

Michael Stefanovic
Chief Municipal Inspector
Local Government Inspectorate

31 May 2023

Dear Michael,

A priority for LGPro as representatives of all those who work in Victoria's Local Government sector is to ensure their health and safety. A cornerstone of our advocacy to this end is our call for State and Federal Governments to financially and legislatively invest in the improvement of relationships between elected members and council officers for the betterment of staff and community outcomes.

We recognise the Local Government Inspectorate's crucial role in this effort, acknowledging the substantial task ahead in your examination of the Councillor conduct framework. While you have the appreciation of LGPro and our sector, you more formally have our support as we push for sufficient resourcing of the Inspectorate so that your organisation can be more responsive to complaints, understanding that there are financial and legislative barriers as it stands.

We commend you for conducting this important review. You have the full support of LGPro and its members, and I submit this report to you in earnest to promote the positive change our sector requires.

Yours sincerely,



Liana Thompson

President | Local Government Professionals Inc.
Director City Life | Wyndham City Council
liana.thompson@wyndham.vic.gov.au | 03 9268 6400

Local Government Inspectorate Councillor Conduct Framework Examination

LGPro Submission

LGPro is the member association and leading voice for people working in Local Government in Victoria. From this vantage, the organisation has researched the issue of conduct and misconduct in the sector for multiple years with frank and detailed input from the staff and executives it affects.

LGPro's extensive case studies into the effects of Councillor misconduct are illustrated in Appendix 2, including the voices of sector staff on remedies. LGPro's case for reform (including legislative change) can be found in Appendix 1, where the substantial detail behind what is reported below can be found.

In short, this work has revealed that the Councillor conduct framework is a system under strain. Participants report delays, clunkiness, and inadequate outcomes in the process. Complainants go on to report their frustration, their disappointment, their loss of faith in the institutions set up to protect them, and ultimately their resignation from the sector in many cases.

The structural limitations of the current Councillor conduct regime make it ineffective. For example, it is currently the sole prerogative of a Councillor to make a misconduct application against another Councillor thought to be in breach of conduct standards. Staff do not, but should, have recourse through the Inspectorate. As the only group that can take action, victimised Councillors may still not want to be the complainant in an internal code of conduct panel, meaning conduct issues are overlooked.

Punitive measures too are lacking, with more realistic penalties required to impact misconduct, like suspensions of three months or greater. As it stands, the system is not treated seriously when a month's suspension from a Council is seen as the worst possible outcome of an infraction.

By the Inspectorate's own reporting, complaints related to Councillor behaviour have increased dramatically, and these allegations have only worsened over time. LGPro believes the Inspectorate has not been provided adequate resources nor empowered legislatively to deal with many of these complaints it receives, however.

With misconduct an ongoing issue for councils across Victoria and existing mechanisms failing to address it, reform is necessary. Any reform to the system will require it to deliver timely outcomes, cost-effectiveness, transparency of processes and outcomes, clarity of expectations and obligations, recognition of democratic representation and the need for natural justice, and sanctions that vindicate, punish, and deter.

The reform agenda articulated in Appendix 1 is an important part of the necessary mix to create a system that is more effective in facilitating a Local Government sector that is better for Councillor groups, local government staff, and the communities they all serve.

APPENDIX

Appendix 1 – LGPro’s case for legislative reform to address Councillor misconduct - February 2023

Appendix 2 – LGPro’s investigation into organisational culture in Victorian Councils - February 2022

Councillor Conduct

The case for legislative reform

February 2023

Local Government Professionals Inc.

3/58 Lorimer Street, Docklands VIC 3008
info@lgpro.com | 03 9268 6400

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1. Introduction

- 1.1 Issues associated with Councillor conduct that are highlighted in the Local Government Culture Project's *Insights Report* require urgent resolution. If they are not resolved urgently there is a distinct risk that the loss of faith in the current system of regulation will become irreversible.

The issues cannot be addressed through any single measure. As the *Insights Report* makes plain, a range of measures – many of them relating to education, training, mentoring and the promotion of a greater awareness and knowledge of fundamental aspects of good governance – must be implemented.

The Government cannot legislate to create better Councillor conduct. LGPro does not, therefore, suggest that amendments to the *Local Government Act 2020 (the LGA)* will, without more, resolve all of the conduct-related issues that currently concern the sector.

Yet legislative reform is part of the answer. Without legislative reform some or all of the others measures requiring implementation may prove ineffective.

- 1.2 The focus of this Paper is on the legislative regime that currently regulates Councillor conduct, how that regime suffers from defects and what amendments to the LGA or the *Local Government (Governance and Integrity) Regulations 2020 (the Regulations)* should be introduced.

So, it is accepted that legislation relating to Councillor conduct must be considered as part of a broader policy framework aimed at encouraging good governance, with opportunities and mandates for Councillors to better understand what inappropriate conduct looks like and why it erodes the concept of good governance. Ensuring that the legislative regime is fit for purpose and responsive to challenging conduct is nonetheless important.

- 1.3 In describing, pointing to weaknesses in and suggesting reforms to the legislative regime LGPro acknowledges that any regulatory system concerned with Councillor conduct must:
- (a) produce timely outcomes, through cost-effective and transparent processes that are seen to be fair and reasonable;
 - (b) recognise that Councillors are democratically elected, and that, consistent with the principles of natural justice, a Councillor's reputation or interests should not be adversely affected without due process being followed;
 - (c) define inappropriate conduct sufficiently clearly to enable all sector participants to understand what is intended, and the standards against which conduct will be judged; and
 - (d) provide for a broad range of sanctions and penalties when inappropriate conduct has been established, as a means of vindicating the complainant, punishing the perpetrator and acting as a deterrent to others.

- 1.4 This Paper begins by describing the central features of the current legislative regime (see Part 2 'Current Legislative Regime Explained'). It then sets out weaknesses in that legislative regime (see Part 3 'Flaws in Legislative Regime Exposed') before proposing reforms that should be introduced (Part 4 'Reforms to Legislative Regime').

LGPro would be pleased to assist the Government in further considering any aspect of this Paper, and working with Government on the detail of the legislative reforms for which LGPro advocates.

2. Current Legislative Regime Explained

Misconduct

- 2.1 Each Victorian council must develop and adopt a Councillor Code of Conduct.¹ A resolution to adopt a Councillor Code of Conduct must be carried by at least two thirds of the total number of Councillors elected to the council.²

The purpose of the Councillor Code of Conduct is expressed to:

include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.³

Inclusion of the Standards of Conduct is mandatory.⁴ It is open to a council to include 'any other matters' which it considers 'appropriate'.⁵

- 2.2 The Standards of Conduct are prescribed by the Regulations.⁶ The Standards of Conduct are reproduced as Appendix A to this Paper.
- 2.3 In this respect the Victorian legislative regime is consistent with the legislative frameworks that exist in other Australian States. Typically that legislative framework provides for a 'model' Code of Conduct, setting out behavioural standards which every Councillor is expected to observe.⁷ Recent reforms in South Australia have led to the introduction of Behavioural Standards for Council Members that are universally applicable to elected members in that State.⁸

Although no model Councillor Code of Conduct exists in Victoria the Standards of Conduct are, as noted above, a necessary inclusion in each Councillor Code of Conduct. To this extent the Standards of Conduct operate in a manner not dissimilar from a model Councillor Code of Conduct.

- 2.4 If a Councillor breaches any of the Standards of Conduct they commit an act of 'misconduct'.⁹ A finding of misconduct is only possible after an internal arbitration process has taken place.¹⁰

An internal arbitration process can only be initiated by:

- (a) a Councillor;
- (b) a group of Councillors; or
- (c) a council, following the making of a Resolution.¹¹

¹ LGA, section 139(1) and (4).

² LGA, section 139(5). An amendment to a Councillor Code of Conduct must also be effected through a formal Resolution carried by at least two thirds of the total number of a Councillors elected to the council (see LGA, section 140(2)).

³ LGA, section 139(2).

⁴ LGA, section 139(3)(a).

⁵ LGA, section 139(3)(d).

⁶ See Regulation 12 in Schedule 1.

⁷ See *Local Government (General) Regulation 2005* (NSW) and section 440 of the *Local Government Act 1993* (NSW), *Local Government (Model Code of Conduct) Regulations 2021* (WA) and *Local Government Act 1995* (WA), *Code of Conduct for Councillors In Queensland* and section 150D of the *Local Government Act 2009* (Qld) and *Local Government (Model Code of Conduct) Order 2016* (Tas) and section 28R(1) of *Local Government Act 1993* (Tas).

⁸ See the *Behavioural Standards for Council Members* published in the *South Australian Government Gazette* on 17 November 2022. See also section 75E of the *Local Government Act 1999* (SA).

⁹ See the definition of 'misconduct' in the LGA, section 3(1).

¹⁰ LGA, sections 141(1) and 147.

¹¹ LGA, section 143(2).

This involves the making of an application for an internal arbitration process.¹² An application must be made within three months of the alleged misconduct occurring.¹³ Any application must be referred to the Principal Councillor Conduct Registrar. The latter must appoint an arbiter to determine the application (in effect to determine whether a Councillor has breached the Standards of Conduct and thereby committed an act of misconduct) if satisfied that:

- (a) the application is not frivolous, vexatious, misconceived or lacking in substance; and
- (b) there is sufficient evidence to support an allegation of a breach.¹⁴

2.5 The arbiter appointed is to be drawn from a list maintained by the Secretary of the Department of Government Services.¹⁵ The arbiter must be an Australian lawyer who has been admitted to the legal profession for at least five years or a non-lawyer with such other experience as the Secretary considers relevant to the position.¹⁶

The arbiter must ensure that the parties involved in the internal arbitration process are given an opportunity to be heard.¹⁷ The rules of natural justice apply.¹⁸

2.6 If, after completing the internal arbitration process, an arbiter finds that a Councillor has breached (or failed to comply with) the Standards of Conduct, the arbiter may make a finding of misconduct against the Councillor.¹⁹ In that event, the arbiter may do any one or more of the following:

- (a) direct the Councillor to make an apology in a form or manner specified by the arbiter;
- (b) suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month;
- (c) direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter;
- (d) direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter;
- (e) direct a Councillor to attend or undergo training or counselling specified by the arbiter.²⁰

A written copy of the decision and statement of reasons must be given to the relevant council, the applicant (or applicants), the respondent and the Principal Councillor Conduct Registrar.²¹ Further:

a copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after the Council received the copy of the arbiter's decision and statement of reasons and recorded in the minutes of the meeting.²²

¹² Ibid.

¹³ LGA, section 143(3).

¹⁴ LGA, section 144(1).

¹⁵ LGA, section 142.

¹⁶ LGA, section 142(3).

¹⁷ LGA, section 141(2)(b).

¹⁸ LGA, section 141(2)(e).

¹⁹ LGA, section 147(1).

²⁰ LGA, section 147(2).

²¹ LGA, section 147(3).

²² LGA, section 147(4). Provision is made if any part of the decision or statement of reasons contains confidential information (see LGA, section 147(5)).

Serious Misconduct

2.7 Beyond misconduct there is 'serious misconduct'. This is defined to mean any of the following:

- (a) the failure by a Councillor to comply with the Council's internal arbitration process;
- (b) the failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147;
- (c) the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor;
- (d) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel;
- (e) continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b);
- (f) bullying by a Councillor of another Councillor or a member of Council staff;
- (g) conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff;
- (h) the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information;
- (i) conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff;
- (j) the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with this Act...²³

A Councillor Conduct Panel (as distinct from an arbiter) may hear an application that alleges serious misconduct by a Councillor.²⁴

An application can only be made by:

- (a) a Councillor;
- (b) a group of Councillors;
- (c) a council, following the making of a Resolution; or
- (d) the Chief Municipal Inspector.²⁵

An application must be made with 12 months of the alleged serious misconduct occurring.²⁶

2.8 As with applications alleging misconduct, an application alleging serious misconduct must be given to the Principal Councillor Conduct Registrar.²⁷ An application must specify a number of things.²⁸

Once more, if the Principal Councillor Conduct Registrar is satisfied that:

²³ See the definition of 'serious misconduct' in the LGA, section 3(1).

