

**COUNCIL PROPOSING REMIT:** Young Elected Members Network

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**REMIT:**

Requests an investigation into the creation of an LGNZ independent, national process to handle complaints, ensuring fairness, protection, and accountability in local government. Working with the Local Government Commission<sup>1</sup> to implement findings from its September 2021 Report – *Local Government Codes of Conduct*<sup>2</sup> (the report).

**WHO SUPPORTS THE PROPOSED REMIT?**

Young Elected Members Network *(In draft, yet to be formally ratified in meeting)*  
Invercargill City Council *(Full council to consider 23 May 2023)*

**WHY IS THIS REMIT IMPORTANT?**

This remit is critically important as it addresses the pressing issue of a lack of a standardised and independent process for handling complaints and escalating issues within local government.

Currently, councils handle their own problems in an ad-hoc manner, leaving many complaints unanswered and individuals feeling unsafe to come forward. This absence of a clear and impartial process undermines transparency, accountability, and public trust in local government. It also fails to provide legal protection for complainants and increases the risk of defamation.

By establishing a comprehensive framework that includes a complaints / issues / support / mediation forum and a tiered escalation process, this remit aims to promote fairness, protect complainants, restore public confidence, strengthen local democracy, and ensure timely and effective issue resolution. It will also enable economies of scale for Councils as with a centralised system it means that Councils are not left trying to justify the cost of an investigation against the cost of allowing behaviour to remain unchallenged<sup>3</sup>.

In September 2021, the LGC released the report to the Minister of Local Government. The report noted the wide variety of approaches of how Councils deal with complaints or issues and the total inability to deal efficiently with breaches. The recommendations have been placed on hold until the outcome of the Future of Local Government is resolved – while there is some merit to this approach as it allows changes to be done together, there is a very clear need for a standardised complaints process, improved tools to Councils and a reinforcing of the COC<sup>4</sup> process. This should also include the education / best practice guidance the LGC reference in the report.

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<sup>1</sup> Referred to as LGC for the balance of this remit

<sup>2</sup> *Local Government Codes of Conduct/ Ngā tikanga whanonga Kāwanatanga ā-Rohe, Report to the Minister of Local Government, September 2021, Wellington*

<sup>3</sup> The current costs to Councils of Councillor "HR" is not known, Code of Conduct investigations for ICC have generally cost at least \$10,000.00. The cost of this proposed system needs to be balanced against the costs of other interventions (Commissioners in Tauranga and the intervention at ICC).

<sup>4</sup> Code of Conduct

## BACKGROUND AND CONTEXT:

*Recent examples – GDC situation, ICC DIA investigation, allegations of sexism, sexual harassment, general relationship breakdowns and issues in Tauranga, Wellington and Dunedin last term.*

We acknowledge that issues arise across local government that require investigation, inquiry, or mediation.

The absence of a national standardised and independent process for handling complaints and escalating issues within local government has led to the pressing need for action<sup>5</sup>. Currently, councils handle their own problems on an ad-hoc basis, leaving many complaints unanswered and individuals hesitant to come forward. This lack of a clear and impartial process undermines transparency, accountability, and public trust in local government. It also fails to provide legal protection for complainants and increases the risk of defamation. The COC inquiry is often very expensive and results in sanctions (if approved by a majority of Councillors in some cases) in what can only be called the “wet bus ticket”.

The intense scrutiny placed on local body governance by the community emphasises the need for regular external support to drive positive change. Without such support, unresolved issues can ultimately lead to the involvement of the DIA<sup>6</sup> and the appointment of a commissioner, representing a worst-case scenario.

Relevant legislation, policy, or practice has not adequately addressed this issue, resulting in gaps and inconsistencies in handling complaints. COC process enables the issue to be escalated to the Chief Executive. Informal conduct complaints are to be escalated to the Mayor, however if the Mayor is part of the problem this doesn't provide for a safe environment.

If a councillor is to escalate to a COC complaint, often this results in a very public fight which also generally results in a public apology that doesn't really resolve anything.<sup>7</sup>

It appears to the sector that where there is no national process or independent forum in which to take these issues, issues have been left to escalate or fester leading to governance breakdowns.

The absence of legal protection for complainants further exacerbates the problem, discouraging individuals from raising legitimate concerns.

We acknowledge that the process of investigation opens the sector up to media enquiry and does not protect the complainant coming forward. While this is keenly felt by the communities in which it is occurring, it also does a disservice to local democracy and local government generally.

Given the degree of intense community scrutiny on local body governance, the sector recognises that regular, external support is necessary to shift the dial.

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<sup>5</sup> This new body could be set up by LGNZ and could be covered by membership fees, which will also have economies of scale for Councils as it means there will be one body rather than the current ad hoc system. This could also be something provided by the LGC in the future.

<sup>6</sup> Department of Internal Affairs

<sup>7</sup> In a worst case scenario can lead to Defamation proceedings in the High Court.

Many terms of reference used to investigate complaints often fail to address the core issues comprehensively<sup>8</sup>. Consequently, the necessary outcomes required to restore confidence in councils or individuals are not adequately addressed, resulting in slow progress and ongoing dissatisfaction.

By establishing a comprehensive framework that includes a complaints / issues / support / mediation forum and a tiered escalation process, this remit aims to promote fairness, protect complainants, restore public confidence, strengthen local democracy, and ensure timely and effective issue resolution as well as being cost effective for Councils.

Taking action is crucial to uphold good governance, address grievances, and maintain the integrity of local government institutions.

### **How does this remit relate to LGNZ's current work programme?**

This remit aligns to the current work programme around Governance as a model COC is prepared at the start of each term of Council. However, as noted there is a gap in Councils abilities to deal with issues when they arise leading either to expensive COC investigations with little ability to do anything or to Terms of Reference for external investigations. This remit seeks LGNZ to work with the LGC to put in place the appropriate mechanisms to help Councils resolve complaints.

### **How will ICC help LGNZ to make progress on this Remit?**

ICC<sup>9</sup> in the previous term had a DIA lead intervention after conflict within Council, and in this current term a number of issues have been raised as the result of a Councillors actions outside of Council. Because of this ICC is able to share its experience with the sector and Commission and is well placed in being able to provide evidence of what happens when it goes wrong and what can help. ICC would also be willing to provide assistance to make submissions and lead a working group to engage with the LGC and Ministers office as needed.

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<sup>8</sup> A terms of reference can also be manipulated to ensure that the review has a very narrow or very wide scope to ensure that the key or central issues do not receive the treatment needed.

<sup>9</sup> Invercargill City Council