



25 June 2012

Mr John Davies
Leader Council Governance Team
Division of Local Government

Dear John

Model Code of Conduct Review

depa is opposed to the proposal found at 6.4 (e) of the proposed 2012 Model Code that an employee of the Council must "ensure that any participation in political activities does not conflict with their primary duty to serve the Council in a politically neutral manner."

I note that "political activities" are not defined in the Definitions section of the proposed Code and believe that the introduction of this restriction on the rights of an employee, who may also be a ratepayer and is certainly also a citizen, is inappropriate.

Significantly, no such restriction exists on employees of the NSW Crown. Imagine if it did, and public servants were denied the right to protest against NSW Government decisions on workers' compensation, for example, or 2.5% salary restrictions introduced in a pay policy or the introduction of political restrictions on the role of the NSW Industrial Relations Commission.

Such restrictions would be inappropriate against employees the Crown, and are equally inappropriate for employers of local government. There may be a challenge available to the Humans Rights Commission or any other tribunals charged with the protection of the rights of individual.

I understand from our discussion today that the intention of this section is not so much to prevent an employee from participating in political activities as to remind employees that political views ought not get in the way of their activities as an employee of the Council. The wording is clearly a problem then but I would have thought this was well covered in the Code already.

Here are some other problems with this proposal:

1. A restriction on the rights of an employee who may be a ratepayer and is certainly a citizen is unacceptable and contrary to our rights as Australian citizens.
2. Nothing has been provided in the discussion documents about why such a provision is regarded as appropriate, nor are there examples provided of where an employee's role and their political activities have not been properly managed by the employee concerned or have created a difficulty for the Council. If there are examples, they should be provided so that we can better understand this proposal. I would know, if this had been a problem somewhere.

3. It is unclear whether the intention is to prohibit political activities in relation to the Council in which the employee is employed, or more generally. Either way, this would be an attack upon the democratic rights of employees outside the workplace with significant implications.
4. If the intention of the proposal is to focus on the continuation of politically impartial professional advice, for example, the provision should be reworded to make that clear but there would still remain an obligation on the DLG to provide a proper explanation for this course of action and what problems in the past are sought to be remedied.
5. The absence of a definition of "political activities" will be misused by managers/HR trying to nail particular employees for activities that are not related to their role of the Council in circumstances where their impartiality as an employee is not capable of being challenged.

I would be happy to talk to you about this further. We think the provision is trouble and will be used unfairly and punitively in the industry.

We have no other objections or comments to make in relation to the draft.

Regards

A handwritten signature in black ink, appearing to read 'Ian Robertson', with a stylized, cursive script.

Ian Robertson
Secretary