²⁴ LGA, section 154(1).

²⁵ LGA, section 154(2).

²⁶ LGA, section 154(3).

²⁷ LGA, section 154(5).

²⁸ LGA, section 154(6).

- (a) the application is not frivolous, vexatious, misconceived or lacking in substance;
- (b) there is sufficient evidence to support the allegation of serious misconduct; and
- (c) the relevant council has taken 'sufficient or appropriate steps' to resolve the matter (or has not taken any steps but the Principal Councillor Conduct Registrar is satisfied as to why no steps have been taken)

a Councillor Conduct Panel must be formed.²⁹

2.9 The members of a Councillor Conduct Panel must be drawn from a list maintained by the Minister for Local Government.³⁰ To be eligible to be a member of a Councillor Conduct Panel a person must:

- (a) be an Australian Lawyer who has been admitted to the legal profession for at least five years; or
- (b) have such experience as the Minister for Local Government considers relevant.³¹

2.10 Proceedings of a Councillor Conduct Panel must be conducted with as little formality and technicality as the requirements of the Act, and the proper consideration of the matter, permit.³² The Councillor Conduct Panel is not bound by the rules of evidence but is bound by the rules of natural justice.³³ The Councillor against whom the allegation is made must therefore be provided with an opportunity to be heard.³⁴

2.11 A Councillor Conduct Panel may:

- (a) make a finding of serious misconduct against a Councillor; or
- (b) if it is satisfied that a Councillor has breached one or more of the standards of conduct and the application for a finding of serious misconduct was made to the Councillor Conduct Panel within the period of 3 months after the breach occurred, make a finding of misconduct against a Councillor; or
- (c) whether or not a finding of misconduct or serious misconduct against a Councillor has been made, make a finding that remedial action is required; or
- (d) dismiss the application.³⁵

A finding of misconduct results in the relevant Councillor becoming ineligible to hold the office of Mayor or Deputy Mayor for the remainder of their term.³⁶ At least this is so unless the Councillor Conduct Panel directs otherwise.³⁷

A finding of serious misconduct also enables the Councillor Conduct Panel to do any one or more of the following:

- (a) reprimand the Councillor;
- (b) direct the Councillor to make an apology in a form or manner determined by the Councillor Conduct Panel;
- (c) suspend the Councillor from office for a period specified by the Councillor Conduct Panel not exceeding 12 months;

²⁹ LGA, section 155(1).

³⁰ LGA, section 153.

³¹ LGA, section 153(3).

³² LGA, section 163(2)(a).

³³ LGA, section 163(2)(e) and (f).

³⁴ LGA, section 163(3).

³⁵ LGA, section 167(1).

³⁶ LGA, section 167(2).

³⁷ Ibid.

- (d) direct that the Councillor is ineligible to chair a delegated committee of the Council for a period specified by the Councillor Conduct Panel not exceeding the remainder of the Council's term.³⁸

If, instead of serious misconduct, misconduct is found and the application for the establishment of the Councillor Conduct Panel was made within three months of a breach of the Standards of Conduct occurring, the Councillor Conduct Panel can impose sanctions similar to those capable of being imposed by an arbiter.³⁹

2.12 A determination of a Councillor Conduct Panel must be given to:

- (a) the relevant council;
- (b) the parties to the matter;
- (c) the Minister for Local Government; and
- (d) the Principal Councillor Conduct Registrar.⁴⁰

The decision must be tabled at the next meeting of the relevant council, and recorded in the minutes of that meeting.⁴¹

2.13 A person who is affected by a decision of a Councillor Conduct Panel may apply for a review of the decision by VCAT.⁴² An application for review must be made within 28 days of the Councillor Conduct Panel giving a statement of reasons for its decision.⁴³

Gross Misconduct

2.14 Finally the legislative framework makes provision for 'gross misconduct' to be alleged against a Councillor. Only the Chief Municipal Inspector can make an application alleging gross misconduct.⁴⁴ The application is to be heard by VCAT.⁴⁵

Gross misconduct is behaviour on a Councillor's part that demonstrates that the Councillor:

- (a) is not of good character; or
- (b) is otherwise not a fit and proper person to hold the office of Councillor.⁴⁶

Such conduct includes sexual harassment of an 'egregious nature'.⁴⁷

2.15 If VCAT makes a finding that a Councillor has engaged in conduct that constitutes gross misconduct, it may order that:

- (a) the Councillor be disqualified from office for a period specified by VCAT but which does not exceed eight years; and
- (b) the office of the Councillor be vacated.⁴⁸

³⁸ LGA, section 167(3).

³⁹ LGA, section 167(4).

⁴⁰ LGA, section 168.

⁴¹ LGA, section 168(2). Provision is made if any part of the decision or statement of reasons contains confidential information (see LGA, section 169).

⁴² LGA, section 170(1).

⁴³ LGA, section 170(3). A written statement of reasons for a decision must be given within 28 days of a determination being made (see LGA, section 168(3)).

⁴⁴ LGA, section 171(1).

⁴⁵ Ibid.

⁴⁶ See the definition of 'gross misconduct' in the LGA, section 3(1).

⁴⁷ Ibid.

⁴⁸ LGA, section 172.

3. Flaws In Legislative Regime Exposed

Introduction

- 3.1 The Standards of Conduct are the primary source for the regulation of Councillor Conduct. It is unsurprising, therefore, that, since the enactment of the LGA, Councillors complaining about another Councillor's conduct have tended to bring misconduct (as distinct from serious misconduct) applications. That is, internal arbitration processes have been pursued rather than Councillor Conduct Panel proceedings.

The relative dearth of Councillor Conduct Panel proceedings⁴⁹ can be explained by the higher threshold that needs to be satisfied. To make out 'bullying' (and, in turn, serious misconduct) a Councillor must show that another Councillor has 'repeatedly' behaved unreasonably towards them or a member of Council staff, and that such behaviour creates the risk to their health and safety or the health or safety of the member of Council staff.⁵⁰ A single act of unreasonable behaviour creating a risk to health and safety is insufficient.

Similarly it is not enough for a Councillor pursuing a serious misconduct application to allege that another Councillor has engaged in continued or repeated acts of misconduct. The relevant definition of 'serious misconduct' is only engaged if the continued or repeated misconduct comes after a finding of misconduct has been made in an earlier proceeding.⁵¹

- 3.2 The anecdotal evidence is that aspects of the internal arbitration process have proven wholly unsatisfactory. Far from being user-friendly and effective, it has proven to be frustrating and unrewarding. Councillors wishing to call out another Councillor for a breach of the Standards of Conduct find themselves deterred from embarking, rather than encouraged to embark, upon a misconduct application.

- 3.3 Those Councillors who have initiated misconduct applications have typically been heard to complain about:

- (a) the clunky nature of the process, with many months often elapsing before the application is heard and determined by an arbiter;
- (b) the manifestly inadequate penalties that are capable of being imposed; and
- (c) the difficulties experienced in the period between the application being made and the arbiter's determination being published, with the applicant Councillor often being subjected to the same (or at least similar) conduct to that which is alleged in the misconduct application.

Beyond this members of staff of the council often find themselves without remedy when a Councillor acts inappropriately towards them. This is because, as noted previously, misconduct applications can only be brought by a Councillor, a group of Councillors or a council by resolution.

- 3.4 The focus of this Part is on flaws in legislative provisions concerned with the internal arbitration process. They are provisions relating to the content of the Standards of Conduct, the standing to bring an application and the sanctions that are available to an arbiter.

None of this should detract from the extra-legal measures that need to be addressed as part of an overhaul of the treatment of Councillor conduct. For example delays in misconduct application progressing to a hearing and determination do not necessarily require a legislative solution. Better resourcing the Principal Councillor Conduct Registrar, encouraging arbiters to be efficient and promoting effective case management measures may go a long way towards achieving a more satisfactory experience for participants, and towards prompting a greater readiness to call out unacceptable conduct.

⁴⁹ As at the date of this Paper only four Councillor Conduct Panel proceedings have been determined.

⁵⁰ See the definition of 'bullying' in the LGA, section 3(1).

⁵¹ See the definition of 'serious misconduct' in the LGA, section 3(1). The prior finding of misconduct could have been made by an arbiter or a Councillor Conduct Panel.

Definition of Standards of Conduct

- 3.5 The Standards of Conduct are expressed at a high level of generality, and give limited insight into the conduct expected of Councillors. The lack of specificity makes it difficult for a Councillor to know precisely when the line between acceptable and unacceptable conduct has been transgressed.

While the first of the Standards of Conduct is relatively straight-forward – a Councillor must treat others with ‘dignity, fairness, objectivity, courtesy and respect’ – the remaining Standards of Conduct are too generic. So:

- (a) whether a Councillor has done ‘everything reasonably necessary to ensure that they perform the role of a Councillor ‘effectively and responsibly’;
- (b) a Councillor has ‘diligently and properly’ complied with the instruments specified in the third Standard of Conduct; and
- (c) behaviour on the part of the Councillor has brought ‘discredit’ upon the relevant council

will, of necessity, often invite contested positions. This is to be contrasted with more specific obligations set out in equivalent instruments in other jurisdictions (but more particularly the Behavioural Standards for Council Members that exist in South Australia).⁵²

- 3.6 It is also to be noted that the Standards of Conduct lack appropriate context. While they make it clear that nothing is intended to limit, restrict or detract from ‘robust public debate’ there is no positive statement of intention about the importance or nature of the conduct expected of Councillors.
- 3.7 Doubtless some of the difficulties associated with the Standards of Conduct arise from the often disparate approaches of arbiters. For instance, *no* breach of the Standards of Conduct was found when:
- (a) a Councillor threw a copy of the Governance Rules on the floor of the Council Chamber and stated ‘this is crap’;⁵³
 - (b) a Councillor used ‘colourful’ and ‘inappropriate’ language to a member of the community;⁵⁴ and
 - (c) one Councillor called another Councillor a ‘bloody moron’.⁵⁵

Indeed it has even been suggested that a lack of courtesy or the presence of aggression does not result in ‘robust public debate’ becoming a breach of one or more Standards of Conduct.⁵⁶

While some (or perhaps all) of these decisions are explicable by reference to their individual factual circumstances, the content of many of the Standards of Conduct is not easy to comprehend. There is a case for a preface, more specific obligations and the development of Ministerial Guidelines to aid arbiters.⁵⁷

Staff Left Aggrieved

- 3.8 Councillors are not the only ones impacted by another Councillor’s breach of the Standards of Conduct. A member of a council’s staff may be a victim of a Councillor’s public or private

⁵² This is developed in Part 4 of this Paper.

⁵³ *Rank and Others v Wilson* [IAP 2020] at [14] and [34].

⁵⁴ *Hegedich v Maynard* [IAP 2021] at [9-25].

⁵⁵ *Szatkowski v Gilligan* [IAP 2021] at [18].

⁵⁶ *Healy v Lew* [CCP 2022] at [46] and [17].

⁵⁷ Ministerial Guidelines should also be capable of being used by Councillor Conduct Panels when they are called upon to consider whether misconduct has occurred.

outburst, derogatory email, unduly critical social media post or lack of compliance with a Councillor-staff interaction protocol developed under section 46 of the LGA.

