

THE CITY OF
GREATER GEELONG

SUBMISSION INTO LOCAL GOVERNMENT REFORM 2024

SEPTEMBER 2024

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Executive summary

The City of Greater Geelong (the City) welcomes the opportunity to contribute to the second stage of consultations which will support the development and implementation of a Model Councillor Code of Conduct and mandatory training for councillors, mayors and deputy mayors that will be embedded in the [Local Government Act 2020 and associated Regulations](#) that will come into operation following the council elections.

We acknowledge the scope of the feedback being sought by Local Government Victoria (LGV) to inform the making of Regulations that will give effect to the reforms in the Act to:

- introduce a Model Councillor Code of Conduct for all 79 councils across the State.
- require councillors to undertake annual professional development training.
- require mayors and deputy mayors to undertake mayoral training upon being elected to those positions.

In consideration of the following documents we have put forward 13 recommendations:

- Model Councillor Code of Conduct
- Internal Resolution Procedure
- Training Outline for Mandatory Induction Training, Mayoral Training and Professional Development Training

Our recommendations are:

1. **Direct Reporting to the Chief Municipal Inspector:**
Staff should have the ability to file complaints of misconduct or serious misconduct directly with the Chief Municipal Officer. This will streamline the reporting process and ensure that such issues are addressed promptly.
2. **Consideration by the Chief Municipal Inspector:**
Complaints of misconduct should be reviewed by the Chief Municipal Inspector rather than proceeding through arbitration. This approach will provide a more efficient and focused resolution process.
3. **Adequate Resourcing for Integrity Agencies:**
Integrity agencies must be adequately resourced to manage their workload effectively. Ensuring that these agencies have the necessary support will facilitate the timely and efficient handling of complaints.

Model Councillor Code of Conduct

4. **Inclusion of Non-Exhaustive Specific Examples:** The Model Code should incorporate specific, non-exhaustive examples to delineate clearly what actions are considered misconduct. This will provide clearer guidance on acceptable and unacceptable behaviours.
5. **Enhanced Clarity for Arbiters, Councillors, and Staff:** By outlining specific examples of misconduct, the Model Code will offer more precise benchmarks for arbiters, councillors, and council staff. This will help in identifying and addressing breaches of conduct more effectively.
6. **Inclusion of a Preface and Prescribing Expectations and Obligations:** The Model Code should begin with a comprehensive introduction that outlines its objectives and the significance of the regulation. The preface should clearly articulate what the Model Code aims to achieve and why adhering to it is crucial for good governance. This introductory section should set out the expectations and obligations detailed in the Model Code and link compliance directly to the principles of good governance. This will provide a clearer understanding of the standards and their importance.
7. **Centralising Guidance within the Model Code:** Including this statement directly in the Model Code, rather than in supplementary regulations, ensures that the guidance is readily accessible. As the Model Code will be directly referenced in most cases, embedding this information will enhance its visibility and impact. Incorporating such a statement will provide essential context and strengthen the alignment of the Model Code with overarching governance principles.

We have also proposed changes to wording in the Model Code to support better clarity of intent, these are outlined under [Other Proposed changes to Model Code](#) as detailed in [Appendix 1 – Model Code changes](#).

Internal Resolution Procedure

The City recommends that further detail be provided regarding the internal resolution procedure, with consideration given to one of the following options:

8. **A Detailed Prescription:** A comprehensive outline of the necessary steps involved in the internal resolution process, or
9. **A Model Policy:** A standardized policy that Councils can adopt.

Executive summary

Mayoral and Councillor Training

10. **Expansion of Training Topics:** The training topics related to statutory planning should be expanded to include the Council's responsibilities for strategic planning matters. This broader scope will provide a more comprehensive understanding of the Council's planning obligations.
11. **Tailored Final Year Training:** In the final year of each term, a distinct training syllabus should be implemented. This should cover topics such as the Council's election period policy, election period considerations, the use of Council resources for election purposes, and Councillor integrity related to the election.
12. **Training Completion Deadline:** A deadline for the completion of the training program in the final year should be established, ideally set on or before the opening of nominations for the Council election. This ensures that all councillors complete necessary training before the election period.
13. **Annual Report of Compliance:** An inclusion in the Annual report of Council's Training Register.

