

WH&S – An Imperfect set of circumstances...



Local Government
Professionals
AUSTRALIA WA

Under the current Workplace Health & Safety legislation, local government officers, particularly CEOs, are not adequately protected when confronted with inappropriate behaviour and unrealistic expectations by elected members, ratepayers and citizen groups.

Government legislation and regulation requiring CEOs to investigate and report misconduct allegations against elected members (who are also their employers) is placing them in situations of potential conflict.

The uncertainty around CEO obligations in the management of Volunteer Bushfire Brigades in the face of severe charges and penalties, such as those associated with industrial manslaughter, has resulted in heightened levels of anxiety in CEOs.

Points of concern...

- Elected members are not captured as employers of the CEO by the Work Health and Safety Act.
- Elected members need training and development in employer responsibilities.
- WA is the only State in Australia where local government has management responsibilities over volunteer bushfire brigades and there is uncertainty around what the CEO's obligations are in the management of those volunteers.
- The roles and responsibilities held by the local governments can be unclear and confusing, particularly in navigating the crossover with the Department of Fire & Emergency Services.
- CEOs do not have decision making authority over the allocation of resources by the Council.
- Threats of severe charges and/or penalties contribute to the difficulty in recruiting and retaining candidates for CEO roles.



Points of principle.....

- Elected members should be held to the same standard of account as Board Directors for the workplace health & safety issues associated with the CEO as their employee.
- Elected member training must adequately address employment responsibilities, behaviours, and relational issues...and training obligations must be enforced.
- The CEO should be protected from prosecution where the reasonable recommendations of the CEO are not adopted and/or resourced by the Council.
- The lack of clarity between agencies increases the risk of a failure of the system. A process must be established to broker the necessary clarity.



Mitigation

These workplace health and safety implications need to be addressed by:

- Amending the WH&S Act to
 - hold local government elected members to the same standard of account as Board Directors for the health and safety issues associated with the CEO as their employee.
 - Protect the CEO from prosecution in situations where the CEO's reasonable recommendations are not adopted and/or resourced by the Council and this subsequently results in W H & S related damage, injury or death.
- Amending the Local Government Act to require
 - elected member training to adequately address employment responsibilities, behaviours, and relational issues.
 - Enforcement of local government elected member training obligations.
- Requiring the State Emergency Management Committee to establish a process to broker clarity between agencies regarding roles and responsibilities in emergency management.