Yet staff find themselves unable to press a misconduct complaint. They can complain to the Chief Executive Officer (assuming that it is not the Chief Executive Officer who themselves is the victim of the Standards of Conduct being breached). The Chief Executive Officer can take up the matter with the Councillor or, perhaps, the Mayor. This is, however, as far as the complaint can progress. Unless another Councillor is willing to initiate a misconduct application, the breach of the Standards of Conduct will never be addressed.

- 3.9 It almost goes without saying that staff (and, in particular, Chief Executive Officers) find themselves in an invidious position when unacceptable Councillor conduct has been experienced or has come to their notice. On the one hand there is an importance in making the Councillor accountable for their actions, and following the only process prescribed in the LGA for the pursuit of disciplinary proceedings. On the other hand there is the disincentive to pursue any formal process on account of a perceived power imbalance and/or the practical challenges of finding a Councillor who is willing to initiate and see through a misconduct application.
- 3.10 Members of a council staff should not be left to feel aggrieved or let down by a system that denies them a point of entry. A way must be found to enable them to expose a Councillor's breach of the Standards of Conduct. And Chief Executive Officers should feel able to fulfil (or at least partially fulfil) their occupational health and safety obligations by facilitating independent scrutiny of a Councillor's conduct.

Inadequate Penalties

- 3.11 An arbiter who has made a finding of misconduct is limited in the sanctions that can be imposed.⁵⁸ The most severe of sanctions is suspension for a period not exceeding one month.⁵⁹

Suspension for one month has occurred in only one matter since the relevant provisions in the LGA commenced operation.⁶⁰ Generally Councillors who have been found to have breached the Standards of Conduct have been directed to make an apology or undergo training.

- 3.12 Frequently the sanctions imposed are disproportionately light. Anecdotally there is evidence that Councillors have been dissuaded from bringing misconduct applications because they see that there will be no more than a 'slap over the wrist' if misconduct is found. It is an uncharacteristically patient Councillor who is willing to see through a misconduct application, and then pounce on any further or repeated acts of misconduct in order to found a serious misconduct application. Even then that Councillor might be disappointed by the sanction that a Councillor Conduct Panel is able or willing to impose.

A more realistic range of sanctions is needed. In particular the power to suspend for a longer period needs to be considered.

⁵⁸ This is also true of a Councillor Conduct Panel that has made a finding of misconduct.

⁵⁹ LGA, section 147(2)(b).

⁶⁰ *Bolam v Hughes* [IPA 2021].

4. Reforms to Legislative Regime

Introduction

- 4.1 Part 3 of this Paper has highlighted flaws in the current legislative regime. Specifically:
- (a) the content of the Standards of Conduct is imprecise and stops short of concentrating on particular aspects of Councillor conduct;
 - (b) members of a council staff have no recourse to the internal arbitration process; and
 - (c) the penalties or sanctions available to an arbiter (and, for that matter, a Councillor Conduct Panel) are insubstantial, and do not operate as a deterrent to misconduct (or, for that matter, serious misconduct).

Legislative reform is necessary to address these flaws.

- 4.2 The reforms being advocated do not involve a ‘root and branch’ overhaul of the legislative regime. It is accepted that, unsatisfactory as some aspects of the regime have proven to be, the internal arbitration and Councillor Conduct Panel processes appropriately balance competing interests and are, in any event, not that different from the disciplinary processes that operate in other jurisdictions throughout Australia.

Amendments to the LGA are nonetheless necessary. The amendments are not a panacea. They will, if made, materially improve the legislative regime but much other work needs to be done to address the problems identified in the Culture Project Insights Report.

Definition of Standards of Conduct

- 4.3 Three reforms should be made to the Standards of Conduct. The first involves the insertion of a Preface, Statement of Intent or Contextual Statement to introduce the Standards of Conduct.

Frequently the Standards of Conduct are reproduced in Councillor Codes of Conduct without any kind of introduction. They are simply copied over from the Regulations. The reader (and, in particular, a Councillor reading that part of the Councillor Code of Conduct in which the Standards of Conduct appears) is given no guidance as to what the Standards of Conduct seek to achieve or why they are important.

Contrast this with the Statement of Intent and other passages that appear in South Australia’s *Behavioural Standards for Council Members*. The full text of the latter appears as Appendix B.

Those Behavioural Standards include the following Statement of Intent:

Upon election, council members in South Australia undertake to faithfully and impartially fulfill the duties of office in the public interest, to the best of their judgment and abilities and in accordance with the Act. Council members are required to act with integrity, serve the overall public interest and provide community leadership and guidance.

*The community expects council members to put personal differences aside, to focus on the work of the council and to engage with each other and council employees in a mature and professional manner.*⁶¹

They go on to say that what subsequently appears sets out ‘minimum standards of behaviour that are expected of all council members’ and that they are ‘mandatory rules, with which Council members must comply’. Adherence to the Behavioural Standards is said to be ‘essential to upholding the principles of good governance in councils’.

⁶¹ Emphasis added.

It would be helpful for similar sentiments to introduce the Standards of Conduct (so that if they are reproduced in a Councillor Code of Conduct the context and importance are emphasised). A similar point was made in the New South Wales review of Councillor Conduct that occurred last year. The *Focus On Civic Responsibility Report (NSW Report)* said:

The Councillors' code of conduct needs to be comprehensive in prescribing the expectations of councillor conduct *in alignment with the fundamental principles applicable to their holding of public office*.⁶²

- 4.4 The second reform that should be considered is a change to the content of the Standards of Conduct themselves. The point has already been made that the text is excessively generic, and there will often be little connection between what is said and an act that would colloquially be accepted as an act of misconduct.

Again the *Behavioural Standards for Council Members* operating in South Australia can be cited as an example of an instrument that imposes more specific obligations (see Appendix B). Particular note should be taken of the following obligations, which either have no Victorian counterpart or which appear to be expressed in language that is clearer and more practical in application:

...

- 1.5 When making public comments, involving comments to the media, on Council decisions and Council matters, show respect for others and clearly indicate their views are personal and not those of the Council

...

- 2.2 Take all reasonable steps to provide accurate information to the community and the Council.

- 2.3 Take all reasonable steps to ensure that the community and the Council are not knowingly misled.

- 2.4 Take all reasonable and appropriate steps to correct the public record in circumstances where the member becomes aware that they have unintentionally misled the community or the Council.

...

- 3.1 Establish and maintain relationships of respect, trust, collaboration and cooperation with all Council members.

...

- 4.1 Establish and maintain relationships of respect, trust, collaboration and cooperation with all Council employees.

Requiring a Councillor to take all 'reasonable steps' to provide information, ensure that others are not misled or correct the public record is to be preferred to provisions that do no more than prohibit intentionally misleading Council or others. Creating a positive obligation to establish and maintain certain relationships is to be preferred to an exclusive reliance upon an obligation to treat others with respect and courtesy. There could, for example, be a positive obligation to contribute to a harmonious, safe and productive workplace.

The Western Australian Model Code of Conduct also contains obligations that are expressed specifically, and not generally (see Division 3 of Schedule 1 to the *Local Government (Model Code of Conduct) Regulations 2021* (WA)). These are to be found in Appendix C.

The specific obligations on Western Australian Councillors include obligations not to:

⁶² NSW Report at [3.4]. Emphasis added.

disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties

and not to:

impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.⁶³

It is not being suggested that there is no room for generality in the articulation of the Standards of Conduct. Some general standards are desirable, if only because of the difficulty of foreseeing every specific conduct in which a Councillor might engage. Rather the emphasis should be on specific and easily comprehended obligations of the type found in the South Australian and Western Australian instruments, perhaps complemented by obligations expressed with a little more generality.

- 4.5 Provision for the publication of Ministerial Guidelines would also be useful. These Guidelines – made by the Minister for Local Government – would be aimed at giving general guidance to the Principal Councillor Conduct Registrar, arbiters and Councillor Conduct Panels.

The Ministerial Guidelines could, for instance, say something about forms of application and what can and should be communicated to whom (and when), as well saying something about expectations as to the time within which Directions Hearings are to be convened.

To the extent to which the Standards of Conduct continue to include language of a generic kind, examples could be given of what is generally considered to be a breach of a given standard. In this way arbiters (and, where relevant, Councillor Conduct Panels considering an issue of misconduct), as well as Councillors and members of a council's staff, can better understand when certain Standards of Conduct are likely to be breached.

The Ministerial Guidelines could also play a role in relation to penalties. That is, they could provide guidance to arbiters (and Councillor Conduct Panels) about the scale of penalties in relation to particular types of misconduct (or, in the case of Councillor Conduct Panels, serious misconduct).

Of course, the Ministerial Guidelines would not be binding or supplant anything in the Standards of Conduct. They could, however, prove beneficial by making it clearer to all participants in the disciplinary process what is expected by way of conduct and what is likely by way of consequence if misconduct (or serious misconduct) occurs.

All of this would be consistent with the approach recommended in the NSW Report. It recommended that conduct-related instruments should be expressed in 'unambiguous and clear language' and that 'examples and explanatory notes' should appear.⁶⁴

Staff Left Aggrieved

- 4.6 Opening up the internal arbitration process (or the serious misconduct process) to any complainant is problematic. To some extent opening up the process to a member of council's staff is also problematic, given that staff members are likely to be reluctant to be directly engaged with a Councillor in a process that could lead to adverse consequences for the latter.

Yet providing members of staff with a remedy, and some input into the disciplinary process, is highly desirable. The best course might be to enable staff (or staff via their Chief Executive Officer) to complain to the Chief Municipal Inspector and request that the Chief Municipal Inspector consider bringing a misconduct application against a Councillor whose conduct is in issue. The Chief Municipal Inspector could, after making preliminary enquiries, decide whether, in their opinion, sufficient evidence exists to justify bringing an application. If

⁶³ Ibid.

⁶⁴ NSW Report at [3.6].

an application is brought it would be processed in the same way as a misconduct application brought by a Councillor, a group of Councillors or a council by Resolution.

- 4.7 It is true that, ultimately, the staff member is making an allegation against a Councillor and participating in proceedings that could have adverse consequences for the Councillor. It is just that Chief Municipal Inspector is interposed, and given responsibility for the conduct of the application. In this way some 'distance' is put between the member of staff and Councillor who is the subject of a misconduct application.

It remains the case that, even with the involvement of the Chief Municipal Inspector, Chief Executive Officers or other members of a council's staff may still be disinclined to call a Councillor to account. At the very least they would, under the reform proposed, have a choice. At the moment they have no choice other than to have the matter raised with the Mayor or other Councillors and hope that one of them feels strongly enough about the matter to initiate misconduct or serious misconduct application.

Penalties

- 4.8 In its response to the Culture Project Discussion Paper, LGPro said that the current penalties capable of being imposed by arbiters and Councillor Conduct Panels were 'inadequate', that penalties needed to 'scalable' and that consideration should be given to fines and the possibility of the Councillor no longer being eligible to remain in office.⁶⁵ All of this reflected a frustration among LGPro members, doubtless shared by some Councillors, that the limits on what an arbiter or Councillor Conduct Panel could order meant that many Councillors were prepared to engage in misconduct (or even serious misconduct) because the only sanction would be a 'slap over the wrist'.

- 4.9 Arbiters should be empowered to suspend a Councillor from office for up three months in the event of misconduct.⁶⁶ Ministerial Guidelines could assist arbiters in deciding when such a penalty was appropriate.

