panel for complaint
23. Section 28ZD amended (Time for investigating and determining code of conduct complaint)
24. Section 28ZE amended (Conduct of investigations generally)
25. Section 28ZF amended (Investigation of multiple code of conduct complaints against same councillor or multiple councillors)
26. Section 28ZG amended (When hearing is to be held)
27. Section 28ZH amended (Hearings)
28. Section 28ZI amended (Determination of code of conduct complaint)
29. Section 28ZJ amended (Determination report)
30. Section 28ZK amended (Notification of determination of code of conduct complaint)
31. Section 28ZL amended (Effect of third suspension)
32. Section 28ZM amended (Councillor to comply with sanction imposed for contravention of code of conduct)
33. Section 28ZNA amended (Costs of training to be borne by council)
34. Section 28ZO amended
35. Part 3, Division 3A, Subdivision 4: Heading amended
36. Section 28ZP amended (Review of investigating Panel decision)

37. Section 349C inserted  
349C. Transitional provisions consequent on *Local Government Amendment (Code of Conduct) Act 2022*
38. Repeal of Act

Consultation Draft

*Consultation Draft*

# LOCAL GOVERNMENT AMENDMENT (CODE OF CONDUCT) BILL 2022

*(Brought in by the Minister for Local Government, the Honourable Nicholas Adam Street)*

## A BILL FOR

### An Act to amend the *Local Government Act 1993*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### 1. Short title

This Act may be cited as the *Local Government Amendment (Code of Conduct) Act 2022*.

#### 2. Commencement

This Act commences on a day to be proclaimed.

#### 3. Principal Act

In this Act, the *Local Government Act 1993*\* is referred to as the Principal Act.

#### 4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

---

\*No. 95 of 1993

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 4

---

- (a) by omitting the definition of *code of conduct* and substituting the following definition:

***code of conduct*** means the code of conduct made by the Minister, and in force, under section 28R;

- (b) by inserting the following definition after the definition of *Director, MPES*:

***dispute resolution process***, in relation to a council, means the process of resolving a dispute that is performed in accordance with the dispute resolution policy adopted by the council in accordance with section 28JB;

- (c) by inserting the following definition after the definition of *GST law*:

***initial assessor***, in relation to a code of conduct complaint, means the person appointed under section 28ZA(1AA) to be the initial assessor for the complaint;

- (d) by inserting the following definition after the definition of *issuing place*:

***investigating Panel***, in respect of a code of conduct complaint, means the panel convened under section 28L to investigate and determine the complaint;

- (e) by omitting the definition of *model code of conduct*.

**5. Part 3, Division 3AA inserted**

After section 28J of the Principal Act, the following Division is inserted in Part 3:

***Division 3AA – Behaviour standards and dispute resolution procedures***

**28JA. Policies as to behaviour standards for councillors**

- (1) A council may adopt a behaviour standard policy.
- (2) A behaviour standard policy adopted under subsection (1) is to specify the acceptable, or unacceptable, standards of behaviour for councillors in their relationships with the community, other councillors and council employees.
- (3) A behaviour standard policy adopted by a council under subsection (1) –
- (a) is in addition to the requirements of the code of conduct; and
  - (b) may relate to conduct to which the code of conduct does not apply.
- (4) In performing the functions and exercising the powers of his or her office

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 5

---

with the council, a councillor is to comply with the provisions of the behaviour standard policy adopted by the council under subsection (1).

- (5) If there is an inconsistency between the behaviour standard policy of a council and the code of conduct, the behaviour standard policy is void, and is of no effect, to the extent of that inconsistency.
- (6) For the avoidance of doubt, a code of conduct complaint may not be made in respect of the behaviour of a councillor if the behaviour is an alleged breach of the behaviour standard policy adopted by the relevant council under subsection (1) but not a breach of the code of conduct.
- (7) If a council adopts a behaviour standard policy under subsection (1), the general manager of the council is to ensure that a copy of the policy is available –
  - (a) on the website of the council; and
  - (b) on the request of a person.

