

Document No: A440077

Report To: Audit and Risk Committee



Meeting Date: 13 August 2019

Subject: Elected Members' Interests

Type: Information Only

Purpose of Report

- 1.1 The purpose of this business paper is to inform the Audit and Risk Committee of the Office of the Auditor-General investigation and findings relating to a breach of Section 6 of the Local Authorities (Members' Interests) Act 1968.

Background

- 2.1 In May 2018, the Office of the Auditor-General (OAG) began an investigation into the potential breach of Section 6 of the Act by two Elected Members following a complaint by a ratepayer to the OAG. The Elected Members were alleged to have discussed and voted on Council matters in which they held a pecuniary interest.
- 2.2 In June 2019, the OAG concluded that the two Elected Members had breached s6 of the Act, but did not consider that the breaches warranted any further action, and that prosecution would be out of all proportion.
- 2.3 Elected Members must act in accordance with a series of Council rules and statutory obligations, including Code of Conduct, Standing Orders and the Local Authorities (Members' Interests) Act 1968 (the Act).
- 2.4 Section 6 of the Act provides clear legislative boundaries on the ability of an Elected Member to participate in discussions or vote on any matter before Council in which they (or their spouse/partner) have a direct or indirect pecuniary interest, other than in an interest in common with the public.
- 2.5 Any Elected Member who is prohibited from discussing or voting on a matter at any Council meeting at which they are present, must declare to the meeting the pecuniary interest in the matter, and the disclosure of interest and absence from the discussion or voting must be recorded in the minutes of that meeting.
- 2.6 It is an offence under the Act to participate in the discussion or vote on any matter in which the Elected Member (or their spouse/partner) has a pecuniary interest. Pursuant to section 7 of the Act, the penalty for breaching s6 is a fine of up to \$100 and automatic disqualification from office (if an appeal is not successful).

Note: The Act regulates the actions of individual members, not the actions of the local authority, and it is the Elected Member that will be prosecuted for a breach, not the local authority.

Commentary

- 3.1 The investigation and subsequent findings of the OAG, in relation to the breach of Section 6 of the Act, has highlighted the importance for Elected Members to comply with the rules, and for Council to ensure its procedures and practices, regarding the declaration of any conflicts of interest are robust and adhered to.
- 3.2 A breach of this nature reflects negatively on the governance and accountability of Council, and the individual Elected Member involved.
- 3.3 An Elected Member may have an interest in a matter that does not necessarily create a conflict of interest. Even if there is no conflict, all interests must be declared (at the appropriated time during a relevant meeting, and recorded in the Council's Interests Register).
- 3.4 Conflicts of interest at times cannot be avoided, and can arise without anyone being at fault. They need not cause problems when they are promptly disclosed and well managed. If an Elected Member is uncertain if a conflict or an interest exists, it would be sensible to declare the possible interest and/or conflict, than not.
- 3.5 Improvements have been made to the Council process as a means of ensuring Elected Members remain aware of their obligations at all times. Council has as a standing item on every meeting agenda the ability for Elected Members to declare conflicts of interest.
- 3.6 It has also been recommended that any Elected Member that does declare a conflict of interest at a meeting, should leave the table and not take part in any discussion, debate or vote on that matter.

Suggested Resolution

The business paper on Elected Members Conflicts of Interest Declarations be received.



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8 August 2019