Councillor Conduct Panels should be empowered to suspend Councillors for up to three years. In cases where a serious misconduct has arisen from continued or repeated misconduct – where multiple acts of misconduct have occurred over a period – a Councillor Conduct Panel should be empowered to determine that the Councillor is ineligible to remain in office for the balance of the Council term.⁶⁷

Legislative amendments of this kind will send a very clear signal that misconduct or serious misconduct is treated seriously, and that there are very real consequences for those who engage in unacceptable conduct. This needs to be reinforced by appropriate (but proportionate) sanctions being meted out by arbiters and Councillor Conduct Panels.

- 4.10 Consideration should also be given to civil penalties (in the form of fines) as a possible sanction. These could be expressed by reference to a quantum of a Councillor's Allowance. For example, an arbiter could, upon making a finding a misconduct, decide (whether in conjunction with or in lieu of a suspension from office, or some other order) to require the Councillor to pay a proportion of their Councillor Allowance back to council. The prospect of foregoing part of the Councillor Allowance might, for some at least, act as a sufficient deterrent to engage in any misconduct.
- 4.11 A range of other possible penalties – a direction that the Councillor admit error, reimburse the relevant council the cost of an arbitration or Councillor Conduct Panel hearing or the issue of a reprimand – would also be worthwhile. They give arbiters (and, where appropriate, Councillor Conduct Panels) a greater element of discretion.

⁶⁵ See *Organisational Culture In Victorian Councils, LGPro Response to Discussion Paper (2022)* at pp 11 and 12.

⁶⁶ This also applies to Councillor Conduct Panels that have made a finding of misconduct.

⁶⁷ If the balance of the Council term is less than three years, the Councillor Conduct Panel should have a discretion to determine that the Councillor is not only suspended for the balance of the Council term but ineligible to become a Councillor before a date that falls in the next Council term.

The critical feature of any legislative reform, though, must be the introduction of more serious penalties. Without this occurring the loss of faith in the current legislative regime will only continue.

- 4.12 An anomaly in the current legislative regime should also be addressed. It appears that if a Councillor has been suspended by an arbiter or a Councillor Conduct Panel the Councillor 'ceases to be a Councillor for the term of the suspension'⁶⁸ but ultimately they continue to 'hold of the office of Councillor'.⁶⁹ There is an offence of acting as a Councillor after ceasing to hold the office of Councillor⁷⁰ but is inapplicable to the Councillor who has merely been suspended.

The gap in regulation means that a suspended Councillor is not subject to any penalty for continuing to act as a Councillor while suspended. While their council may prevent their entry to a meeting they seemingly remain free to perform a representational role and do all other things that a Councillor can lawfully do.

⁶⁸ LGA, section 37(a).

⁶⁹ See section 35(1) of the LGA.

⁷⁰ LGA, section 38(1).

Appendix A

Local Government (Governance and Integrity) Regulations 2020

S.R. No. 116/2020

Schedule 1—Standards of conduct

Schedule 1—Standards of conduct

Regulation 12

1 Treatment of others

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor—

- (a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the **Equal Opportunity Act 2010**; and
- (b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and
- (c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- (d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

2 Performing the role of Councillor

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor—

- (a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- (b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- (c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

3 Compliance with good governance measures

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following—

- (a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- (b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;
- (c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;
- (d) any directions of the Minister issued under section 175 of the Act.

4 Councillor must not discredit or mislead Council or public

- (1) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
- (2) In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

5 Standards do not limit robust political debate

Nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.

LOCAL GOVERNMENT ACT 1999

SECTION 75E OF THE LOCAL GOVERNMENT ACT 1999

Behavioural Standards for Council Members

The Behavioural Standards for Council Members (Behavioural Standards) are established by the Minister for Local Government pursuant to section 75E of the *Local Government Act 1999* (the Act). These Behavioural Standards form part of the conduct management framework for council members under the Act.

Statement of Intent

Upon election, council members in South Australia undertake to faithfully and impartially fulfil the duties of office in the public interest, to the best of their judgment and abilities and in accordance with the Act. Council members are required to act with integrity, serve the overall public interest and provide community leadership and guidance.

The community expects council members to put personal differences aside, to focus on the work of the council and to engage with each other and council employees in a mature and professional manner.

Behavioural Standards

These Behavioural Standards set out minimum standards of behaviour that are expected of all council members in the performance of their official functions and duties. The Behavioural Standards are mandatory rules, with which council members must comply.

Adherence to the Behavioural Standards is essential to upholding the principles of good governance in councils.

Councils may adopt Behavioural Support Policies which, amongst other things, may include additional matters relating to behaviour that must be observed by council members. A breach of these Behavioural Standards or a council's Behavioural Support Policy:

- will be dealt with in accordance with the council's Behavioural Management Policy; and
- may be referred to the Behavioural Standards Panel in accordance with section 262Q of the Act.

Council members must comply with the provisions of these Behavioural Standards in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, these Standards at all times.

These Behavioural Standards are in addition to, and do not derogate from, other standards of conduct and behaviour that are expected of council members under the Act, or other legislative requirements. Conduct that constitutes, or is likely to constitute, a breach of the integrity provisions contained in the Act, maladministration, or which is criminal in nature, is dealt with through alternative mechanisms.

These Behavioural Standards are designed to ensure council members act in a manner consistent with community expectations and form the basis of behaviour management for council members.

Constructive and effective relationships between council members, council employees and the community are essential to building and maintaining community trust and successful governance in the local government sector.

Council members must:**1. General behaviour**

- 1.1 Show commitment and discharge duties conscientiously.
- 1.2 Act in a way that generates community trust and confidence in the Council.
- 1.3 Act in a manner that is consistent with the Council's role as a representative, informed and responsible decision maker, in the interests of its community.
- 1.4 Act in a reasonable, just, respectful and non-discriminatory way.
- 1.5 When making public comments, including comments to the media, on Council decisions and Council matters, show respect for others and clearly indicate their views are personal and are not those of the Council.

2. Responsibilities as a member of Council

- 2.1 Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.
- 2.2 Take all reasonable steps to provide accurate information to the community and the Council.
- 2.3 Take all reasonable steps to ensure that the community and the Council are not knowingly misled.
- 2.4 Take all reasonable and appropriate steps to correct the public record in circumstances where the Member becomes aware that they have unintentionally misled the community or the Council.
- 2.5 Act in a manner consistent with their roles, as defined in section 59 of the Act.
- 2.6 In the case of the Principal Member of a Council, act in a manner consistent with their additional roles, as defined in section 58 of the Act.
- 2.7 Use the processes and resources of Council appropriately and in the public interest.

3. Relationship with fellow Council Members

- 3.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.
- 3.2 Not bully other Council members.
- 3.3 Not sexually harass other Council members.

4. Relationship with Council employees

- 4.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council employees.
- 4.2 Not bully Council employees.
- 4.3 Not sexually harass Council employees.

Definitions

For the purposes of these Behavioural Standards, a Council's Behavioural Support Policy (if adopted) and a Council's Behavioural Management Policy, the following definitions apply:

An elected member will be considered to **bully** other Council members or Council employees if:
the Council member either, as an individual Council member or as a member of a group:

- a) repeatedly behaves unreasonably towards another Council member, or employee; and
- b) the behaviour could reasonably be considered to be distressing, victimising, threatening or humiliating.

Note -

If this behaviour adversely affects the health and safety of another council member or council employee, it must be addressed under section 75G of the Act and may be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

An elected member will be considered to **sexually harass** other Council members or Council employees if:

the Council member either, as an individual Council member or as a member of a group:

- a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another Council member, or employee (the person harassed); or
- b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated, or intimidated.

Note -

If this behaviour adversely affects the health and safety of another council member or council employee, it must be addressed under section 75G of the Act and may be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

Conduct of a sexual nature includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

Council employees include volunteers, persons gaining work experience and contractors.

The following behaviour **does not** constitute a breach of these Standards:

- robust debate carried out in a **respectful** manner between Council Members; or
- A reasonable direction given by the Presiding Member at a council meeting, council committee meeting or other council-related meeting (such as a working group or an information or briefing session); or
- A reasonable direction carried out by the Council CEO/responsible person pursuant to section 75G of the Act in relation to the behaviour of a Council Member that poses a risk to the health or safety of a council employee.

Requirement applying to behavioural management policies of councils

Behavioural management policies of councils must provide for a Behavioural Standards Panel contact officer. Councils must appoint a person as the contact officer for matters referred to the Behavioural Standards Panel. The contact officer is responsible for the provision of information to and receipt of notice from the Behavioural Standards Panel.

Commencement

The Behavioural Standards come into operation on the day on which it is published in the Gazette.

Dated: 3 November 2022

HON GEOFF BROCK MP
Minister for Local Government

Appendix C

Local Government (Model Code of Conduct) Regulations 2021

Model code of conduct **Schedule 1**

Preliminary provisions **Division 1**

cl. 1

Schedule 1 — Model code of conduct

[r. 3]

Division 1 — Preliminary provisions

1. Citation

This is the *[insert name of local government] Code of Conduct for Council Members, Committee Members and Candidates*.

2. Terms used

(1) In this code —

Act means the *Local Government Act 1995*;

candidate means a candidate for election as a council member;

complaint means a complaint made under clause 11(1);

publish includes to publish on a social media platform.

(2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 — General principles

3. Overview of Division

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

4. Personal integrity

(1) A council member, committee member or candidate should —

(a) act with reasonable care and diligence; and

(b) act with honesty and integrity; and

(c) act lawfully; and

(d) identify and appropriately manage any conflict of interest; and

(e) avoid damage to the reputation of the local government.

- (2) A council member or committee member should —
- (a) act in accordance with the trust placed in council members and committee members; and
 - (b) participate in decision-making in an honest, fair, impartial and timely manner; and
 - (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
 - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

5. Relationship with others

- (1) A council member, committee member or candidate should —
- (a) treat others with respect, courtesy and fairness; and
 - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

6. Accountability

- A council member or committee member should —
- (a) base decisions on relevant and factually correct information; and
 - (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
 - (c) read all agenda papers given to them in relation to council or committee meetings; and
 - (d) be open and accountable to, and represent, the community in the district.

Division 3 — Behaviour

7. Overview of Division

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

8. Personal integrity

(1) A council member, committee member or candidate —

- (a) must ensure that their use of social media and other forms of communication complies with this code; and
- (b) must only publish material that is factually correct.

(2) A council member or committee member —

- (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
- (b) must comply with all policies, procedures and resolutions of the local government.

9. Relationship with others

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local

government employee in connection with the performance of their official duties.

10. Council or committee meetings

When attending a council or committee meeting, a council member, committee member or candidate —

- (a) must not act in an abusive or threatening manner towards another person; and
- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and
- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

11. Complaint about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; and
 - (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

12. Dealing with complaint

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is

withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.

- (2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (4) If the local government makes a finding that the alleged breach has occurred, the local government may —
 - (a) take no further action; or
 - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
- (5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —
 - (a) engage in mediation;
 - (b) undertake counselling;
 - (c) undertake training;
 - (d) take other action the local government considers appropriate.
- (7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —
 - (a) its finding and the reasons for its finding; and
 - (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

13. Dismissal of complaint

- (1) The local government must dismiss a complaint if it is satisfied that —
 - (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
 - (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
- (2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

14. Withdrawal of complaint

- (1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.
- (2) The withdrawal of a complaint must be —
 - (a) in writing; and
 - (b) given to a person authorised under clause 11(3).

15. Other provisions about complaints

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

Division 4 — Rules of conduct

Notes for this Division:

1. Under section 5.105(1) of the Act a council member commits a minor breach if the council member contravenes a rule of conduct. This

extends to the contravention of a rule of conduct that occurred when the council member was a candidate.

