

6 March 2025

By your side



Governance Team
Office of Local Government
Locked Bag 3015
NOWRA
NSW 2541

By email: olg@olg.nsw.gov.au

To Whom it May Concern,

Re: Model Meeting Code amendments

We refer to the proposed deletion of clause 3.15 of the Model Code of Meeting Practice:

A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.

The USU opposes its deletion. We submit that the clause remains albeit removing reference to a general manager:

A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against a member of staff of the council, or a question that implies wrongdoing by a member of staff of the council.

It is inappropriate for an otherwise anonymous employee of a council to be publicly identified and potentially vilified in a public forum. While certain council roles may have regulatory or statutory functions and thereby require greater oversight, individual employees should not be answerable to a councillor, particularly in a public forum. There are robust internal mechanisms that may handle any complaint while maintaining the individual's integrity.

Conversely, a general manager is a public figure that routinely reports to the elected council and constituents at council meetings. As the most senior staff member, it is appropriate that complaints be addressed to them in that forum. A general manager is ultimately responsible for the actions of their reports.

Section 335 of the Local Government Act (NSW) confers certain functions to a general manager. A general manager is to:

- Conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council;
- Implement, without delay, lawful decisions of the council;

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NSW LOCAL GOVERNMENT, CLERICAL,
ADMINISTRATIVE, ENERGY, AIRLINES
AND UTILITIES UNION

T 1300 136 604
E united@usu.org.au
www.usu.org.au
ABN 95 571 805 442

Sydney Head Office
Level 7, 321 Pitt St
Sydney NSW 2000
Regional Offices
Newcastle (Rutherford),
Wollongong

Satellite Offices
Bathurst, Canberra, Dubbo,
Grafton, Hay, Port Macquarie,
Tamworth, Wagga Wagga

- Advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council;
- Ensure that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions;
- Implement the council's workforce management strategy; and
- Conduct any other functions that are conferred or imposed on the general manager by legislation.

These functions may each give rise to a valid complaint relevant to constituents which should be ventilated openly. This is beneficial not only for complainants, but the general manager who may respond to such complaints directly as they arise. Transparency and accountability will only serve to strengthen faith in public institutions.

This position is not contrary to the principles of natural justice. A complaint does not amount to an allegation, nor is it immediately given validity simply in the course of raising it. A complaint with notice provides a general manager ample time to consider and prepare a response, and if necessary, take action prior to the council meeting. It is fair and reasonable that a complaint in relation to the functioning of council be raised in council meetings for the general manager's attention.

Permitting complaints with notice is an opportunity to resolve them where they may otherwise be dealt with through a more onerous and intrusive process under section 429A of the Act. Complaints with notice may save time, energy and resources that would be expended in responding to complaints made under that section.

Transparency and accountability must be the foundation for our public institutions. Permitting complaints with notice to a general manager presents an opportunity to raise and respond to community concerns as they arise without causing harm to individual employees.

Regards,



Daniel Papps
ACTING GENERAL SECRETARY

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