Submission

The City of Greater Geelong (the City) welcomes the opportunity to contribute to the second stage of consultations which will support the development of a Model Councillor Code of Conduct (model Code) and mandatory training for councillors, mayors and deputy mayors that will be embedded in the *Local Government Act 2020* and associated Regulations that will come into operation following the council elections.

The City is the second-largest city in Victoria. Located 75 kilometres south-west of Melbourne, the municipality covers an area of 1,252 square kilometres, comprising suburban, coastal and country areas and has 11 Councillors elected whose term will cease in October 2024 when the next election is held.

The City is concerned that the current reforms do not sufficiently address and manage issues related to poor Councillor conduct.

While the reforms aim to improve governance, there is apprehension that they may fall short in effectively addressing misconduct and ensuring accountability. Enhanced measures may be necessary to ensure that issues of poor conduct are adequately addressed and managed to maintain the integrity and effectiveness of council operations. It has been observed that several Councils have appointed Municipal Monitors to oversee relationships between staff and Councillors. However, the current reforms do not provide a clear avenue for addressing instances of poor behaviour by Councillors.

While the Chief Executive Officer (CEO) has the authority to implement controls to mitigate Occupational Health and Safety (OHS) risks, there is limited recourse if a Councillor continues to violate the Code

It is also inappropriate for a staff member to request an individual Councillor to lodge a complaint on administration's behalf. Additionally, submitting a report to the Council for resolution, and potentially arbitration, introduces political complexities that can undermine the process.

To address these issues effectively, it is essential to establish a more robust mechanism for handling breaches of the Code of Conduct by Councillors. This will ensure fair and impartial resolution while safeguarding staff and maintaining the integrity of the Council.

It has become evident that the sector's integrity agencies are currently under-resourced and unable to effectively manage their existing workload. If these agencies do not receive the necessary support and resources, they will continue to struggle with inefficiencies and fail to uphold their crucial role in maintaining sector integrity.

To ensure these agencies can operate effectively and fulfill their mandates, it is imperative that we address the resource gaps immediately. Without these changes, the agencies' ability to function efficiently will remain compromised, potentially impacting their effectiveness and the overall integrity of the sector.

We ask the Victorian Government to consider implementation of the following measures to enhance the management of misconduct complaints:

- 1. Direct Reporting to the Chief Municipal Inspector:**
Staff should have the ability to file complaints of misconduct or serious misconduct directly with the Chief Municipal Officer. This will streamline the reporting process and ensure that such issues are addressed promptly.
- 2. Consideration by the Chief Municipal Inspector:**
Complaints of misconduct should be reviewed by the Chief Municipal Inspector rather than proceeding through arbitration. This approach will provide a more efficient and focused resolution process.
- 3. Adequate Resourcing for Integrity Agencies:**
Integrity agencies must be adequately resourced to manage their workload effectively. Ensuring that these agencies have the necessary support will facilitate the timely and efficient handling of complaints.

MODEL COUNCILLOR CODE OF CONDUCT

A code of conduct is a set of rules and guidelines that outline the expected behaviours, principles, and responsibilities of individuals within an organisation or group. It serves as a framework to ensure that everyone adheres to the same standards and values, promoting a positive and ethical environment.

We note that there is an intent to provide guidance material to ensure correct application of the Model Code, we believe this is critical to the future implementation of the Model Code.

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The guidelines should provide clear information, support, case studies and examples of the Model Code being correctly applied and not being followed, drawing on real-life examples of misconduct where possible. By outlining specific examples of misconduct, the Guidance guidelines will offer more precise benchmarks for arbiters, councillors, and council staff.

The Model Code should begin with a comprehensive introduction that outlines its objectives and the significance of the regulation. The preface should clearly articulate what the Model Code aims to achieve and why adhering to it is crucial for good governance. This introductory section should set out the expectations and obligations detailed in the Model Code and link compliance directly to the principles of good governance. This will provide a clearer understanding of the standards and their importance.

We have also proposed changes to the wording of the Model Code to support better clarity of intent, these are outlined under [Other Proposed Changes to Model Code](#) as detailed in [Appendix 1 – Model Code changes](#).