**28JB. Dispute resolution policies**

- (1) A council must adopt a dispute resolution policy.
- (2) A dispute resolution policy adopted by a council under subsection (1) is to specify the processes to be followed if there is –



*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 5

---

- (a) a dispute as to matters that fall under the behaviour standard policy adopted by the council under section 28JA; or
  - (b) a dispute as to matters that may be the subject of a code of conduct complaint.
- (3) A dispute resolution policy is to –
- (a) contain the prescribed information; and
  - (b) include the processes to be followed in respect of prescribed matters.
- (4) The general manager of a council must ensure that a copy of the council's dispute resolution policy is available –
- (a) on the website of the council; and
  - (b) on the request of a person.
- (5) In resolving, or attempting to resolve, disputes in respect of a council, each of the following persons involved in the dispute resolution is to comply with the provisions of the dispute resolution policy adopted by the council under this section:
- (a) the general manager of the council;
  - (b) a councillor of the council;

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 6

---

- (c) a council employee of the council;
  - (d) if the complainant participates in the dispute resolution process of the council, the complainant.
- (6) Each council must adopt a dispute resolution policy under this section within 12 months after this section commences.

**6. Section 28K amended (Code of Conduct Panel)**

Section 28K(2)(b) of the Principal Act is amended by omitting “councillors or employees of any council and have not been such councillors or employees within the immediately preceding 2 years” and substituting “current councillors or employees of any council”.

**7. Section 28L amended (Investigating Panel)**

Section 28L of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” and substituting “panel convened to investigate and determine the complaint”;
- (b) by inserting in subsection (1) “of the Code of Conduct Panel who are” after “members”;

- (c) by omitting from subsection (2) “Code of Conduct Panel” and substituting “panel convened under subsection (1)”.

**8. Section 28O amended (Payment of remuneration and allowances to members of Code of Conduct Panel and Executive Officer)**

Section 28O(3) of the Principal Act is amended by omitting “the Code of Conduct Panel” and substituting “an investigating Panel”.

**9. Section 28OA inserted**

After section 28O of the Principal Act, the following section is inserted in Subdivision 1:

**28OA. Disclosure of interest**

- (1) If a member of the Code of Conduct Panel has a direct, or indirect or perceived, conflict of interest in a matter, the member must notify, as soon as practicable, the nature of that conflict of interest to the Executive Officer if –
  - (a) the matter is relevant to the investigation and determination of a code of conduct complaint; and
  - (b) in the opinion of the member, the conflict of interest would prevent the member from acting fairly in his or her appointment as the initial assessor, or a member of

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 9

---

an investigating Panel, in respect of a code of conduct complaint relating to the matter.

- (2) A member of the Code of Conduct Panel must resign from his or her appointment as the initial assessor, or a member of the investigating Panel, in respect of a code of conduct complaint if –
- (a) the member has notified the Executive Officer of a conflict of interest under subsection (1) in respect of a matter; and
  - (b) the matter is relevant to the code of conduct complaint.
- (3) If a member of the Code of Conduct Panel has notified the Executive Officer, under subsection (1), of a conflict of interest that is relevant to a code of conduct complaint –
- (a) the Executive Officer is not to appoint the member to be the initial assessor, or a member of the investigating Panel, in respect of the complaint; and
  - (b) if the member has resigned under subsection (2) from his or her appointment as the initial assessor, or a member of the investigating Panel, in respect of the complaint, the Executive Officer is to –

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 9

---

- (i) appoint another member of the Code of Conduct Panel to the relevant position; and
  - (ii) notify the complainant of the appointment of a replacement member; and
  - (iii) if the member has resigned as a member of the investigating Panel, notify the other members of that Panel of the appointment of a replacement member to the Panel.
- (4) A member of the investigating Panel in respect of a code of conduct complaint is to notify the Executive Officer and the other members of the Panel, as soon as practicable, if –
- (a) the member becomes aware that he or she has a direct, or indirect or perceived, conflict of interest in a matter that is relevant to the complaint; and
  - (b) in the opinion of the member, subsection (1)(b) does not apply in respect of the conflict of interest.