2. A minor breach is dealt with by a standards panel under section 5.110 of the Act.

16. Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

17. Misuse of local government resources

- (1) In this clause —
electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*;
resources of a local government includes —
 - (a) local government property; and
 - (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

18. Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office —
 - (a) to gain, directly or indirectly, an advantage for the council member or any other person; or
 - (b) to cause detriment to the local government or any other person.
- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

19. Prohibition against involvement in administration

- (1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.
- (2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

20. Relationship with local government employees

- (1) In this clause —
local government employee means a person —
 - (a) employed by a local government under section 5.36(1) of the Act; or
 - (b) engaged by a local government under a contract for services.
- (2) A council member or candidate must not —
 - (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
 - (c) act in an abusive or threatening manner towards a local government employee.
- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use an offensive or objectionable expression when referring to a local government employee.

- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

21. Disclosure of information

- (1) In this clause —

closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

confidential document means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;

document includes a part of a document;

non-confidential document means a document that is not a confidential document.

- (2) A council member must not disclose information that the council member —
- (a) derived from a confidential document; or
 - (b) acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subclause (2) does not prevent a council member from disclosing information —
- (a) at a closed meeting; or
 - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

22. Disclosure of interests

- (1) In this clause —
interest —
- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
 - (b) includes an interest arising from kinship, friendship or membership of an association.
- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —
- (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
- (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
- (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if —
- (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or

(b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.

(7) The nature of the interest must be recorded in the minutes of the meeting.

23. Compliance with plan requirement

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.



ORGANISATIONAL CULTURE IN VICTORIAN COUNCILS

LGPRO RESPONSE

Councillor culture in local government in Victoria is under increasing scrutiny. Poor behaviour, risks to health and safety and ineffective measures to deal with these issues are driving the desire for change. This report responds to the Discussion Paper prepared by PwC on behalf of Local Government Victoria (LGV) and outlines issues and solutions as identified by senior officers working in the sector.



A project completed by LGPro in response to Local Government Victoria (LGV).
LGPro is the leading professional association for officers in the Victorian Local Government Sector.

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PRESIDENT FOREWORD

In December 2021, PricewaterhouseCoopers (PwC) released a discussion paper on organisational culture in councils - the Local Government Culture Review Project - commissioned by the Department of Jobs, Precincts and Regions' Local Government Victoria to improve their understanding of the factors that affect Council culture and to develop approaches that could lead to improvements.

The paper sets out 12 questions, designed to gather information on how Local Government can address issues of culture and conduct that have been identified in the sector. Local Government senior professionals have contributed as a collective voice through LGPro in this report based on these questions, illustrating the impact that poor behaviour can have and has on the performance of individual local governments, the communities they serve, and the wellbeing of their staff.

This report illustrates the professionalism, caring, and willingness to share information and experiences from local government professionals with a view not to demonise but to provide solutions for the sector and the communities it serves. The sector delivers extraordinary outcomes and provides fulfilling roles to its public servants, but there remain issues to be addressed to ensure an even stronger sector.

The responses and related case studies show that our sector is grappling with distinct issues around behaviour, but there are solutions with necessary support. Some people are behaving badly, and some are working in their own self-interest to the detriment of their Council. Suggested solutions include leadership training, mentoring, dedicated and empowered LGV Regional Director, changes to legislation and management practices with a focus on ethics and accountability and the introduction of penalties or sanctions for ongoing malevolent behaviours.

It is the energy, commitment, and collaboration of local government professionals and their State Government counterparts that will improve our councils, along with the good-faith direction and contribution of our Councillors and Mayors. LGPro, as the voice of these professionals, will invest in supporting this collaboration.

I commend this report to you, moderated by participating local governments and reflecting the opinions and lived experiences of its senior officers, and look forward to our working together to achieve the best results for our communities.

Liana Thompson
President
LGPro Victoria

Chief Executive Officer
Northern Grampians Shire Council



CONTEXT

In December 2021, PricewaterhouseCoopers (PwC) released a discussion paper on organisational culture in Councils, *Local Government Culture Project*¹. This paper, commissioned by the Department of Jobs, Precincts and Regions (Victoria) aims to improve understanding of the things that affect culture and conduct in local government.

The paper asks 12 questions to gather information on how the local government sector can address the culture and conduct issues that have been identified in their sector.

At an LGPro meeting of council CEOs in late November 2021, it was agreed that LGPro would prepare a response to the PwC Discussion Paper on behalf of its members. LGPro surveyed its members based on the 12 questions posed in the PwC paper.

Formal responses were received from councils covering a range of sizes and locations, and Council composition. Further commentary was also provided by several additional councils in response to this report in its draft form.

A range of disparate views on the topics set out in the Discussion Paper are represented here in good faith to the officers who responded to this survey. However, where LGPro may have a differing view to those expressed by survey participants, this is clarified in each question.

It became apparent, particularly during the collection of case studies, that there is a widespread fear for career or retribution in the sector from speaking out about poor councillor behaviour. For this reason, the information provided in this report is provided on the understanding that any examples used or possible identification of individuals will not be used in a public setting nor encroach on privacy of the subjects of this report or its contributors.

¹ [PwC Local Government Culture Project Discussion Paper Final.pdf](#)

SURVEY RESULTS

Question 1:

The LG Act 2020 defines leadership roles and responsibilities. Does this require further role clarity? If so, which aspects require clarification and how may this be achieved (including legislative non-legislative mechanisms)?

Most respondents believe the Act is sufficient in defining leadership roles and responsibilities. However, it was suggested that further guidance should be provided on how people can best meet these leadership responsibilities, and to understand what is needed to perform the role of councillor, especially for those people new to local government.

People who are attracted to stand for local government are often interested in doing the best for their community, but they may not have the experience to enable them to take a strategic approach to the decisions they make. People commonly stand for election based on issues relating to roads, potholes, rates, or advocacy on a particular issue that they vow to fix, if elected. When elected, this may mean they focus on ward issues rather than what is best for the council overall.

Suggested solutions included:

- + provide pre-election training to increase understanding for potential candidates about what they can and cannot achieve as a councillor.
- + Mayors may need training on leadership and their role managing councillors and working with the CEO.

Question 2:

Given the diversity and experience of candidates' backgrounds, how can the LG sector improve leadership capability and better cultivate an environment of transparency, honesty, integrity, and trust?

Some responses suggested that the remote work practices related to COVID prevented the development of the strong relationships normally formed between councillors. Some respondents felt that new councillors who campaigned on 'fixing up' issues in their municipality started their relationship with little respect for the role of the CEO. This is a difficult basis on which to build strong working relationships.

Suggested solutions included:

- + Briefing on requirements for being a councillor should be a pre-requisite for standing for election. Training could include how to interact with the community and understanding the limits around their future responsibilities (regulatory obligations, conflict of interest, financial accountability, relationship with the CEO and Council staff).
- + Once elected, all councillors should complete an induction program. Induction programs can be tailored to the experience of the councillors with more detailed training for those new to the role, a refresher for returning councillors and an update for those that have been a councillor before but not in the last term.
- + Mayors and Deputy Mayors should be provided with leadership training, which should be mandatory before being able to accept these roles. This training should focus on developing leadership skills, conflict resolution and building understanding of the management roles of

- council Executive and staff. Training should also address the legislative obligations around conflicts of interest, probity, work health and safety and supporting a diverse workforce.
- + Mentoring programs could be established to have experienced councillors, executives or other professionals assist new councillors to understand their governance obligations.
 - + Once in their roles, councillors could be kept abreast of good governance and examples of poor governance with regular updates from across the state providing practical and real examples.
 - + An independent monitor could sit in on at least one council meeting a year (unannounced) in every council across the State providing feedback on the behaviour and processes observed at that meeting – this was not a widely endorsed suggestion due to potentially impacting the flow of conversation and proceedings at council meetings, as well as being cost prohibitive.
 - + CEOs new to their roles could be supported with mentoring. Without support, the sector will continue to lose talented people.
 - + Improve the efficacy and efficiency of complaints processes to ensure that issues relating to conflict of interest, code of conduct, and workplace behaviours of elected councillors, Executive and staff are dealt with quickly.

Question 3:

How successful have any existing initiatives been to promote strong leadership and build trust? Please provide case studies or examples of good practice that have worked well and could be considered for broader implementation.

Respondents identified several initiatives that have successfully promoted strong leadership:

- + Some councils have initiated reviews of practice and health checks to improve standards of behaviour and to support safe challenges of breaches of the Code of Conduct. These sometimes go hand in hand with an annual induction program.
- + Workshops run by the Municipal Association of Victoria (MAV) and the Victorian Local Government Association (VLGA) aim to improve understanding of acceptable standards of behaviour. These organisations regularly provide updated information to councils
- + CEOs investing time and effort into supporting Mayors and individual councillors to build their leadership capabilities and understanding of roles.
- + External facilitators have been used to help councillors build skills in working collaboratively and to understand the regulatory framework. This has been a positive experience where it has been used but as with any training its success relies on the willingness of individuals to learn and improve.
- + CEOs having one-on-one time with each Councillor to provide support and help build their leadership skills and avoid poor behaviours.
- + Offsite workshops to build relationships between councillors and the Executive have also been useful but these have been constrained by the pandemic and sometimes by cost.
- + One council also used a psychologist to assist the Mayor in dealing with a difficult councillor. Another strategy has been to focus councillors on the future, learning from mistakes, moving on in a constructive way and stop blaming previous councils. This has helped build the relationship between councillors and officers. Signing the Code of Conduct (once reviewed)

annually and reciting the declaration of office at the start of formal council meetings can also be a prompt to behave well.

- + One respondent suggested that councils remove the 'us and them' approach between councillors and officers, with councils becoming a whole entity, fully embraced, and supported by councillors and staff and where accountability is accepted, and mistakes are opportunities for learning rather than blame.

Question 4:

Mention is made through consultation of local government being a 'parliament of opposition as opposed to a diverse board of the community'. What needs to change to better align Councillors and Mayors to effectively achieve community-based objectives and better operate as a diverse board of the community? Would formal Director training be desirable (or should it be potentially mandatory) for Councillors?

Many respondents felt that a modified Directors course tailored to local government would be beneficial in improving councillors' understanding of governance, the councillor's personal legal liability, financial literacy, judgement in decision making, ethics, risk management and the need to take a whole-of-council approach to decision making. It would also help clarify the difference between councillors setting the strategic direction and letting officers manage the operational side.

One suggestion was to mandate that the training had to be successfully completed within the first two years of office. Another respondent thought the course should be completed before a person could stand for election. However, this approach may be costly and may create an unintentional barrier for entry to local government. On balance LGPro does not support making this course mandatory for councillors as it may create a barrier for full participation by all members of the community.

It was also noted that the Australian Institute of Company Directors (AICD) program in its current form would not be appropriate as councils are not like Boards and councillors are not Company Directors. Subject matter experts in the organisation should be skilled enough to do the heavy lifting and provide frank and fearless advice, so it is not essential for councillors to have Board Director skills.

Other comments included:

- + An alternative to the AICD program may be a minimum number of Continuing Professional Development (CPD) hours per councillor per year.
- + Any course would need to cater for the variation in experience and capacity of participants to undertake training.
- + Respondents also noted that professional training as suggested will not address the behavioural problems which impact of professional relationships and interpersonal issues that result from poor behaviours such as bullying and intimidation.
- + Focus on creating a shared culture through workshops and discussions, not just training.

Question 5:

How could the candidate and induction training support be improved to ensure genuine engagement and sustained understanding of the role and responsibilities of Councillors? Do you think there should be more compulsory training and development before

candidates can stand for Council? Why or why not? Does an element of gender and diversity need to be addressed (or enhanced) in such training?

