

Appendix B – Interjurisdictional comparison

State	Act	Regulations	Code	Types of interest	Declaring interests	Managing interests
Tasmania	Local Government Act 1993	Local Government (General) Regulations 2015	Prescribed Model Code of Conduct	Pecuniary (legislation) Non-pecuniary (regulation - code of conduct)	Pecuniary and non-pecuniary interests must be declared only before matter discussed at meeting. No requirement for councillors to complete return of interests.	Pecuniary – non-participation in meeting and decisions. Non-pecuniary – councillor decides if they have a conflict of interest and whether it requires non-participation in meeting.
Victoria	Local Government Act 2020	Local Government (Governance and Integrity) Regulations 2020	Yes, (but not prescribed)	General – if reasonably presumed to be a conflict between councillor's personal interests and the public duty. Material – if would gain benefit of loss (either pecuniary or non-pecuniary)	Yes, lodge a written personal interests return after election, then biannually. Disclose conflict of interest before matter discussed at council meeting. Summary of interests made publicly available.	General and material – non-participation in meeting and decisions.
NSW	Local Government Act 1993	Local Government (General) Regulation 2005	Model Code of Conduct for Local Councils in NSW	Pecuniary Non-pecuniary	Yes, lodge a written personal interests return after election, then annually. Register of interests not public.	Pecuniary – non-participation in meeting and decisions. Non-pecuniary – assess, non-participation if deemed significant.
Queensland	Local Government Act 2009	Local Government Regulation 2012	Code of Conduct for Councillors in Queensland	Prescribed – mostly relates to supply of goods and services and lease or sale of assets. Declarable - conflict between councillor's personal and public	Yes, lodge a written financial and non-financial interests return after election, then annually.	Prescribed – non-participation in meeting and decisions. Declarable – participation or non-participation as voted on by council.

				interests where decision might not be in public interest. Personal interest	Register of interests made publicly available.	Personal – council to decide if personal interest is declarable.
Northern Territory	<u>Local Government Act 2019</u>	<i>Local Government (General) Regulations 2021</i>	Code of Conduct (Schedule 1 of the Act)	A direct interest, an indirect financial interest, an indirect interest by close association and an indirect interest due to conflicting duties.	Written return on election, then annually, disclosing a range of financial interests, membership of political party, and organisation for which a conflict of interest with the person's duties could foreseeably arise. Register of interests made publicly available.	All interests – non-participation unless permission granted by Minister.
South Australia	<u>Local Government Act 1999</u>	<i>Local Government (General) Regulations 2013</i>	<i>Code of Conduct for Council Members</i>	General – if reasonably presumed to be a conflict between councillor's personal interests and the public duty. Material – if would gain benefit of loss (pecuniary or non-pecuniary)	Yes, lodge a written personal interests return after election, then annually. Must include pecuniary interests, and non-pecuniary interests that might raise a material conflict of interest. Register of interests made publicly available.	Material – non-participation (except with Minister's approval). General – participation or non-participation as decided by the councillor with the declared interest.
Western Australia	<u>Local Government Act 1995</u>	<i>Local Government (Rules of Conduct) Regulations 2007</i>	<i>Local Government (Model Code of Conduct) Regulations 2021</i>	Financial (primary legislation) Non-financial (interest that might affect impartiality including kinship, friendship or membership of an association (regulations).	Financial – written return after election, then annually. Non-financial interests – must be declared before matter discussed at meeting. Register of interests not public.	Financial - non-participation, unless permitted by other members present or permission granted by Minister. Non-financial – allowed to participate.



Tasmanian
Government

Department of Premier and Cabinet
Office of Local Government

Phone:
(03) 6232 7022

Email:
lgconsultation@dpac.tas.gov.au

www.



GOOD GOVERNANCE GUIDE

FOR LOCAL
GOVERNMENT
IN TASMANIA

Department of Premier and Cabinet
The Office of Local Government

Attachment 14.1.3 Good Governance Guide for Local Government in Tasmania -4 August 2022
(DPAC)



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ACKNOWLEDGEMENTS

The following resources have been used in the development of the Tasmanian Local Government Good Governance Guide:

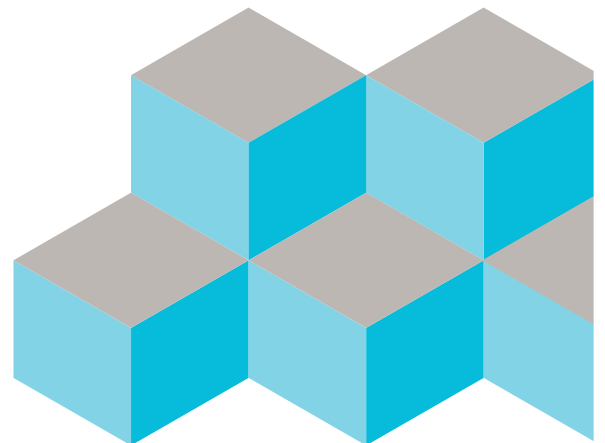
- ❑ The Good Governance Guide © MAV, VLGA, LGV & LGPro 2012
- ❑ Governance Framework, City of Joondalup
- ❑ Integrity Commission Tasmania

The Good Governance Guide has been prepared by the Department of Premier and Cabinet's Office of Local Government and the Local Government Association of Tasmania, on behalf of the Premier's Local Government Council.

The following agencies and associations assisted in the development of this Guide:

- ❑ Office of Local Government
- ❑ Local Government Association of Tasmania
- ❑ Integrity Commission Tasmania
- ❑ Tasmanian Audit Office
- ❑ local government representatives
- ❑ Governance Institute of Australia

For further information or to provide feedback on the Good Governance Guide, please contact the Office of Local Government by telephone on (03) 6232 7022 or by email at lgd@dpac.tas.gov.au.



SUMMARY OF LINKS AND RESOURCES

Relevant bodies and associations

- ❑ [Office of Local Government](#)
- ❑ [Local Government Association of Tasmania](#)
- ❑ [Integrity Commission Tasmania](#)
- ❑ [Tasmanian Audit Office](#)
- ❑ [Governance Institute of Australia](#)

Legislation

- ❑ *Local Government Act 1993*
- ❑ *Public Health Act 1997*
- ❑ *Local Government (General) Regulations 2015*
- ❑ *Local Government (Meeting Procedures) Regulations 2015*
- ❑ *Land Use Planning and Approvals Act 1993*
- ❑ *State Policies and Projects Act 1993*
- ❑ *Tasmanian Planning Commission Act 1997*
- ❑ *Local Government (Content of Plans and Strategies) Order 2014*
- ❑ *Local Government (Management Indicators) Order 2014 (S.R. 2014, No. 36)*

All Tasmanian legislation can be accessed on the Tasmanian Consolidated Legislation Online website at: www.legislation.tas.gov.au.

Useful publications

The Office of Local Government has written a range of information sheets, policies and guidelines, which can be accessed from the Office of Local Government website at: www.dpac.tas.gov.au/lgd.

The Local Government Association of Tasmania's website contains a number of useful resources, including:

- ❑ Councillor Resource Kit
- ❑ Mayoral Handbook

The Good Governance Guide for Local Government in Tasmania is based upon the Victorian Good Governance Guide, which contains information for current or prospective Victorian councillors, council officers and organisations supporting local government. The Victorian Guide can be found at: www.vlga.org.au.

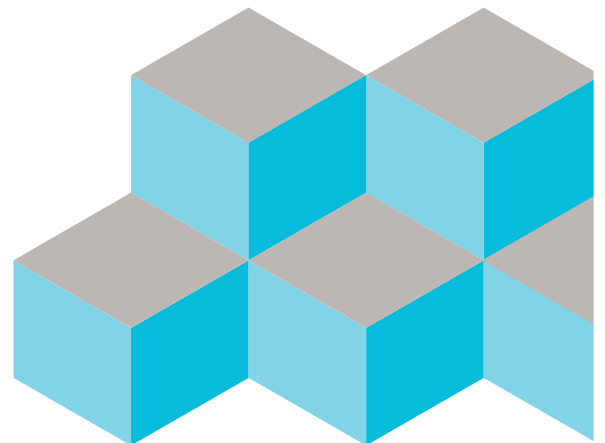
The characteristics of good governance in this Guide are taken from the United Nations Economic and Social Commission for Asia and the Pacific's publication *What is Good Governance?* which can be found at: www.unescap.org.

Other publications referred to in this Guide:

- ❑ 'Integrated Risk Management' by the Western Australian Department of Local Government.
- ❑ 'Understanding Risk Management' by the Local Government Association of South Australia.
- ❑ 'Political management in Australian Local Government: Exploring Roles and Relationships between Mayors and CEOs', a discussion paper by J Martin and C Aulich.

Case studies and scenarios

- ❑ The New South Wales Independent Commission Against Corruption website summarises past investigations: www.icac.nsw.gov.au.
- ❑ The Integrity Commission Tasmania website has useful resources, including videos and case studies relating to councils: www.integrity.tas.gov.au.
- ❑ 'Councillor Legal and Ethical Decisions – Training Video Scenarios' are available on the Office of Local Government website: www.dpac.tas.gov.au/lgd.





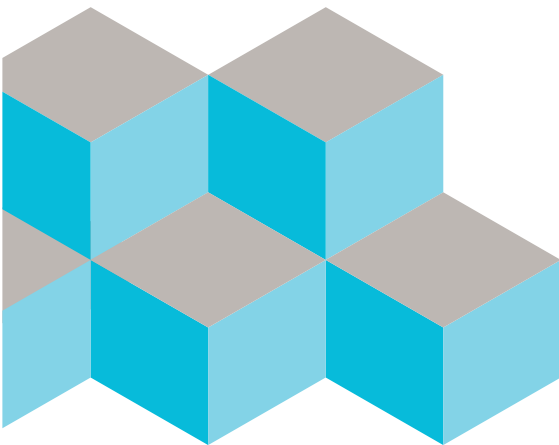
I. ABOUT GOOD GOVERNANCE

INTRODUCTION

The Good Governance Guide has been produced as a resource for the Tasmanian local government sector, primarily elected members. It aims to help build a better understanding of, promote and enhance good governance in local government.

Local government plays a critical role in Tasmania: councils help to build resilient communities, contribute to the development of a healthy environment, and promote local economies. Good governance is critical to local government's success in carrying out these roles.

This section looks at what good governance means and why it is important.



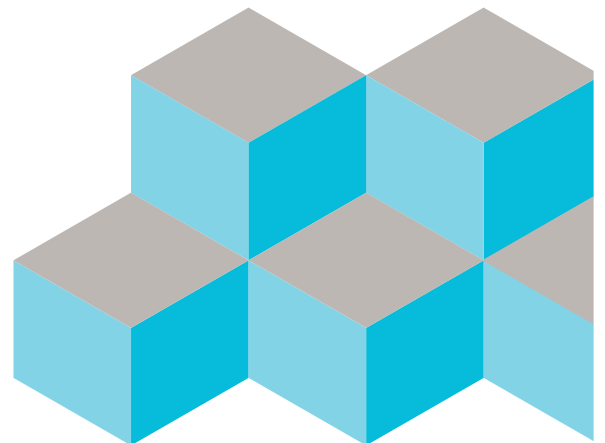
WHAT IS GOOD GOVERNANCE?

Governance is the processes and culture that guide the activities of an organisation beyond its basic legal obligations.

