

Discussion Paper - Local Government Code of Conduct Framework

July 2021



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How to Make a Submission

The Discussion Paper includes information to help you provide feedback on potential targeted legislative changes to the Code of Conduct Framework. Comment is welcome on any aspect relating to this paper, but you are encouraged to review the considerations and principles in the Your Feedback section to inform your feedback.

Please provide your name and contact details with your submission which will be published on the Department of Premier and Cabinet's Local Government Division's website.

Exceptions to publication only exist when it is not in the public interest to release the information: for example, to protect personal and other sensitive information (including that of a commercial nature) or where the submitter has requested that the submission be treated as confidential. If your submission is being provided confidentially, please clearly state this in your submission.

Any offensive or defamatory material will not be published.

Submissions close at midnight on 9 August 2021

1. Download the submission form at this link
https://www.dpac.tas.gov.au/divisions/local_government/local_government_code_of_conduct/code_of_conduct_framework_review
 - If you need help accessing the submission form please call the Local Government Division on 6232 7022
2. Email your completed submission form to: LGAReview@dpac.tas.gov.au with the email subject heading as Code of Conduct Framework feedback

or

Post your completed submission form to:
Attention: Code of Conduct Framework feedback
Local Government Division
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

If you have any questions about how to lodge a submission please contact the Local Government Division by phone on 6232 7022 or by email at LGAReview@dpac.tas.gov.au.



Local Government Code of Conduct Framework

Background

Tasmanians need to be confident that the councillors they elect to represent them will uphold and abide by certain standards of conduct and behaviour. The local government Code of Conduct Framework (the framework) plays an important role in supporting this outcome.

Following requests from the sector a statewide framework applying to all elected councillors first commenced on 13 April 2016. The framework was established through changes to the *Local Government Act 1993* (the Act) and replaced a patchwork of previous code of conduct arrangements that were in place at the individual council level.

The framework was developed through extensive consultation with the local government sector and the Integrity Commission, and provides for greater uniformity and enforceability than pre-2016 arrangements, which were widely seen as lacking consistency and credibility.

In early 2017, the then Government agreed to a request by the sector for a review of the framework. A number of changes were made to improve its operation in late 2018 and early 2019 following substantial consultation with the local government sector.

Recent scrutiny of the framework

Since October 2019, there has been significant public interest and commentary surrounding the Code of Conduct process, decisions and determinations.

Recent concerns include the types of complaints that have proceeded to investigation, the costs involved and whether some complaints could have been resolved between the parties, preventing the need for a Code of Conduct investigation.

As a result, the then Minister tasked the Local Government Division (the Division) with conducting further analysis and providing advice on potential administrative and legislative changes. In further understanding a number of the key issues, the Division led four regional forums with councils in October 2020. The forums aimed to update the sector on further policy measures which could support the framework, foreshadow potential targeted legislative changes, discuss options for council dispute resolution policies and better understand the concerns of councillors.

Immediate policy response – Initial Assessment Guidelines

In October 2020 the Code of Conduct Panel members accepted revised Initial Assessment Guidelines (the Guidelines) for the review of complaints. The endorsement of the Guidelines is representative of the ongoing commitment of Panel members to be responsive to feedback and provide a framework that is fair, measured and consistently applied.

The purpose of the Guidelines is to:

1. provide additional clarity and support to the Panel Chairperson during initial assessments of complaints;
2. ensure the consistent and appropriate use of provisions in the Act that limit instances when a complaint will proceed to investigation, such as limiting trivial, vexatious and frivolous complaints; and
3. empower the Panel Chairperson to liaise with the Solicitor-General's Office at their discretion if there is a question at law which requires clarification.

Further proposed reforms

The framework is important to promote public confidence in councillors as respected leaders in their local community. Equally however, it is important that complaints be made in good faith, and only where there are genuine and serious concerns about a councillor's behaviour.

Some people in the sector have been asking for a wholesale review of the framework. The Government's view is that the intent of the framework is sound and that most of the concerns being raised by the sector can be addressed in a progressive manner.

On this basis, and in considering feedback from the sector collected during forums, there is a clear benefit in:

1. the consideration of changes to the legislation; and
2. the sector developing alternative dispute resolution policies.

