

Tabled, by leave,
Mrs Hooson
Clerk of the Parliaments
15/5/24

LOCAL GOVERNMENT AMENDMENT (EMPLOYMENT ARRANGEMENTS) BILL 2024
STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Independent Commission Against Corruption (ICAC) investigations into the conduct of councillors of the former Canterbury City Council and others identified the management and controls around the standard contracts for senior staff as an area of concern. In particular, the ‘no reason’ terminations of standard contracts, coupled with underlying integrity issues and poor controls created a corruption risk.

The *Local Government Act 1993* (the Act) currently requires that senior staff and the General Manager be employed on standard contracts, and the Act excludes these employees from accessing the Industrial Relations Commission (IRC) for either unfair dismissal or to resolve industrial disputes. The Local Government Amendment (Employment Arrangements) Bill 2024 (the Bill) seeks to remove the requirement that senior staff are employed under standard contracts. The employment of senior staff will be governed by an industrial award or agreement, and senior staff will have access to unfair dismissal provisions. In the future, senior staff and those that transition off standard contracts will be employed in an ongoing capacity, and not for a fixed term.

All of these provisions coupled together address the employment matters from the ICAC report.

Objectives: What is the policy’s objective couched in terms of the public interest?

The proposed amendments remove the obligation to employee senior staff on standard contracts and instead have employment government by an industrial award or agreement. Senior staff will also able to challenge dismissals through the unfair dismissal provisions of the *Industrial Relations Act 1996*. This will minimise the ability to exert overt pressure to deliver favoured outcomes and decisions.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The Act currently prevents the employment of senior staff on anything other than a standard contract and excludes access to the IRC to resolve disputes. Amending the Act to remove these exclusions is the only option available.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The Bill contains transitional arrangements for current senior staff to either seek to transfer of the existing contract by requesting a move to an award or agreement, which will not be unreasonably refused, or can remain on the contract until it expires, at which time employment will be offered on an award or agreement. If a request is refused, an application to the IRC can be made to seek a review.

Pathway: What are the timetable and steps for the policy’s rollout and who will administer it?

Specific transitional arrangements relating to the employment of senior staff will occur on assent of the Bill. The remaining provisions to remove references to senior staff will occur three months after assent, enabling Councils to prepare and make changes to internal systems to accommodate the changes.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Office of Local Government and the Premier's Department engaged and consulted with Local Government NSW and relevant unions on the best approach to transition of current senior staff from standard contracts, and the proposed amendments contained in the Bill.