Good governance in local government is when elected members:

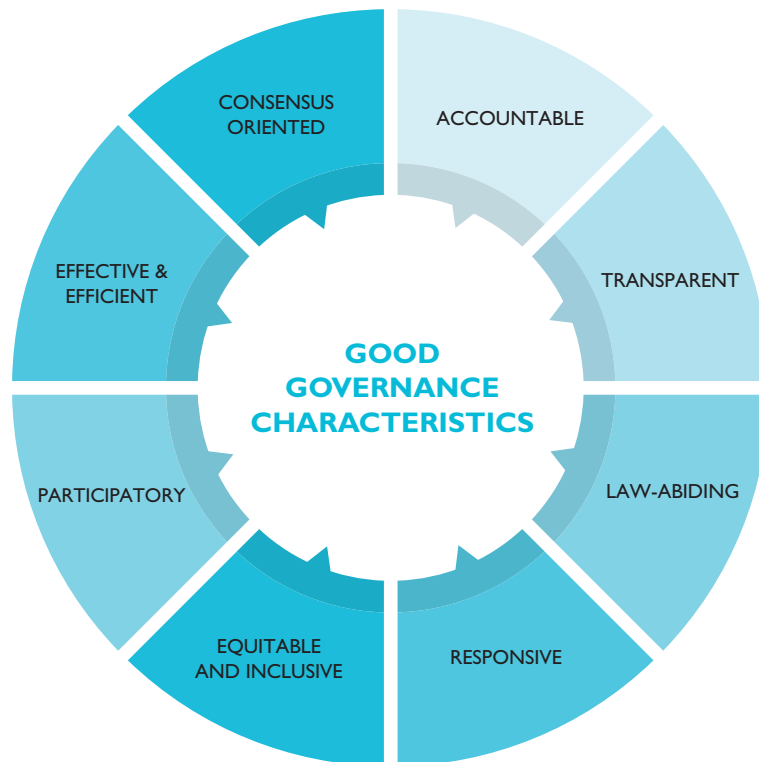
- act with the highest ethical standards;
- understand their role and the role of others;
- foster trusting and respectful relationships;
- show a commitment to risk management;
- engage in effective strategic planning;
- follow a transparent and accountable decision-making process;
- make good decisions that promote the interests of the community they serve;
- understand and abide by the law;
- commit to continuous improvement; and
- exercise good judgement.

Good governance is important because it supports councils to make decisions and to act in the best interests of the community.



WHAT ARE THE MAIN CHARACTERISTICS OF GOOD GOVERNANCE?

Good governance has eight major characteristics¹:



1. Good governance is accountable

Accountability is a fundamental requirement of good governance. Local government has an obligation to report, to explain and to be answerable for the consequences of decisions it has made on behalf of the community it represents and serves.



2. Good governance is transparent

People should be able to follow and understand the decision-making process. This means that they are able to clearly see how and why a decision was made – what information, advice and consultation a council considered, and which legislative requirements (when relevant) a council followed.

¹ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.



3. Good governance is law-abiding

Decisions must be consistent with relevant legislation or common law, and be within the powers of local government. In Tasmania, the principal legislation for local government is the *Local Government Act 1993* (the Act).

There are two sets of regulations relating to the Act that should be consulted: the *Local Government (General) Regulations 2015* and the *Local Government (Meeting Procedures) Regulations 2015*. The section on Legislative Compliance provides details of other relevant legislation.



4. Good governance is responsive

Local government should always try to represent and serve the needs of the entire community while balancing competing interests in a timely, appropriate and responsive manner.



5. Good governance is equitable and inclusive

A community's wellbeing depends on all of its members feeling that their interests have been considered by their council. All groups, particularly the most vulnerable, should have opportunities to participate in the decision-making process, and all groups should be treated equally by their council.



6. Good governance is participatory

Anyone affected by, or interested in, a decision should have the opportunity to participate in the process for making that decision. Participation can happen in several ways – community members may be provided with information, asked for their opinion, given the opportunity to make recommendations or, in some cases, be part of the actual decision-making process.



7. Good governance is effective and efficient

Local government should implement decisions and follow processes that make the best use of the available people, resources and time, to ensure the best possible results for their community.



8. Good governance is consensus oriented

Wherever possible, good governance involves taking into account the different views and interests in a municipality to reach a majority position on what is in the best interests of the whole community, and how it can be achieved.

WHAT ARE THE BENEFITS OF GOOD GOVERNANCE?



Good governance is important for several reasons. It not only gives the local community confidence in its council, but improves the faith that elected members have in their own council and its decision-making processes. Good governance also leads to better and more efficient decisions, helps local government meet its legislative responsibilities, and provides an ethical basis for decision-making.

Good governance has the following benefits when practised in local government²:



Promotes public trust

People are more likely to have confidence in their local council if decisions are made in a transparent and accountable way. When decisions are made in this way, members of the community will believe that their council is acting in the community's overall interest, regardless of differing opinions. It also encourages councils to remember that they are acting on behalf of their community, and underlines the importance of having open and ethical processes that adhere to the law and stand up to scrutiny.

² This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.



Encourages elected members and council officers to be confident

Elected members will be more confident about the issues before council. They will feel that they can trust the advice given by the administration, that their views will be respected even if everyone doesn't agree with them, and that the council chamber is a safe place for debate and decision-making. Council officers will feel more confident in providing frank and fearless advice that is acknowledged and respected by elected members.



Leads to better decisions

Decisions that are informed by good information and data, by stakeholder views, and by open and honest debate will generally reflect the broad interests of the community.

Members of the community are more likely to accept the outcomes if good governance processes are followed, even if they don't agree with the decision. They will also be less tempted to continue fighting or attempting to overturn the decision.

Where good governance processes have been followed, even the most difficult and controversial decisions will stand up to scrutiny.



Supports ethical decision-making

Good governance creates an environment where elected members and council officers ask themselves 'what is the right thing to do?' when making decisions, and receive sufficient advice and support to inform ethical decision-making.

Making choices and having to account for them in an open and transparent way encourages honest consideration of the choices facing those in the governance process.



Improves efficiency

Efficiency is both a characteristic and a benefit of good governance.

Efficiency alone will not necessarily lead to efficient outcomes. The same can be said of each of the characteristics of good governance: acting with a single-minded goal of being responsive or consensus oriented is unlikely to lead to efficient outcomes.

However, where a council can balance each of the characteristics of good governance while ensuring that the components of good governance are in place, they will have the best chance of ensuring the best possible results for their community. Importantly, where there is good governance, good results can be achieved efficiently.

Figure 1: Local government governance structure³



³ This diagram has been adapted from the City of Joondalup's Governance Framework.



2. WHAT DOES GOOD GOVERNANCE MEAN IN PRACTICE?

WHAT DOES GOOD GOVERNANCE MEAN IN PRACTICE?

INTRODUCTION

This section of the Good Governance Guide aims to increase your understanding of good governance. In this section, the eight components of good governance, all of which are equally important, are outlined.

The components are:

- maintaining high ethical standards;
- understanding your role in local government;
- fostering respectful relationships;
- undertaking effective strategic planning and performance monitoring;
- implementing robust risk management;
- practising fair and transparent decision-making;
- complying with relevant Acts of Parliament; and
- committing to continuous improvement.

HIGH ETHICAL STANDARDS

When you act with high ethical standards you will exhibit all of the characteristics of good governance. Ethics are standards of behaviour that set out what people ought to do, and are primarily focused on behaviours and actions. Acting in line with high ethical standards means that you are accountable, transparent, law-abiding, responsive, equitable and inclusive, participatory and consensus oriented.

In any public role, ethics are critical to ensuring that you are acting in the public interest. As an elected member, your role is to represent and serve your community. Operating ethically and with integrity is part of being effective in your role and providing value to the community.

Unethical behaviour can lead to a loss of trust in you as an individual and a loss of confidence in the council as a whole. Public trust, once lost, can be difficult to regain.

Guiding questions for ethical decision-making⁴

As an elected member, there are three main guides for ethical behaviour:

- 1 legislation, including the *Local Government Act 1993*, *Local Government (General) Regulations 2015* and *Local Government (Meeting Procedures) Regulations 2015*;
- 2 your council's code of conduct and policies; and
- 3 your personal ethics.

1. Are your actions in line with the law?

In Tasmania, the key legislation with which local government elected members and council officers must comply is the *Local Government Act 1993* (the Act). For further information about legislation for local government, refer to the section on Legislative Compliance.

The Act provides a framework for good governance by setting specific requirements.

This Guide outlines some of the key requirements of the Act including:

- acting within the limits of your role;
- complying with your council's code of conduct;
- managing conflicts of interest;
- effective strategic planning; and
- transparent decision-making.

⁴ This section was written in conjunction with the Integrity Commission Tasmania.

Complying with these requirements is both a requirement of the law, and a matter of maintaining high ethical standards.

Disclosure of information – section 338A of the Act

Councillors need full information to be able to make sound decisions. However, there are times when some of the information provided to councillors needs to remain confidential. For example, matters that are discussed in closed meetings are confidential unless authorised by the council to be disclosed.

Elected members must not disclose information that is not authorised to be disclosed or that has been provided on the basis that it is kept confidential. Similarly, council employees and audit panel members must not disclose information that is acquired on the condition that it remains confidential.

A general manager can require councillors to give a confidentiality undertaking, if the general manager considers particular information to be confidential. If an elected member refuses to give the undertaking, the general manager can refuse to provide the information (refer section 28C of the Act).

Leaking confidential information is both illegal and damaging to the council. It not only affects the ability of a council to perform its functions, but undermines the trust that external organisations and individuals may have in council to keep certain information confidential.

Fines can be imposed where elected members or officers are found to have leaked confidential information. In addition, a court may order that a councillor be barred from nominating as a candidate at any election for up to seven years or dismiss the councillor from office.

Example: *Publishing confidential closed council information about a council legal action in a letter to the editor of the local newspaper.*

Improper use of information – section 339 of the Act

Elected (and former elected) members and audit panel (and former audit panel) members must not make improper use of information acquired through their role. Improper use of information includes:

- gaining an advantage or avoiding a disadvantage for yourself, a member of your family or a close associate; or
- causing loss or damage to a council or a person.

A person must not make improper use of any information from a code of conduct investigation.

Fines can be imposed where elected members are found to have improperly used information. In addition, a court may order that a councillor be barred from nominating as a candidate at any election for up to seven years or dismiss the councillor from office.

Example: *Sharing confidential council information with a family member about a commercial agreement and the family member purchases/sells land as a result.*

Misuse of office – section 339A of the Act

Elected members, council employees and audit panel members must not procure the doing or not doing of anything by the council where they, their family, or a close associate would directly or indirectly benefit or avoid disadvantage as a result.

Fines can be imposed where elected members or officers are found to have misused their office. In addition, a court may order that a councillor be barred from nominating as a candidate at any election for up to seven years or dismiss the councillor from office.

Example: *Use of your position as an elected member to discourage the council from approving a development that you consider would affect the amenity of your property.*

False and misleading statements – section 345 of the Act

A person (including an elected member) must not, in giving any information under the Act:

- make a statement knowing it to be false or misleading; or
- omit any matter from a statement knowing that without the matter, the statement is misleading.

Example: *Making a false statement when making a complaint to the Director of Local Government.*



For further information on offence provisions, see the section on Pecuniary Interests on page 65.

SCENARIO

A local council is considering a major and expensive sports ground redevelopment. A councillor opposes the project but doesn't think he has the numbers to win the vote. So he leaks confidential briefing material from a closed meeting of the council, which focuses on the downsides of the proposal, to generate media interest and provoke community outrage.

Using the media to force particular decisions, attack colleagues and undermine the council is neither appropriate nor legitimate. It deliberately subverts the democratic decision-making process. Leaking confidential information from a closed meeting is a breach of the Act and is punishable as an offence in the Magistrates Court. It also reduces the confidence and willingness of external bodies to deal with the council.

To improve governance in this situation:

- councillors need to understand the nature of confidential information – it should be very clear if it is not intended for the public because publicising confidential information is illegal and punishable under the Act;
- the council should make sure that a good level of information is available to the public through various channels – this will help to prevent leaking;
- councillors need to use the media appropriately as it is an important channel for councils to communicate with their communities and for communities to become informed about local issues;
- the difference between the views of the council and individual councillors needs to be understood by everyone – councillors who liaise with the media must reinforce this; and
- the council should develop protocols for working with the media.⁵

⁵ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

2. Are your actions in line with your council's code of conduct?

The code of conduct framework for Tasmanian councillors is prescribed under Part 3, Division 3A (Code of conduct, complaints and complaint resolution) of the Act. A council is required to adopt the model code of conduct as its code of conduct relating to the conduct of its councillors. The model code of conduct is made by order of the Minister responsible for local government and provides for matters such as conflict of interest, gifts and benefits, and use of council resources.

In performing the functions and exercising the powers of your office of councillor, you are required by section 28U of the Act to comply with the standard of behaviour set out in your council's code of conduct.

Any person may make a code of conduct complaint against a councillor within six months after the councillor has allegedly committed a code of conduct contravention. A complaint is to be lodged with the general manager of the relevant council and accompanied by the prescribed fee.

The Act sets out the process for code of conduct complaints to be investigated and determined by the Code of Conduct Panel. After an initial assessment, the Panel may dismiss a complaint if it is considered frivolous or vexatious. The complainant and the respondent councillor bear their own costs relating to the investigation and determination of a code of conduct complaint.

The Act prescribes the sanctions available to the Panel for breaches of a council's code of conduct. Sanctions include cautioning or reprimanding a councillor, or requiring them to apologise to a person or attend counselling or a training course. The Panel is also provided with the power to suspend a councillor for up to three months (without allowances) for serious breaches of the code of conduct.