Changes to the legislation

The then Government committed to working with the sector to identify areas where the framework could be improved through legislative changes.

While a variety of issues have been raised by individual councillors from time to time, councillors have consistently raised issues with the nature of certain complaints that have proceeded to investigation, the absence of any awareness that their conduct had raised concerns with the complainant, that the complaints process may be inappropriately used against person/s involved in the complaint (or 'weaponised') and that the costs of an investigation are a significant expense for councils to incur.

It is proposed that the following legislative amendments will address these concerns and reinforce the administrative and policy improvements that have already been implemented through the Guidelines:

1. **Further strengthening and clarifying the grounds for the Panel to dismiss complaints at the initial assessment stage.**
 - The current provisions within the Act provide a relatively rigid framework for the dismissal of complaints on initial assessment, including the following:
 - o the complaint is frivolous, vexatious or trivial;

- o the complainant has not made reasonable effort to resolve the issue; and
- o the complaint does not substantially relate to a breach of the Code of Conduct.
- It is proposed that a broader public interest test be included in the Act as part of the initial assessment process, to empower the Chairperson to consider a variety of other relevant factors and allow for a more holistic consideration of the impact of the alleged conduct and the subsequent complaint.
- A public interest test would provide the Chairperson with greater flexibility in their assessment of the merits of a complaint and the impact of the alleged conduct on the functions and effectiveness of a council and its relationship with the community.
- In addition to the introduction of a public interest test, it is also proposed that consideration be given to strengthening the requirement for the complainants to utilise the council administered dispute resolution processes, including mediations, before submitting a complaint.

2. Removing a perceived conflict of interest and empowering a legal member of the Panel to undertake the initial assessment process.

- The Government recognises that the Code of Conduct Panel members undertake their functions with a high degree of integrity. However, the current framework exposes the member conducting the initial assessment to a perception of a conflict of interest in the investigation process – the Chairperson conducting an initial assessment of a complaint will financially benefit from their decision to proceed to a full investigation of the complaint (if the person who undertakes the initial assessment subsequently becomes the Chairperson of the Panel conducting the investigation process).
- For each complaint, it is proposed that a member of the Code of Conduct Panel be appointed to undertake the initial assessment. Should that member determine to proceed to investigation, a panel will be convened to investigate, that will not include the person who undertook the initial assessment.
- Currently, initial assessments are undertaken by a member of the Code of Conduct Panel, who is required to be a person experienced in matters of local government. Initial assessments may include the consideration of a range of legal and procedural matters. For this reason, and in keeping with the introduction of a new public interest test, it is also proposed that a legal member will undertake the initial assessment process.

3. Wherever practicable, improve confidentiality requirements in relation to the complaints process.

- While there are existing requirements under the Act to maintain the confidentiality of determination reports before they are tabled at council meetings, there have been multiple instances of draft reports (or findings) being disclosed to third parties before they have been tabled.
- It is proposed that additional legislative provisions be made to minimise the ability for people to inappropriately disclose information of this nature prior to it being made public.

Council dispute resolution policies

In the context of considering any targeted legislative changes, it is important to reiterate that the current framework provides that complaints should only proceed to investigation where there have first been reasonable efforts to resolve the issue that is the subject of the complaint.

The framework does not limit a council's ability to implement dispute resolution policies which provide an alternative method to resolve complaints. At this stage, the majority of councils have not implemented a dispute resolution process to provide any aggrieved person with an opportunity to resolve a dispute in advance of submitting a Code of Conduct complaint.

Following the regional forums conducted with the sector in October 2020, the Local Government Association of Tasmania (LGAT) confirmed that it is supportive of further work to develop relatively standardised dispute resolution policies that provide for the informal resolution of complaints lodged by any complainant. As the vast majority of Code of Conduct complaints are submitted by non-councillors, it is important that such policies are accessible to all complainants, including members of the public.

The Government's position is that the effectiveness of legislative changes will be strengthened by council dispute resolution policies. This will require changes driven by the sector. To maintain the confidence of all relevant parties, it is expected that the sector will ultimately design and implement an appropriately independent dispute resolution framework capable of resolving a broad range of conduct related disputes.

