
QUESTIONS ON NOTICE**AO003-19 QUESTION ON NOTICE - CODE OF CONDUCT POLICY**

FILE NO: 15/5/5
PREVIOUS MIN:

THE GENERAL MANAGER referred to Councillor Ken Dorsey's Question on Notice which asked:

"Could the general manager brief Councillors on the Code of Conduct for elected representatives citing examples?"

Are any of the following a Code of Conduct transgression? All of these have been done in the 4 years I have been in Council.

- 1) Posting closed session stances on Social Media*
- 2) Making misleading or false statements to committee members or in Council*
- 3) Collective bullying by Council members*
- 4) Omitting individuals from emails*
- 5) Sending jokes or innuendos via email*
- 6) Using Social media to attack a fellow Councillor*
- 7) Failure to represent the Council in a professional manner at all times*

Who interprets the policy?

Is there a Council committee established to review matters of concern? If not, why not?

Can a GM or Council attach penalties to a Code of Conduct transgression?

Is there natural justice with regards to complaints?

How is 3.6 of the code interpreted?"

COUNCILLOR'S COMMENTS

Prior to commencing a formal code of conduct complaint, the aldermen who are parties to any disagreement should endeavour to resolve their differences in a courteous and respectful manner, recognising that they have been elected to act in the best interests of the community. An alderman who is party to any disagreement should request the Mayor or the General Manager to assist that alderman in resolving the disagreement informally.

GENERAL MANAGER'S COMMENTS

The local government code of conduct framework is prescribed under Part 3, Division 3A of the *Local Government Act 1993*. The Model Code of Conduct for Tasmanian councillors is issued by Ministerial order under section 28R of the *Act*.

The Council must adopt the Model Code of Conduct, either with or without any variations permitted by the *Act* as its code of conduct relating to the conduct of its councillors. Any variations to the Model Code of Conduct is to be approved by the Minister.

Council adopted the current Model Code of Conduct at its meeting on 17 May 2016. The Minister signed an order on 7 December 2018 issuing an amended Model Code of Conduct. Council must adopt the amended Model Code within three months of the order. A review of the Code of Conduct Policy and the new Model Code is listed for the workshop on 5 February 2019.

Information is provided to councillors during induction and the policy is reviewed periodically with Council as required. There will be an opportunity to brief councillors at the workshop on 5 February 2019 relating to how the Code of Conduct operates.

The Code of Conduct sets out the standards of behaviour expected of councillors. A person may make a Code of Conduct complaint against a councillor, alleging contravention of the Code of Conduct. If a person believes that any of the transgressions listed contravene the code of conduct, it may give rise to a complaint being lodged.

It is the responsibility of councillors to make themselves aware of their obligations under the Code of Conduct. There is a process that must be followed by a person that lodges a complaint.

If a complaint is accepted by the Code of Conduct Panel they will interpret the complaint against the Code of Conduct and deliver a determination of their findings, which can include sanctions.

The *Act* does not prescribe a process that involves a local committee to consider code of conduct matters.

The only party able to apply sanctions under the code of conduct is the Code of Conduct Panel.

The *Act* determines the process for conduct of investigations by the Code of Conduct Panel. The Panel is to conduct the investigation with as little formality, and as expeditiously, as is reasonably practicable in the particular circumstances; and is not bound by the rules of evidence and may inform itself on any matter it considers appropriate; and must observe the rules of natural justice; and may regulate its own procedures.

Section 3.6 of the policy relates to Code of Conduct matters between councillors and would not apply to matters where the complaint is by a person who is not a councillor. It is standard practice in any grievance process that attempts should be made to resolve

differences prior to entering any formal process. Section 3.6 of the Code of Conduct Policy is to provide guidance that in the spirit of positive working relationships that councillors should endeavour to resolve any differences amongst themselves in the first instance. It is not a mandatory step in the legislative process established in the Act.

RECOMMENDATION:

“THAT the information be noted.”