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 10

---

**10. Section 28R amended (Code of conduct)**

Section 28R of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “model”;
- (b) by omitting from subsection (2) “model”;
- (c) by omitting from subsection (3) “model” first occurring;
- (d) by omitting from subsection (3) “model” second occurring;
- (e) by inserting the following subsection after subsection (3):
  - (4) For the avoidance of doubt, an order made under subsection (1) is a statutory rule within the meaning of the *Rules Publication Act 1993*.

**11. Section 28S amended (Contents of code of conduct)**

Section 28S of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “model” first occurring;
- (b) by omitting from subsection (1)(e) “model”;
- (c) by omitting from subsection (2) “model”;

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 12

---

(d) by inserting the following subsection after subsection (2):

(3) The general manager of a council is to make a copy of the code of conduct available –

(a) for public inspection, free of charge, at the public office of the council during ordinary office hours and on its website; and

(b) for purchase at a reasonable charge.

**12. Section 28T repealed**

Section 28T of the Principal Act is repealed.

**13. Section 28U amended (Compliance with code of conduct)**

Section 28U of the Principal Act is amended by omitting “council’s”.

**14. Section 28V amended (Making code of conduct complaint against councillor)**

Section 28V of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “relevant council’s”;

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 14

---

- (b) by omitting from subsection (2) “relevant council’s”;
- (c) by omitting from subsection (3)(d) “relevant”;
- (d) by inserting the following paragraphs after paragraph (fb) in subsection (3):
  - (fc) if the relevant council has a behaviour standard policy, state whether the complainant commenced, or completed, the council’s procedures in respect of that policy; and
  - (fd) if the complainant completed the council’s dispute resolution process in respect of the complaint, contain details of the outcome of that process; and
  - (fe) if the complainant did not commence or complete the council’s dispute resolution process in respect of the complaint, contain details of –
    - (i) the attempts made by the complainant, as part of the attempted dispute resolution process, to resolve the issue that is the subject of the complaint; or



- (ii) why the complainant believes that the dispute resolution process is not appropriate in respect of the complaint; and

**15. Section 28W amended (Withdrawal of or from code of conduct complaint)**

Section 28W of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” first occurring and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (1) “Code of Conduct Panel” second occurring and substituting “investigating Panel”;
- (c) by omitting from subsection (2) “Code of Conduct Panel” first occurring and substituting “investigating Panel for the complaint”;
- (d) by omitting from subsection (2) “Code of Conduct Panel” second occurring and substituting “investigating Panel”;
- (e) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 16

---

- (f) by omitting from subsection (4) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”.

**16. Section 28X amended (Amendment of code of conduct complaint)**

Section 28X of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” first occurring and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (1) “Code of Conduct Panel” second occurring and substituting “investigating Panel”;
- (c) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (d) by omitting from subsection (2) “a code of conduct” and substituting “the”;
- (e) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (f) by omitting from subsection (4) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”.

**17. Section 28Y amended (Initial assessment of complaint by general manager)**

Section 28Y of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “On receiving” and substituting “Within 14 days after receiving”;
- (b) by inserting in subsection (3) “and within 14 days after receiving the complaint” after “writing”.

**18. Section 28Z amended (Referral of code of conduct complaint by general manager)**

Section 28Z of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “On” and substituting “Within 14 days after both”;
- (b) by omitting from subsection (1) “after”;
- (c) by inserting the following subsection after subsection (1):
  - (1A) A referral by the general manager of a council under subsection (1) in respect of a code of conduct complaint is to include copies of all of the documentation held by the council in relation to the dispute resolution process

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 19

---

undertaken by the council in respect of the complaint.

- (d) by omitting from subsection (5) “as soon as practicable” and substituting “within 14 days after being notified of the refusal under subsection (2)”;
- (e) by omitting paragraphs (b) and (c) from subsection (6) and substituting the following paragraph:
  - (b) appoint an initial assessor for the complaint in accordance with section 28ZA.

