

20 August 2024

Michael Mogridge  
Acting Director  
Office of Local Government  
Via email: [lg.consultation@dpac.tas.gov.au](mailto:lg.consultation@dpac.tas.gov.au)

Dear Mike,

**Submission to Code of Conduct Framework amendment**

Thank you for the opportunity to provide a submission on the draft amendments to the *Local Government (General) Regulations 2015* and the new draft Local Government Code of Conduct Order.

This submission has been prepared by the Local Government Association of Tasmania (LGAT) on behalf of Tasmanian local government in collaboration with our members; all 29 councils. We sought feedback from councils regarding these reforms and received a limited number of focused responses, which indicated a high level of comfort amongst the sector for the proposed reforms.

**Draft amendments to the *Local Government (General) Regulations 2015***

In general, the draft amendments provide a reasonable, workable basis to inform councils' dispute resolution policies. A number of specific issues are detailed below.

The regulations leave open the matters to be covered by the policy (Regulation 30A(1)(a)(i)) to the council. While any matter could foreseeably be contested between two people, the dispute resolution process is likely not equipped to assess technical matters. For example, the use of information (Part 5) or gifts and benefits (Part 6) under the Code of Conduct. In practice this may mean that a mediator attempts to resolve an issue yet cannot proceed due to the matter requiring specialised knowledge to consider. This may create frustration with the dispute resolution process, as these cases would conclude with no result, and generate unnecessary time and cost. The dispute resolution process should be focused on matters around behaviour and interpersonal relationships. We suggest that the regulations provide more specific guidance on the relevant Code of Conduct parts.

One council raised concerns that annual reporting of complaints (Regulation 30B) carries a risk that this may be used as an indicator of council culture or performance. It is expected that there will be more cases of dispute compared with matters that become Code of Conduct complaints. This outcome should be framed as a positive process resolving issues and improving relationships in a cooperative way. To mitigate against this risk, we encourage the State Government to actively and positively promote the dispute resolution process.

A council noted that there does not appear to be an overall reporting requirement for Code of Conduct complaints dismissed at the legal review stage (Section 28ZA and 28ZB of the amended *Local Government Act 1993*) besides the notices provided under Section 28ZA(3). We would suggest that categorisation and reporting at an aggregate level of Code of Conduct complaints would, when linked to reporting of dispute resolutions, provide a fuller picture of Code of Conduct issues. This information could be considered in the broader review of local government performance reporting.

#### **Local Government (Code of Conduct) Order 2024**

We note that the Office of Local Government (OLG) has signalled that a fulsome review of the Code of Conduct will be undertaken once the current legislative changes have been bedded down. We are supportive of this approach, as this will allow the dispute resolution process, and other reforms, to be tested.

One council asked that the Code of Conduct panel be enabled to provide binding guidance on matters that before they become complaints. This could be through panel's initial assessment process. The suggestion was linked to the way the Australian Tax Office provides interpretation of the tax system, which it then publishes as binding determinations. We note that this is outside of the scope of this current suite of amendments and would require changes to the *Local Government Act 1993* itself.

Please contact myself or Ben Morris at [ben.morris@lgat.tas.gov.au](mailto:ben.morris@lgat.tas.gov.au), 6146 3743, if you have any questions or would like further information.

Yours sincerely



Dion Lester  
**CHIEF EXECUTIVE OFFICER**