

Summary of Code of Conduct framework amendments

The Tasmanian Government is consulting on changes to two statutory instruments to support the delivery of changes to the Code of Conduct Framework agreed by Parliament last year. There are amendments to the Local Government (General) Regulations 2015 and a new ministerial Code of Conduct Order. These are relatively minor but essential changes to modernise and improve the operation of the Code of Conduct Framework, as well as how councils manage disputes and behavioural issues. These changes are required to turn on the changes from the Local Government Amendment (Code of Conduct) Act 2023 (the Amendment Act). The key changes in the General Regulations and Code of Conduct Order are summarised below.

Changes to the General Regulations

- All councils must adopt a dispute resolution policy within 12 months of the relevant section of the Amendment Act commencing.
- The Regulations are amended to include prescribed information for council's dispute resolution policies.
- The prescribed requirements are broad and are intended to establish an overall level of consistency while allowing individual councils the flexibility to develop and adopt policies that meet their individual local needs and circumstances.
- For instance, the Regulations will provide for a set of overarching principles for dispute resolution policies – that dispute resolution is:
 - suitable for resolving disputes – including the methods used and circumstances for when they are used;
 - accessible – including the appropriate form and costs for undertaking dispute resolution;
 - equitable for both complainants and participants – including the process, timeframes, confidentiality requirements and how dispute resolution is gender-responsive; and

- transparent – including factors considered in determining an outcome and how outcomes are recorded and reported
- Dispute resolution policies will support councils to undertake dispute resolution processes to attempt to resolve any disputes internally. It is intended that this will limit minor disputes or vexatious complaints entering the Code of Conduct complaints process.
- The Regulations also establish annual reporting requirements for councils on the number of disputes where the council’s dispute resolution policy has been utilised.

Replacement Ministerial Order

- The Amendment Act provides for a statewide Code of Conduct for all councillors, replacing the existing Model Code of Conduct.
- The primary change from this is that the Code will automatically apply to all councillors – rather than councils having to adopt a Model Code with the ability to make changes. This will ensure consistent assessment and investigation of complaints.
- The other significant change is the inclusion in the Code that a councillor is not to engage in ‘prohibited conduct’ in the councillor’s relationships with the community, other councillors and council employees. ‘Prohibited conduct’ is defined as “discrimination, or prohibited conduct, within the meaning of the [Anti-Discrimination Act 1998](#)”; and such other conduct, or behaviour, that is prescribed as prohibited conduct.” This includes:
 - Discrimination based on attributes such as age, race, religion, sexual orientation, gender, pregnancy, political belief;
 - Sexual harassment;
 - Victimisation; and
 - Inciting hatred.
- While this means that a complaint alleging prohibited conduct can be raised with the Panel, note that the Panel has referral powers that may be relevant for such complaints.
- The Code has also been amended to reflect gender neutral language.