**19. Section 28ZA amended (Initial assessment of code of conduct complaint)**

Section 28ZA of the Principal Act is amended as follows:

- (a) by inserting the following subsection before subsection (1):

(1AA) As soon as practicable after receiving a code of conduct complaint referred to the Code of Conduct Panel, the Executive Officer is to –

- (a) appoint a member of the Panel, who is an Australian lawyer, to be the initial assessor for the complaint; and

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 19

---

- (b) provide a copy of the complaint to the person so appointed.
- (b) by omitting from subsection (1) “receiving a code of conduct complaint, the chairperson of the Code of Conduct Panel” and substituting “being appointed to be the initial assessor of a code of conduct complaint, the initial assessor”;
- (c) by omitting from subsection (2) “chairperson of the Code of Conduct Panel” and substituting “initial assessor”;
- (d) by omitting from subsection (3) “receiving the code of conduct complaint, the chairperson of the Code of Conduct Panel” and substituting “an initial assessor is appointed under this section in respect of a code of conduct complaint, the initial assessor”;
- (e) by inserting in subsection (3)(a) “the Director,” after “notify”;
- (f) by omitting from subsection (3)(b) “chairperson” and substituting “initial assessor”;
- (g) by omitting from subsection (3)(b) “the Code of Conduct Panel” first occurring and substituting “an investigating Panel”;
- (h) by omitting subparagraph (iii) from subsection (3)(b) and substituting the following subparagraph:

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 20

---

- (iii) provide a copy of initial assessment of the complaint to the Executive Officer.

**20. Section 28ZB amended (Dismissal of code of conduct complaint on initial assessment)**

Section 28ZB of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “chairperson of the Code of Conduct Panel” and substituting “initial assessor for a code of conduct complaint”;
- (b) by inserting the following paragraphs after paragraph (ab) in subsection (1):
  - (ac) the dispute resolution process of the council is a reasonable mechanism to resolve the dispute, but the complainant has not participated, or not participated satisfactorily, in the dispute resolution process; or
  - (ad) it is not in the public interest for an investigating Panel to be convened under section 28L to investigate the complaint; or
- (c) by omitting from subsection (1)(b) “of the relevant council”;

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 20

- 
- (d) by omitting from subsection (1)(c)(i) “chairperson” and substituting “initial assessor”;
  - (e) by omitting from subsection (1)(c)(ii) “Code of Conduct Panel” and substituting “investigating Panel, for the complaint,”;
  - (f) by inserting the following subsection after subsection (1):
    - (1A) An initial assessor may consider, but is not limited to, the following matters when determining under subsection (1)(ad) if it is in the public interest for a Code of Conduct Panel to be convened:
      - (a) the nature and seriousness of the alleged conduct to which the complaint relates;
      - (b) the time that has elapsed since the alleged conduct occurred;
      - (c) the availability of evidence and the recollection of any witnesses;
      - (d) the likely degree of culpability, in connection with the alleged conduct,

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 20

---

of the councillor to whom the complaint relates;

(e) whether the alleged conduct could be of significant public concern;

(f) whether the alleged conduct has been, or is being, investigated and appropriately dealt with;

(g) the sanctions available to deal with the alleged conduct;

(h) whether the alleged conduct may be indicative of, and may expose, entrenched or systemic behaviour.

(g) by omitting from subsection (2) “chairperson of the Code of Conduct Panel” and substituting “initial assessor for a code of conduct complaint”;

(h) by omitting from subsection (2) “chairperson” second occurring and substituting “initial assessor”;

(i) by inserting the following subsection after subsection (2):

(3) If the initial assessor for a code of conduct complaint dismisses the



complaint, or part of it, on the grounds referred to in subsection (1)(ac), the initial assessor, in the notice provided under section 28ZA(3) may direct the complainant not to make a further complaint in relation to the same matter until –

- (a) the complainant has participated satisfactorily in the dispute resolution process of the council in relation to the complaint; and
- (b) the complainant has taken and completed the actions, specified in the notice, as necessary to have participated satisfactorily in the dispute resolution process.

