



# Good Governance Grab

## DISPUTE RESOLUTION PROCEDURES

### ANOTHER GOOD GOVERNANCE GRAB FROM THE VLGA

All councils will be completing or will have completed the required reviews of their councillor codes of conduct. And while it is no longer compulsory to have dispute resolution procedures as part of the code of conduct, many councils will have chosen to continue to do this.

The VLGA has been assisting many councils in reviewing their codes of conduct. Reviewing and updating dispute resolution procedures has provided us with some food for thought, particularly in the context of the new Councillor Conduct Panels.

Our thinking about councillor disputes (as against policy and political differences which are something else entirely) has been that they are about personal differences between councillors which should be addressed much in the way that relationship problems are – by counselling and mediation. This involves having a process in which both participants' views are heard and then attempts are made to bring them closer together or at least to ensure that each understands the other's point of view.

#### **“Disputes” are often allegations of breach of a Council’s Code of Conduct**

When we discuss disputes and dispute resolution procedures with councils, it is becoming apparent to us that most, if not all disputes between councillors, when boiled right down, are in fact allegations of breach of the councillors' code of conduct. Rudeness, disrespect, failing to listen, bad mouthing colleagues and playing the person rather than the ball, while all bad behaviours, are all breaches of compulsory parts of the codes of conduct. Leaking to the press, bad mouthing council decisions and the like are usually breaches.

Why is this significant? It is because a dispute which is in fact an allegation of a breach requires an investigation of some sort to establish what behaviours actually occurred. It involves trying to identify the facts and their significance and then drawing a conclusion as to whether a breach has occurred and administering a remedy.

Most councils' dispute resolution procedures are predicated on the idea of a mediation – a compromise between people's positions. They do not provide for or empower an investigation of the facts and a determination. While they usually include a commitment from councillors to cooperate and accept an outcome, our information is that they are often not effective in achieving this.

#### **Impact of Councillor Conduct Panels**

The introduction of Councillor Conduct Panels adds an interesting new dimension to this issue.



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These have been established to hear allegations of breaches of codes of conduct and there are very wide ranging powers of referral. Once these become established, there is a risk that these will be a first port of call for personal and maybe even political differences between councillors. As has been demonstrated, many of these issues are actually allegations of breaches.

It is in everyone's interest to tackle these issues in-house wherever possible. What this may mean is a bit of a rethink about dispute resolution procedures.

These should now be seen, at least in part, as a process to tackle allegations of breach internally, as part of a process of constantly aiming to improve governance within each council. This may mean some review of current procedures and also, very importantly, the need for councillors and officers to understand, own and participate in a way which ultimately improves governance for the council and its community.

**Dispute resolution procedures are often used as internal attempts to investigate allegations of breaches of a council's Code of Conduct. These procedures should therefore at least acknowledge that some level of investigation will be part of the process when required.**

**Please contact us at the VLGA on 03 9349 7999, if you have any queries about this or related governance issues.**