While dispute resolution will not be appropriate for every complaint, alternative dispute resolution would provide councils with a more economical, less adversarial and enduring resolution process for certain types of complaints.



Your Feedback

The Government wants to hear from members of the public, the local government sector and the broader community on the proposed legislative reforms. Your feedback will help the Government to refine the targeted legislative changes. In preparing a submission, you are encouraged to review the considerations below that outline some of the specific matters the Government wants to hear feedback on.

Public comment is welcome on any aspect relating to this reform proposal, but respondents are encouraged to review the following considerations and principles to inform their feedback.

Consideration 1 - Further strengthening and clarifying the grounds for the Initial Assessor to dismiss complaints at the initial assessment stage

- The Initial Assessor can dismiss complaints if they believe the complaint was not made in good faith or if the complaint is vexatious or trivial.
- Use of a public interest test would provide the Initial Assessor with a tool to assess if a complaint should or should not continue to an investigation based on a more holistic analysis of a variety of matters relevant to the circumstances of each complaint.
- A public interest test may include assessing complaints for seriousness, the availability of evidence, the level of public concern, demonstrated actions taken to deal with the matter, and whether the matter may be a sign of more widespread or systemic problems.
- Ensuring that the legislation clearly establishes an expectation that complainants must utilise council dispute resolution processes.

Consideration 2 - Removing a perceived conflict of interest for the Code of Conduct Panel Chairperson and providing consistency in relation to the initial assessment process

- Code of Conduct Panel members, including the Chairperson get paid for the time they spend on each complaint. It could be considered a conflict of interest if the Chairperson deciding that a complaint should be investigated remains on the Panel for that investigation. The conflict arises because the Chairperson receives a financial benefit if they choose to investigate the complaint.
- Removing potential perceived conflicts of interest for the Panel Chairperson will promote consistency in decisions made during the initial assessment of the complaint and promote confidence in the decision-making process.

Consideration 3 - Wherever practicable, improve confidentiality requirements in relation to the Code of Conduct complaints process

- The Code of Conduct Panel's final determination report is confidential however, there have been multiple instances of draft reports (or findings) being disclosed to third parties before they have been tabled at a council meeting.
- Providing clarification about when information from Code of Conduct complaints must be kept confidential will help protect all parties involved in a complaint.

Consideration 4 – Implementation of council dispute resolution policies

- While the Government's view is that the implementation and design of council dispute resolution policies should be a matter for LGAT and councils to administer, it is considered essential for complainants to have alternative means to resolve conduct related grievances, before submitting a Code of Conduct complaint.
- A dispute resolution policy may not always be appropriate for every grievance. However, a failure to attempt to resolve a grievance by utilising such policies (where appropriate) may be considered in the context of identifying vexatious complainants.
- In many circumstances, an opportunity to resolve grievances in a less adversarial environment may provide an avenue for a more genuine, lasting and cost effective resolution and further, improve long-term community relations for councillors.



Tasmanian
Government

Email: LGARreview@dpac.tas.gov.au

Post: Attention: Code of Conduct Framework feedback
Local Government Division
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

Have your say - Local Government Code of Conduct Framework targeted legislative amendments

The Tasmanian Government is committed to providing opportunities for community involvement in the development of Government policy and we are seeking your input on the following matters related to the Code of Conduct Framework.

In response to concerns of the local government sector and the community about the Code of Conduct Framework for councillors, the Tasmanian Government has committed to consulting with the public about potential targeted legislative changes. The proposed changes will encourage people to address complaints with the council prior to lodging a complaint with the Code of Conduct Panel as well as improve the process for the initial assessment of complaints.

Please ensure this form is submitted before midnight on Monday 9 August 2021

Name:

Address:

Email:

Phone:

Is this submission confidential? Yes/No

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 unless you request it to be kept confidential.

Submissions will be available on the website once they have been considered and a Government position has been determined.

For further information please contact the Local Government Division on 6232 7022 or email LGAReview@dpac.tas.gov.au.

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. Space has been provided on this form for you to type your comments under each consideration.

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

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 above and indicate 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.

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.

