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OmbudsmanSA

Notice to all South Australian Councils
Attention: Chief Executive Officer and Mayor
By email

Dear Council CEO and Mayor,

Complaints regarding the treatment of council legal advice

I have recently received a number of complaints and reports regarding situations where an elected member has been provided with legal advice by council administration by way of email. Members are alleged to have subsequently forwarded or shared the contents of the email, and the complaints and reports have alleged breaches by elected members of the integrity provisions in the *Local Government Act 1999* (LG Act), including section 62(4a).

Some of the advice has not been clearly marked as confidential; some has been forwarded as part of an extended email chain. The alleged disclosures have included disclosure to a member of the public and to an elected member's private solicitor for the purpose of seeking their own legal advice on the issue.

In these matters, there have been factors which have led my Office to conclude that it was not in the public interest to investigate the complaints. However, this may not always be the case.

I have determined that it is appropriate to issue a reminder to all elected members of their obligations under section 62(4a) of the LG Act, and that a breach of this section may also amount to misconduct as defined by section 4(1) of the *Ombudsman Act 1972*.

Section 62(4a) of the LG Act provides that:

- (4a) A member or former member of a council must not disclose information or a document—
- (a) in relation to which there is an order of a council or council committee in effect under section 90 or 91(7) requiring the information or document to be treated confidentially; or
 - (b) that the member or former member knows, or ought reasonably to know, is information or a document that is otherwise required to be treated confidentially.

In the event I receive future complaints regarding alleged breaches of section 62(4a) of the LG Act, including in relation to the sharing of legal advice, I will take this reminder into account in assessing whether it is appropriate to investigate the matter.

I am also drawing this issue to the attention of all councils' administration as a reminder to be mindful of how legal advice is shared with elected members. If councils seek to preserve the confidentiality of legal advice, it should be provided to elected members in a way that makes it clear that it is confidential legal advice that has been provided to the *council*, and as such, that further disclosure may amount to a breach of the LG Act.

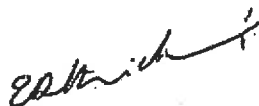
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It would also be prudent for councils to consider whether a legal advice policy is required to address such matters; or if a policy already exists, councils may consider conducting refresher training to ensure elected members' obligations are clearly understood.

To ensure that these matters are brought to the attention of all elected members, I request that this letter be tabled at the next practicable meeting of council and that you provide written confirmation to my office that this has occurred.

Please feel free to contact my Office if you have any enquiries or wish to discuss this letter.

Yours sincerely



Emily Strickland
SA OMBUDSMAN

1 July 2026