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LGPro has welcomed this second round of consultation on the Local Government Reforms 2024, and included with this letter are specific updates submitted in good faith to support the efficacy of the regulations in development.

On behalf of LGPro, I would like to thank Local Government Victoria for not just the invitation to collaborate on this important reform but for the genuine, cooperative engagement with the local government sector as these regulations are designed and implemented. We hope to continue this approach to codesign as we work through this second round of consultation.

LGPro acknowledges the valuable progress that Local Government Victoria and the Victorian Government have made so far in advancing these reforms. The *Local Government Amendment (Governance and Integrity) Act 2024* and the draft regulations are a great leap forward for ensuring good governance, and they show that the sector has been listened to and collaborated with.

To ensure these regulations are effective, LGPro calls for appropriate funding for our sector's integrity agencies. As the bodies tasked with ensuring compliance with these regulations, their resourcing is important, particularly in pursuit of reaching timely, fair outcomes.

Officers also need to be able to report breaches of agreed good governance policies to the Chief Municipal Inspector or other regulatory bodies as appropriate. When breaches of policies governing confidentiality, social media, health and safety, or councillor/staff interaction occur, for example, the local government administration is not able to report these to agencies tasked with ensuring compliance. This severely limits the efficacy of what these reforms hope to achieve.

In the continuation of this significant effort and collaborative approach, we ask that the specific amendments outlined in this submission be considered to ensure the intended, positive outcomes of this reform materialise.

Yours sincerely,



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LGPro Feedback

Local Government Reforms 2024
Second Stage Consultation

August 2024

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Summary

| Model Councillor Code of Conduct | Internal Resolution Procedure | Mandatory Training |
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| <p>LGPro supports the draft Model Code of Conduct.</p> <p>To make this more effective, LGPro requests:</p> <ul style="list-style-type: none"> - Specific examples of what is and is not misconduct. - A clear statement of intent that clarifies what the Model Code seeks to achieve and why the regulation is important. - Specific amendments to the Contents of the Model Councillor Code of Conduct (provided in <i>Detailed Feedback</i>) | <p>LGPro supports the draft Internal Resolution Procedure with further emphasis on encouraging but not mandating its use.</p> | <p>LGPro supports the Mandatory Training proposals and the themes identified.</p> <p>Many councils will find mandatory inductions overwhelming, particularly due to the limited time afforded. LGPro supports LGV's identified resources including online, digitised, standardised, and updated existing materials.</p> <p>LGPro suggests that the sector's peak bodies and regional groupings could provide greater support should they be resourced to do so.</p> |

Detailed Feedback

The following are the positions of Local Government Professionals Inc (LGPro) on the draft regulations articulated in LGV's second stage of consultation on the Local Government Reforms 2024. These positions are based on LGPro's prior consultation and research and further informed by a short period of member consultation ahead of this submission.

While this document includes specific improvements that can be made to improve the efficacy of these regulations and better support the *Local Government Amendment (Governance and Integrity) Act 2024*, LGPro acknowledges the valuable progress that LGV and the Victorian Government have made so far. The Act and proposed regulations are predominantly positive and indicate that the Local Government sector has been listened to and collaborated with. The below are targeted, specific additions or amendments that will strengthen this progress and ensure positive outcomes if implemented.

General

Consistent with its prior submissions regarding the Councillor Conduct Framework, LGPro remains of the view that local government officers (or staff via the Chief Executive Officer) should be able to make representations to the Chief Municipal Inspector, requesting that the Inspector consider bringing a misconduct application against a councillor whose conduct is at issue.

Additional resourcing is required for the sector's integrity agencies that have a pivotal role in addressing conduct complaints to ensure timely and thorough responses while providing more confidence in the system. LGPro believes the legislative changes and Model Code of Conduct will remain ineffective if these bodies are not appropriately resourced.

Model Councillor Code of Conduct

LGPro supports the draft Model Code of Conduct and notes below specific additions and amendments that can be made to strengthen the proposal.

The draft Model Code's examples of appropriate conduct have been articulated with more specificity which is an improvement on the current language used in the current Standards of Conduct.

Clarification that the Model Code applies to administrators where appointed as well as councillors should also be included, however.

1. More specificity

Non-exhaustive, specific examples should be included to more clearly define what is and is not considered misconduct. Specific examples would make it clearer to arbiters, councillors, and members of a council's staff when conduct standards are likely to be breached.

For example, LGPro supports:

- 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*".

2. Statement of Intent

The draft Model Code of Conduct should include an introduction in the form of a Preface / Statement of Intent / Contextual Statement that gives guidance as to what the Model Code seeks to achieve and why the regulation is important; it should comprehensively prescribe expectations and obligations, linking compliance with good governance.

Such a statement should be included in the Model Code rather than in other supplementary regulations given the Model Code would be referred to directly in most cases.

LGPro suggests a Statement of Intent along the following lines:

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.

3. Specific 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.

LGPro 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.

LGPro therefore suggests clause 4(1)(b) be amended to “*not making a statement that the Councillor knows, or ought 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”.

Internal Resolution Procedure

LGPro supports the draft Internal Resolution Procedure with further emphasis on encouraging but not mandating its use.

LGPro therefore supports the addition of a further conduct clause 3(1)(f) as follows: “*strongly encourage Councillors faithfully participating in the internal resolution procedures of the Council for the resolution of conflicts and disputes between Councillors; ideally without the need to resort to formal arbitration or Councillor Conduct Panel processes*”.

Training Outline for Mandatory Induction Training, Mayoral Training, and Professional Development Training

1. Support for officers in induction processes

LGPro has supported the provision of expedited mandatory training given the priority of preparing councillors adequately for their role, provided such training is adequately resourced by the Victorian Government. While LGPro believes the proposals to be appropriate, the resourcing and experience of officers may not be and many councils will find mandatory inductions overwhelming, particularly due to the limited time afforded.

Inductions are complex and resource-intensive, and the proposals are not resourced to support the staff involved in them. The shorter the timeframe for mandatory training, the greater the resource burden. LGV should consider online digital resources to support councillor training that could be produced by LGV or another appropriate party. LGPro suggests that the sector’s peak bodies and regional groupings of local governments could have an opportunity to provide greater support should they be resourced to do so, for example through the funding of sector peak bodies to formulate and arrange delivery of induction and ongoing professional development training for councillors.

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