Consideration 1 - Further strengthening and clarifying the grounds for the Initial Assessor to dismiss complaints at the initial assessment stage

- The Initial Assessor can dismiss complaints if they believe the complaint was not made in good faith or if the complaint is vexatious or trivial.
- Use of a public interest test would provide the Initial Assessor with a tool to assess if a complaint should or should not continue to an investigation based on a more holistic analysis of a variety of matters relevant to the circumstances of each complaint.
- A public interest test may include assessing complaints for seriousness, the availability of evidence, the level of public concern, demonstrated actions taken to deal with the matter, and whether the matter may be a sign of more widespread or systemic problems.
- Ensuring that the legislation clearly establishes an expectation that complainants must utilise council dispute resolution processes.

Your feedback on Consideration 1:

Please type your comments here.

Consideration 2 - Removing a perceived conflict of interest for Code of Conduct Panel Chairperson and providing consistency in relation to the initial assessment process

- Code of Conduct Panel members, including the Chairperson get paid for the time they spend on each complaint. It could be considered a conflict of interest if the Chairperson deciding that a complaint should be investigated remains on the Panel for that investigation. The conflict arises because the Chairperson receives a financial benefit if they choose to investigate the complaint.
- Removing potential perceived conflicts of interest for the Panel Chairperson will promote consistency in decisions made during the initial assessment of the complaint and promote confidence in the decision-making process.

Your feedback on Consideration 2:

Please type your comments here.

Consideration 3 - Wherever practicable, improve confidentiality requirements in relation to the Code of Conduct complaints process

- The Code of Conduct Panel's final determination report is confidential however, there have been multiple instances of draft reports (or findings) being disclosed to third parties before they have been tabled at a council meeting.
- Providing clarification about when information from Code of Conduct complaints must be kept confidential will help protect all parties involved in a complaint.

Your feedback on Consideration 3:

Please type your comments here.

Consideration 4 – Implementation of council dispute resolution policies

- While the Government's view is that the implementation and design of council dispute resolution policies should be a matter for LGAT and councils to administer, it is considered essential for complainants to have alternative means to resolve conduct related grievances, before submitting a Code of Conduct complaint.
- A dispute resolution policy may not always be appropriate for every grievance. However, a failure to attempt to resolve a grievance by utilising such policies (where appropriate) may be considered in the context of identifying vexatious complainants.
- In many circumstances, an opportunity to resolve grievances in a less adversarial environment may provide an avenue for a more genuine, lasting and cost effective resolution and further, improve long-term community relations for councillors.

Your feedback on Consideration 4:

Please type your comments here.

Additional feedback:

Please type additional comments here.

9 August 2021

Local Government Division
Department of Premier and Cabinet
By email: LGAReview@dpac.tas.gov.au

Dear Sir or Madam

Code of Conduct Framework

Thank you for the opportunity to provide a submission on the Code of Conduct Framework Discussion Paper. This submission has been prepared by the Local Government Association of Tasmania (LGAT) on behalf of the local government sector in collaboration with our Members, all 29 local councils in Tasmania.

LGAT is incorporated under the *Local Government Act 1993* and is the representative body and advocate for local government in Tasmania. Where a council has made a direct submission to this process any omission of specific comments made by that council in this submission should not be viewed as lack of support by the LGAT for that specific issue.

If you have any questions or would like further information, please do not hesitate to contact me at dion.lester@lgat.tas.gov.au or via phone on (03) 6146 3740.

Yours sincerely



Dion Lester
CHIEF EXECUTIVE OFFICER

LGAT Submission: Local Government Code of Conduct Framework

In Tasmania, there is a reasonable expectation that elected members will conduct themselves, in council functioning and business, at a high standard. To guide councillors¹, the State Government has developed the Code of Conduct Framework (Code / Framework). The Code of Conduct Framework is based on eight standards of conduct. To be effective, elected members have a clear responsibility to uphold such expectations in the work of their council and across the innumerable interactions that take place continuously amongst local government stakeholders. It is pleasing that the overwhelming majority are conducted with mutual respect and effective outcomes.

