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## Review of Tasmania's Local Government Legislation Framework

A submission by the President of the Australian Local Government Women's Association (Tasmania)

- Responsible and Effective Councils
  - **Code of Conduct outcomes are inadequate and do not afford protection for the person on the receiving end of e.g. harassment and bullying. A recent example in the North of the State involved a Council employee being stalked by an elected Member. She was afforded no protection waiting on the CoC to be processed, she had to mitigate her role, she had the support of the GM but the elected member was dismissive of any instruction from the GM. The process around this CoC charge (which was not dismissed as frivolous or vexatious) did not protect this employee or the GM during the waiting period – there needs to be the capacity to stand down an offender while the CoC process is taking place. The CoC process takes many weeks, weeks to assess, weeks to provide outcomes. The outcome (complaint upheld – resulted in a sanction 3 Intelligence Training sessions) which again did not provide any protection to the employee or support the GM. This is enabled by the fact that the elected member had no regard for the reputation of the Council, took no authority from the Mayor or accept any guidelines established by the GM which all reflected a disregard for the LG Act itself. Elected Members are of varying personalities and intelligences, some can benefit from professional development, many of a bygone culture cannot). In this modern age and following the #Metoo Movement many men including this particular elected member together with others who have remained in Local Government for many years must be brought forward in their thinking and introduced to this newer culture. Our Councils must be reflective of current expectations of behaviour.**
  - When professional development has no influence on Councillor behaviour and knowledge there is an overall inability of Local Government to control/ enforce high standards of behaviour
  - While an investigation is underway for bullying and/or harassment including sexual harassment the perpetrator if the matter is not dismissed as frivolous or vexatious should be stood down until a verdict has been reached - why should the victim be afforded no protection and why are they the one who makes the concessions and not the perpetrator.
  - It is quite widely agreed that the Code of Conduct is a “toothless tiger”, lodgement fees need to be increased, then if the Councillor is found to have breached the Code, the lodgee could receive some compensatory funds for the stress and mental harm caused.
  - Conversely if a complaint has been made against a Councillor but it is found that no breach has occurred the Council still has to pay the associated fees. There must be greater fees involved to ensure that these matters do not cause undue use of limited resources and incur costs onto ratepayers unnecessarily. With greater fees can come the ability to compensate.
  - Elected Members do not have adequate protection from the public in relation to physical and verbal abuse. There is the constant fear that Councillors will be hit with a Code of Conduct at any time from vindictive and aggressive ratepayers and have limited means

of defending themselves without being hit with a CoC charge which even if dismissed still causes embarrassment and a hit to their reputation.

- The CoC process is flawed. A complainant lodges a CoC with GM who assesses if it meets the requirements of the LG Act and then sends it to the LG Division Code of Conduct, the EO of the Panel sends it to the Chairperson who determines whether the charge will be dismissed as frivolous and vexatious, the elected member is then advised what that outcome is and asked to respond. The response (defence) is done under Statutory Declaration and sent to the complainant who then effectively has full knowledge and can mount their claim directly against your defence. The elected members is effectively guilty unless innocence can be proved
- When a Council employee lodges a CoC and it is felt not to be adequately dealt with then it is the GM's responsibility to pursue the issue through another avenue to achieve a result that is not discriminatory, is discrimination the highest level to address this and if there is a case how does that apply to a Councillor if only the Minister for LG has the power to dismiss
- There should be greater intervention mechanisms afforded to the Director of Local Government and the Minister in relation to serious breaches of the CoC in relation to behaviour including harassment (including sexual) and bullying.
- The CoC process takes time, weeks to assess, weeks to provide outcomes

- Consideration of Other Issues Raised

#### Mandatory Council Training

- There should be mandatory Planning Authority training
- There should be mandatory training for newly elected Members in regard to standards and expectations of Behaviour, "How to deal with Difficult People?" and the responsibilities of being what effectively being in a Director like role
- There should be mandatory training in line with AICD.
- There should be renewal training along the same lines for Councillors each term they are re-elected.
- Councillors should abide by core competencies for professional development training

#### Clarity between the roles of the General Manager and the Council especially the Mayor

- Elected Members must receive training in understanding the separation of roles between Councillors and the General Manager – understanding their role as decision makers (Directors) rather than becoming involved in the operational duties of Council which are the concern of the General Manager is paramount. A means by which this can be enforced, or in other words what can support a General Manager in getting immediate support when a Mayor or Councillors breach the Act in this area. Where there are differing strength of personalities problems exist.
- Councillors need to understand their role and their governance responsibilities and be able to distinguish their role from that of management
- The line between the responsibilities of management and the Councillors is often challenging and will vary depending on the circumstances of the organisation.

- Councillors operate in complex environments and consider a range of stakeholders. Councillors need to know who those stakeholders are and have a plan to consider and balance their interests whilst still upholding the integrity of Council as a whole
- Governance should include balancing the interests of stakeholders and ensuring the delivery of Council objectives.
- In Australia, we have a range of guidelines for best practice governance. Some are mandatory, others are recommended. Councils like Boards need to consider which are relevant to their organisation, and which they want to benchmark themselves against.

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**AUSTRALIAN LOCAL  
GOVERNMENT WOMEN'S  
ASSOCIATION**