Failing to comply with a sanction imposed by the Panel is an offence under the Act. If a councillor fails to apologise or attend counselling or a training course, they may face a penalty or a fine not exceeding 50 penalty units.

The Minister responsible for local government may remove a councillor from office if they have received three suspension sanctions during one term of office or two consecutive terms of office.

If a complaint is substantiated, the Panel provides a determination report, which is tabled at the first practicable open meeting of the relevant council. Any confidential council information associated with a complaint is tabled in closed session. Councils are required to publicly disclose in their annual reports any breaches of the code of conduct, including all costs associated with code of conduct complaints.

There is an appeal right from a Panel determination to the Magistrates Court (Administrative Appeals Division) on the basis that the Panel failed to comply with the rules of natural justice.

3. Are your actions in line with your personal ethics?

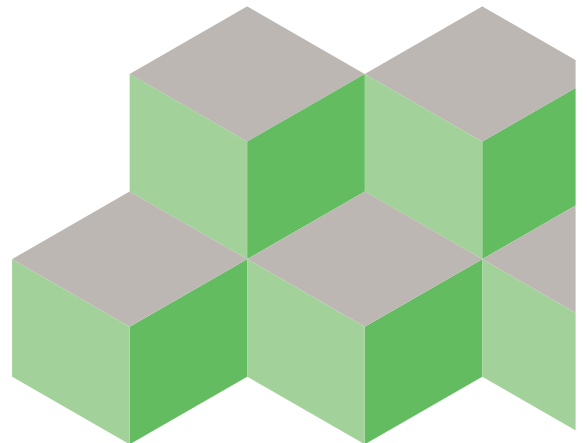
The legislation and your council's code of conduct and policies will provide clear guidelines as a starting point. When faced with an ethical decision, you should first consider these documents. However, the local government sector is unique in that councils, and by extension, councillors, have close contact with the community.

In your role as elected member, you need to manage relationships with a range of stakeholders who may have competing interests. While legislation and your council's code of conduct and policies will be your key guides, the complex nature of local government means that elected members are required to exercise their own good judgement in making ethical decisions. To guide your ethical decision-making, you should ask yourself questions such as:

- Does this align or conflict with my personal values?
- What would a fellow councillor / community member think of my decision?
- Is my own self-interest a factor in this decision?
- Am I making my decision based on the public interest?
- What could be the effect of this decision on the reputation of the council and on the community?

Personal ethics and exercising good judgement are fundamental to the role of elected members. It is important to remember, however, that personal ethics are subjective. What meets one person's own ethical requirements, may not meet another's. Relying solely on your personal judgement when making ethical decisions can potentially lead to confusion and a lack of unity in the council. Legislation and your council's code of conduct and policies must always take precedence over your personal ethics.

For example, your personal view may be that a decision made in a closed session of council should be shared with the community, even though the decision has been made by council to keep it confidential. Despite your personal views, you should be guided by the requirements of the Act and your council's code of conduct.



SCENARIO

Councillor A's daughter has just finished her university degree and is looking for a job. At a council meeting, the corporate services manager provides a report on her team's activities, noting that the Human Resources department has been swamped with work in recent months.

Following the meeting, Councillor A approaches the manager and tells her that he will support any proposal for a budget increase when the next budget is tabled. He also mentions that his daughter has just finished her studies, with a major in human resources, and is particularly keen to work in a local government environment.

When the budget proposals come before council, Councillor A votes in favour of an increase of staffing for the Human Resources department. Six months later, his daughter acquires a job with the council.

This situation has raised a number of ethical issues, including not acting in the public interest, not acting with integrity, conflict of interest, and use of power and authority. Other councillors may become aware that Councillor A's daughter has been given a job at the council, and may believe that he voted in favour of the budget increase to get her a job.

This could affect Councillor A's relationship with his fellow councillors, and build up tension in the council. Council staff may also become aware of how Councillor A's daughter got the job, which will affect both her experience at council and the morale of the staff as a whole. The council administration may come to believe that, if they want Councillor A's vote on an issue, they just need to give him something that he wants.

To improve the governance in the situation:

- the council should have a clear policy on councillor–staff interactions;
- the council should have a recruitment policy and ensure that people involved in recruitment processes declare any conflict of interest; and
- Councillor A should understand his obligations relating to improper use of information, conflict of interest and misuse of office under the Act.⁶

⁶ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

Promoting ethical behaviour

By acting ethically as an elected member, you are helping to create a local government sector with an ethical culture.

There are many ways in which you can lead by example to promote ethical behaviour, including:

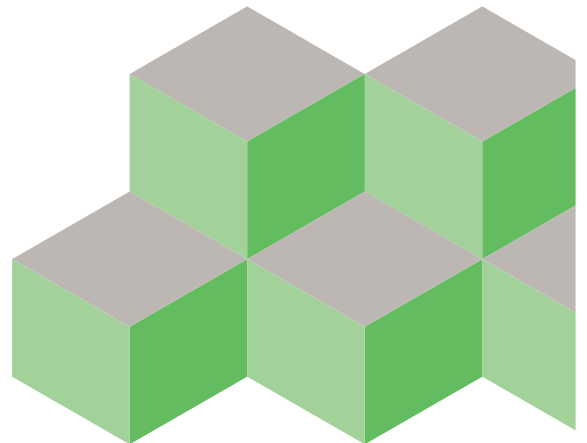
- by understanding and abiding by the law and your council's code of conduct and policies;
- by ensuring that you are acting in the public interest at all times;
- by being aware of ethical risk areas associated with your role and the resources to help you manage them; and
- by following a transparent and accountable decision-making process.



Useful resources

Both the Office of Local Government and the Integrity Commission Tasmania have a range of resources available to assist councillors to manage ethical issues (including training for councillors).

The Integrity Commission Tasmania has a number of useful flowcharts for elected members, including an ethical decision-making flowchart and a release of council information flowchart.



UNDERSTANDING YOUR ROLE

Understanding and fulfilling your role as an elected member is critical to good governance – it promotes accountability, transparency, efficiency and effectiveness. Not only is it important to understand your role, it is important to understand the role of others.

The best of intentions can be undermined when elected members act outside of their role. It is important that you understand and respect the limits of your role and do not encroach on the roles of council officers. This ensures efficiency and accountability, and it will help to maintain the reputation of individuals and the organisation.

Understanding your role is also important in terms of the *Local Government Act 1993* – acting outside that role can be a breach of the Act.

What are the roles in local government?

The key roles in local government are those of:

- elected members collectively serving as councils;
- mayors;
- deputy mayors;
- elected members serving as individual councillors;
- general managers;
- council administration;
- the Minister responsible for local government;
- the Office of Local Government;
- the Director of Local Government; and
- the Local Government Association of Tasmania.

Each role has a unique purpose and makes a unique contribution towards good governance within the local government sector. Many of the roles are defined in the *Local Government Act 1993* (the Act). This section will help you to understand your role and, importantly, the roles of your local government colleagues.

Elected members collectively – section 28 of the Act

Elected members collectively serving as a council are responsible for setting and monitoring high-level strategy and policy. They are not concerned with the operational activities of the council administration.

The specific roles of elected members collectively are:

- developing and monitoring strategic plans and budgets;
- determining and monitoring policies, plans and programs for services and facilities, management of assets, and treatment of employees;
- setting the organisational culture;
- representing the best interests of the community in strategic land-use planning;
- appointing and monitoring the performance of the general manager;
- determining and reviewing the council's resource allocation and expenditure; and
- monitoring the manner in which services are provided by the council.

Mayor – section 27 of the Act

The role of the mayor is to:

- act as a leader of the community in the municipal area;
- carry out the civic and ceremonial functions of the mayoral office;
- promote good governance by, and within, the council;
- act as chairperson in council meetings in a manner that supports decision-making
- act as the council's spokesperson;
- represent the council on regional organisations and external forums;
- lead and participate in the appointment and monitoring of the general manager's performance;
- liaise with the general manager; and
- any other function that is imposed by order of the Minister or by the Act.

Mayors are an important influence on the culture within councils and have a duty to lead by example. Mayors can promote good governance by practising good governance themselves and setting the tone for the entire organisation.

Mayors must:

- have and act in line with high ethical standards – mayors must act with integrity and impartiality;
- understand and not overstep their role – the mayor is the leader of the elected members and does not have a role in instructing council employees;
- foster positive relationships – the mayor has a responsibility to foster positive and respectful relationships among elected members and with the general manager;
- lead effective strategic planning – the mayor must show a commitment to community engagement, respect the points of view of the community and guide the strategic planning process;

- ❑ engage in risk management – mayors should guide elected members to pursue opportunities while managing associated risks;
- ❑ follow a transparent and accountable decision-making process and support the decisions of the council, even if the council's decision conflicts with the mayor's private views;
- ❑ understand and abide by the law – the mayor must respect the requirements of the Act and other relevant legislation;
- ❑ ensure that elected members are given appropriate education and training relating to ethical conduct, as required in the mayor's role as a principal officer under the *Integrity Commission Act 2009*; and
- ❑ commit to continuous improvement – mayors should encourage a culture of continuous improvement at the council and individual level.

The Local Government Association of Tasmania has produced a *Mayoral Handbook*, which provides commentary on various provisions in the Act. The Handbook is intended to assist mayors in meeting their duties and obligations, in particular their relationship with other elected members, council officers and the community.

Community leader

Mayors play an important role advocating for and speaking on behalf of the community. Sometimes a mayor's role involves promoting the strengths of their community in an effort to attract investment, defending their community in the face of criticism, or reflecting on community sentiment in response to a major event. Whatever the situation, it is crucial that mayors are in touch with their community and are able to speak accurately on the community's behalf, and that they speak in a way that respects the community.

Carry out civic and ceremonial functions

Mayors play a formal role in the community. The Mayor is expected to add a level of dignity to particular and significant events.

To fulfil the civic and ceremonial functions of the Mayor it will be necessary to attend a range of different types of events and functions like those listed below:

- ❑ Aboriginal and Torres Strait Islander ceremonies and acknowledgements;
- ❑ flag raising ceremonies;
- ❑ ribbon cutting or sod turning to mark an official opening or commencement;
- ❑ citizenship ceremonies;
- ❑ Australia Day civic receptions;
- ❑ civic anniversaries to formally recognise contributions of local community groups or individuals;
- ❑ civic receptions for visiting dignitaries or recipients of awards;
- ❑ Anzac Day dawn services or memorial and commemorative events; and
- ❑ heritage dedication events.

Promote good governance

Mayors are integral in setting the example of practising good governance for both council members and the community. In order that good governance can be practised and promoted, it is important that mayors know and understand their roles, duties, responsibilities and the laws, policies and practices that govern local government. It requires effective community engagement to understand the community's aspirations for the future. It requires transparency and accountability to ensure that the council is acting on behalf of the community's best interest and wellbeing.

Adopting a variety of procedures and protocols to guide practice in a systematic manner is a way of promoting good governance and managing risk. Conducting and participating in regular internal self-assessments of the implementation of adopted procedures and protocols is another way for mayors to promote good governance. Self-assessment checklists could be developed and adopted to address matters like:

- appropriate use of public resources;
- transparency;
- education, training and awareness;
- elections; and
- community engagement and decision-making.

To build a mayor's credibility and success in promoting good governance, it is important to follow through on actions to address opportunities for improvement revealed through a self-assessment.

Represent the council on regional organisations and external forums

Mayors can find effective and efficient opportunities to support the community and represent the council through participation in regional organisations, like the Cradle Coast Authority, Northern Tasmania Development Corporation Ltd and the Southern Tasmanian Councils Authority.

When mayors are exercising this role and representing the council at external forums (including intergovernmental, regional, state and national forums), they must ensure that they accurately represent the policies and decisions of the council.

Lead and participate in the appointment and monitoring of the general manager's performance - sections 27, 61 and 61A

It is the role of the mayor to lead the process of appointing the general manager and the details of how this must be done are set out in the Act. General managers are appointed for up to five years through a contract of employment, which should be performance-based.

Monitoring the performance of a general manager should be done consistent with the performance-based contract. Mayors should also lead this process, and ensure all councillors are able to be involved and provide feedback.

A positive relationship supported by open and frequent communication between the mayor and the general manager is a critical way to achieve good governance outcomes.

Chairperson of the council

The mayor plays a key role in promoting good governance by effectively chairing council meetings.

