

# Local Government's Stakeholder Newsletter

Edition 5 | September 2022

## Local government sector update

Welcome to the September 2022 Local Government Unit newsletter.

2022-23 started with the achievement of several milestones – for example the passage of the *Burial and Cremation Act 2022*, and the commencement of a number of new policies and guidelines associated with the provisions of the *Local Government Act 2019*.

Your input, feedback, and advice has been essential in the delivery of these milestones. We value our shared commitment to a strong, sustainable NT local government sector.

In this newsletter we provide a reminder of some new requirements for the first quarter of the financial year.

Where we see a compliance issue arising in more than one council, or we have a similar question from a number of councils about the provisions of the legislation, we add that into our Compliance Corner for everyone's information. In this newsletter we touch on requirements for declarations and management of Conflicts of Interest by CEOs; and direct appointments of staff.

We appreciate your feedback, so please let us know anything that would improve the newsletter, or anything you'd like to see in the future.

Warm regards  
Maree De Lacey  
Executive Director

## Local government resource hub

The Hub provides access to a range of important information for the sector. It includes sample policies, explanatory papers and supporting resources for local government

It can now be accessed directly by following the link below:

**[Visit the resource hub](#)**

If you have any questions or would like to provide feedback, please email [LGQuestions.cmc@nt.gov.au](mailto:LGQuestions.cmc@nt.gov.au).



Visit the resource hub

## Legislation Low Down

### Burials and Cremation Legislation

On 26 July 2022, the Burial and Cremation Bill 2022 was passed in the Legislative Assembly. On 9 August 2022, the Bill was assented to and became the *Burial and Cremation Act 2022*.

A copy of the Act is available [here](#).

The new legislation is planned to commence in **November 2022**, with a 12-month transition period to support councils to develop policies, forms and registers to transition and comply with the new requirements.

### Consultation on the Burial and Cremation Regulations

The Local Government Unit has undertaken targeted consultation with councils and other key stakeholders on the draft Burial and Cremation Regulations 2022. Thank you to all who provided input during the consultation period which ended on Monday, 5 September 2022.

### Local Government Cemeteries Working Group

The Local Government Unit will write to all councils and LGANT later in September to request nominations be part of a Local Government Cemeteries Working Group.

The Working Group will guide the development of support for councils such as sample policies, forms and registers for cemetery management, as well as clarifying and providing any information needed about the new legislation.

The first meeting of the Working Group will take place prior to start of the *Burial and Cremation Act 2022*.

# Project Platform

## Principles for Cross-government Collaboration

This year representatives from the Local Government Sector, LGANT and Northern Territory Government took part in a series of workshops to develop principles for better collaboration and co-ordination across the two spheres of government. Draft principles were developed which will be circulated to the local government sector and Northern Territory Government agencies for feedback.

Once the input of both spheres of government is incorporated, the intent is for the principles to be considered for endorsement by LGANT and the NT Government, as guidance for how we work together.

## Recognition of Completion of Professional Development

Thanks to all the councillors who have participated in the mandatory governance training, and CEOs and teams for your support. We have almost finished rolling out the foundation courses and will be working with LGANT and councils on further learning and development opportunities, incorporating your feedback.

In recognition of councillors' commitment to developing their knowledge, we recommend that council annual reports acknowledge those who have completed the mandatory training; as well as participation in any other development opportunities.

## Breach of Code of Conduct Form

The Breach of Code of Conduct form has been updated and published on our external website in both an MS Word and PDF version. This form can be used by anyone wishing to report a breach of the code of conduct. It can be accessed [here](#).

# Compliance Corner

## Conflict of Interest Declarations by the CEO

Section 179 of the *Local Government Act 2019* (the Act) specifies offences for conflict of interest as it relates to council staff and CEO.

If a council CEO has a personal or financial interest in a matter on which they are required or authorised to act or give advice, they must disclose the interest to the council. Offences arise when the council CEO does not disclose their personal or financial interest **and** acts in the matter in a way other than as authorised by the council. Both offences carry a maximum penalty of 100 penalty units.

A disclosure by a council's CEO must form part of a council meeting, as the council may, by resolution, provide authorisation to the CEO to act in a particular way in order to manage the conflict of interest. Disclosure by a council's CEO to another council committee, or to the mayor or another elected member, or to a staff member, does not satisfy the requirements of the Act.

When council is considering the authorisation to be given via resolution to the CEO, council's resolution should be specific on the actual authorisation given to the CEO. A council cannot just note or accept the CEO's disclosure as this is not sufficient to meet the requirements of the Act.

A separate authorisation by resolution of council is required for each instance in which a conflict arises and is disclosed by the council's CEO.

## Direct appointments to permanent vacancies

Direct appointments to permanent staff positions are not permitted under the Act. This limitation cannot be overwritten by a council policy or council resolution.

Section 172 of the Act requires that a council must adopt policies on human resource management that give effect to the following principles in the selection process for the appointment or promotion of staff:

1. be based on merit
2. be fair and equitable; and
3. ensure staff are treated fairly and consistently and are not subjected to arbitrary or capricious decisions.

