

dorset
C O U N C I L

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Submission | Local Government Legislation Reforms – Phase 2

Dorset Council would like to remind the enquiry that changing legislation on the basis of a small number of submissions is a dangerous approach. There is no doubt that the 360 odd submissions is a small number in the context of the total number of residents in Tasmania.

It is normal for the majority of respondents to a public enquiry such as this, to be persons who want change usually for their own benefit. The phrase *“the silent majority”* is very relevant in terms of this enquiry and the committee should recognise that many of the changes proposed are totally unnecessary, bureaucratic in nature and will only serve to complicate the process of Local Government.

There seems to be a significant push for increased public consultation, however, there is no evidence that the majority of the general public want to be more engaged or consulted. The only people calling for more consultation are the minority groups who are trying to find an avenue whereby they can hijack the public agenda because they have failed at the ballot box.

Suggested changes relating to usurping the powers of Councils and transferring them to the bureaucracy should be avoided at all costs. The inefficiencies of the state bureaucracy is well documented and adopting many of the changes in this area will undoubtedly result in the loss of sustainability of many Councils and the loss of services to communities.

Dorset Council has chosen to address the reforms individually or as a group.

Dorset Council Submission | Reform Directions Paper

Local Government Legislation Review – Phase 2

1-6. **Support.**

7. **Support 7A.**

Disagree with 7B-D and the proposal for the Deputy Mayor election.

All of these diminish the democratic process and all options have serious issues around electing people who aren't in a position to take up the role, discouraging candidates from standing for Mayor because if they lose that ballot they can't be on Council and around the table election create divisions within the council, especially on Councils with even numbers of Councillors and the vote is tied with the winner drawn out of a hat.

Dorset Council was forced to undertake an around the table election for Deputy Mayor in 2015 following the death of Mayor and the subsequent by election. With five candidates standing I doubt I have ever been involved in a bigger farce with three rounds of the election decided by drawing a name out of a hat because of tied votes.

At the 2018 elections the current system delivered only one situation where a Deputy Mayor was elected but not elected as a Councillor. I think this proves that the electors understand the voting system. Most of the invalid votes did not come from having to vote twice or three times but from having to number all the candidates.

8. **Support** this providing there are ample controls in place to prevent electoral fraud.

9. **Support** this as many electors comment they can't find enough candidates in the list that they want to give any value of vote to.

10. **Questionable.** There is a risk this would make the Council almost irrelevant for a period of up to two months.

11. **Agree.**

12. Should only be required for candidates not already on Council.

13. **Agree.**

14-16. **Agree.**

17. **Disagree.** Councils should be able to vary the manner in which they consult depending on the issue. There are many times when consultation is unnecessary and generally with consultation that involves public meetings, resident polls etc., Council ends up only consulting with a minority who are opposed to an idea. It is questionable whether the majority of the community wants to be empowered and the result is that Council ends up consulting with the same people whose views usually reflect the views of the majority.

The best form of consultation is undoubtedly Councillors getting out and about in the community and talking to residents one on one.

18-19. **Agree.**

20. **Disagree.** While there is some valuable information in the Good Governance Guide some of the principles are restrictive and don't allow Councils to be run like private enterprise and it is these restrictions that have gotten some Councils into both financial and governance difficulties.
21. Would need to see what is proposed before this could be supported.
22. **Agree.**
23. Not sure if this requirement will actually achieve anything or whether anyone would be interested anyway.
24. **Disagree.** The General Manager's performance is monitored by Councillors anyway which is the way it should be. All other staff are managed by the General Manager in line with the Enterprise Agreement, awards and normal industrial relation requirements and workplace laws and regulations.
25. **Disagree.** Councils need the flexibility to recruit General Managers that best suit their situation. An ideal General Manager at one Council may well be the worst option at another with different priorities.
26. **Disagree.** Complaint management varies depending on Council size with large metropolitan Councils receiving the majority of their complaints through the front desk while rural Councils often receive theirs via Councillors. Failure to manage complaints appropriately is therefore seen as a staff issue at city Councils but a Councillor issue at rural Councils.
27. While the principle sounds okay the detail is flawed in that there is no mention of sound financial management that delivers sustainable Councils. Once again it is questionable whether community consultation on this issue will deliver any benefits because as previously stated any consultation is likely to involve a very small cross section of community who don't like paying rates anyway or disagree with how Council are spending their money.
28. **Agree.**
29. **Disagree.** Lost count of the times Council have disagreed with the Economic Regulator and had we followed that advice in the past, Dorset Council would not be in the very healthy position it now enjoys.
30. **Disagree.** Just pure bureaucratic interference that would deliver no benefit. Dorset Council has not raised fees and charges for four years. During the same period we have rationalised some fees and deleted charges for swimming pool entry and use of Council facilities by sporting clubs and not for profit community groups.
- 31-32. **Agree.**
33. No issue with the mandatory recording but some clarification around the mandatory publication is required. For example, Dorset Council makes our recordings available to the public on request which I think is sufficient. The very low uptake of this option shows how little interest there is in the Council meeting other than from those residents seeking to exploit statements and actions made by Councillors for the

purpose of Code of Conduct complaints. For this reason Council meetings should be privileged the same as Parliamentary sittings and committees.