Effective chairing is inclusive, ensuring that all elected members have the opportunity to be heard, that elected members are able to speak without being interrupted, and that meetings are not dominated by a subgroup of elected members.

It is the mayor's responsibility to manage any poor behaviour that may arise at council meetings, including bullying or harassment.

Mayors can facilitate effective council meetings by:

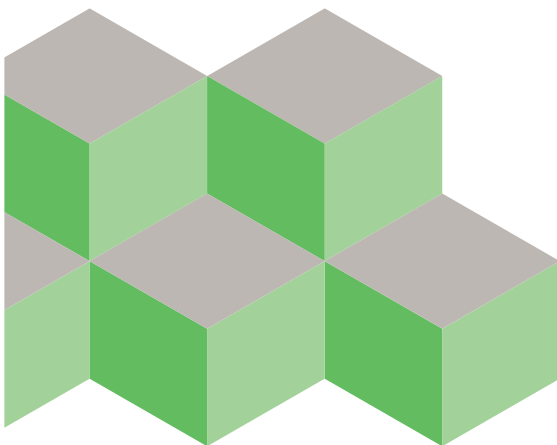
- ensuring that debate stays focused and concentrates on strategic (not operational) matters;
- clarifying a motion and ensuring that everyone has had a say before calling a vote;
- highlighting important points; and
- clarifying any misunderstandings.

Mayors are responsible for keeping to the agenda and pacing the meeting.

Not all elected members will get their way on every decision, but by following this process, and showing that every point of view has been heard and considered, elected members are more likely to accept decisions that do not align with their point of view.

At the end of meetings, mayors may like to summarise the achievements of the meeting and thank elected members for their time and contribution to the meeting. This acknowledgement promotes a positive relationship between the mayor and other elected members, and shows elected members that the time they give to their role is valued.

The rules governing meetings, including the powers of the role of chairperson, are set out in the *Local Government (Meeting Procedures) Regulations 2015*.



SCENARIO

The mayor of a local council strongly supports a recommendation that is currently being discussed at the council meeting. A vigorous debate is taking place, as a number of councillors are not in support of the recommendation. The mayor provides extra time for those arguing in favour, while restricting those arguing against to the precise time limit set out in the Local Government (Meeting Procedures) Regulations 2015. The mayor comments unfavourably on every speech that argues against the recommendation, and also takes the opportunity to make a speech in its favour.

The mayor has an important role in managing the meeting, so that all councillors get a chance to present their views and be heard by their colleagues. Taking a partisan position during a debate can detract from the mayor's capacity to manage the meeting in the interests of fairness and participation by all. Even the perception of partisan management of the meeting can negatively impact on the decision-making process and can ultimately affect the degree to which a decision is 'owned' by all councillors. Members of the community may think the mayor is not being impartial, which can undermine confidence in the council.

To improve governance in this situation:

- ❑ the mayor must manage the council meeting in a way that facilitates good decision-making processes, and the participation and engagement of all councillors; and
- ❑ the mayor should be impartial and fair in managing the meeting, allowing all councillors to have the same opportunity to present their views.⁷

Spokesperson

As spokesperson of the council, the mayor must fairly represent the views and decisions of a council, even if the mayor does not agree with the view or decision. Mayors, like all elected members, have the opportunity to express their views in the lead-up to a decision and during debate. However, if the final decision of the council conflicts with the private view of the mayor, the mayor should refrain from expressing a view that is contrary to the formal position of the council. A mayor expressing a view that opposes the agreed position of the council can lead to confusion and can lead the community to believe that the council is divided.

⁷ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

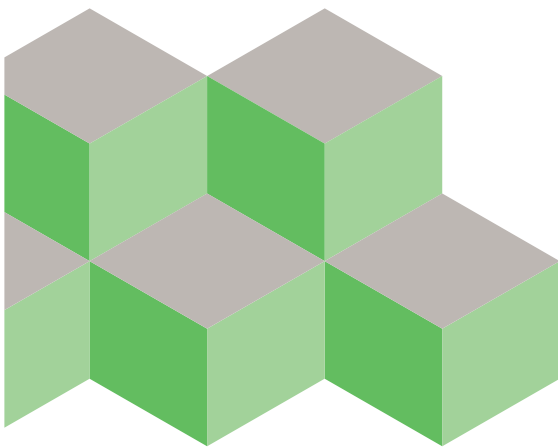
Liaising with the general manager

The relationship between the mayor and the general manager is fundamentally important to a well-performing council.

Section 27(1)(h) of the Act gives a mayor the responsibility of liaising with the general manager in relation to council activities and the performance of council functions and exercise of council powers. This includes:

- ❑ encouraging a strong working relationship between the mayor and the general manager; and
- ❑ ensuring that the mayor is informed about key activities of council, as well as its functions and powers.

The functions of the general manager are clearly and separately defined in section 62 of the Act.



SCENARIO

A councillor has recently been on the losing side of a series of votes, including the council annual plan, the budget and some key projects. The councillor now feels marginalised and has started to publicly criticise the council and its processes. Other councillors are responding to the councillor's negative attitude and counter-productive behaviour, and the focus of council meetings is moving away from community interests.

If councillors believe their views are not being considered in the decision-making process, they will look for alternative ways to have an impact. Public or private criticism of other councillors and the administration, leaking of information, and failing to distinguish between the views of the council and individual opinions can all make the process of decision-making more difficult, as well as undermine the council's reputation in the local community.

The mayor can help to resolve the situation by:

- determining whether the councillor's motivations are legitimate or deliberately destructive – the outcome may be the same, but the way the issue is handled can vary considerably;
- ensuring every councillor feels that they have a meaningful part to play in council processes and that their views are being heard;
- talking to the councillor and hopefully agreeing on a more productive way of dealing with the situation;
- if confidential information has been leaked, making the councillor aware of the provisions and penalties contained in the Act and reinforcing with the councillor that they will be enforced; and
- contacting the Local Government Association of Tasmania and/or the Office of Local Government for impartial advice to resolve the issue.⁸

⁸ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

Deputy mayor – section 27 of the Act

The role of the deputy mayor is to act in the position of mayor if the mayor is absent, or if the mayor appoints the deputy mayor, in writing, to act in the position.

Elected members individually – section 28 of the Act

The role of an elected member is to:

- represent the community;
- act in the best interests of the community;
- facilitate communication by the council with the community;
- ask questions and participate in community debate;
- participate in the activities of the council, including strategic planning, financial and asset management, setting service standards and developing local policies; and
- undertake duties and responsibilities as authorised by the council.

When fulfilling your role as an elected member, you must always abide by the requirements of your council's code of conduct and you must ensure that you are familiar with the requirements of relevant legislation.

To promote good governance, you should seek out opportunities to interact with the community to gather a balanced perspective on topical matters. You should gather feedback from a cross-section of the community and fairly represent the views of the community at the council table.

Keep in mind, however, that when you are making decisions related to land-use planning and acting as a member of a planning authority (as opposed to a member of a council), it is not appropriate to take into account the views of the community. Land-use planning decisions must align with the planning scheme and must not be swayed by community sentiment. Further details about good governance and land-use planning are provided in section 3.

Elected members are expected to make decisions that require significant expertise. While council decisions are based on expert advice provided by the administration, you can support good governance by seeking out opportunities to undertake training to build your knowledge base and capacity to make good decisions.

As an elected member, you must not:

- direct council officers in relation to the discharge of their duties;
- perform any function of the mayor without the mayor's approval;
- request information from the administration (other than the general manager) outside agreed council protocols; or
- leak confidential information.



For further information see the training video scenario *A Balancing Act*, which reflects on the use of power and authority in relation to council officers. These are available on the Office of Local Government website.

SCENARIO

A councillor strongly believes that a new housing development should contain expensive, environmentally sustainable features. The councillor thinks that their fellow councillors will support the idea if the administration makes the recommendation. They've been calling the relevant director and various council officers constantly to try to persuade them that the environmental features should be included in the recommendations to council. They've also attempted to put pressure on them at task group and public meetings.

The administration's role is to provide 'frank and fearless' advice to the council. This should be based on information, consultation and professional opinion. It should not be the result of pressure from councillors. Councillors will expect to be given high-quality, impartial advice and information, which will help them to form an opinion and make a decision in the council meeting. The challenge for councillors, who are pushing strongly for a particular decision, is to persuade their fellow councillors to support their view. They should not try to influence the final decision by pressuring the administration to support a particular view in its recommendation.

To improve governance in this situation:

- the mayor and general manager need to ensure that everyone has a clear understanding of roles – the administration's role is to advise and implement, the council's role is to consider the advice and make the decision;
- the mayor and general manager should provide leadership to reinforce these roles;
- the mayor and general manager should encourage good relationships between councillors and the administration so that communication does not spill over into undue influence; and
- councillors and council officers should be clear that improper or undue influence is against the law. The administration and council need to ensure there are plenty of opportunities (as part of council workshops or in other ways) for councillors to investigate all the available options.⁹

⁹ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

General manager – section 62 of the Act

The role of the general manager is to:

- be responsible for the day-to-day operations and affairs of the council;
- appoint, direct and dismiss employees;
- manage strategic planning processes and annual reporting;
- prepare the council's estimates;
- ensure council policies are implemented;
- liaise with the mayor;
- manage the resources and assets of the council;
- manage the grey area of strategic versus operational responsibilities;
- be responsive to the needs and views of all elected members;
- have a clear understanding of responsibilities and requirements under the Act; and
- support the council with policies and procedures.

An effective general manager will promote a culture of good governance and show commitment to the characteristics of good governance. In a practical sense, general managers can promote good governance by¹⁰:

- regularly providing elected members with the information they need to fulfil their roles;
- ensuring that advice from the administration considers the political context;
- ensuring sufficient resources are set aside to implement the policies and decisions made by the council;
- ensuring that council officers and elected members understand the structure of local government and their roles in it;
- providing support to the mayor and elected members when dealing with councillor conduct issues;
- helping to ensure that all elected members have equal access to information and resources;
- providing appropriate support for good decision-making processes, such as undertaking appropriate community engagement and timely provision of meeting papers;
- developing processes for the major strategic planning exercises, which ensure elected members have plenty of opportunities for input;
- ensuring that council officers are given appropriate education and training relating to ethical conduct, as required in the general manager's role as a principal officer under the *Integrity Commission Act 2009*;
- taking leadership in modelling good governance; and
- recognising that elected members have a 'representation' role and that they will be advocating for individuals or communities at different times.

¹⁰ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

Council administration

The everyday running of the council is the general manager's responsibility. Councils employ a range of professional officers with expertise to advise and assist the council, and to undertake specific functions.

The general manager and council officers are there to provide advice and support to the council and assist it in implementing its policies, plans and programs. Elected members then evaluate alternative options and assess the impact of decisions before deciding what's in the community's best interest – now and in the future.

In deliberating on and making these decisions it is important that elected members consider the advice provided by the council's qualified professional officers.

A key challenge for elected members is not becoming involved in the day-to-day operations of the council by directing council officers. This is not your role. It is the role of the general manager. Your role, as part of the council, is to work on overall council strategy and policy and, as an individual elected member, to represent the interests of the community that elected you.

However, building trust and establishing a good relationship with the general manager and council officers is extremely important. Your effectiveness as an elected member, and as a council, will in many ways depend on this relationship. Don't forget that council employees are responsible for implementing your decisions.

Minister

Local governments are bestowed general powers of competence under the Act, which means that councils have the power to do what they believe will benefit their communities. As a result, the Minister responsible for local government takes a 'hands off' approach when it comes to the day-to-day operations of local government.

The Minister does, however, play an important role at a strategic level, and is also responsible for ensuring that councils are meeting their obligations under the Act. The Minister responsible for local government:

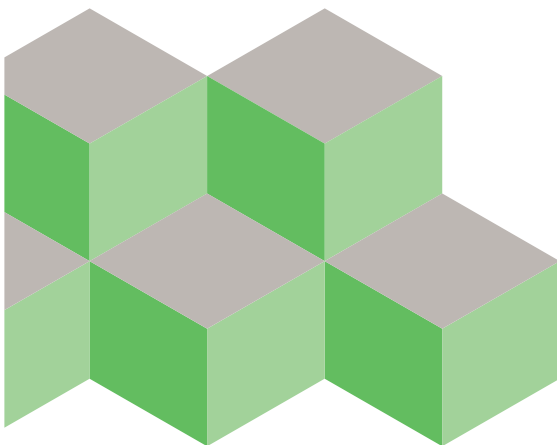
- represents, along with the Premier, the State Government on the Premier's Local Government Council;
- may develop and release statewide policies relating to local government;
- provides strategic leadership to promote sustainability at a statewide level;
- directs the Local Government Board to undertake reviews as required;
- orders Boards of Inquiry if required;
- issues Performance Improvement Directions if required;
- issues ministerial orders on specific areas; and
- oversees amendments to the Act.