**21. Section 28ZC amended (Referral of code of conduct complaint on initial assessment)**

Section 28ZC of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “chairperson of the Code of Conduct Panel” and substituting “initial assessor for a code of conduct complaint”;

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 21

---

- (b) by omitting from subsection (1) “chairperson considers appropriate if the chairperson” and substituting “initial assessor considers appropriate if the initial assessor”;
- (c) by omitting from subsection (2)(b) “chairperson of the Code of Conduct Panel” and substituting “initial assessor for the code of conduct complaint”;
- (d) by omitting from subsection (3) “the chairperson of the Code of Conduct Panel” and substituting “initial assessor for the code of conduct complaint”;
- (e) by omitting from subsection (5) “chairperson of the Code of Conduct Panel” and substituting “initial assessor for the code of conduct complaint”;
- (f) by omitting from subsection (6)(a) “chairperson” and substituting “initial assessor”;
- (g) by omitting from subsection (6)(b) “chairperson” first occurring and substituting “initial assessor”;
- (h) by omitting from subsection (6)(b) “chairperson” second occurring and substituting “initial assessor”;
- (i) by omitting from subsection (6)(b) “chairperson” third occurring and substituting “initial assessor”.

**22. Section 28ZCA inserted**

After section 28ZC of the Principal Act, the following section is inserted in Subdivision 3:

**28ZCA. Convening of investigating Panel for complaint**

- (1) If the Executive Officer receives a copy of an initial assessment of a code of conduct complaint under section 28ZA(3)(b)(iii), the Executive Officer is to –
  - (a) convene an investigating Panel under section 28L in respect of the complaint; and
  - (b) provide a copy of the complaint, and the initial assessment of the complaint under section 28ZA, to each member of the investigating Panel.
- (2) A person must not be selected to be a member of an investigating Panel convened under section 28L in respect of a code of conduct complaint if the person was the initial assessor in respect of the complaint.

**23. Section 28ZD amended (Time for investigating and determining code of conduct complaint)**

Section 28ZD of the Principal Act is amended as follows:

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 24

---

- (a) by omitting from subsection (1) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (b) by omitting from subsection (1) “a code of conduct complaint” and substituting “the complaint”;
- (c) by omitting from subsection (1)(a) “chairperson of the Panel” and substituting “initial assessor for the complaint”;
- (d) by omitting from subsection (1)(b) “chairperson of the Panel” and substituting “initial assessor for the complaint”;
- (e) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (f) by omitting from subsection (2) “a code of conduct complaint” twice occurring and substituting “the complaint”.

**24. Section 28ZE amended (Conduct of investigations generally)**

Section 28ZE of the Principal Act is amended as follows:

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 24

---

- (a) by omitting from subsection (1) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (c) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (d) by inserting the following subsection after subsection (3):
  - (3A) All of the reasonable costs and expenses incurred, in respect of the investigation of a code of conduct complaint, by the investigating Panel for the complaint are payable by the relevant council in respect of the complaint.
- (e) by omitting from subsection (4) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (f) by omitting from subsection (5)(b) “Code of Conduct Panel” and substituting “investigating Panel for the relevant code of conduct complaint”;
- (g) by omitting from subsection (6) “Code of Conduct Panel” first occurring and substituting “investigating Panel for the relevant code of conduct complaint”;

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 25

---

- (h) by omitting from subsection (6) “Code of Conduct” second occurring.

**25. Section 28ZF amended (Investigation of multiple code of conduct complaints against same councillor or multiple councillors)**

Section 28ZF of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsections:

(1) If there are a number of code of conduct complaints against the same councillor or different councillors of the same council and the complaints relate to the same contravention of the code of conduct, the Executive Officer may appoint a single initial assessor to do a single initial assessment of all of the complaints.

(1A) If a single initial assessor is appointed under subsection (1) in respect of a number of code of conduct complaints, the initial assessor may make a recommendation to the Executive Officer, as part of the initial assessment of the complaints, that a joint investigation of the complaints be conducted by a single investigating panel.