Tasmanian councillors on the whole, work hard and demonstrate mutual respect and a genuine desire to meet community needs to the best of their ability. It must be remembered that councillors and community members are human beings who, no matter how much they try, will make occasional mistakes. The Framework should be reserved for matters of a more serious nature pertaining to breaches of governance standards, serious cultural issues, or loss of public confidence in local government.

This is where the Framework is failing us. We have a system that spends unnecessary time and resources on dealing with the trivial, while on the occasions when serious misconduct occurs, the Framework fails to adequately sanction the breaches. It is these shortcomings that are at the core of the local government sector's concerns over both the Framework itself, but also the function of the Code. This is why, at two General Meetings last year (September and December), there were three separate motions supported.

These motions were:

- September 2020 - That LGAT call on the State Government to conduct a full review of the entire Code of Conduct process, including the Code.
- December 2020 - That the LGAT declares it has no confidence in the Local Government Code of Conduct process and calls on the Minister for Local Government to urgently take a more active role in resolving the issues.
- December 2020 - That LGAT call on the State Government to include mandatory conciliation or mediation by an appropriately qualified arbitrator to be funded by the Local Government Division in the first instance of the code of conduct process.

¹ As defined in the *Local Government Act 1993*, including Lord Mayor, Deputy Lord Mayor, mayor, deputy mayor and alderman

These policy positions were extended at a General Meeting held on the 5 August 2021, with the following motion supported:

That LGAT lobby the State Government to broaden the scope of the present review of the Code of Conduct to include investigation of the transfer of Code of Conduct complaints to the jurisdiction of TasCAT, subject to clarification of the cost implications for participants and councils.

Specific feedback on the proposals contained within the Discussion Paper are provided in the table below (see Specific Comments). While many of the proposed reforms are supported, or supported in principle, much of the feedback received from councils relates to what is not in the Discussion Paper. The limited scope of the current review has not addressed the September 2020 motion, and also fails to capture a number of other matters that were raised at the October 2020 forums run by the Local Government Division. These include:

- A general lack of natural justice and procedural fairness to councillors.
- The process is being used as a forum for interpersonal issues, which would be better resolved through informal conflict resolution processes.
- Significant cost and reputational damage to councillors who have been the subject of complaints.
- A feeling that councillors have not been properly heard with Panels making determinations on minimal evidence.
- The need for proportional and practical sanctions.
- Personal and mental health issues arising from the Code of Conduct processes.
- Dissatisfaction with Panel determinations and the impact of these on the ability of a councillor to perform their roles and functions or defend themselves appropriately.
- Interpretation of the Code of Conduct to create an expectation of councillor conduct beyond that stated within the Code of Conduct.
- A lack of clear reasoning within decisions of the Panel to make a determination on whether decisions are justified at law.
- A lack of clear reasoning to support the imposition of a sanction relevant to the nature of the breach.
- The imposition of an obligation on a third-party organisation for training without prior consent of that body, such as was recently imposed on LGAT.

- Applying the Code of Conduct to actions of a councillor when the Panel has not demonstrated that the actions occurred in performing the functions of a councillor.
- Legal representation and appeal rights.
- Freedom of political expression.
- Language and terminology within the Code.
- The “weaponising” of complaints and the fact that the same person can continually make complaints that are received by the Panel.

In many cases, these issues require further consideration and discussion with the sector on the best way forward. Unfortunately, the limited nature of the current review does not enable this.

The Code of Conduct Framework can generate significant financial, reputational and personal costs, even before any sanctions (e.g. training) are considered. More work is required to mitigate these costs while still providing a consistent, effective and enforceable means to address councillor misconduct.