Office of Local Government

The role of the Office of Local Government is to contribute to the wellbeing of local communities by promoting a sustainable and vibrant local government sector and supporting the strong collaborative relationships between local government and the Tasmanian Government. The Office of Local Government can be contacted for information on the Act, the *Local Government (General) Regulations 2015* and the *Local Government (Meeting Procedures) Regulations 2015*.

The Office of Local Government:

- ❑ promotes and supports the state–local government relationship;
- ❑ supports the Premier's Local Government Council;
- ❑ supports the Local Government Board;
- ❑ administers legislation including:
 - ❑ *Burial and Cremation Act 2002*
 - ❑ *Dog Control Act 2000*
 - ❑ *Local Government Act 1993*
 - ❑ *Local Government (Highways) Act 1982*
 - ❑ *Local Government (Savings and Transitional) Act 1993*
 - ❑ *Ockerby Gardens Helipad Act 1999*
- ❑ provides guidance and assistance to councils, elected members and the general public; and
- ❑ collaborates with the local government sector and stakeholders to design and implement programs to build the capacity of local government.



Director of Local Government – section 335 of the Act

The Director of Local Government is an independent statutory officer under the Act. The role of the Director of Local Government, as defined by the Act, is to:

- undertake the general administration of the Act subject to Ministerial direction;
- undertake any other function the Minister may determine; and
- do anything necessary or convenient to perform any function under the Act or any other Act.

The Director also has roles under the *Dog Control Act 2000*, *Burial and Cremation Act 2002* and the *Local Government (Highways) Act 1982*.

The Director is responsible for dealing with complaints made under the Act. Anyone, including elected members, council officers, general managers, and members of the public, can make a complaint to the Director, under section 339E or 339EA of the Act, about a failure to comply with a provision contained within the Act or a possible offence under the Act. The Director may also investigate where no complaint has been received. If there is enough proof, a matter may be referred to the Director of Public Prosecutions for prosecution in the Magistrates Court.

Local Government Association of Tasmania – section 326 of the Act

The Local Government Association of Tasmania (LGAT) is the voice of local government to other governments, interested stakeholders and the wider community. LGAT works to protect the interests and rights of councils, to promote the efficient operation of local government, and to foster strategic and beneficial relationships.

For further information refer to LGAT's website.



Useful resources

The Office of Local Government's website contains a range of information sheets, which help to clarify sections of the Act.

The Office of Local Government's website also contains a series of training video scenarios. The video entitled *A Balancing Act* reflects on the use of power and authority in relation to council officers.

The LGAT website contains resources that are relevant to understanding your role, including a *Mayor Handbook* and a *Councillor Resource Kit*.

You can access the *Local Government Act 1993* on the Tasmanian Consolidated Legislation Online website.

BUILDING POSITIVE RELATIONSHIPS

Good relationships support good governance by promoting efficiency, inclusiveness, participation and consensus-oriented decision-making.

Having good relationships does not mean that everyone has to be good friends. What it means is that there is mutual trust and respect among colleagues. Trust and respect ensures that everybody is heard, that there is robust discussion as part of the decision-making process, and that conflict is resolved swiftly and fairly.

Good communication that is underpinned by trust and respect will build a strong team and promote a focus on achieving strategic goals and pursuing the best interests of the community. This in turn builds the reputation of the council among the community as a cohesive and professional organisation deserving of respect.

How do you build good relationships?

It can be hard to build and maintain good relationships in a political environment where everyone has the best intentions but perspectives don't always align. However, maintaining good relationships is important to doing your job well.

Some key things to remember in your dealings with others are to:

- treat others with respect;
- understand your role;
- understand the role of others; and
- follow communication protocols.

The relationship between the mayor and the general manager is particularly important. This relationship can significantly impact the performance of a council. The relationship between the mayor and the general manager must be based on trust, respect and acknowledgement of the need for collaborative engagement.

By treating others with respect

Everybody has a role to play in building good relationships, and building good relationships starts and ends with showing respect.

Elected members may have their own agendas, general managers sometimes provide unpalatable advice, and elected members sometimes pursue unrealistic goals. Whatever the scenario, it is essential that there is respect among colleagues, and that all points of view are listened to and fairly considered.

By understanding your role

Understanding your role can help to build good relationships. By understanding the scope of your role, you can make sure that your efforts contribute to positive outcomes, rather than potentially creating conflict by inadvertently 'stepping on the toes' of colleagues. This is particularly important when the council seeks to fulfil tasks that it perceives have not been fulfilled by the council administration. Instead of the council undertaking operational duties, it should remain focused on its strategic role. The appropriate action would be for the mayor to communicate the perceived gap to the general manager and resolve the issue.

By understanding the role of others

The council administration is accountable to the general manager, and the general manager is accountable to the council. The council sits at the top of the hierarchy, but in saying that, it is essential that the council understands that the administration operates in a complex environment and works hard to provide quality advice across a range of issues. Equally, it is essential that the administration respects the complex political environment in which elected members operate.

By following communication protocols

Generally speaking, communication between the council and the administration should be through the general manager and mayor. Of course, this is not always practical and as a steadfast rule it can be misunderstood. Councils should develop protocols to guide interactions and communication between the council and the administration. Remember that even with protocols in place there is not a rule for every situation, and good governance relies on your good judgement.

Elected members need to understand that:

- ❑ Accountable advice needs to go through an organisational process, which usually involves approval by a senior manager or the general manager. Speaking directly to lower-level council officers may result in elected members not being fully informed or receiving advice that hasn't been formally endorsed by the administration.
- ❑ Council officers are not accountable to elected members individually, and section 28(3)(a) of the Act states that an elected member must not direct or attempt to direct a council employee in relation to the discharge of the employee's duties.

Council officers need to understand that:

- ❑ They are not accountable to individual elected members and are not required to take direction from them. They are accountable to the whole council, through the management structure.
- ❑ They should not provide advice to elected members unless it has been approved by the senior management or general manager. If councillors ask for advice, council officers should redirect elected members to senior management or the general manager.

SCENARIO

Communication between councillors and the administration has completely broken down in a local council. Councillors regularly make inflammatory statements to the local media claiming that they have no power because the administration is really making all the decisions.

If councillors and the administration don't understand each other's roles or the processes for making decisions, this can lead to serious misunderstandings and dysfunctional relationships. When this happens, the relationship is characterised by public criticism of each other and a general lack of respect.

To improve governance in this situation:

- ❑ the mayor and general manager must work together to provide leadership, as well as model respect for the administration and elected members;
- ❑ expectations need to be clarified to avoid bad feelings – councillors and senior management need to discuss the issues and how they can be addressed;
- ❑ roles need to be reviewed, redefined and understood by all – everyone should be given the opportunity to contribute on aspects that affect their role;
- ❑ the quality of advice, systems and processes should be reviewed;
- ❑ protocols should be developed to handle criticism – public outbursts should not be tolerated and all sides need to be open to constructive feedback;
- ❑ the general manager should ensure that the administration's culture supports democratic governance – this involves leadership from senior management and training for council officers;
- ❑ the mayor and general manager need to ensure that councillors understand what can reasonably be expected from the administration and how contact can be made (protocols can help); and
- ❑ the council should contact LGAT or the Office of Local Government for advice if a serious breakdown occurs.¹¹

¹¹ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

The relationship between the mayor and the general manager

The relationship between the mayor and the general manager is crucial to a well-functioning council. A dysfunctional relationship between a mayor and a general manager can have a significant and long-lasting negative impact on the performance of a council.

As with good governance in general, a good relationship between the mayor and general manager relies on following the law, guidelines and protocols, and also on the good judgement and common sense of the individuals.

Section 27(1)(h) and section 62(1)(g) of the Act state that communications between the council and the administration are the responsibility of the mayor and general manager.

An effective council depends on how mayors and general managers choose to interact. Where general managers and mayors can build a relationship based on trust, respect and acknowledgement of the need for collaborative engagement, they will have a solid foundation to lead an effective council focused on the best interests of the community. A simple and effective tool to promote a good relationship between the mayor and the general manager is weekly meetings.

While it is the responsibility of councils to select general managers, after an election, mayors can find that they are working with a general manager that they did not play a role in selecting. In this situation, the mayor and the general manager should acknowledge the importance of their relationship by negotiating their expectations of an effective relationship. In the interest of providing effective leadership, this process needs to be actively pursued from day one of the new relationship.



Useful resources

The Australian Centre of Excellence for Local Government report on the relationship between mayors and CEOs, *Political Management in Australian Local Government: Exploring Roles and Relationships between Mayors and CEOs*, is available via the University of Technology Sydney website at: www.uts.edu.au

SCENARIO

Following recent local government elections in a regional municipality, a new mayor has come into office with quite different policy ideas to those of the previous mayor. The mayor has become frustrated because the policies of the previous council continue unchanged for some time. He begins to express dissatisfaction with the general manager and believes that things won't happen until a new general manager can be appointed.

In this scenario, the mayor believes that the general manager is not committed to helping him achieve his goals. A new mayor may think things should change automatically as a result of his or her election, but needs to understand that the general manager cannot implement a different policy until it is changed by the council as a whole, not just the mayor.

To improve governance in this situation:

- the mayor and the general manager need to find a way to work together because it is not appropriate for every new council to appoint a new general manager;
- councillors need to understand that policies only change as a result of a majority vote at a council meeting;
- new councillors should be briefed on how policies can be changed or implemented;
- councillors and the administration both need to understand the role of the council – it sets the strategic goals and the administration helps to achieve these goals;
- councillors need to understand the role of the administration – the relationship between the mayor and general manager is important in achieving this;
- everyone needs to understand that the entity of council continues unchanged from one council term to the next, and it takes time and good processes to change policies and directions;
- councillors and the administration need to devote time and energy to the council planning process so that goals are understood and owned by all;
- the council and the general manager need to agree on what the general manager is expected to deliver – this should provide a fair platform for the general manager's performance appraisal; and
- the council should contact LGAT or the Office of Local Government for advice if a serious breakdown occurs.¹²

¹² This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

EFFECTIVE STRATEGIC PLANNING AND MONITORING PERFORMANCE

Strategic planning is the process by which a council establishes a vision for the future and develops goals, objectives, strategies and actions to achieve that vision. The intention of strategic planning is to bring together council and community interests in a coherent plan for the whole municipality.

Strategic planning is critical to achieving good governance in your council, as it provides accountability to the community for council activities, and provides a mechanism for public participation.

To perform your role effectively, you will need to actively participate in determining the strategic direction of the council and the planning process supporting it. A strategic plan that is 'owned' by you and your fellow councillors will be more effective in setting the council's priorities and managing the community's demands. Non-ownership of plans by councillors can result in a frustrated community and an administration uncertain of its direction.

What is good strategic planning?

Good strategic planning sets a direction for the future based on an understanding of the aspirations of your local community. Good strategic planning takes into account the external environment and resource limitations, and integrates community objectives with financial and asset management planning.

The Act requires councils to prepare a suite of documents that details how you will plan for, develop and manage municipal areas in the interests of the community.

The required documents include:

- a strategic plan;
- an annual plan;
- a long-term financial management plan;
- a financial management strategy;
- a long-term strategic asset management plan for each of the council's major asset classes;
- an asset management policy;
- an asset management strategy; and
- a rates and charges policy.

Each planning document should be integrated with the others, but have its own focus. Your council's performance towards achieving your goals should then be monitored through monitoring and evaluation tools, such as the annual report.

These documents must be reviewed by council at least every four years. General managers are also required to notify the Director of Local Government (as soon as practicable) when their respective plans, strategies and policies have been adopted by the council.

Strategic plans – section 66 of the Act

Councils are required to develop a strategic plan of at least a 10-year period for the municipal area. You and your fellow councillors are collectively responsible for developing and monitoring the implementation of strategic plans and budgets.

The strategic plan is an integral reference point for other key strategic documents such as long-term financial management plans and strategic asset management plans. The strategic plan is to be reviewed at least every four years.

A strategic plan should include:

- where your council is at that point in time – current position;
- where you want the council to get to – vision and strategic objectives of council;
- how you are going to get there – strategies for achieving those objectives;
- mechanisms for monitoring the achievement of the objectives; and
- how the plan will be resourced.



