




Speech By  
**Sandy Bolton**

**MEMBER FOR NOOSA**

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Record of Proceedings, 15 November 2023

## **LOCAL GOVERNMENT (COUNCILLOR CONDUCT) AND OTHER LEGISLATION AMENDMENT BILL**

 **Ms BOLTON** (Noosa—Ind) (12.20 pm): The primary objective of this bill, as we have heard, is to make reforms to the councillor conduct complaints scheme in the Local Government Act to improve its operations and to ensure that only matters of substance and in the public interest rise to the consideration of the Councillor Conduct Tribunal, the CCT. Before discussing the bill in detail, it is worth refreshing ourselves on the issues being experienced that initiated this. The Deputy Premier wrote to the State Development and Regional Industries Committee requesting an inquiry in 2021, attaching letters from both the Queensland Council for Civil Liberties and the Local Government Association of Queensland. The key concerns they raised were: the scheme has overly legalistic, complex and adversarial practices; the scheme has greater impacts on both councillors and the system itself than ever expected; there were a number of vexatious complainants; and impacts to free speech. In efforts to remedy, the bill introduces a range of changes including to the operation of the CCT around appointments, membership and its constitution—all to make the tribunal work more effectively.

It also makes changes to the complaints scheme operated by the Office of the Independent Assessor, the OIA, by introducing a new preliminary assessment to be conducted by them before further progressing a complaint. A complaint only progresses if it meets a variety of criteria, including if it is in the public interest, if it could not be dealt with elsewhere, whether the complaint was in good faith and if sufficient information was provided to properly assess.

Another change is that a complaint should not be progressed if it only deals with the personal private conduct of a councillor not associated with their public role. The department argued that the focus of the bill should be on the conduct undertaken by councillors in their official role; thus conduct undertaken in a private capacity is more appropriately dealt with by the police and the courts. This change was welcomed by the LGAQ. As they stated in the public hearings, private conduct should not be viewed 'through the lens of the code of conduct'. However, the OIA expressed reservations about the exclusion of private conduct, arguing that councillors are civic leaders, like the rest of us, who should be held to the highest standard of conduct, including taking disciplinary action where personal conduct is not befitting of a councillor.

Overall, one of the core issues with the system as it now stands is its politicisation, as often false accusations and complaints are used to smear representatives as part of the political electioneering or for personal gain. We heard a lot from the member for Redlands on what it actually does, including the dysfunctionality as well as the impact to communities. As a former councillor myself, I have seen the impacts on good, decent representatives being falsely maligned; also, the behaviours of some reflect poorly on all of us, which must be appropriately addressed.

A welcome change is the introduction of powers around vexatious complainants, which are those who make repeated and frivolous complaints about councillors to the OIA. With this change, the OIA can declare a person a vexatious complainant when they have made at least three complaints assessed as frivolous, vexatious or made in bad faith. A vexatious complainant must then apply to the OIA before

making any further complaint and the OIA must give permission to submit such a complaint. This is similar to the vexatious complainant process used by the Information Commissioner. There was broad support for these changes by several local government representatives in the public hearing, and the LGAQ said that it would ensure that the councillor conduct system does not become a political weapon against individuals. Let's hope so.

However, there are several identified problems with this system that may limit its effectiveness. First, it does not have full coverage as it is limited to complaints by members of the public and not sitting councillors. As the OIA stated in their submission, the complaints system is mostly misused by councillors. Second, if frivolous complaints are made in a coordinated manner by multiple people against the same councillor, this proposal would not address this.

The third problem is what was not addressed in the bill which was highlighted by the LGAQ—and that was to ban anonymous complainants. This would be a simple avenue to ensure the vexatious complainant system is not circumnavigated. To not incorporate this in these amendments for debate is concerning. Finally, the OIC, which will implement the submission, said in their submission that the proposed scheme is too complex and cumbersome. With internal reviews and appeals to QCAT, they said it will draw resources away from core functions and that the complexity means it would not be responsive during the short time frames of council elections. The department's response to these was that anonymous complaints are required to protect complainants from reprisals and that councillors have a duty to make complaints under the Local Government Act. They did not address whether all of these issues will make the scheme less effective or not.

I turn now to the amendments regarding conflict of interest. Last year's SDRIC report recommended that issues with conflict of interest be dealt with through improved training for councillors. This bill introduces some minor tweaks to the conflict of interest provisions to clarify the conflict requirements, such as that a councillor with a declarable conflict of interest in a matter must not participate in a decision relating to the matter unless authorised to do so under the Local Government Act. Will this make any difference to what is deemed perceived or real conflicts? I think not. Other changes in the bill include time limits on complaints, the exclusion of former councillors from the scheme, the requirement to publish more data and compulsory training for councillors.

In closing, I would like to thank the committee for their work on this bill, including their tripartisan nature, and I thank all submitters. To all councillors across the state who are heading to the polling booths in March, we wish you well and thank you for all that you do. I commend the bill to the House.