We ask the Victorian Government to consider the following:

4. **Inclusion of Non-Exhaustive Specific Examples:** The Model Code should incorporate specific, non-exhaustive examples to delineate clearly what actions are considered misconduct. This will provide clearer guidance on acceptable and unacceptable behaviours.
5. **Enhanced Clarity for Arbiters, Councillors, and Staff:** By outlining specific examples of misconduct, the Model Code will offer more precise benchmarks for arbiters, councillors, and council staff. This will help in identifying and addressing breaches of conduct more effectively.
6. **Inclusion of a Preface and Prescribing Expectations and Obligations:** The Model Code should begin with a comprehensive introduction that outlines its objectives and the significance of the regulation. The preface should clearly articulate what the Model Code aims to achieve and why adhering to it is crucial for good governance. This introductory section should set out the expectations and obligations detailed in the Model Code and link compliance directly to the principles of good governance. This will provide a clearer understanding of the standards and their importance.
7. **Centralising Guidance within the Model Code:** Including this statement directly in the Model Code, rather than in supplementary regulations, ensures that the guidance is readily accessible. As the Model Code will be

directly referenced in most cases, embedding this information will enhance its visibility and impact. Incorporating such a statement will provide essential context and strengthen the alignment of the Model Code with overarching governance principles.

INTERNAL RESOLUTION PROCEDURE

The City advocates for a standardised approach to the management of councillor conduct complaints. It is essential to enable all Councils to implement effective and uniform internal resolution procedures

Such an approach will enhance the overall effectiveness of dispute resolution and ensure a consistent response across the sector.

We ask the Victorian Government to consider the following:

8. **A Detailed Prescription:** A comprehensive outline of the necessary steps involved in the internal resolution process, or
9. **A Model Policy:** A standardized policy that Councils can adopt.

MAYORAL AND COUNCILLOR TRAINING

The City supports the continued provision of mandatory training for councillors, recognising the importance of adequately preparing them for their roles. However, we stress that this training must be adequately resourced by the Victorian Government to enable efficient and effective delivery.

While the proposals for mandatory training are deemed appropriate, there are concerns regarding the resourcing and experience of officers responsible for delivering this training. Many councils may find the mandatory inductions overwhelming, especially given the limited time available.

Addressing key considerations will help ensure that the expedited training is effective and manageable for councils, enhancing the overall support provided to newly elected councillors, including:

Submission

- **Resource Intensity:** Inductions are complex and resource-intensive, and the current proposals do not adequately account for the support required for staff involved in delivering these programs. The shorter the timeframe for mandatory training, the greater the resource burden on councils.
- **Recommendation for Digital Resources:** To alleviate some of these challenges, we recommend that Local Government Victoria (LGV) consider the development of online digital resources to support councillor training. These resources could be produced by LGV or another suitable organization.
- **Role of Peak Bodies and Regional Groupings:** The City suggests that sector peak bodies and regional groupings of local governments could play a significant role in providing additional support if properly resourced. For instance, funding could be allocated to these bodies to formulate and arrange the delivery of induction and ongoing professional development training for councillors.

We ask the Victorian Government to consider the following:

10. **Expansion of Training Topics:** The training topics related to statutory planning should be expanded to include the Council's responsibilities for strategic planning matters. This broader scope will provide a more comprehensive understanding of the Council's planning obligations.
11. **Tailored Final Year Training:** In the final year of each term, a distinct training syllabus should be implemented. This should cover topics such as the Council's election period policy, election period considerations, the use of Council resources for election purposes, and Councillor integrity related to the election.
12. **Training Completion Deadline:** A deadline for the completion of the training program in the final year should be established, ideally set on or before the opening of nominations for the Council election. This ensures that all councillors complete necessary training before the election period.
13. **Annual Report of Compliance:** An inclusion in the Annual report of Council's Training Register.

SUMMARY

We welcome the opportunity to contribute to the development of the Model Code, internal resolution process and proposed mayoral and councillor training.

In consideration of the documents put up for review we have put forward 13 recommendations.

We have also proposed changes to wording in the Model Code to support better clarity of intent, these are outlined under [Other Proposed changes to Model Code](#) as detailed in [Appendix 1 – Model Code changes](#).

We look forward to learning the outcome of this review and contributing to further discussion on the implementation of the Model Code, internal resolution process and proposed mayoral and councillor training.