Your role in developing the strategic plan

Because councillors (sitting as a council) are responsible for the strategic plan, you must:

- ensure there is a good process for developing the strategic plan – this process should involve all councillors at an early stage to ensure everyone's visions and views are taken into account prior to being endorsed;
- understand the assumptions and strategies underpinning the strategic plan – it's particularly important that you understand the key factors contributing to costs and income; and
- determine the extent of, oversee and be involved with, community input into the strategic plan – the development of key strategic and policy positions should incorporate a community consultation plan.

Annual plans – section 71 of the Act

The annual plan must be consistent with the strategic plan, and include a statement of how your council will meet the goals and objectives of the strategic plan.

An annual plan should:

- have council and community ownership;
- have clear and identifiable outcomes;
- contain performance indicators that are simple and easily understood, and that clearly specify what is required to achieve stated goals; and
- be monitored regularly through council review of performance reports generated by the administration.

Strategic asset management plans

Asset management plans describe the process of the whole of the asset's life cycle from planning, purchase, operation and maintenance to disposal. They consider the desired service outcomes, the long-lived nature of many assets and the finances available.

The principal objective of asset management is to ensure the best use of assets when delivering services to the community.

Effective asset management also:

- makes the most of the service potential of assets by ensuring they are appropriately used and maintained;
- achieves greater value for money through economic evaluation of options that take into account assets' life cycle and full costs; and
- clearly assigns responsibility, accountability and reporting requirements.

Your council's asset management policy will sit alongside the strategic plan to form a solid basis to develop the strategic asset management plan and long-term financial plan.

The *Local Government (Content of Plans and Strategies) Order 2014* outlines what should be covered in a council's asset management policy, strategy and long-term strategic asset management plans. Factors to be considered include service levels, planning for climate change adaptation and mitigation, promotion of sustainability, asset condition, and likely use and impact.

Long-term financial management strategies and plans

It is vital that your council knows where it is going in the long term. To do this, your council requires a financial strategy that is consistent with the strategic plan.

Your council must be able to fund the projects it has planned for and ensure that it is financially viable in the future. Your council must identify the risks that will be taken in pursuing goals and ensure appropriate strategies are in place to minimise those risks. A sound long-term financial strategy will enable your council to meet its objectives.

In considering future funding requirements, your council must reflect on how much funding it is likely to have over the next 10 years, and whether the available funding is sufficient to maintain the current level of services in a long-term financial management plan. If you cannot increase funding or achieve savings, then some adjustment to service levels will be required.

The *Local Government (Content of Plans and Strategies) Order 2014* outlines what should be covered in your council's long-term financial management plan. This includes capital works and expenditure, asset management requirements, recurrent revenue and expenses, underlying surplus or net deficit, assets and liabilities, and cash held.

Financial management

Financial management is the decision-making process and control procedures associated with acquiring the necessary funds to operate a council and ensure its sustainability.

Councillors (sitting on the council) have an overall accountability for the council's finances. It is therefore extremely important that you consider financial decisions and management as priority activities.

Your council must ensure that the following staff, systems and functions are in place:

- modern and robust computer-based financial systems;
- suitably qualified and experienced staff available to manage the finances; and
- suitably qualified and appropriately independent internal audit functions, including an audit panel.



It is important that you understand the information provided to you by council administration. Financial reports should inform you simply and directly on the financial performance of the council. You should be able to review the variances between actual and budgeted income and expenditure to establish overall financial viability.

A key accountability of the general manager and the chief financial officer is financial management. While the council has the overall accountability, the administration and its key players have critical responsibilities for financial planning and management, and for providing regular reports to council.

Some important points to note:

- The general manager is accountable to the council for the organisation's financial performance.
- You should make sure that you ask enough questions to enable understanding of the financial situation of your council.
- It is not sufficient for you to rely on the assurances of council administration – you must feel appropriately informed and comfortable before signing off on financial reports.
- General managers are required to obtain council authorisation for adjustments to budget estimates.

Strategic planning challenges

Given that a council is a collection of individual councillors who have been elected on the basis of individual platforms, council planning can pose a particular challenge. Often strategic planning will require significant negotiation and compromise.

Developing a means for addressing a number of individual mandates and being open to input from the community – all the while ensuring continuity and sustainability – are challenges for successful strategic planning. While there is no magic formula for success, councils will benefit from following a process that ensures everyone has a chance to be heard.

Rates and charges policy

Rates are a major source of revenue for local government. Part 9 of the Act provides tools for councils to use in raising rates, and each council uses these tools in a way that is suitable to its municipal area. Every year that a council makes a rates resolution, it is making policy decisions about how it wishes to distribute the burden of tax across the community.

Ratepayers often do not know why rates are raised or what decisions are being made on their behalf. Rates are often compared between municipal areas, without regard to the level of services provided by that municipal area, or the differing decisions made by each individual council.

Under the Act, councils are required to implement rates and charges policies to provide transparency in decision-making, and to educate their communities about how revenue is raised. Rates and charges policies must be reviewed, at a minimum, on a four-yearly basis.

Policies should be consistent with a council's long-term financial plan, long-term asset management plan and strategic plan. This is to ensure that there is sufficient revenue from rates to provide the services that a council wishes to provide, and to assist in planning for the future.



You should keep in mind that while an election may result in the introduction of new councillors, the council as a legal entity will remain unchanged. The strategic plans, policies and budgets that were put in place by the previous councillors (as the council) will continue until they are amended by the new councillors (as the council).

Monitoring and reporting performance

To effectively manage the affairs of your council, now and into the future, you need to have the information to judge how your council is performing and to make decisions on how to change or improve its performance.

It is vital to have a performance measurement and reporting framework in place. Such a system ensures accountability to the community as to how public money is being spent and the quality of the services delivered.

Your council is accountable for monitoring performance against the achievement of its strategic direction, goals and financial outcomes, which are set through the strategic plan, annual plan, financial management strategy, long-term financial management plan, and annual budget.

An annual report is a key mechanism by which your council reports to, and is accountable to, the community. The annual report outlines your council's achievements against objectives included in the annual plan and other relevant plans.

Section 72 of the Act requires councils to prepare an annual report and make copies available for public inspection.

The Act specifies the matters that must be contained in the annual report and requires councils to invite the public to make submissions on the report. Councils are required to consider public submissions at their annual general meeting.

See the Office of Local Government's *Annual Report Guidelines* for more information.

Audit panels

Tasmanian councils are required by the Act to establish and maintain an audit panel. Audit panels are integral to maintaining accountability through review of processes and decision-making. Audit panels are also fundamental to identifying actions required to ensure your council's legal, governance, social and ethical responsibilities, and that your financial and asset management practices are in the best interests of the local community.

Audit panels provide a check on key council activities. Primarily audit panels review council financial systems and management. However, they also review your council's broader functions to ensure that the organisation has the appropriate risk, culture, personnel, policies, systems, and controls in place for it to function effectively, legally and ethically.

A successful audit panel will also ensure the council employs proper management practices throughout the entirety of council activities; complies with all legislative and policy requirements; and adopts leading practice for all aspects of governance. Effective use of panels should assist in reducing the workload of councils.

The Office of Local Government's *Local Government Audit Panels – A Practice Guide* (the Guide) has been developed to assist councils with the establishment and maintenance of audit panels. The Guide has been developed specifically for the Tasmanian context, and is consistent with the requirements under Tasmanian legislation.

Role of the Auditor-General

As required by the *Audit Act 2008*, Tasmanian councils are audited annually through submission of their financial statements to the Auditor-General. Using completed financial statement audits, the Auditor-General presents a report to Parliament each year assessing councils' financial performance, including financial sustainability.

In addition to annual financial audits, the Auditor-General may conduct performance audits in relation to the activities of local government. Such audits usually result in reports to Parliament. Details of proposed audits can be found in the Auditor-General's Plan of Work, which is published by 30 June each year.



For more information please refer to the Tasmanian Audit Office's website at www.audit.tas.gov.au.



Useful resources

- ❑ Sections 66 to 72 of the *Local Government Act 1993*, which outline the legal requirements regarding strategic planning;
- ❑ *Local Government (Content of Plans and Strategies) Order 2014*;
- ❑ *Local Government (Management Indicators) Order 2014 (S.R. 2014, No. 36)*.

The Act and the Orders are available on the Tasmanian Consolidated Legislation Online website.

The Office of Local Government's website also contains a number of resources that are relevant to this section, including:

- ❑ *Annual Report Guidelines*;
- ❑ *Local Government Audit Panels – A Practice Guide*; and

Other useful resources are available on the Tasmanian Audit Office website.

The *Audit Act 2008* requires the Auditor-General to audit Tasmanian councils' financial statements annually. You can access the *Audit Act 2008* on the Tasmanian Consolidated Legislation Online website.

Figure 2: The Tasmanian local government strategic planning framework



ROBUST RISK MANAGEMENT

Risk is inherent in all aspects of a council's activities. Risk management is therefore an integral part of good governance, good management practice and decision-making in local government. Risk management is not about being risk averse. Risk management allows councils to take appropriate risks that will help them to achieve their strategic goals.

A council with robust risk management practices is accountable, effective and efficient.

Risk management is a process that allows councils to pursue opportunities, while understanding and mitigating associated risks. The benefits to a council of a coordinated, systematic approach to risk management include:

- meeting the council's strategic objectives;
- identifying key risks that the council faces as it strives to achieve its strategic objectives;
- achieving cost savings through planning and foresight;
- establishing greater openness and transparency in decision-making and ongoing management processes;
- providing the council with a clear understanding of the risks facing it;
- encouraging proactive risk management of strategies to identify and manage risks;
- promoting a positive risk management culture integrated across the council structure;
- providing better outcomes in terms of program effectiveness and efficiency, such as improved client services and/or better use of resources; and
- increasing community confidence in the council's operations.

The purpose of risk management is not to eliminate all risks but, rather, to reduce them to a level acceptable to council in accordance with its risk tolerance limits. Risk management requires a mature, proactive approach to management, and achieving a balance between the costs of managing risks and the anticipated benefits.¹³

¹³ The information in this section accords with AS/NZS ISO 31000: 2009: Risk Management – Principles and Guidelines

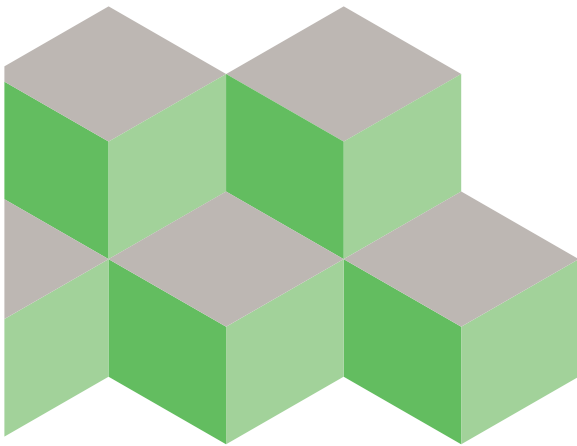
How can councils manage risks?

Risk management involves establishing an appropriate framework and culture, and applying a logical and systematic method to identify and manage risks by:

- ❑ implementing and communicating an organisational policy;
- ❑ balancing risk and opportunity within organisational policies;
- ❑ defining the organisation's risk appetite, tolerance and likelihood guidelines;
- ❑ training elected members and council officers to establish the context for assessing potential risks; and
- ❑ identifying, analysing, evaluating, treating, monitoring and communicating risks associated with any activity, function or process in a way that will maximise the potential to achieve goals and objectives and minimise potential for harm or loss.

Your council has a legal and ethical responsibility to ratepayers, residents, employees and visitors to minimise the likelihood and consequences of adverse risks and maximise the potential to achieve its strategic objectives.