The CEO is also responsible under the Act to maintain up to date employment policies that cover recruitment, and opportunities for advancement that are based on merit, and are fair and equitable.

The compliance team considers the temporary appointment of a staff member to a vacant position in an emergency or unforeseen situation, during a recruitment process or some other situation of up to three months would not be contrary to the Act. The council CEO must however ensure there are written records justifying the reason for the temporary appointment recorded in the council's human resources filing system.

## Annual Return of Interest due by 30 September 2022 - for elected members, the Council CEO and senior council staff

Elected members, the council CEO and senior council staff must submit an annual return of interests before 30 September each year containing the details prescribed by the *Local Government (General) Regulations 2021* (General Regulations).

The Act requires council members to submit an annual return to the CEO. The CEO must record this information in a *register of annual returns of interests* (register) and publish this information on the council's website (refer to sections 110 and 111 of the 2019 Act and regulation 106 of the General Regulations).

The council CEO and senior staff members must submit an annual return within 14 days of the commencement of their employment, and by no later than 30 September each year for the duration of their employment. The CEO and senior staff must submit their annual return to the council containing the prescribed details and must record this information in a register (refer to section 178 of the Act, and regulation 107 of the General Regulations).

## Issue of Guidelines 5 & 6 and General Instruction 2

### Guideline 5: Budgets

The Minister for Local Government has issued Guideline 5 – Budgets which mandates the format on which all councils must prepare and present their annual budget, and applies on and from the first budget review undertaken in 2022-23.

Guideline 5 provides the minimum information that is to be included in council's Annual Budget to satisfy significant portions of section 201 of the Act and regulation 8 of the General Regulations. Key items to note in regards to Guideline 5: Budgets:

1. Councils may choose to include any additional items in the budget. For example: additional budget information either in a narrative or table format, charts, presentation of the budget in different formats e.g. by service delivery area; and
2. Councils must, by resolution, adopt a minimum threshold as the basis for including major capital works and projected costings in the budget; and
3. Councils may group their fees for services into categories, rather than listing each individual fee in the budget.

## Guideline 6: Annual Report

The Minister for Local Government has issued Guideline 6 – Annual Report, which applies on and from the annual report for the 2022-23 year. However councils may choose to adopt it early, for the 2021-22 year.

Regulation 6 of the General Regulations requires a comparison of the council's original budget, the council's most recently adopted budget and actual results, with a report on the reasons for the material variations between the most recently adopted budget and the actual results. Guideline 6 prescribes the form councils are required to use to include budget against actual results in the unaudited section of the annual report. Key items to note in regards to Guideline 6: Annual Report:

1. Councils can choose to include additional reporting information in their annual report; and
2. It applies on and from the annual report for the 2022-23 year, however may be adopted for the 2021-22 year.

## General Instruction 2

Standardises mandatory reporting required under regulation 13(a) of the General Regulations, requiring councils to disclose total remuneration provided to the CEO during the financial year and clarifies the reporting requirements of Australian Accounting Standard AASB 124 Related Party Disclosures. Key items to note in regards to General Instruction 2:

1. Requires councils to separately report total remuneration paid to each actual, temporary and acting CEO and relevant dates of their appointment(s).
2. Applies on and from the 2021-22 year

## Reminder about Council Business Papers and Timelines

Agenda papers must be published and provided to councillors **at least three (3) business days** before the council meeting. If councillors want or need hard copies then arrangements should be made for delivery to meet the timeline (e.g. through local offices).

The papers should be presented in a way that is accessible and easy to read, noting that font type and clarity of reports should be given particular consideration.

## Seeking advice?

We welcome your emails, phone calls or requests for meetings.

For advice on local government legislation, compliance issues, governance, grants policy and Territory-wide local government policy and programs, you can contact

### Local Government Unit

**Executive Director:** Maree De Lacey - 8999 8573

**Sustainability and Compliance:** Meeta Ramkumar - 8999 8868

**Legislation and Policy:** Susan Watson - 8999 8405

**Policy and Projects (including governance training):** Linda Weatherhead - 8999 8573

For all other queries, please email: [LGQuestions.cmc@nt.gov.au](mailto:LGQuestions.cmc@nt.gov.au).

For information about regional partnership opportunities, NT Government services and programs, or

advice on place-based issues in your local or regional area, you can contact:

## CM&C Regional Executive Directors

**Darwin/Palmerston/Litchfield:** Michelle Walker - 8999 8347

**Top End:** Sandra Schmidt - 8999 5236

**East Arnhem:** Jim Rogers - 8987 0554

**Big Rivers:** Jake Quinlivan - 8973 8533

**Barkly:** Lachlan Wilkins - 8962 4688

**Central Desert:** Brendan Blandford - 8951 5511

## Further information

For further information and support, please visit the [Local Government and Regional Development](#) website.

Questions can be emailed to [LGQuestions.cmc@nt.gov.au](mailto:LGQuestions.cmc@nt.gov.au).



### What do you want to see in this newsletter?

We welcome your feedback to help us ensure the content provided in this newsletter is relevant and engaging. Please send an email to [localgovernment.CMC@nt.gov.au](mailto:localgovernment.CMC@nt.gov.au).