

A complaints mechanism for local government councillors - and other politicians?

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Strategic Directions

- A new Independent Assessor to replace council CEOs, mayors and the Department in deciding whether a complaint about councillor conduct involves misconduct or inappropriate conduct or should be treated as frivolous, vexatious, lacking in substance or about another matter.
- Reduce the number of unwarranted or misdirected complaints by requiring complaints to be lodged on a standard form that: collects essential basic information; defines clearly what may constitute a councillor conduct complaint; and provides advice on how other concerns can be handled in a different way.
- Devolve responsibility for handling complaints of inappropriate conduct to councils, subject to new procedures and safeguards, while retaining the existing power for review of administrative decisions in this respect by the Ombudsman.
- Give the Independent Assessor power to fully and speedily investigate complaints about councillor conduct (replacing the Department's role) and to prosecute complaints of substance before the Tribunal.
- Merge the existing Regional Conduct Review Panels and the Local Government Remuneration and Discipline Tribunal to form a new Local Government Conduct Tribunal – the current tribunal's remuneration function to be given to the Queensland Independent Remuneration Tribunal.
- Clarify the definitions of inappropriate conduct and misconduct.
- Expand the range of disciplinary orders and penalties for inappropriate conduct and misconduct available to councils and the new Tribunal.
- Maximise natural justice and fairness for all concerned and introduce a limited right of appeal.
- Introduce a uniform state-wide Code of Conduct for councillors, plus a requirement for all councils to adopt a set of meetings procedures consistent with a model code and the Code of Conduct.
- Retain the Department's role in prosecuting in the courts specific offences under the *Local Government Act 2009* (LG Act).
- Strengthen the role of the Department in promoting good governance and ethical conduct, and facilitate coordination amongst related agencies and entities by establishing a Local Government Liaison Group (LGLG).

Source: Extract from Queensland's Councillor Complaints Review: A fair, effective and efficient framework (the Councillor Complaints Report), page 9. A copy of the report is available at - <http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2017/5517T1073.pdf>
A copy of the Government's response is available at: <http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2017/5517T1074.pdf>

Legislative Provisions

To implement the Government's response, the Bill amends the LGA and the *Public Service Act 2008* (PSA) to provide a simpler, more streamlined system for making, investigating and determining complaints about councillor conduct in Queensland.

The Bill:

- Establishes the Independent Assessor and the Office of the Independent Assessor to investigate and deal with the conduct of councillors where it is alleged or suspected to be inappropriate conduct, misconduct or, when referred to the assessor by the Crime and Corruption Commission (CCC), corrupt conduct
- Provides for local governments to investigate and deal with suspected inappropriate conduct when referred to a local government by the assessor and to take disciplinary action against councillors for inappropriate conduct
- Reallocates the functions of the current Local Government Remuneration and Discipline Tribunal (LGRDT) and the Regional Conduct Review Panels (RCRPs) by:
 - establishing the Councillor Conduct Tribunal to conduct hearings about a councillor's alleged misconduct, decide whether the councillor has engaged in misconduct and what, if any, disciplinary action to take, and at the request of a local government investigate the suspected inappropriate conduct of a councillor
 - establishing the Local Government Remuneration Commission to establish the categories of local governments, decide the category to which each local government belongs and decide the maximum remuneration payable to councillors
- Deals with the conduct of councillors at local government meetings that contravene the behavioural standards (a 'local government meeting' is defined to mean a meeting of a local government or a committee of a local government)
- Allows for decisions made as part of the new councillor complaints system to be subject to appeal (by repealing current section 176(9), refer also to section 244 of the LGA), and provides for an application to the Queensland Civil and Administrative Tribunal (QCAT) under the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act) for a review of:
 - the tribunal's decisions (new section 150AQ) (other than a decision to recommend the councillor's suspension or dismissal, refer new section 150AR (1)(b)(xi), (xii))
 - a review decision made by the assessor about a decision to seize a thing (new section 150C Q)
- Provides for administration and governance matters including requiring:
 - a code of conduct (made by the Minister) to set appropriate standards of behaviour for councillors in performing their functions
 - the department's chief executive to make model procedures for the conduct of meetings of a local government and its committees
 - local governments to maintain a councillor conduct register recording particular orders and decisions
 - the assessor to give the Minister an annual written report about the operation of the Office of the Independent Assessor and for the Minister to table a copy of the report in the Legislative Assembly
- Strengthens offences to support the new system, including providing protection from reprisal for local government employees and councillors who make complaints against councillors, discouraging frivolous and improper complaints and ensuring confidentiality of investigations

- Provides for appropriate arrangements necessary for the transition to the new councillor complaints system.

Former councillors

The Bill new chapter 5A applies in relation to a person who was but is no longer a councillor if the person was a councillor when conduct the subject of a complaint or investigation is alleged to have happened (new section 150M).

Source: Extract from Queensland Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2017 which was introduced to Parliament on 10 October 2017 (and not debated before the Parliament was dissolved for the election).