Appendix 1 – Model Code Changes

RECOMMENDATION 4. PROPOSED CHANGES TO MODEL CODE

The City recommends the following changes:

- amending clause 1(1)(c) to *"diligently using Council processes to become informed about matters which are the subject of Council decisions including ensuring regular attendance and participation at briefings, workshops and training sessions provided or arranged by the Chief Executive Officer in relation to the performance of their Councillor role and reading all agenda papers given to them in relation to Council and committee meetings in advance of those meetings"*;
- adding a clause 1(1)(f) as follows: *"establishing and maintaining collaborative relationships with other Councillors, the Chief Executive Officer and Council staff as appropriate and in accordance with any policy, practice or protocol established by the Chief Executive Officer to support arrangements for interaction between members of Council staff and Councillors"*;
- adding a clause 2(1)(f) as follows: *"not imputing dishonest or unethical motives to another Councillor, the Chief Executive Officer or other member of Council staff in connection with the performance of their official duties unless done solely as part of a genuine confidential complaint to an oversight body, e.g. Independent Broad-based Anti-corruption Commission, Local Government Inspectorate, Victoria Police et cetera"*; and
- adding a clause 2(1)(g) as follows: *"in all Council and Council committee meetings, ensuring they comply with the direction of the Chair presiding at the meeting and immediately cease engaging in any conduct that has been ruled out of order by the meeting Chair"*.

RECOMMENDATION 6. PROPOSED CHANGES TO MODEL CODE

The City recommends the following additions in the introduction to the Model Code:

Before assuming office, all Councillors must make an oath or affirmation of office, declaring that they will:

- undertake the duties of Councillor in the best interests of the municipal community;
- abide by the Councillor Code of Conduct and uphold the standards of conduct set out therein; and

- faithfully and impartially, carry out an exercise of functions, powers, authorities, and discretions vested in them under the Local Government Act 2020 and any other act to the best of their skill and judgment.

This Model Councillor Code of Conduct sets out minimum standards of behaviour that the community expects of its elected local Council representatives.

On being elected, a Councillor should put aside personal interests and differences and focus on working collaboratively with fellow Councillors, the Chief Executive Officer and other Council staff to serve the overall public interest of that municipal community.

This requires Councillors to treat and engage with their fellow Councillors, the Chief Executive Officer, other Council staff and members of the public in a mature and respectful manner. Differences of opinion are expected to arise from time to time but are no excuse for discourteous, demeaning, abusive or threatening behaviour towards those persons or communities that a Councillor disagrees with.

If Councillors observe the standards of conduct set out in this Model Councillor Code of Conduct, there is much greater likelihood of enhancing community respect and trust in the Local Government sector.

OTHER PROPOSED CHANGES TO MODEL CODE

The City recommends the following amendments.

- Clause 1(1)(d) should be amended to *"recognising the role of a Councillor does not include the performance of the responsibilities or functions of the Chief Executive Officer and not seeking to interfere with operational matters that fall under the responsibility of the Chief Executive Officer: and"*.
- Clause 2(2) raises the problem of what would be reasonably practicable for a Chief Executive Officer in specific circumstances. Clause 2(2)(a) should be shortened to *"adhering to the systems and policies put in place by the Chief Executive Officer;"*.
- Clause 3(1)(d) needs amendment as the restrictive definition of 'confidentiality' in the Local Government Act 2020 could conflict with this clause and its intention to appropriately manage sensitive documents.

The City therefore suggests clause 3(1)(d) be amended to *"ensuring that Council information provided in confidence is handled in accordance with the Council policy for managing confidential information; be that information falling within the definition of confidential information in section 3(1) of the Local Government Act 2020 or other information*

obtained in a Council briefing, workshop or similar that ought reasonably be regarded as confidential, e.g. draft reports or internal working documents;".

- Clause 4(1)(a) should be amended to *"ensuring that their behaviour, including public commentary, does not bring discredit upon the Council, Councillors or members of staff;"*.
- Clause 4(1)(b) would benefit from referring to acts of misleading "deliberately" or "knowingly" as a matter of fairness. It may further benefit from an obligation to correct the public record, as found in similar jurisdictions.

The following change to clause 4(1)(b) be amended to *"not making a statement that the Councillor knows, or ought to reasonably be expected to know, is false or misleading and, in the event the Councillor becomes aware that they have misled the community or Council, taking all reasonable and appropriate steps to correct the public record"*.

- Clause 5(1) should be amended to *"Nothing in the Model Councillor Code of Conduct is intended to limit, restrict or detract from robust and respectful public debate of issues in a democratic system"*.

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