
Managing conflicts of interest of councillors

Consultation Feedback Summary and Next Steps

Introduction

In December 2023, the Office of Local Government within the Department of Premier and Cabinet released for public consultation a discussion paper outlining a proposed framework for managing Tasmanian councillors' conflicts of interest (the proposed framework).

The proposed framework set out a number of changes for how conflicts of interest are classified and managed, broadens the range of interests councillors are required to disclose, requires councillors to submit annual personal interest returns, and brings Tasmanian penalties for offences more in line with penalties in other States.

Consultation on the proposed framework closed on 2 February 2024.

18 submissions were received, including 11 from councils, and four from councillors. These submissions are available on the Office of Local Government website [here](#).

This paper summarises the feedback received on the proposed framework during the public consultation period and sets out next steps for progressing reform.

Feedback and Government Response

Feedback received through the course of consultation indicates broad support for the guiding principles, objectives, and key tenets of the proposed framework, recognising its importance and alignment with good practices and processes elsewhere.

Summary of concerns

While feedback on the proposed framework was overall positive, feedback received also highlighted concerns and areas for further work to improve the framework, relating to:

Classification and Declaration of Interests: While there is broad support for the newly proposed classifications of interests i.e. actual, perceived or potential conflicts, concerns have been raised about how these would practically be applied and understood. Privacy and security concerns have been raised regarding publishing Personal Interest Returns.

Management of Conflicts: Concerns were raised regarding the potential for councils to overturn a councillor's decision to participate in certain situations, and questions arose about the practicality of restricting access to information.

Consistency of implementation and application of the framework: Requiring all councils to adhere to the Framework, while mostly supported, also raised some concerns. For instance, some suggest the proposed measures could be impractical or unreasonable in smaller, rural councils.

Education and Guidance Materials: Submissions emphasised the necessity for comprehensive and accessible resources to ensure effective implementation and adherence of the framework.

These issues, and the Government's response, are discussed in more detail below.

Classification and Declaration of Interests

Classification of Interests

The Government is proposing revised classifications of interests, in line with those used by the Integrity Commission, and all conflicts of interest will be regulated through the Act. Interests will be classified either as actual, perceived, or potential conflicts of interest, being either pecuniary or non-pecuniary.

While feedback received broadly supports the proposed interest classification changes, the Government acknowledges this approach represents a substantial shift from the current arrangements.

The Office of Local Government will work with the sector to develop clear guidance materials on how and where the interest classifications apply, and how councillors can appropriately manage them. These materials will include practical resources, such as case study examples and decision-making process flow charts.

Personal Interest Returns

The proposed framework introduces new arrangements for declaring interests, including the need for councillors to submit and maintain personal interest returns (PIRs) during their term of office. Councillors will be required to submit an initial personal interest return within 28 days of being elected to council and updated personal interest returns annually throughout their term.

Concerns were raised during consultation regarding the potential requirements and scope of interest declarations to be included in PIRs, along with potential privacy and/or security implications relating to the publishing of PIRs.

The Government is committed to developing a fit for purpose declarations framework that strikes a balance between privacy, security, accountability and transparency

expectations, as well as aligning appropriately with current arrangements in other Australian jurisdictions. Achieving an appropriate balance will include consideration of relevant thresholds, exemptions, and redaction processes, to ensure that the disclosure requirements are both comprehensive and practical for councillors to adhere to.

The Office of Local Government will prioritise developing a more detailed approach and associated template/s for PIRs for further consultation with the sector in the coming months.

Management of Conflicts

The framework proposes that after disclosing an actual conflict of interest, councillors must exclude themselves from meetings, workshops, agenda briefings, or other forums during discussions on the matter. While consultation feedback demonstrated this was generally accepted as a reasonable approach, some concerns have been raised regarding the proposed ability for councils to overturn a councillor's decision to participate in certain circumstances.

The Government's preference is to support councillors in making informed decisions about when to step out of discussions or decisions where conflicts of interest arise. However, it is still considered important to identify appropriate circumstances in which the council collectively may need to overturn an individual councillor's self-assessment and decision regarding a conflict. The Government remains committed to providing guidance for councils on how to undertake this responsibility when intervention is necessary.

The framework also proposes that councillors with an actual conflict of interest will have restricted or no access to deliberative material and information on those matters. Submissions have highlighted practical complications in attempting to restrict information that is already publicly available, such as agendas, which might be required for a councillor to determine if a conflict of interest exists.

It is important to recognise the shared responsibility across councils in ensuring compliance with any requirements, including those related to restricting information. While there will be an active onus on councillors to refrain from accessing information they should not, support will be provided to councils in the form of guidance material to assist with developing processes to ensure such restrictions are practical and efficient.

Where a PIR discloses an interest that will foreseeably give rise to a conflict in the council, councillors will be required to develop a Proactive Management Plan (PMP) including pre-arranged actions and strategies to manage the foreseeable conflict. It is acknowledged that councillors will need support and practical guidance to develop

and implement PMPs and this – along with PIRs – will be a key area of focus for the Office of Local Government, working with the sector to develop useful resources.

Under the proposed framework, revised penalties or sanctions will be imposed for various scenarios where conflicts are not disclosed or are managed incorrectly. Given that Tasmania currently has significantly lower penalties than other states, the framework proposal suggests reforms to ensure penalties better align with comparable legislation and penalties. Proposed penalties may include fines, dismissal from office, and prison terms. Penalty provisions will be further developed, consulted on and finalised as part of the legislative drafting process to implement the new framework.

Consistency of implementation and application

Some concerns have been raised regarding the practicality of implementing and applying the framework consistently across the state, particularly in smaller and rural councils.

The Government recognises the unique challenges that councillors in small communities may face due to having relatively more family and personal connections when compared with municipal areas with larger populations. Despite these challenges, a consistent approach to managing interests across the State is crucial and is a key principle underpinning the framework.

A uniform policy ensures fairness, transparency, and helps to maintain public trust in local government operations. Importantly, the size of a community does not reduce the risk of the issues the framework aims to manage.

As with other elements of the framework, guidance will be developed, and support provided so that the framework can be implemented consistently across councils.

Education and Guidance Materials

A number of submissions focused on the need for consistent definitions, resources, and ongoing support to successfully implement the framework. The Office of Local Government will seek input from LGAT and individual councils to develop relevant support materials including templates, educational and training resources, modules, and instructional documentation with consistent definitions of interests.

Next steps

Acknowledging that the proposed Framework has received broad support following the consultation period, the Government confirms its commitment to progressing the framework and ensuring it is in place and operational in time for the 2026 local government ordinary elections.

The proposed framework forms part of the Government's [Local Government Priority Reform Program 2024-26](#) and will be included as part of a broader package of legislative amendments to support that Program.

To ensure that the Framework is fit for its intended purpose, we will integrate feedback received to date and continue to engage with stakeholders as the framework progresses towards implementation.

The next steps will focus on two parallel work streams:

1. Translating the framework into draft legislation: This will involve the detailed drafting process to ensure the framework's principles are effectively incorporated into law. Exposure drafts of the new provisions will be released for consultation as part of this process.
2. Developing practical supporting resources and tools: This will include developing the proposed personal interest return (PIR) and Proactive Management Plan (PMP) templates, along with other guidance materials. These resources will be developed in collaboration with the sector to help councils and councillors comply with the framework's requirements once they are introduced.