Specific Comments

A summary of the specific feedback relating Code of Conduct Discussion Paper are provided below:

Consideration	Reference Summary	Comments / Concerns
Immediate Policy Response	Initial Assessment Guidelines	Whilst these guidelines are not publicly accessible for review, councils supported complaints being carefully considered at the initial point and there being clear guidance to Panel members on their initial response.
1	Further strengthening and clarifying the grounds for the Panel to dismiss complaints at the initial assessment stage.	Most councils cautiously supported this proposal given that it could provide more tools for them at an early stage to manage inappropriate complaints. However, it was noted that the public interest test must be well defined. This concern is best summarised by the response of a council that did not support this proposal:

Consideration	Reference Summary	Comments / Concerns
		<p><i>“unless there are clear measurable factors which can demonstrate a public interest, this becomes a further subjective discretion to be exercised by the Panel.”</i></p> <p>The process requires greater clarity on what a complaint must satisfy at the first instance. There should be clear guidance on what constitutes frivolous, vexatious or trivial complaints, the evidence of conduct that was undertaken in the councillor performing their functions and a <i>prima facie</i> assessment that the conduct would, if proven, be a breach of a specific provision of the Code.</p> <p>It has also been suggested that any initial public interest test should consider matters such as:</p> <ul style="list-style-type: none"> • Attempts to interfere in council decision making. • Political motivation. • Seriousness vs likely cost to ratepayers.
2	Removing a perceived conflict of interest for the Code of Conduct Panel Chairperson and providing consistency in relation to the initial assessment process.	<p>There was unanimous agreement that there is currently a conflict of interest and potentially a pecuniary interest for the Chairperson. Many councils supported the process outlined.</p> <p>A number suggested that this could be strengthened by removing any perceived conflict of interest in making this determination and deciding whether a Panel needs to be formed by using either an independent legal practitioner, or the</p>

Consideration	Reference Summary	Comments / Concerns
		<p>Registrar/s of the Government's single tribunal – TasCAT.</p> <p>The latter option would provide not only more consistency but also should ensure increased efficiency and cost effectiveness.</p>
3	<p>Wherever practicable, improve confidentiality requirements in relation to the Code of Conduct complaints process.</p>	<p>This proposal was unanimously supported.</p> <p>However, any requirements need to be the same for both respondent and complainant, particularly when the latter is a member of the public. Confidentiality requirements currently work against a councillor who has had a complaint lodged against them by a member of the public.</p> <p>It should be an offence to provide details of a Code of Conduct complaint to the media or via social media, prior to the matter being determined and presented in an open meeting of Council.</p> <p>Consideration needs to be given to broadening the confidentiality requirements to cover the period of time between a complaint being lodged and the outcome being made publicly available. At the moment, a complainant can publicly voice that they have lodged a complaint against a councillor and make assertions about the guilt of the councillor. However, the councillor cannot refute the claims until the complaint is dismissed, or a determination is published. This can be many months after the incident and the reputation of the elected representative can be damaged during this time. This is</p>

Consideration	Reference Summary	Comments / Concerns
		<p>particularly relevant in the case of vexatious claims.</p> <p>In addition, it has been suggested that there should be the ability for the General Manager to inform the respondent specifically, and the Council generally, that a complaint has been lodged and the broad nature of the complaint.</p>
4	Implementation of council dispute resolution policies.	<p>It is considered essential for complainants to have alternative means to resolve conduct related grievances, before submitting a Code of Conduct complaint. In many circumstances, an opportunity to resolve grievances in a less adversarial environment may provide an avenue for a more genuine, lasting and cost-effective resolution and further, improve long-term community relations for councillors.</p> <p>While a dispute resolution policy may not always be appropriate for every grievance, the Code of Conduct process should also consider a failure to attempt to resolve a grievance by using such policies (where appropriate) in the context of identifying vexatious complainants.</p> <p>At the December 2020 LGAT General Meeting, the following was resolved:</p> <p><i>That LGAT call on the State Government to include mandatory conciliation or mediation by an appropriately qualified arbitrator to be funded by the Local Government Division in the first instance of the code of conduct process.</i></p>

Consideration	Reference Summary	Comments / Concerns
		<p>The current proposal does not respond to the sector position. Significant reservations have been raised regarding dispute resolution processes being undertaken at the local level. It is not clear as to what the role and expectation would be for the Mayor and/or the General Manager or specific council officers in the process and whether outcomes would be achievable or realistic. There is no direct authority over the conduct of councillors within councils, and the General Manager and council officers becoming involved could create unintentional conflicts.</p> <p>The Victorian Code of Conduct Framework provides for an internal council dispute resolution process where councils use independent arbiters. At a minimum, consideration should be given to the use of an independent dispute resolution process or specialists.</p>