Responses around training ranged from an introductory program to an extensive program with a formal exam at the end with only 'qualified' candidates being able to stand for election. LGPro does not endorse the proposition for a formal exam before 'qualified' candidates could stand for election, but agrees that a range of formal briefings would be feasible.

A minimum, introductory training/briefing may help potential candidates understand what they are signing up for. Over two thirds of the respondents believed that there should be some form of compulsory training/briefing before candidates stand for council, acknowledging that most candidates do not have a good sense of the range of roles and responsibilities of a councillor.

Other responses wanted greater training once candidates were elected to council, enabling a diverse range of candidates to stand to represent their communities.

Other suggestions included:

- + a councillor's sphere of influence should be one of the main topics covered in training/briefing to ensure they understand that decisions need to be made in a whole-of-council context.
- + the use of leadership profiles or tests to give candidates a sense of their strengths and weaknesses in standing for this position. Confidentiality of results would need to be ensured.
- + gender equity and diversity training are a necessary part of induction training or even for pre-candidate training. This was particularly required in councils with a majority of male, generally older councillors. The training should build their understanding and tolerance of a diverse workforce and councillor cohort. Accessibility to this training was an issue particularly for Aboriginal and Torres Strait Islander and Culturally and Linguistically Diverse candidates. However, this training should not come at the expense of training in conduct standards and councillor roles and responsibilities as councillors have a limited amount of time for their roles.

It was noted that the success of compulsory training relies on the receptiveness of the audience. Motivations and values can be fundamentally different between candidates and unless they are open to learning they will not be able to be a truly independent councillor.

Criticism was also levelled at the role councillors play in determining their own standards of behaviour in formulating a Code of Conduct. This can be a bare minimum standard with no scrutiny by any external authority and at odds with the sometimes overly prescriptive policies, guidelines and supervision required of council staff. Enforcing these minimum standard Codes can be difficult.

Question 6:

How can the local government sector work to formalise a structured professional development pathway for Councillors and Mayors? Would such structured professional development training need to include appointed representatives (such as Administrators)?

Responses offered broad support for professional development for Councillors and Mayors which would help build consistency in the standards and approaches applied across local government areas. Similarly, there was support for development training for appointed representatives, but it was noted that these positions (administrators) are usually given to people with significant experience so training should be optional for these roles.

The Municipal Association of Victoria (MAV) was suggested as the lead organisation for programs for Mayors and Councillors with CPD points being applied to these programs. However, it was noted that training should not become onerous for councillors still in the workforce or with carer responsibilities. The outcome should be focussed on achieving better informed and more responsible councillors.

It was noted that this professional development training should relate to the roles of elected councillors with care to be taken not to blur the lines of accountability between training for elected roles and those of Executive appointments e.g. CEO.

Question 7:

How can awareness be raised on the best ways to harness social media to ensure a consistent management approach – covering monitoring, appropriate usage, and the consequences of negative usage?

Most respondents suggested a standardised sector-wide approach for this question and/or mandatory training or information sessions on the subject, both pre-election and at mandatory induction training.

As it stands now, CEOs have little or no authority to manage social media related issues, especially where Council Codes of Conduct exclude officers from lodging complaints even when a clear breach has occurred. Some councillors are also likely to react to provocative social media posts made by other councillors resulting in an escalation the situation, leaving the CEO with little power to control or moderate.

Of particular concern is the micro aggressions (small negative comments on a frequent basis) by some councillors using social media, that are difficult to monitor and on a whole are significant. These micro aggressions can also build to a response point from other councillors that can look out of proportion to the triggering incident. Staff are also not immune from these micro aggressions.

Suggestions included:

- + Local Government Victoria (LGV) develop a standard policy and procedures on social media use which is applied consistently across councils.
- + This standard should include best practice guidelines, case studies and real-life examples of appropriate use.
- + the Municipal Association of Victoria (MAV) or LGV should develop and provide training on social media use which should be included in the councillor induction program and repeated on a regular basis for existing councillors.
- + Conduct standards should include significant and swift consequences for social abuse or misuse, especially for repeat offenders.

Some respondents felt that some councillors have already misused these tools so any policy change is too late, suggesting that banning social media use would be the only solution, or alternatively allow minimal social media use for information sharing only. However, as the problem is increasing significantly, some measures at a state-wide level are needed to manage social media use and the harm it can do to council culture. There are also good examples of the problems of social media misuse that already in the public realm such as the Bendigo case about a tweet that ended up at VCAT.

Question 8:

Do you think that any amendments to the Local Government Act 2020 are required to deal with the usage of social media? How should social media harassment be defined and what mechanisms could be introduced into the Act?

It was widely agreed that the use of social media is becoming a contentious issue for councillors. It is also a difficult environment to monitor and control. Some councils are spending a significant amount of time and resources on managing and monitoring social media accounts of councillors to the potential detriment of the community.

Many respondents thought that the Act should be amended to cover these issues and potentially include them under serious misconduct. The Act should cover situations where councillors can be offenders or victims. Some insights are provided in the Queensland Guidelines for Councillors on social media².

Any amendment to the Act would need to cover posts that are harassing, abusive or offensive and there should be automatic penalties that do not require the lengthy panel evaluation process (noting the implications for natural justice and procedural rights).

Defining harassment is a critical part of regulating social media activity. There are varying views on this. Some councillors hide behind the excuse that they did not mean it or that their colleagues are too soft skinned. This is particularly true for councillors that believe they have a democratic right to free speech that then spills into their right to take a different position to Council's adopted decision because they voted against it. These individuals refuse to be gagged by officers and they believe they have a right to their own individual political views. This also has implications for how council meets its work health and safety obligations as these views might be considered harassment of staff, other councillors, clients, or members of the community.

Some respondents did not agree that this should be legislated in the Local Government Act but rather be covered under an updated Telecommunications Act which deals with digital abuse. Alternatively, it could be treated simply as a new form of communication that is covered by existing legislation or via an enhanced Code of Conduct that has remedies for breaching the Code.

Other difficulties with including these breaches in the Act are that harassment often does not occur on Council-managed social media channels and this is difficult to control on third party related sites. The harassment may also be instigated by community members who harass or degrade elected representatives on social media, and this is difficult for councils to control. Further difficulties lie in policing social media given inadequate resourcing in some councils and the very limited extent for CEOs to manage this without proper powers over councillor behaviour. This was an important point for LGPro as CEOs have responsibility for health and safety but limited means to enforce this with councillors.

Question 9:

In the context of leadership, what needs to change to empower elected representatives, CEOs, and Council staff, to call out poor councillor behaviour and misconduct without fear of retribution? Councillors may have access to legal counsel (making or defending a misconduct or behaviour claim), which is currently subsidised by LG. Should this continue or be to an individual's own account and why?

² [Your Social Media and You: A guide for elected council members in Queensland](#)

Most respondents agreed that this is a tricky situation and possibly not the role of officers to solve. CEOs may spend a lot of energy, time, emotion, and resources on these issues, potentially to their personal detriment. The Mayor plays a pivotal role, but this role can be complicated with the annual election of the Mayor by their peers. A person's candidacy for Mayor can be unsuccessful if there are resentful councillors, or a CEO's contract may not be renewed depending on their role in calling out poor councillor behaviour. This fear of retribution and ongoing impact on careers is a major issue for officers and LGPro who represents their interests.

The solutions lie in councillors developing a better understanding of what constitutes inappropriate behaviour and misconduct. Mayors need to be trained and supported to manage these issues potentially with some outside assistance such as an organisational psychologist.

Further investment is required in speeding up current dispute mechanisms which respondents found to be slow, cumbersome, expensive, and generally ineffective, and as a result do not deter poor behaviour. This could be achieved through a dedicated and empowered LGV Regional Director position that provides independent and 'arm's length' oversight of these issues where councillors are involved. This independent person should be able to investigate complaints and respond to them quickly. LGPro supports any practical actions such as this, that could assist in dealing with some of these issues promptly.

Penalties for poor councillor behaviour also need to be given some teeth, possibly through a standard Code of Conduct for all councils which provides for quick arbitration and stand down provisions. One month's suspension from attending meetings is not a deterrent. The Mayor and Council need to have greater authority to impose penalties for serious and repeated misconduct and this will only happen if there is a council-wide culture of speaking out and feeling safe in calling out bad behaviour.

Staff need to feel there is a guarantee that they will be protected and indemnified from belligerent actions by councillors.

In relation to legal costs, most respondents thought that councillors should fund their own legal costs rather than be funded by rate payers. If the claim is found for the councillor, then council may reimburse costs.

Some respondents thought that both parties to a legal action should have equitable access to council funding unless the claim was found to be frivolous or vexatious. In that case, financial penalties such as legal costs should be applied to discourage further misconduct. Whichever side loses should pick up their own legal costs.

If a dispute is resolved early and amicably there would be no need for legal funding. However, if disputes escalate and become harder to manage then CEOs may be required to make a 'no win' decision about allocation of costs. Other types of support such as emotional support could also be provided and funded by council.

Question 10:

What can be done to better support dispute resolution at Councils?

Does the Act require more accountability and consequences for actions in it?

How can the process for misconduct and/or inappropriate behaviour claims be improved, or more adequate penalties be incorporated?

Most respondents stated that the Act should require more accountability for poor or conflicted behaviour by councillors, noting that recalcitrant councillors know that they will face few

consequences. There is not sufficient scope to effectively stop poor or conflicted behaviours. There is an over-reliance on the powers and skills of the Mayor to rein in these councillors, and this may be problematic if the Mayor is part-time or new to this leadership role.

One respondent suggested that a state-wide Code of Conduct would be more effective than each council developing its own code. CEOs currently have responsibility for the work health and safety of councillors and their organisation. While the CEO has control over the organisation, there is no practical avenue to ensure the health and safety of councillors, particularly from harassment or bullying by their colleagues. LGPro supports practical solutions that could address this issue immediately.

Respondents overwhelmingly thought that misconduct processes and penalties are inadequate, stating that the process is unsatisfactory and stressful for all participants. It was reported that there is genuine fear that deters officers or fellow councillors reporting poor behaviour of councillors. The current system of sending the complaint to the respondent before it is accepted and assessed by the registrar leaves the complainant vulnerable to public disclosure of their identity and possible retaliation for their complaint. LGPro strongly endorses changes to this part of the process to ensure officers and their privacy are protected in any disputes.

The system does not allow for patterns of behaviour to be recognised, as each claim is dealt with separately, often with different arbiters (these arbiters could be appointed by LGV). Lengthy timeframes leave the complainant potentially dealing with the councillor before the claim is dealt with, sometimes at great personal cost.

Even for serious misconduct such as harassment or bullying, there is no provision for standing down the alleged offender. This is not the case in other sectors (private and public) where the risk to the victim appears to be taken more seriously. As such there is the potential for serious harm to individuals and to organisational culture. Respondents stated that their experience is that councillors rarely receive a reprimand, penalty, or are required to offer an apology. On the other side, lodging a claim by an officer can be career limiting. LGPro supports changing this part of the process to ensure victims are not exposed to further risk due to lengthy timeframes.

One suggested solution is to create a dedicated and empowered LGV Regional Director) who can conduct investigations, act, and administer penalties in a timely manner. Speedy outcomes such as warnings, censure and suspension should be able to be managed by the CEO with oversight by the Inspectorate to prevent some councillors seeing this as a game. Poor behaviour is currently costing the sector, councillors, and officers financially and emotionally.

