

Elected Members

This factsheet provides additional information to the proposed amendments to the *Local Government Act 2019*, as outlined in Discussion Papers Part A, B and C. Please refer to the [papers](#) for full details.

The information contained in this factsheet is not financial or legal advice. If you require advice about your specific circumstances, please seek professional guidance.

What is an elected member?

Before they can be elected, individuals nominate for council because they have ideas, interests and experience they think will benefit their community. They often present different views or are seeking change.

These nominated individuals then stand at the election. If they are voted in by community members, they are then called elected members, or councillors. An elected member is an individual who has been voted in by their community to represent that community.

Once they are elected to council, elected members no longer represent themselves. They must come together with the other elected members (collectively referred to as council) and speak with one voice.

Are elected members employees?

The short answer is no.

Elected members are not employees. Their role is to set direction and policy – not to manage staff or the day-to-day operations. Elected members are paid an allowance in recognition of their service, but this is not a salary (or wages).

Council staff are employed by the CEO, who manages the day-to-day operations of the council.

The CEO is employed by the elected members of council.

Do elected members get a salary?

Elected members are paid an allowance in recognition of their service, but this is not a salary (or wages).

Section 106 of the *Local Government Act 2019* provides that elected members are entitled to allowances as determined by the Remuneration Tribunal in accordance with section 7B of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*.

Allowances that elected members receive may include:

- Mayor and principal member allowance

- Professional development allowance
- Extra meeting/activity allowance
- Travel allowance
- Vehicle allowance.

Do elected members get superannuation?

Generally speaking, no.

The *Local Government Act 2019* does not currently require the payment of superannuation to elected members.

Superannuation is a federal (otherwise known as Commonwealth) scheme that relates to the PAYG taxation and federal legislation. Each council can “opt in” to payment of superannuation to be an “eligible local governing body” under the *Taxation Administration Act 1953 (Cth)*. To “opt in” there must be a unanimous council resolution.

Can an elected member make an application for a stop bullying order to the Fair Work Commission?

The short answer is no.

The Fair Work Commission (FWC) is Australia’s national workplace relations tribunal.

Under the *Fair Work Act 2009 (Cth)* a person can apply for orders to stop bullying at work if they:

- Are a worker (as defined in the *Work Health and Safety Act 2011 (Cth)*)
- Are not a member of the Defence Force, and
- Are experiencing the bullying behaviour whilst at work.¹

Elected members are not considered workers under the Commonwealth legislation and are explicitly omitted under the legislation.

This means that if a council worker is being bullied by an elected member, the council worker can make an application to the Fair Work Commission for a stop bullying order.

However, if an elected member is being bullied whilst carrying out their duties as an elected member, they cannot make an application to the Fair Work Commission.

What can an elected member do if they are being bullied whilst carrying out their duties as an elected member?

If an elected member is being bullied by another elected member, they can make a complaint of breach of the code of conduct. This is dealt with under a different law, the *Local Government Act 2019 (NT)*.

¹ *Fair Work Act 2009 (Cth)* section 789FC (2).

If an elected member is being bullied by a 'worker' (e.g. council staff or a council contractor), they can follow the council's complaints process applicable to council employees. This will vary between councils but is usually found in HR (human resources) policies.

NT Ombudsman

If the elected member considers the bullying complaint has not been resolved following a complaints process, then a complaint to the NT Ombudsman may be made.

The NT Ombudsman has authority to hear complaints about any decision, recommendation, action, or inaction by a local government council. This does not include employment related matters where the person making the complaint is employed in the service of a government department or statutory authority (e.g. local government councils). Elected members may be able to make a complaint here because they are not a 'worker.'

To make a complaint to the NT Ombudsman an elected member needs to:

- Make the complaint within 12 months of knowing about the problem
- Have exhausted all other avenues to address the issue
- Have made attempts to resolve the issue with the local government council.

Further questions?

If you have further questions, please email LG.Questions@nt.gov.au.