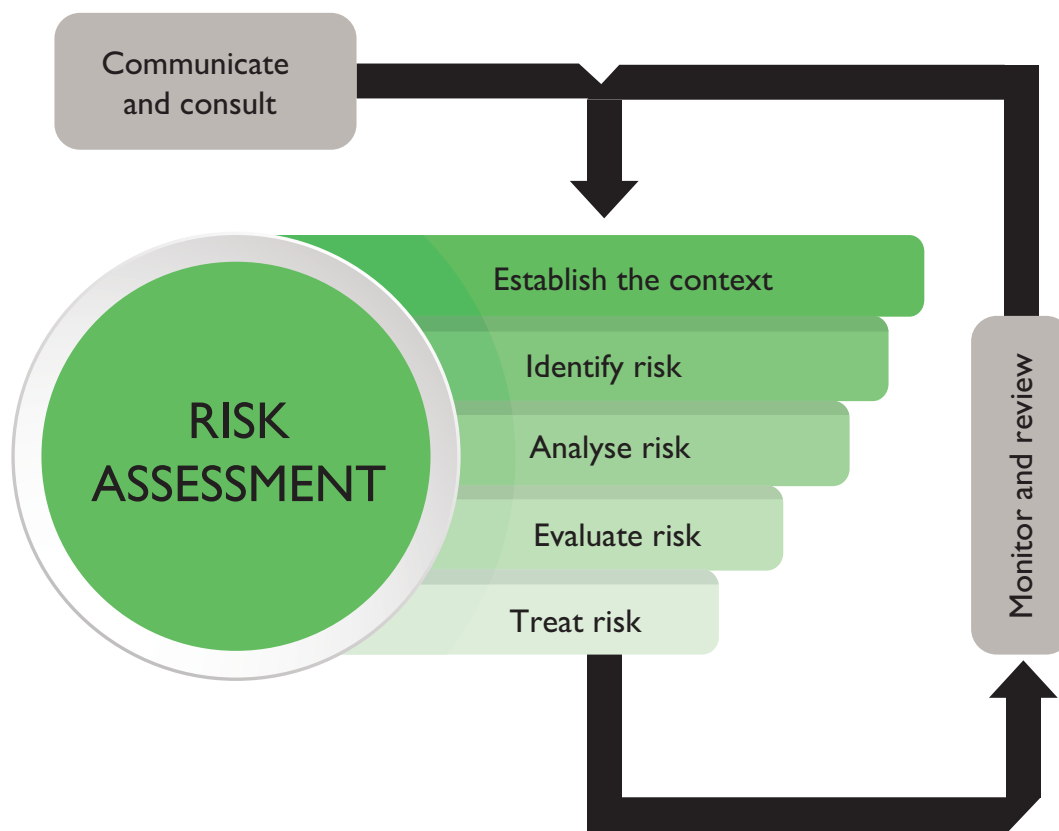
All elected members, management, council officers, contractors, and volunteers have a responsibility to follow effective risk management practices and ensure that the council is aware of risks associated with its operations. Risk management should be an integral part of the leadership responsibilities of the council, the general manager and senior management.



The risk management process

Strategic risk management follows a step-by-step process that, when undertaken, enables a sound basis for decision-making.

Figure 3: The risk management process¹⁴



¹⁴ Figure adapted from AS/NZS ISO 31 000: 2009: Risk Management – Principles and Guidelines.

1. Communicate and consult

Throughout the process of managing risk, communication and consultation between your council and stakeholders should take place. Effective communication and consultation will ensure that those involved in managing risk, including affected stakeholders, are aware of and understand why particular actions are necessary. A consultative approach to risk assists in achieving the remaining phases of the risk management process.

2. Establish the organisational context

The purpose of this phase is to define the parameters within which risk will be managed and to set the scope for the rest of the process. In this phase your council should develop an understanding of its operations, the external and internal environment in which it operates, and the factors that have major impact on the achievement of its objectives.

3. Identify the risk

In this phase, your council identifies the potential risks that need to be managed. The sources of risk, areas of impact, events and change in circumstances, their causes and potential consequences should be identified and added to a list or register of risks.

Risk identification needs to be undertaken on a periodic basis, and also in the context of any proposed new service or project. Your council should schedule regular reviews of the risk register. These reviews should take into account any changes in the council's services and operating environment, and identify all risks that impact on the council's activities, regardless of whether or not the risks are under the council's control.

Approaches used to identify risks may include:

- brainstorming sessions;
- review of audit findings;
- assessment of historical incident data;
- assessment of third party contracts;
- ongoing project management; and
- stakeholder needs.

4. Analyse the risk

Risk analysis involves understanding the nature of the risk and determining the level of risk.

Analysis is based on an assessment of the:

- risk likelihood (the chance of something happening); and
- risk consequence (the outcome of an event).

Your council's determination of the consequences of the risk and likelihood of it occurring can then be combined to determine the risk rating.

5. Evaluate the risk

The purpose of risk evaluation is to make decisions based on the outcomes of risk analysis about which risks are acceptable, which risks need treatment and the treatment priorities. Your council is unlikely to have sufficient resources to treat all risks in an optimum manner.

Therefore it will always be necessary to evaluate and prioritise:

- which risks to treat, or mitigate; and
- the resources (if any) to devote to treating or mitigating each risk.

The highest priority should be given to those risks that council decides are the least acceptable.

6. Treat the risk

Risk treatment involves choosing one or more alternatives for controlling or managing risks and implementing these alternatives. Your council's risk treatment options may include all or some of the following:

- avoid the risk;
- remove the risk source;
- pursue the risk as an opportunity;
- change the probability of occurrence;
- change the consequences to reduce the losses and improve the gains or likelihood of achieving objectives;
- transfer the risk by using other parties or by outsourcing (for example insurance or resource sharing); and
- accept the risk on the basis that you are doing all things that are reasonable and practical to address foreseeable risks.

7. Monitor and review

Your council's risk management is not a static or one-off procedure. Risks must be monitored and reviewed regularly to ensure that controls are effective and efficient, the external and internal context is up to date, and the risk criteria and framework are relevant. Responsibilities for monitoring and reviewing should be clearly defined, as part of your risk management framework.



For further information, refer to the Western Australian Department of Local Government's website at www.dlgsc.wa.gov.au and the Local Government Association of South Australia's information paper entitled Understanding Risk Management available at www.lga.sa.gov.au.

FAIR AND TRANSPARENT DECISION-MAKING

Good decision-making is central to good governance. Sound decision-making improves the transparency and accountability of your council, and increases the likelihood that council decisions are in the best interests of the entire community. The use of sound decision-making processes will help council decisions to withstand scrutiny by regulators, courts, the media, and those affected by decisions.¹⁵

Principles guiding decision-making

When you make decisions you must act in accordance with the law, consider all viewpoints and information, and act in the best interests of the community.

Acting in accordance with the law

Throughout the process of managing risk, communication and consultation between your council and stakeholders should take place.

As stated in the *About Good Governance* section, good governance is law-abiding. This is also a key characteristic of decision-making: decisions must be consistent with relevant legislation or common law, and be within the powers of local government.

Local government operates in a complex legislative environment and it is your responsibility to be familiar with the relevant legislation, which includes the:

- Local Government Act 1993*;
- Land Use Planning and Approvals Act 1993*;
- Environmental Management and Pollution Control Act 1994*;
- Resource Management and Planning Appeal Tribunal Act 1993*;
- Public Health Act 1997*;
- Dog Control Act 2000*;
- Building Act 2016*; and
- Food Act 2003*.

¹⁵ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

Making unbiased decisions

In order to maintain public trust and confidence when acting as a member of a council (as opposed to a member of a planning authority – see section 3), you must:

- ❑ give all stakeholders a fair opportunity to be heard before a decision is made; and
- ❑ not have predetermined the matter or be perceived as having predetermined the matter before hearing all sides or reviewing all relevant information.

This does not prevent you from having opinions on upcoming matters and stating your views during election campaigns. Having a view on something doesn't mean that you are incapable of being persuaded by advice. You just need to ensure that you impartially consider the evidence and advice, which may or may not support your view, during the formal decision-making process.

Acting in the interests of the community

In your role as councillor, you have a duty to act in the best interests of the community as a whole.

Acting in the best interests of the community means considering issues fairly and on their merits, and taking all relevant factors into account. Sometimes it can mean making hard decisions that go against community sentiment. This may be the case when it comes to tough decisions regarding rate rises or service cuts.

You should note that acting in the best interests of the community is different from advocating for your community. Advocating for your community is about representing the views of your community (whether or not you support their views). For example, while debating rating decisions at the council table, you may advocate for the view of your community that they do not want to see a rate rise, but, taking all relevant factors into account, you may decide that it is in the best interests of the community to raise rates.

It is normal for councillors to come into contact with individuals and groups who attempt to influence their decision-making. You must take care that representations do not improperly influence the decision-making process.

You should treat the interests of groups in the community, and the people who advocate those views, with respect. As a democratically elected councillor, you must represent your constituents' views regardless of your personal opinions or whether they're likely to attract votes. This can sometimes mean that you will convey the views of a group of constituents to the council, even when you do not support those views.

Community engagement¹⁶

Engaging the community in decision-making is a core element of good governance. Councils that use community engagement processes improve the quality of their decision-making, help communities to feel more engaged and connected, and demonstrate transparency and accountability in the way decisions are made. Community engagement also assists in building a cooperative partnership between councils and their communities, and it is an important method for enabling communities to provide their feedback, ideas and opinions.

¹⁶ Content for this section is drawn from the Local Government Association Tasmania's Councillor Resource Kit.

There are a number of ways in which your council can engage with the community on issues that may affect them.

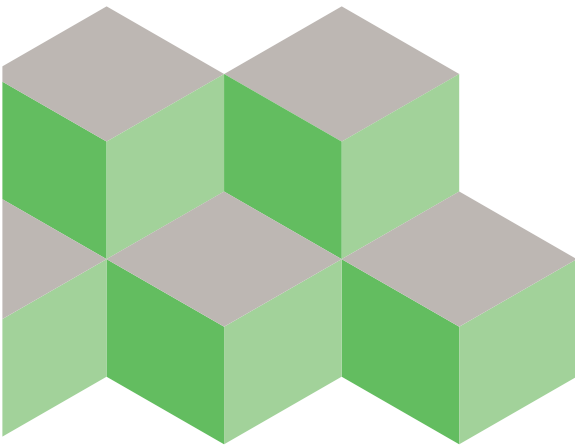
Some examples of community engagement activities are:

- workshops and focus groups;
- surveys;
- public meetings;
- community liaison groups;
- letters and flyers;
- precinct committees; and
- social media.

The International Association for Public Participation (IAP2) has developed a Public Participation Spectrum to demonstrate the different levels of community engagement.¹⁷ Each level results in an increase of public impact.

1. **Inform:** A one-way communication relationship, in which a council provides information to the community to assist them in understanding the problems, alternatives and/or solutions (such as fact sheets and websites).
2. **Consult:** A two-way communication relationship, in which the community provides feedback on issues defined by a council (such as surveys, public comment, and public meetings).
3. **Involve:** A participatory process, in which a council works directly with the community throughout the decision-making process to ensure that public concerns and aspirations are understood and considered prior to decision-making (such as workshops and deliberative polling).
4. **Collaborate:** Council works with the community in each aspect of the decision, including developing alternatives and identifying a preferred solution (such as citizens' advisory committees, consensus building, and participatory decision-making).
5. **Empower:** Final decision-making is placed in the hands of the community (such as elector polls and ballots).

The level of participation your council chooses as appropriate for any given decision-making situation will depend upon the outcomes, timeframes, resources, and levels of concern or interest in the decision to be made.



¹⁷ This content has been adapted from the iap2 website at www.iap2.org.au.

SCENARIO

The council plan has identified a town hall for closure, because usage has fallen significantly in recent years. During the same period, pressure on a second town hall within the municipal area has increased. The local Friends of the Town Hall group has been running an active media campaign, and has made noisy demonstrations at council meetings. In the face of this, the council has decided, yet again, to defer a decision.

Council regularly placates the most active and the noisiest elements of the community when making decisions. Because of this, the interests of every section of the community are not being taken into account.

To resolve the situation:

- ❑ councillors should acknowledge that this is happening and consider which feedback from constituents, community groups and the media is relevant;
- ❑ councillors need to have another look at the council plan outside of the normal review process;
- ❑ the mayor should play a leadership role as the leader of all councillors;
- ❑ councillors must pay attention to the consultation processes – everyone affected by important decisions should be listened to, not just those who shout the loudest;
- ❑ the council should be aware of stakeholder views before making the decision;
- ❑ the council should review the decision-making processes for openness and transparency;
- ❑ the administration needs to ensure the advice reflects all the issues, consequences and options; and
- ❑ councillors need to be reminded that placating the 'loudest voices' not only creates precedents that can be difficult to break, but also impacts badly on the public perception of local governments.¹⁸

¹⁸ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

What is a good decision-making process?

Decisions made by local government must be made in a way that is consistent with the Act and the *Local Government (Meeting Procedures) Regulations 2015* (Meeting Regulations).

In addition, good decision-making requires that you:

- avoid unfair decision-making or the perception of;
- act with integrity and openness; and
- follow the council code of conduct.