- (b) by omitting from subsection (2) “Code of Conduct Panel may only make a determination” and substituting “initial assessor for a code of conduct complaint may only make a recommendation under subsection (1A)”;
- (c) by omitting subsection (3) and substituting the following subsection:
- (3) If an initial assessor for a number of code of conduct complaints makes a recommendation to the Executive Officer under subsection (1A) for a joint investigation to be conducted into the complaints, the Executive Officer –
- (a) may convene an investigating Panel under section 28L to conduct a joint investigation into all the complaints, if –
- (i) the complaints are against less than half of the councillors for the relevant council; or
- (ii) the complaints have been referred to the Director under

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 26

---

paragraph (b) and the Director has not accepted the referral; and

(b) is to refer the complaints to the Director, if the complaints are against half, or more than half, of the councillors for the relevant council.

(d) by omitting from subsection (4) “Code of Conduct Panel” and substituting “Executive Officer”;

(e) by omitting from subsection (4) “Panel” second occurring and substituting “Executive Officer”;

(f) by omitting from subsection (5) “Code of Conduct Panel” and substituting “Executive Officer”.

**26. Section 28ZG amended (When hearing is to be held)**

Section 28ZG of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;

(b) by omitting from subsection (1) “a code of conduct” and substituting “the”;



- (c) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (d) by omitting from subsection (2) “a code of conduct” and substituting “the”;
- (e) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (f) by omitting from subsection (4) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”.

**27. Section 28ZH amended (Hearings)**

Section 28ZH of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “the Code of Conduct Panel” and substituting “an investigating Panel”;
- (b) by omitting from subsection (2)(a) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (c) by omitting from subsection (2)(a) “code of conduct”;
- (d) by omitting from subsection (3) “Code of Conduct Panel” and substituting

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 28

---

“investigating Panel for the code of conduct complaint”;

- (e) by omitting from subsection (4) “Code of Conduct Panel” first occurring and substituting “investigating Panel for a code of conduct complaint”;
- (f) by omitting from subsection (4)(b) “Code of Conduct”;
- (g) by omitting from subsection (5) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (h) by omitting from subsection (6) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”.

**28. Section 28ZI amended (Determination of code of conduct complaint)**

Section 28ZI of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;

- (c) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”.

**29. Section 28ZJ amended (Determination report)**

Section 28ZJ of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” first occurring and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (1)(b) “Code of Conduct”;
- (c) by omitting from subsection (1)(c) “Code of Conduct”;
- (d) by omitting from subsection (1)(d) “Code of Conduct”;
- (e) by omitting from subsection (1)(e) “Code of Conduct”;
- (f) by omitting from subsection (1)(f) “Code of Conduct”;
- (g) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”.

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 30

---

**30. Section 28ZK amended (Notification of determination of code of conduct complaint)**

Section 28ZK of the Principal Act is amended as follows:

- (a) by omitting “Code of Conduct Panel” from the definition of *determination report* in subsection (1) and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (c) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (d) by omitting subsection (6) and substituting the following subsection:
  - (6) Subsections (4) and (5) do not apply in respect of a determination report until –
    - (a) the expiry of the period during which a person may apply to the Magistrates Court (Administrative Appeals Division) for a review of the determination to which the determination report relates; and

- (b) if an application for such a review is made –
  - (i) the review is completed or dismissed; or
  - (ii) the application is withdrawn.
- (e) by inserting the following paragraph after paragraph (a) in subsection (9):
  - (ab) the disclosure of a copy of the determination report with the addendum solely for the purpose of arranging for the report and addendum to be included within an item on the agenda for a meeting of the relevant council; or
- (f) by inserting the following subsections after subsection (9):
  - (10) A person must not disclose a document or report, or any information, if –
    - (a) the document, report or information –
      - (i) relates to a code of conduct complaint or the matters to which a code of

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 30

---

conduct complaint  
relates; and

(ii) has been provided  
to a person by the  
Executive Officer  
or an investigating  
Panel; and

(b) the person would not have  
knowledge, or possession,  
of the document, report or  
information had it not  
been provided to a person  
referred to in paragraph  
(a)(ii); and

(c) at the time of the  
disclosure, the  
determination report, to  
which the document,  
report or information  
relates, has not been  
included within an item  
on the agenda for a  
meeting of the relevant  
council.

Penalty: Fine not exceeding 50  
penalty units.

(11) Subsections (7) and (10) do not  
apply to the disclosure of a  
document, report or information  
that relates to a determination  
report if the disclosure is solely

for the purpose of arranging for the determination report to be included on the agenda for a meeting of the council.

