



Minister for Local Government,
Minister for Racing and
Minister for Multicultural Affairs

Our ref: MC19/4700

Your ref: A481062

12 SEP 2019

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Mr Neil Laurie
The Clerk of the Parliament
Queensland Parliamentary Service
Parliament House
George Street
BRISBANE QLD 4000

Dear Neil

Thank you for your letter of 22 August 2019 about petition number 3144-19 received by the Queensland Legislative Assembly on 20 August 2019 concerning a request to amend the *Local Government Act 2009* (LGA) in relation to legal costs for private or personal litigation matters.

I can advise that amendments to the LGA are not being contemplated at this time, as it is considered that the existing legislative framework already addresses the issues raised in the petitioner's correspondence.

The LGA is founded on five Local Government principles with which Councillors and Council employees must comply while performing their roles as elected representatives or employees. These principles are:

1. Transparent and effective processes, and decision-making in the public interest.
2. Sustainable development and management of assets and infrastructure, and delivery of effective services.
3. Democratic representation, social inclusion and meaningful community engagement
4. Good governance of, and by, Local Government.
5. Ethical and legal behaviour of Councillors and Local Government employees.

In addition to the Local Government principles, the legislation also imposes specific requirements in relation to expenses, codes of conduct and legal liability.

In respect of Councillors, the LGA and Local Government Regulation 2012 (LGR) impose strict requirements in relation to expenses to be paid or facilities to be provided to them which ensures that Council funds can only be used by Councillors for public purposes.

Section 249 of the LGR requires that a Council must adopt the expenses reimbursement policy that covers:

- (a) the payment of reasonable expenses incurred, or to be incurred, by Councillors for discharging their duties and responsibilities as Councillors
- (b) the provision of facilities to Councillors for that purpose.

The adoption of expenses reimbursement policy by a Council which purports to reimburse expenses which are not related to the discharge of Councillors' duties and responsibilities would not comply with the LGR.

Councillors must also comply with a uniform Code of Conduct which is prescribed under the LGR. The Code of Conduct reinforces the Local Government principles and requires Councillors to manage Council resources effectively, efficiently and economically and to comply with all policies of the Council, such as the expenses reimbursement policy. Failure to comply with the standards of behaviour in this Code of Conduct, or other conduct prescribed in the Code of Conduct may give rise to a complaint against a Councillor's conduct and subsequent disciplinary action under the LGA. The failure by a Councillor to comply with the Council's expenses reimbursement policy would constitute misconduct under the LGA.

In respect of Council employees, the *Public Sectors Ethics Act 1994* (PSEA) also applies to them and they must observe the ethics principles and ethics value prescribed under the PSEA and comply with a code of conduct made under the PSEA. In relation to expenses reimbursement, Councils as employers are best placed to determine and set the most appropriate expenses reimbursement arrangements for their employees. However, the payment of expenses, which are not related to an employee's duties, would not comply with the ethics values under the PSEA.

In relation to legal liability, the LGA does provide some limited protection to Councillors and Council employees from liability for civil matters only if the Councillor or employee has acted honestly and without negligence. Under section 235 of the LGA, a Councillor or Council employee is not civilly liable for an act done under the LGA or the *Local Government Electoral Act 2011* (LGEA), or an omission made under the LGA or LGEA, honestly and without negligence. The liability is attached instead to the Council. The LGA does not provide protection for Councillors or employees who do not act honestly and without negligence.

I would like to thank the petitioners for raising these matters with me and I trust this information is of assistance.

Yours sincerely



STIRLING HINCHLIFFE MP
Minister for Local Government,
Minister for Racing and
Minister for Multicultural Affairs