34. **Absolutely essential.** The current guidelines are as clear as mud. The appalling inconsistency shown by varying panel members on this issue leaves Councillors in no man's land and therefore vulnerable to residents who see the Code of Conduct as a weapon to attack Councillors who disagree with their views.
35. **Agree** with most of this reform with the exception of removing the decision on a planning application from the relevant Council. You cannot have another Council making that decision nor would Dorset Council be comfortable with having the decision made by a statutory body or outside committee.
- 36-41. **Disagree.** Dorset Council's view that that the powers of the Director of Local Government should be reduced. Our experience is that advice from the Director often conflicts with our own legal advice and our experience with investigations conducted by the Local Government Office is that their officers are biased and at times incompetent.

By way of example on one occasion an investigation was completed, forwarded to the DPP, charges laid and a court date booked only for all charges to be dropped once challenged by Council's solicitor. This cost the General Manager a huge amount of time, a considerable amount of money which now cannot be re-couped, plus the stress of facing charges when he had done nothing wrong.

Any alleged breach of the Act can already be investigated by the Director, but in the end it is only his opinion as to whether a breach has occurred and the only fair way to progress any such allegation of a breach is for the breach to be tested in the courts.

To suggest that the Director can make a finding and provide a recommendation to the Minister about dismissal or suspension of Councillors and Councils without any sort of hearing, flies in the face of the principles of natural justice and procedural fairness. Dorset Council would like to point out to the enquiry that Tasmania is not yet a police state.

To give bureaucrats with no business, financial or Council experience control over a Council's business is an appalling suggestion.

Similarly, the suggestion that the Auditor General's recommendations are always correct is naïve and it should not be compulsory to comply. These recommendations should at best be considered advisory.

42. **Disagree.** Once again a power grab by the bureaucracy that is unnecessary and will only result in increased costs to Councils through multiple interactions with the legal system. As much as possible leave the performance of Councils to Councils and only intervene where there is a clear breach of the Act without introducing quasi offences that are so minor they are laughable.
43. **Agree** but need some clarification around the powers of various bodies and the process for investigations. The current system of investigating without notifying the target of a complaint, often results in the investigating body making findings without the benefit of all of the information.

44. Would need to see what is proposed before Dorset Council could support this reform.
45. Appears unnecessary however this is not a hill to die on.
46. **Agree.**
47. **Agree.**
48. No issue with this reform as long as participation in a regional Council is not compulsory and there is no preferential treatment granted to a regional Council over individual Councils.

Major issues already arise over the differing priorities of metropolitan and rural Councils. The models are so different that any regional Council must not be able to be dominated by larger metropolitan Councils.

49. Don't have an issue with this reform as long as any model by-law is not compulsory. Dorset Council is justifiably gun shy with the use of the word "*model*" after the shambles of the Model Code of Conduct.

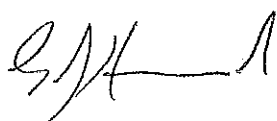
- 50-51. **Agree** in principle, however, the issue of Councillor allowances and numbers has not been addressed appropriately in the past, most recently in the 2017/18 review.

It appears there is a considerable divergence of opinion regarding Councillor allowances, with the metropolitan, well paid Councillors happy with their allowances while rural Councillors who predominately work with smaller populations but much larger areas to service are seriously disadvantaged. The most recent enquiry recognised some of these issues but still only delivered a CPI increase and deferred decision on these issues to the next enquiry, possibly eight years away.

In the lead up to the 2018 elections attempts to attract younger members of the community to stand for election in Dorset were severely hampered by the paltry allowances paid to Councillors and the additional community interaction experienced by rural Councillors.

Prospective candidates were also discouraged by the Code of Conduct which encourages community members to use the Code as a weapon against Councillors who disagree with their views.

It can be argued that the way the Code of Conduct is written and managed, Councils can no longer guarantee Councillors a safe place of work. This is because the system allows community to bully and harass Councillors while offering no opportunity for Councillors to defend themselves for fear of being cited on a Code of Conduct complaint. A further review of the Code of Conduct system should have been part of this review



Mayor Greg Howard
Dorset Council