



Hon David Templeman MLA
Minister for Local Government; Heritage; Culture and the Arts

Our Ref: 66-04741

TO ALL LOCAL GOVERNMENTS

MINISTERIAL CIRCULAR No 01-2018

LOCAL GOVERNMENT AMENDMENT (SUSPENSION AND DISMISSAL) BILL 2018

Today I introduced into Parliament the Local Government Amendment (Suspension and Dismissal) Bill 2018.

This Bill has been developed in consultation with the Western Australian Local Government Association (WALGA) and Local Government Professionals Australia (WA) in response to requests made by the sector, and is consistent with the position of WALGA's State Council.

This Bill will give the Minister the power to suspend and/or order an individual council member to undertake remedial action when the Minister is satisfied that it is inappropriate for the council member to continue to act as a member of council without intervention.

The triggers for this intervention are:

1. a council member is charged with an offence that, if convicted, will disqualify them from being a council member;
2. the Departmental Chief Executive Officer has referred an allegation or allegations of serious breach or recurrent breaches of the Act to the State Administrative Tribunal;
3. the council member is failing to perform their role, functions or duties as defined in the Act and the Minister is satisfied that the seriousness or duration of the suspected failure requires intervention; or
4. the council member's conduct is adversely affecting the ability of another person, including employees or the local government itself, to perform their functions or duties and the Minister is satisfied that the seriousness or duration of the suspected conduct requires intervention.

The purpose of this reform is designed to protect the public interest and the system of local government by facilitating a timely intervention by the Minister. Existing methods of dealing with misbehaviour in the longer term, such as through the courts or the State Administrative Tribunal, will underpin the new suspension powers.

Procedural fairness will be accorded the council member prior to the use of these powers and any of the new powers contained within the Bill, through a Show Cause process.

The Show Cause Notice will outline the grounds for the proposed use of the power and provide the council member with an opportunity to respond. The Minister must consider the member's response prior to any order being given.

This Bill will also extend the powers of an Inquiry Panel, by enabling a Panel to recommend the dismissal of an individual council member if the Inquiry Panel concludes:

- that the member has failed, or is failing, to perform their role, functions or duties under the Act; or
- the member's conduct has, or is, impeding the ability of another person to perform their role, functions or duties under the Act; or
- the member's conduct has, or is, impeding the ability of the local government to comply with the employment principles that apply to it under section 5.40, and the seriousness or duration of that failure or conduct make it inappropriate for the council member to remain a member of the council.

This will allow more targeted recommendations to be made where appropriate. Additionally, this Bill will provide the Minister with the power to recommend dismissal when the Minister is satisfied that the council member is, or has:


- impeded the ability of the local government to perform its functions and duties under the Act; and/or
- it is in the best interests of the local government that the member be dismissed; and the seriousness of the situation for the local government requires intervention.

The recommendation and, more importantly, the basis of the recommendation to dismiss by the Minister, will be open to public scrutiny through a requirement imposed upon the Minister to release the report on the day the order to dismiss takes effect.

The dismissed council member will not be prevented from re-standing for a position on council. This process will give voters the opportunity to make an informed choice on whether that person is an appropriate person to be their representative.

The Bill and supporting materials will be available on Parliament's website at <http://www.parliament.wa.gov.au/parliament/bills.nsf/WebCurrentBills>.

For further information, please contact Mr Luke Stevens, Senior Legislation and Strategy Officer, Department of Local Government, Sport and Cultural Industries, on (08) 6552 1461 or via email to luke.stevens@dlgsc.wa.gov.au.



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