




Speech By
Charis Mullen

MEMBER FOR JORDAN

Record of Proceedings, 15 May 2018

**LOCAL GOVERNMENT (COUNCILLOR COMPLAINTS) AND OTHER
LEGISLATION AMENDMENT BILL; LOCAL GOVERNMENT ELECTORAL
(IMPLEMENTING STAGE 1 OF BELCARRA) AND OTHER LEGISLATION
AMENDMENT BILL**

 **Mrs MULLEN** (Jordan—ALP) (4.19 pm): I rise to speak in support of the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018. I will also make a short contribution to the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018. At the outset, I strongly believe that the majority of local government councillors within Queensland operate professionally and with due regard to the requirements of the law. Equally, ratepayers have a right to ensure that this is indeed the case and to be confident that any claims of misconduct or bad behaviour are properly conducted.

The changes proposed within this legislation are significant. They are major and welcome changes to the way the current system operates. They are changes that will improve the fairness, effectiveness and efficiency of the system, while also making it more responsive and accountable. The starting point of these reforms is obviously with the creation of the Office of the Independent Assessor. Presently, the initial assessment of councillor complaints falls mainly to council CEOs. This can be particularly fraught for many CEOs giving rise to issues of conflict of interest as CEOs are effectively assessing complaints against one of their employers which can also lead to general conflict in terms of favourable or unfavourable determinations.

Assessment from the local government department is equally difficult given the other oversight roles the department has in dealing with offences under the Local Government Act. It is clear that the idea of an Independent Assessor has broad support with stakeholders. It is important and addressed through this bill that the functions of the Independent Assessor are clearly set.

Section 150CU of the bill provides the functions of the Independent Assessor which includes investigating and dealing with the conduct of councillors where it is alleged or suspected to be inappropriate conduct, misconduct or, when referred to the Independent Assessor by the CCC, corrupt conduct. The Independent Assessor will also provide advice, training and information about dealing with alleged or suspected inappropriate conduct, misconduct or corrupt conduct.

Importantly, the Independent Assessor will be able to prosecute offences against the conduct provisions under section 150AY, making this a very serious role with clear obligations to ensure investigations are thorough, fair and consistent. The report submitted by the independent Councillor Complaints Review Panel went to great lengths to reiterate the need for the Independent Assessor to have strong investigative powers and to use them.

The bill provides these full inquisitorial powers which, whilst previously available to bodies investigating complaints, were rarely, if ever, used. The powers of an investigator will include: the power to enter places by consent or under a warrant; general powers to search, inspect, examine or film; the

power to seize evidence under prescribed conditions; and the power to require a person to give the investigator information or require a person to attend a meeting and answer questions. By providing these powers to the Office of the Independent Assessor, it will also ensure that complaints are dealt with thoroughly and fairly, but it is not the lengthy process that currently exists which can be concerning for both the complainant and the councillor accused.

I am particularly pleased to see that the legislation at section 150AV also deals with complaints that are vexatious or not in good faith. It is all too easy these days for people to be politically motivated to make complaints that have no substance or are simply mistruths. These complaints or issues are sometimes even shared on social media without recourse. The legislation is clear that a person must not make a complaint about the conduct of a councillor to the Independent Assessor vexatiously or not in good faith or counsel or, importantly, procure another person to make a complaint about the conduct of a councillor vexatiously or not in good faith. Penalties have been set for dealing with those complainants found to be vexatious.

Another area that will be improved through this legislation is the reallocation of the functions of the current bodies currently dealing with complaints. Under the current councillor complaints system, the Local Government Remuneration and Discipline Tribunal hears and decides the most serious complaints of misconduct by a councillor. Other misconduct complaints are heard and decided by a regional conduct review panel which is established by the department's chief executive for different regions of the state. As the councillor complaints review report noted, 'The present system of having two bodies to adjudicate on complaints against councillors adds unnecessary complexity to the system.'

The legislation will seek to reallocate those two bodies into one Councillor Conduct Tribunal, which will have the power to hear on a councillor's alleged misconduct, to make a determination and to decide what, if any, disciplinary action to take. Having one body responsible for determining and penalising misconduct will also assist to ensure that there is consistency in the application of the law, making the system fairer.

In terms of consistency, a key recommendation from the review report was the recommendation that a councillor code of conduct be introduced. This has been an issue of some contention in the past, but I understand there is broad agreement from stakeholders for the code of conduct to be introduced. This is particularly important given the high turnover we are seeing in local government these days. The report points to the fact that 'at each of the last two elections about half of those elected had no previous experience on a council'. Whilst a code of conduct is important for serving councillors, I believe it is just as important for those who may be contemplating standing for councils and as part of a thorough induction process for those elected.

Whilst most political parties put their candidates through a fairly sophisticated vetting process prior to nomination—some more so than others, may I add—the independent nature of local government means that prospective councillors do not undergo any significant scrutiny prior to being elected. The code of conduct will at least ensure that those prospective councillors have some understanding of what is required of them, once elected.

The bill via a new section 150D provides that the minister must make a code of conduct that sets out the standards of behaviour for councillors in performing their functions under the Local Government Act. Given the importance of the minister's power in implementing a uniform code of conduct, it is pleasing to see the legislation makes provision for this code to be approved by a regulation and tabled in the Legislative Assembly for the scrutiny of these delegated powers by the parliament.

An additional level of scrutiny will also be provided through the establishment of the Local Government Liaison Group. Whilst this group is not enshrined in law, it will be an important body in providing advice and recommendations on not only the code of conduct but also the implementation and ongoing operation of the new councillor complaints system. Comprising of senior representatives of the department of local government, the Crime and Corruption Commission, the Office of the Queensland Ombudsman, the Queensland Audit Office, the Local Government Association of Queensland and the Local Government Managers Association, as well as the Independent Assessor, once appointed, this will be a critical and weighty body dealing with the system going forward.

I am also pleased to see the issue of conflicts of interest addressed within the local government electoral bill as it implements some of the recommendations of the Belcarra report. Issues of real or perceived conflicts of interest are of great concern for many ratepayers within our communities—it is considered the slippery slope of potential misconduct or corrupt behaviour. It is important that, for the integrity of the local government system, we strengthen the requirements of how a councillor must deal with a real or perceived conflict of interest or a material personal interest. This is particularly in the interests of those councillors who wish to do the right thing, who may be concerned about their own or another councillor's conflict of interest, and there will be greater transparency around these decisions.

In conclusion, it is unfortunate that local government is currently under such intense scrutiny. Councillors are elected to represent and to work for their local communities. I reiterate the point that I believe most councillors elected in this state do operate professionally, understand their obligations and work in the best interests of their communities, not themselves. This legislation will ensure that where this may sadly not be the case a complaint against a councillor will be treated fairly, effectively and more efficiently, whilst ensuring that the system will be more responsive and accountable. I commend the bill to the House.