



Good Governance Grab

Getting Help With Conflict Of Interest

Introduction

The recent amendments to the Conflict of Interest provisions in the Local Government Act have raised a variety of issues and concerns for the sector. The VLGA is working to achieve changes to the provisions so that the goals of good governance and transparency can be achieved in a simpler and more effective way.

In the meantime, the VLGA is suggesting ways of making it less stressful and complex for all of those affected to meet the required provisions.

The legislation makes it quite clear that individuals are responsible and accountable for disclosing and acting upon interests and the VLGA's advice in this note is based on that principle.

Advice & Opinions From Officers

The Guide published by Local Government Victoria states that individuals can seek advice from "...a lawyer or someone else you trust..." if they are unsure about their situation (p. 14). It also notes that "it is not your lawyer or advisor who will be investigated and possibly taken to Court if you fail to declare a conflict of interest" (ibid).

There has been a culture in the sector which has it that because of the requirements of individual responsibility and accountability, councillors should not seek advice from officers and officers, if asked for such advice should not provide it.

There is nothing in the Act which prevents councillors from seeking opinions from officers about his/her situation and nothing to prevent officers giving that opinion. The term "opinion" is used advisedly as "advice" in the local government context tends to mean something which is put to the whole Council, usually in an open environment, for consideration by the Council. This is a different situation from an individual councillor seeking an opinion in private as to whether his/her personal situation may constitute a conflict of interest.

So long as opinions are provided in a context in which **it is made crystal clear that the ultimate accountability stays with the individual and an individual cannot use someone else's opinion as a defence**, councillors should not resile from seeking assistance from officers in dealing with this complex legislation. Similarly, those officers with governance responsibilities should ensure that they are sufficiently across the legislation to assist councillors and can do so, if requested.

Good governance is helped by good understanding and implementation of roles and responsibilities between the various elements of local governments. Working together to ensure appropriate accountability, transparency and decision-making will strengthen local governments.

We hope the VLGA's contribution will ultimately lead to a simplification and clarification of the legislation. In the meantime, we call on the sector to communicate and work together to make compliance as simple and productive as possible.

Please contact us at the VLGA if you have any queries about this or related issues.