**31. Section 28ZL amended (Effect of third suspension)**

Section 28ZL of the Principal Act is amended as follows:

- (a) by omitting “the Code of Conduct Panel” from the definition of *third suspension* in subsection (1) and substituting “an investigating Panel”;
- (b) by omitting from subsection (2) “the Code of Conduct Panel” and substituting “an investigating Panel”.

**32. Section 28ZM amended (Councillor to comply with sanction imposed for contravention of code of conduct)**

Section 28ZM of the Principal Act is amended as follows:

- (a) by omitting “Code of Conduct Panel” from the definition of *determination report* in subsection (1) and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 32

---

- (c) by omitting from subsection (3) “is to notify the general manager that he or she has done so.” and substituting “is to –”;
- (d) by inserting the following paragraphs after subsection (3):
  - (a) notify the Executive Officer that the councillor has complied with the sanction; and
  - (b) provide evidence, to the Executive Officer, of that compliance.
- (e) by inserting the following subsections after subsection (3):
  - (3A) As soon as practicable after being notified by a councillor under subsection (3) in respect of compliance with a sanction, the Executive Officer is to –
    - (a) notify the Director, in writing that the councillor has notified the Executive Officer, under subsection (2), in respect of compliance with the sanction; and
    - (b) specify, in the notice, the evidence provided by the councillor under that subsection.



(3B) After being notified by the Executive Officer under subsection (3A) in respect of a councillor's compliance with a sanction, the Director may require the councillor to provide further evidence, to the satisfaction of the Director, of the councillor's compliance with the sanction.

(f) by omitting from subsection (4) "relevant general manager" and substituting "Executive Officer".

**33. Section 28ZNA amended (Costs of training to be borne by council)**

Section 28ZNA(1) of the Principal Act is amended by omitting "Code of Conduct Panel" from the definition of *determination report* and substituting "investigating Panel for the complaint".

**34. Section 28ZO amended**

Section 28ZO of the Principal Act is amended as follows:

- (a) by renumbering the section as subsection (1);
- (b) by omitting from paragraph (a) "by the general manager";

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 35

---

- (c) by omitting from paragraph (b) “by the chairperson of the Code of Conduct Panel”;
- (d) by omitting from paragraph (c) “by the general manager”;
- (e) by omitting from paragraph (c) “section 28Z(1)” and substituting “section 28Z(1)(a)”;
- (f) by omitting from paragraph (d) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (g) by inserting the following subsection after subsection (1):
  - (2) A refund under subsection (1) is to be made within 30 days after the circumstances, specified in that subsection, that resulted in the refund being payable under this section.

**35. Part 3, Division 3A, Subdivision 4: Heading amended**

Subdivision 4 of Division 3A of Part 3 of the Principal Act is amended by omitting “*Reviews of Code of Conduct Panel decisions*” from the heading to that Subdivision and substituting “*Reviews of investigating Panel decisions*”.

**36. Section 28ZP amended (Review of investigating Panel decision)**

Section 28ZP of the Principal Act is amended by omitting “Code of Conduct Panel” and substituting “investigating Panel for the complaint”.

**37. Section 349C inserted**

After section 349B of the Principal Act, the following section is inserted in Division 3:

**349C. Transitional provisions consequent on *Local Government Amendment (Code of Conduct) Act 2022***

(1) In this section –

*commencement day* means the day on which the *Local Government Amendment (Code of Conduct) Act 2022* commences.

(2) A complaint received by a general manager before the commencement day but not finalised before that day is to be dealt with under this Act as in force immediately before the commencement day.

(3) For the avoidance of doubt, a complaint received by a general manager on or after the commencement day is to be dealt with in accordance with this Act, as in force on or after the commencement day,

*Local Government Amendment (Code of Conduct) Act 2022*  
*Act No. of 2022*

s. 38

---

regardless of whether the complaint relates to behaviour that occurred before the commencement day.

**38. Repeal of Act**

This Act is repealed on the first anniversary of the day on which this Act commenced.

Consultation Draft