Prescriptive Codes of Conduct and consistent processes for internal arbitration including clear timelines and escalation processes are required across all local governments. Penalties need to be scalable and include the capacity to remove councillors and prevent them from standing again for election. Zero tolerance combined with early intervention and a consistent quick approach is required. However, it was noted that these measures alone will not guarantee a healthy organisational culture.

Question 11:

What types of early intervention mechanisms can be formulated and when? What do you think is an acceptable duration or timeframe for this intervention to fairly resolve a matter?

Respondents agreed that early intervention was desirable in all cases.

Suggestions for early intervention included:

- + providing annual training for Mayors and councillors on how to deal with issues and to act ensuring that everyone understands the approach, conflict resolution strategies, and the consequences of poor behaviour.
- + providing a coach or access to a psychologist to address any inappropriate behaviour - this would be a supportive rather than punitive approach.
- + providing the CEO with authority to act immediately by censuring or suspending the councillor. Such a decision would be reviewed by the Inspectorate when possible – but any risk is removed immediately. Added into this process could be a clause about detrimental action that is currently part of the Protected Disclosures legislation. The process should also be graduated depending on the severity of the behaviour with the capacity to skip steps for wilful behaviour.
- + professional mediation
- + substantial penalties that can be imposed by the council or the Mayor

If internal processes do not work, then matters should be able to be referred to an independent body (not the Inspectorate unless **resourced appropriately**) that acts as an independent facilitator who can accept confidential disclosures by Councillors or staff and compel solutions in a timely way. If this method is used it must be timely, fast, and overseen by LGV or the Inspectorate.

Question 12:

How can the process for misconduct and/or poor behaviour claims be improved, or more adequate penalties for misconduct and poor behaviour be incorporated in a more effective way? Is there an argument for fines as well as sanctions? Why or why not?

General misconduct is often poorly managed generating no consequences for the offender other requiring an apology, often felt to be ingenuine.

Many respondents felt that sanctions and fines were appropriate for significant breaches of the Code of Conduct i.e., repeated misconduct and bad behaviour that is more damaging to council's culture and reputation.

Fines can change behaviour in other workplaces particularly for fraud or corruption. In local government, it was suggested that fines could be applied by docking allowances or by the courts or Victorian Civil and Administrative Tribunal (VCAT). However, agreement would be needed on the type of investigation and inquiry that would decide fines. Some respondents thought that fines for councillors would be ineffective and merely thought of as a 'slap on the wrist'.

For some councillors the only true deterrents are serious sanctions such as being deemed ineligible to remain as a councillor. It was also suggested that any sanctions against a councillor, and the reasons for those sanctions, should be reported on council's website.



CASE STUDIES

The councils that responded to this survey provided case studies to demonstrate the range of issues they are facing. Those case studies that were not current and/or easily recognised (potentially identifying participant) have been included here. It should be noted that some case studies were provided and then withdrawn due to concerns in the sector about retribution for disclosing issues about organisational culture – even where those issues had been the subject of media attention.

CASE STUDY A

Issue/Background:

This issue relates to a decision whether to extend or conclude their CEO's employment contract. The final decision was to cancel the contract, but this case study is not about the final decision, but rather about the behaviour of councillors while making that decision, their treatment of staff and the governance processes used during this process.

Three Councillors (including the Mayor) made public comments blaming the CEO for issues relating to Council's decisions and questioning the CEO's mental health and fitness for the role. Details of their performance review were made public, including some very critical feedback they had received from a small number of Councillors. Prior to this, the CEO had provided regular performance reports to Council with no issues raised.

When it came to the decision process for the conclusion of the CEO's contract, the independent committee Chair recommended that the decision should be made 'in camera'. This advice was not followed, and the decision was discussed and taken in a public meeting.

Further, council held discussions on recruitment of an interim CEO in public, again against the advice of the independent Chair to have the discussions confidentially 'in camera'.

Involvement of external parties:

Council had appointed an experienced former CEO to the Independent Chair position of the CEO Recruitment and Performance Committee. This Chair provided sound governance advice to the Mayor and councillors about the process that should be followed, but this advice was not followed.

Outcome:

This process had a severe impact on the culture and confidence of staff and on the capacity of council. Some councillors were aware that there was a real possibility of council being sacked at the time, but they did not understand the issues or lack of governance processes that were leading to that decision. Council was eventually dismissed on this issue. There has also been a negative impact on staff wellbeing which in turn increased staff turnover.

Impact on organisational culture – Councillors and/or Organisation:

This situation has had a long-term impact on organisational culture. Staff feel unsafe to raise to issues and lack confidence that their personal matters will remain private and confidential. However, a newly elected group of councillors recognise this impact and are working hard to building trust and confidence with staff. No former councillors were elected in the latest elections.

Preferred/desired outcome and why:

It is important for staff to trust that councillors will take their governance and work health and safety obligations seriously. It is expected that professional and experienced advice on governance and proper process is followed by councillors for the good of the organisation, sound staff/councillor relationships based in trust, and good governance outcomes for the community.

Lasting effects:

This Council's reputation has impacted its ability to attract and retain good staff. There has also been significant loss of community trust and confidence in the Council.

Desirable legislative/policy/directions or changes to remedy this situation:

The Act should be strengthened regarding the Councillor Code of Conduct to avoid future situations such as this one.

Unfortunately, some community segments and in some cases the local media applaud this type of poor behaviour, and this behaviour can sometimes be rewarded at the ballot box.

CASE STUDY B

Issue/Background:

The Mayor initiated and led the process (with input from council officers) to deal with inappropriate behaviour by a councillor. The Mayor spoke with each councillor individually (by phone) to outline the key stages of the process. This improved councillors' understanding of the issue, allowed councillors to air their views (positive and negative) about the issue and enabled the Mayor to effectively lead the internal process to manage the behaviour effectively. The Mayor met with the councillor in question and was able to provide feedback from all councillors. There were also meetings of the whole council group (without officers).

Whilst the Mayor did have a personal view that the councillor behaviour was unacceptable, the Mayor did not impose that view in her dealings with the individual councillor, rather was able to convey the broader view of councillors.

Number of Councillors involved:

All Councillors

Involvement of external parties:

An external mediator was engaged but was not involved in the first stage of the matter

Outcome:

The Mayor's process was inclusive and highlighted the value of a Mayor being involved in dispute management. It also reinforced to all councillors, the importance of their role in moderating disruptive behaviours by their colleagues.

Impact on organisational culture – Councillors and/or Organisation:

The Mayor's roles in resolving this matter was valued, increasing understanding of the important role played by the Mayor in council dispute management. In the end the external mediator was never directly involved in the matter, so there was a sense that the council had managed the issue for themselves - to the point of resolution.

Preferred/desired outcome and why:

Ultimately the councillor resigned.

Lasting effects:

The role of the Mayor was more highly regarded because of the way the issue was handled. Expectations of the Mayor's role grew, and later councillor behaviour issues were better handled.

Desirable legislative/policy/directions or change to remedy this situation:

The capability of the specific Mayor was important in this scenario. The Mayor had a background in management and had the capability to work through the issue with officer guidance, and then to carry out the process independently.

This emphasises the importance of appropriate and ongoing councillor education / development opportunities. Pre-qualification processes that expose councillors to the reality of the role, and ongoing training is necessary to enable them to fulfil their statutory role effectively.

CASE STUDY C

Issue/Background:

This issue relates to the behaviour of one councillor that felt like harassment.

The councillor asked a Director, who was new to the organisation, to attend an onsite meeting with them about a roads issue. Unknown to the Director, the councillor had invited several community members to the meeting. At the meeting the Director was abused by a community member. The councillor did not intervene. The member of the public is well known for abuse of Council staff and is flagged internally as a potential risk to staff health and safety.

The Councillor, who is a multiple term councillor, has garnered support in parts of the community and the local press for criticising the work of Council and the professionalism of council officers.

Number of Councillors involved:

This incident relates to the behaviour of one councillor.

Involvement of external parties:

None at this stage.

Outcome:

The outcome of any process related to this incident should be awareness of the roles and responsibilities of a councillor, and adherence to councillor values, particularly respect, that are outlined in the Code of Conduct. As well as the OH&S responsibilities of employers.

Impact on organisational culture – Councillors and/or Organisation:

There will be lasting impacts of this type of behaviour on organisational culture. Staff members are wary of any dealings with this councillor and the potential for it to happen to them. The councillor involved believes that they have the right to act in this way towards staff members and that a certain section of the community expects it of them to 'keep the organisation honest' and that they are feted by the local press.

There is also the possibility that the new Director, who has expressed surprise and dismay at this behaviour from a fellow leader of the organisation, may look for work outside council adding to the issues of attracting and retaining good staff.

Preferred/desired outcome and why:

It would be desirable if the CEO could bring forward conduct breaches under the Code of Conduct, particularly in matters relating to councillors' treatment of staff.

Lasting effects:

The potential loss of good employees or difficulty in attracting new employees based on the reputation of this Council in the local government sector. Health and safety of staff in the workplace. Time, energy, and cost of dealing with these issues.

Desirable legislative/policy/directions or changes to remedy this situation:

The Councillor Code of Conduct needs to have real ‘teeth’ in being able to deal with councillor behaviour. Potentially being able to sanction a councillor and preventing them from undertaking council duties for three to six months (assigned to the sin bin) with a potential re-assessment of their suitability as a councillor at the end of this ‘stand down’ period.

This councillor believes they can act with impunity to inflict damage on the organisation that they represent and that the Code of Conduct and LGV are powerless to stop them.

While the Code of Conduct is signed willingly, if a councillor ignores its guidance on respect, fairness, and behaviour toward others, it is ineffective. Councillors in any local government who have used the Code as a way of expressing their concerns about behaviour would see it as an abject failure. Even worse, they would be highly unlikely to use it again. Therefore, the bullying and harassing behaviours continue probably emboldened.

Council CEOs are hamstrung in dealing with councillors who reject the normal expectations of a healthy and safe workplace. There are real impediments for CEOs in dealing with or confronting damaging councillor behaviour in this respect.

CEOs can feel very isolated and unsupported in these situations. When the CEO tries to deal with these behaviours, the councillor concerned may run a vendetta against the CEO. Pursuit of legal sanctions is costly and not very effective in addressing these matters.

This CEO supports the idea of a Regional Director to support CEOs and councillors who are impacted by difficult behaviours of their colleagues. Perhaps as an arm of Local Government Victoria (LGV) and with a strong link to the Inspectorate. These Directors could provide some external and immediate assessment of some of these issues and prevent the processes from dragging on and further damaging workplace relationships. LGPro is supportive of this suggestion.

CASE STUDY D

Issue/Background:

This case study relates to a newly elected councillor that was an endorsed candidate of a political party. Council had not had a politically endorsed councillor in the past. The influence of the party was strong in this councillor’s dealings with other councillors and council Executive. This person tended to grandstand in council meetings and sought advantage for their political party sometimes at the expense of council and the community. Their primary motivation seemed to be to disparage the State Government at every opportunity via council meetings or through heavy use of social media.

Number of Councillors involved:

One councillor

Involvement of external parties:

The primary ‘other party’ involved was the political wing of the party that endorsed this councillor.

Outcome:

The councillor’s behaviour was destructive to the culture of the organisation. It also damaged relations with the State Government to the detriment of the Council and the community.

Impact on organisational culture – Councillors and/or Organisation:

This issue was not able to be managed by the Code of Conduct and was damaging to the culture of the organisation both for councillors and staff.

Preferred/desired outcome and why:

It would be desirable for no party affiliation to be brought into a councillor role. However, if that is not possible then any potential conflict of interest should be declared, and an elected councillor should always consider the best interests of the community not their affiliated political party in their decision making. However, this is already a principle of many Councillor Codes of Conduct, and these are often not followed.

Another suggestion would be to stop or reduce the financial support from political parties to candidates at local elections or to require that political parties have a role in managing the behaviour and standards of their endorsed councillors.

Lasting effects:

There is a wariness in the community and the organisation about any further potential politically affiliated candidates for election to Council. The Executive and organisation have always strived to maintain good relationships with all sides of politics.

Desirable legislative/policy/directions or changes to remedy this situation:

Political affiliation may not be desirable for an elected councillor. It may be necessary to ban political party donations to candidate's election campaigns through legislation. Alternatively political parties could be training and encouraging potential candidates in the importance of a good culture in an organisation and the practical ramifications of them agreeing to sign a Code of Conduct that may not be in the parties' best interests but that puts the community first.

CASE STUDY E

Issue/Background:

This case study relates to the strong position of some councillors that they only represent their Wards and have no responsibility for whole-of Council outcomes. Some councillors are keeping track of money spent by Council in other wards and wanting to ensure that there is an even distribution of funding across each ward, irrespective of whether this is in the best interests of council or whether the community moves across the municipality to use council facilities.

In this case study one councillor asked through a Notice of Motion for council to calculate and share the resources going into a community hub which has several community facilities and services including parkland and recreational facilities that was not in their ward. The councillor insisted that the information be shared publicly.

The calculation of this request including Capital Works funding, maintenance and service provision funding took a huge effort by council staff. This request was absorbed by the staff concerned but it meant that this extra work put back other priorities.

Number of Councillors involved:

One councillor is moving down this path but this position on their single ward is influencing the behaviour of some of the other councillors as well.

Involvement of external parties:

There has been no involvement of external parties to this point.

Outcome:

The councillor elected to the ward which was the subject of the Notice of Motion was very upset about this incident and they view it as victimisation.

Impact on organisational culture – Councillors and/or Organisation:

This incident is having a lasting impact on the organisation with real animosity and competition between councillors preventing good governance for the whole community. The Governance Manager is trying to be a peacekeeper in this situation, but it is having an impact on them as well.

The over reliance of some councillors on 'Notice of Motions' is also creating low morale and low trust in senior officer ranks that is now contributing to a breakdown in relationships with officers.

Preferred/desired outcome and why:

These situations take up a lot of officers' time. The 'ward only' blinkers of some councillors are detrimental to good governance and productive outcomes for the whole of council.

Lasting effects:

Some councillors are re-considering any decision to stand for re-election.

Desirable legislative/policy/directions or changes to remedy this situation:

It would be desirable for Mayors to have leadership training. It may also be desirable for them to have an external mentor - perhaps a previously successful councillor who would have the best interests of council at heart. A modified version of the AICD program specifically for councillors could be good as this shows how to run meetings and what good governance involves. The current Mayor has this qualification, and it is very evident in how they handle council business in a positive way.

Regional Directors that assist CEOs to handle disputes and poor behaviour before it progresses too far may also be a good idea.

Social media training should also be considered as mandatory for newly elected councillors.

CASE STUDY F

Issue/Background:

This case study relates to a former councillor that, when elected, looked good on paper. They had good community connections and appeared to be committed to doing the best for the community in their new role. However, it became evident early in their term that this was not the case. After initial contact it was evident that they were pursuing an agenda of conflict with the Executive and other councillors and this councillor came to dominate council briefings and meetings in a disruptive way. They were also well connected in the local media and used social media heavily but not in a positive way.

Number of Councillors involved:

One with poor behaviour and all councillor colleagues who felt threatened by them

Involvement of external parties:

An Organisational Psychologist was engaged by the Executive and was able to support this group with the development of some strategies to deal with the behaviour they were experiencing from this one councillor.

Outcome:

Initially, informal meetings were sought with the councillor by the Mayor to try and resolve issues at the lowest possible level in the organisation. The councillor refused to attend these informal meetings and instructed council to send all correspondence about the meetings to their lawyers. Further, they mentioned that if any disparaging remarks were made by councillor colleagues or the Executive that they would be taking defamation action. This was very intimidating for the other councillors and the Executive. After the four-year term this councillor did not seek re-election.

Impact on organisational culture – Councillors and/or Organisation:

This individual councillor had a major impact on the culture of the organisation. . The psychologist strategised that acknowledgement of their effort and affirmation of them as an individual could lessen the impact of this behaviour and this proved to be the case. Not responding to provocation and adopting a transactional approach to issues were also effective strategies. The situation moved from a crisis to dealing with a difficult person, which was much more manageable for all involved.

Preferred/desired outcome and why:

One of the premises in the discussion paper is that all councillors come to their role with the best interests of the organisation and their community at the heart of what they do and how they behave. This is not the case, as not all councillors are rational or are able to put self-interest second in their role as a councillor. It is disappointing that this is not mentioned in the discussion paper at all.

Lasting effects:

Some of the councillors that experienced the behaviour of this councillor were traumatised and will not be re-standing at the next election.

Desirable legislative/policy/directions or changes to remedy this situation:

This is a very difficult situation to deal with through legislation.

CASE STUDY G

Issue/Background:

This issue relates to the management of a conflict-of-interest matter by council and the behaviour of two councillors during a planning application process.

Two councillors had significant planning applications before Council. They tried to influence the staff involved in the planning application process and stated to the CEO that they would approve the granting of a new employment contract for them if these applications were approved. The applications were not approved on merit.

These two councillors then launched attacks on staff at council, via IBAC claiming corruption in the decision-making process and via VCAT. These multiple forums involved a huge impost on time and resources for council and involved critical and abusive allegations about staff. At no time did either

of the councillors involved declare a Conflict of Interest or understand that there was personal gain involved in the processes that they initiated.

- Conduct panels were eventually set up to examine the behaviour of these two councillors. Issues examined by the Conduct Panels included: Conflicts of interest
- Unsubstantiated claims of corruption
- Bullying
- Legacy impact on organisational culture

Desirable legislative/policy/directions or changes to remedy this situation:

This case demonstrated clearly that there are some major anomalies with legislation covering this situation. Currently, CEOs have clear accountability for providing a safe workplace for staff and councillors. However, they can discipline, sack, or demote an employee but have no authority to act regarding unsafe work practices of councillors. The fact that CEOs are personally liable for this risk is incongruous with the fact that they are accountable in all other respects to councillors and their employment is dependent on them as well. This leaves no room for enforcement of safe working environments particularly when it relates to councillors.

CEOs need more support and authority to act in this space. And this would best be provided by a well-resourced and knowledgeable Directorate for Local Government. LGV need more 'teeth' and the fact that there is no understanding of the sector below the Director level (with local government specialists rather than State public servants) is disappointing and at times counterproductive for good outcomes in the sector.

Currently there are no significant or prompt penalties for breaches of the Councillor Code of Conduct and this needs to be redressed. The system is broken and requires urgent attention in this space.

CONCLUSION

Local Government is, by definition, the level of government that is closest to the community. While it operates under the regulatory, policy and financial frameworks of the Federal and State Governments, local governments are responsible for the functionality and amenity of our towns and regions.

We are represented by the councillors we elect. Councillors vary in their background, experience, gender, ethnicity, language skills, education levels and many other attributes that make them human. However, as councillors they are expected to contribute to the leadership of our community through strategic thinking, planning, financial management, business acumen, ethical behaviour, effective communication, and people management while ensuring the council delivers on the functions that are essential to safety, comfort, and economic well-being of their communities.

The case studies illustrate the broad range of issues that emerge in councils, the lived experiences of senior officers and councillors, and the long-term impacts these situations can have on organisational culture and ultimately the success of the council.

The case studies and responses also referred to poor behaviour such as bullying and harassment that impacts not only organisational culture but the health, safety and wellbeing of the people directly experiencing or witnessing such behaviours. Responses identified the inadequacies of formal processes to manage such poor behaviour particularly where it is in the form of micro aggressions that can add up to substantial harm but individually look harmless. The case studies report retribution for people making complaints with few significant or timely ramifications for people behaving badly.

Councils agree that improvements to organisational culture (behaviours) need to be made.

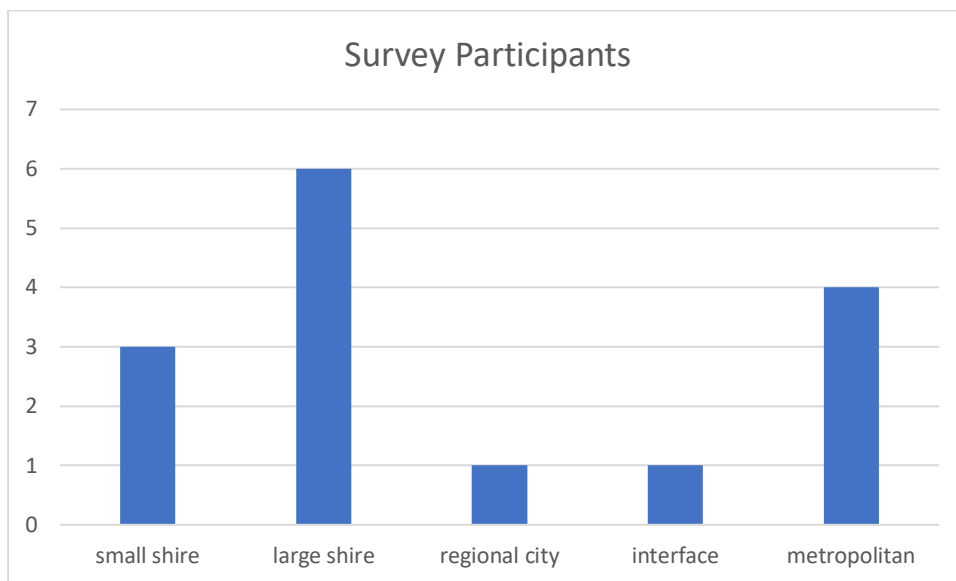
The Department of Jobs, Precincts and Regions commissioned PricewaterhouseCooper (PwC) to prepare a discussion paper on organisational culture in Councils (specifically as it relates to elected representatives). The paper sought responses to 12 questions.

This report summarises the responses received from a survey of LGPro member councils. The responses identified some alarming examples of poor behaviour by Councillors and provided many suggestions for improvement:

- + Pre-election advice to candidates so they understand their roles, responsibilities and accountabilities should they be elected
- + Support for councillors to understand the extent of their role providing strategic decisions for the benefit of their whole community served by their Council
 - Induction programs – including WHS obligations, and gender equity and diversity training
 - Ongoing professional development and training
- + Improved systems to stop and prevent harmful behaviours in councils
- + Systems to stop abuse to or from councillors on social media
- + Mentoring and professional development for Mayors and councillors
- + Adopting best practices to build leaderships skills that enhance trust, respect, and collaboration within council
- + Re-considering the single ward election process as it contributes to myopia for some councillors.

This is an important issue that needs to be tackled at the state level with improvements needed in systems and processes to enhance the operation and effectiveness of local government in Victoria. LGPro stands ready to assist in managing this important issue for the sector.

Attachment A



Each of the responding councils had either 7 or 9 councillors in their councils. There were 6 councils with 9 councillors and 9 councils with 7 councillors.

Of these, six councils had a female majority of councillors and nine had a male majority. Two of the male majority councils had only one female councillor colleague.

The tenure of councillors was varied with each council having a mix of experienced and new councillors. In three councils most councillors (6/7, 7/9 and 8/9 councillors) who were new to local government.

A minority of councillors had a political party affiliation and only 12 were endorsed or had declared their affiliation out of 117 councillors in the participating councils.

Three of the surveys were completed anonymously.