The decision-making process involves five stages:

1. setting the agenda;
2. gathering information;
3. forming an opinion;
4. making the decision; and
5. implementing the decision.

This section looks at each stage of the decision-making process, identifies potential issues and makes suggestions about good governance processes.

Stage 1: Setting the agenda

Your council must determine which issues will be considered. While some issues will be considered for statutory reasons, many others end up on the agenda because they are either council policies and priorities or issues that individual councillors have put forward for discussion.

Stage 2: Gathering information

The second stage of the process involves the council administration compiling and preparing information for elected members. This information should contain relevant data, issues and options and will help you make an informed decision about each of the issues that have been put forward for consideration.

Stage 3: Forming an opinion

The third stage gives you the opportunity to form opinions on the proposals before you make a decision. This stage allows you to debate the issues in the council meeting as part of the decision-making process. A key part of this stage is the council workshop.

SCENARIO

A councillor is insisting that council make a particular decision on the hotly contested issue of the location for the new municipal offices. The councillor's main argument in support of this position is that 'it's just common sense'.

There can often be a number of legitimate views on an issue even when there is good information and advice. Labelling one view as 'common sense' can imply that all the other views are not valid and that their proponents lack common sense. The debate then often focuses on the meaning of 'common sense' and personalities rather than on the issue itself.

To improve the governance in this situation the council should:

- ensure there is a good process in place to guide decision-making;
- base the decision on advice and information, rather than on subjective views, such as 'it's just common sense';
- ensure there is a good consultation process to find out what stakeholders really think;
- focus on the issues rather than on personal opinion; and
- provide opportunities for all councillors to voice their opinion – the mayor's role is important in providing leadership in the council.¹⁹

¹⁹ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

What are council workshops?

Council workshops are informal meetings, held for the purpose of providing elected members with information on specific matters. Workshop procedure is not governed by the Act or the Meeting Regulations. Council workshops provide the time needed to explore important matters in detail.



Council decisions must be made in a council meeting, not in a council workshop.

Individual councils are entitled to hold workshops as and when they deem it necessary. Workshops are generally closed to the public, although a council may invite the public or individuals to attend if it wishes to do so.

Regulation 8 of the Meeting Regulations requires general managers to report in each ordinary meeting agenda the date and purpose of any council workshop held since the last meeting.

SCENARIO

A council regularly uses workshops to work through the draft agenda for the next council meeting. In these sessions councillors develop a consensus position on all the key issues in the agenda. There is little or no debate at the next council meeting, as the elected members already know all the outcomes.

Council workshops should be used to ensure that elected members have all the information they need to develop an opinion on key issues. This information can consist of research, background information and the results of any consultation processes.

Workshops should not be used to debate or develop a collective position on issues. This should happen in council meetings where the decision-making process is transparent and open.

To improve governance in this situation:

- elected members and the administration should understand and agree on the role of workshops in the decision-making process;
- the administration should provide information to elected members in workshops; and
- elected members should ask questions in briefings to satisfy themselves that they have sufficient information to form an opinion on the issues in question.²⁰

²⁰ This content has been adapted from [the Good Governance Guide](#) © MAV, VLGA, LGV & LGPro 2012.

Information requests – sections 28A, 28B and 28D of the Act

The Act entitles councillors to two kinds of information:

- information and documents required to perform any councillor functions; and
- documents and information relating to council and committee meeting agendas.

The processes for requesting these kinds of information are separate, but there are important similarities:

- The information or documents must be in the possession of the council.
- Requests for information or documents are to be made in writing to the general manager.
- Confidentiality – if the general manager considers information or documents are confidential, under section 28C of the Act they may require councillors to give an undertaking to maintain that confidentiality. If the councillor refuses, the general manager may withhold the information or document.
- Pecuniary interests – the general manager may refuse to provide information or documents if the councillor has declared a pecuniary interest related to the subject of the information or documents.
- If the information or documents are given to one councillor, the general manager must make them available to other councillors on request.



For more information, see the information sheet entitled *Access to Information for Councillors*, which is available on the Office of Local Government's website.

You should ensure that any requests to council officers for information or reports are legitimate, lawful, related to your role and directed to the appropriate officer (depending on the protocols of your council). It is also important that council officers are appropriately responsive to information requests, as councillors largely rely on the administration for information and other kinds of support.

Requests that fall under the category of file trawling or 'fishing' expeditions are not appropriate. The administration as a whole, and council officers specifically, should be wary of providing information for political disputes between councillors.

The council and the administration can develop protocols to ensure that everyone understands when and what kind of information will be provided to individual councillors. Some councils also use self-regulation, such as a register, to log all the information requests by individual councillors.

Stage 4: Making the decision

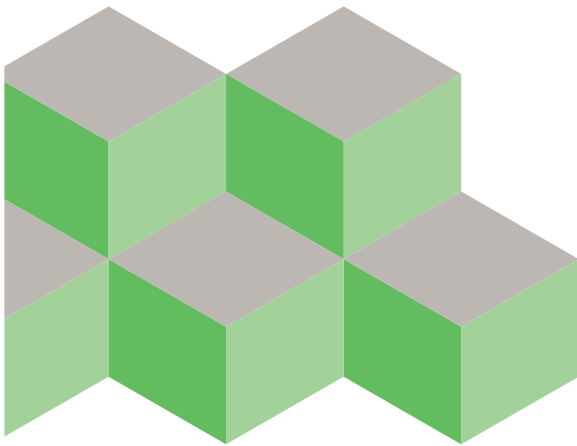
The fourth stage of the process is when you and your fellow councillors make the decision at formal council meetings.

The Meeting Regulations provide a uniform and comprehensive set of rules for the conduct of council meetings.

Further to the requirements set out in the Meeting Regulations, you can ensure good decision-making by exhibiting appropriate behaviour.

For example:

- You must conduct yourself in a respectful way, including listening to others, avoiding interrupting others, using reasonable language, and avoiding texting or using social media during meetings.
- Mayors can facilitate good decision-making by ensuring that councillors feel they are part of the process. Mayors can do this by giving everyone at the table an opportunity to get their viewpoint across.
- If the mayor has moved or seconded a motion, the mayor is to vacate the chair until the motion has been dealt with.
- You must be sure to focus debate on the content of issues, not on the councillors debating them (play the ball, not the person).
- In coming to decisions, you are not required to follow the advice provided by council officers in reports to the council, but nevertheless you should consider it with due respect.
- You must take voting seriously: being informed, participating in debate and making a decision (except where there is a conflict of interest) are all critical components of good decision-making.
- Councils must be committed to transparency. Observers must be able to follow and understand the decision-making process, and the reasons why a particular decision has been made. Holding the meeting in public is one way that transparency can be achieved. Having a proper debate is another. By observing a debate, onlookers are able to see how and why council came to a decision.
- Closed meetings should be avoided where possible to preserve transparency and accountability.



Stage 5: Implementing the decision

This final stage is what occurs after the actual decision is made. There are two key elements to this stage. The first is working out how the administration will provide reports to council on the implementation of the decision. The second is telling constituents about the decision.

Progress reports for council

One aspect of the general manager's role is to ensure that council decisions are implemented in an effective and timely fashion.

Part of this phase is to establish a process for regularly reporting to council on how the implementation is progressing. This not only allows the administration to demonstrate its accountability to the council, but also provides the council with the information it needs to meet its accountability to its community.

Talking publicly about council decisions

A unique feature of local government is that all decisions are taken in the name of the whole council. Elected members are bound by the council decision, regardless of whether they were in favour of it or not.

When a council decision contradicts a promise made by a councillor during an election, the councillor may feel the need to indicate that they did not agree with the decision.

Talking publicly about your dissent to a particular decision may undermine the council decision and may ultimately damage community confidence in the council as a whole. All votes are recorded by council, including your dissenting vote to a particular decision. This is the mechanism for retaining accountability to the community.

Elected members have the opportunity to express their views in the lead-up to a decision and during debate. However, if the final decision of the council conflicts with the private view of the elected member, they should refrain from expressing a view that is contrary to the formal position of the council.

Conflict of interest

You are required to act in the best interests of the community. From time to time, however, you may find that you have a private interest (social, familial or financial) that may improperly influence (or be perceived to improperly influence) decisions that need to be made as an elected member. It is your responsibility to ensure that you do not put yourself in a situation where personal interests impact, or are perceived to impact, on your decision-making. This is critical to ensure unbiased decision-making and to maintain the trust of the community.

Conflicts of interest are either pecuniary or non-pecuniary. Pecuniary interests are where there is an expected financial gain or loss. Non-pecuniary interests are where there are expected gains or losses that are not financial.

SCENARIO

Councillor A is concerned about whether or not she has a conflict of interest in a matter on the upcoming council agenda. This matter involves the council's decision on an access road, which is likely to significantly improve access to a key destination. Her brother owns a café in the same area. If the road is approved, she believes that it would improve the travel times to her brother's café, the amenity of the property, and possibly even visitor numbers. She seeks advice from Councillor B as to whether or not she may have a conflict. Councillor B is concerned that if Councillor A does step out, the council may not have a quorum for this matter.

Option 1 – Declare a pecuniary interest

Under section 51 of the Act, Councillor A's brother would be a 'close associate', so it is important that Councillor A considers whether or not there would be or be likely to be a financial advantage or disadvantage to her brother if the council decides in a particular manner. Section 52 of the Act provides a pecuniary interest exemption where a benefit is received in common with a substantial proportion of electors of the municipal area. If Councillor A has identified a pecuniary interest, she should follow the five-step process under Part 5 of the Act.

Option 2 – Declare a (non-pecuniary) conflict of interest

If Councillor A considers that there is no financial advantage or disadvantage that would constitute a pecuniary interest, Councillor A should consider whether or not there could be a (non-pecuniary) conflict of interest under her council's code of conduct. If there is such a conflict, Councillor A should follow the code of conduct requirements. Councillor A could seek advice via the general manager or seek her own legal advice, but ultimately it is her responsibility to ensure that she is meeting her legal obligations.

Option 3 – Participate in the discussion and vote on the matter

Councillor A needs to consider whether she could be committing an offence, rather than whether the council has a quorum. Participating in the discussion and vote on the matter is only advisable if Councillor A has determined that she has neither a pecuniary interest nor a non-pecuniary conflict of interest.

If there were a conflict of interest or pecuniary interest, participating in the discussion or vote to make up a quorum would leave Councillor A open to a complaint that she has breached her legislative obligations.

Pecuniary interests – section 49 of the Act

'A councillor or member has an interest in a matter if the councillor or member or a close associate would, if the matter were decided in a particular manner, receive, have an expectation of receiving, or be likely to receive, a pecuniary benefit or pecuniary detriment.'

Close associates can include members of your immediate family, as well as organisations of which you are an office-bearer of the governing body, a company in which you are a shareholder, your employer or your employees.

Examples:

- A councillor chairs a committee of council that has been asked to make a decision on a tender process for council catering. One of the tender bids is submitted by the councillor's sister-in-law's catering firm.
- A councillor participates in a council decision on a planning application for a brick and paver factory that, if established in its proposed location, is likely to significantly reduce the value of his property.

If you have a pecuniary interest, you need to follow the five-step process for managing pecuniary interests, as set out in Part 5 of the Act:

1. Declare an interest in the matter before discussion begins.
2. Do not participate in any discussion or vote on the relevant matter.
3. Leave the room where the meeting is being held when discussion turns to the relevant matter.
4. Advise the general manager in writing of the details of the interest within seven days of the meeting.
5. The general manager records the declaration in the meeting minutes, and the details in the register of interests.

Pecuniary interests that are not appropriately managed are offences under sections 48 and 48A of the Act. Complaints are investigated by the Office of Local Government. If there is sufficient evidence of an offence, complaints are referred to the Director of Public Prosecutions for prosecution in the Magistrates Court.

The penalties set out in sections 48 and 48A of the Act can include:

- a fine of up to 50 penalty units (approximately \$7,850) on conviction;
- dismissal from office; and
- being barred as a candidate for up to seven years.

No pecuniary interest is too small to be covered by the offence provisions. However, section 52 of the Act sets out a number of express exemptions to the pecuniary interest provisions.

It is important to note that you are in breach of the pecuniary interest requirements if you participated in a discussion and vote on a subject, even if you vote against your own interest. This rule protects the process of council decision-making and ensures that councillors' decisions are not influenced by people with interests who are participating in the discussion.

SCENARIO

A councillor owned land that shared a boundary with council land. The council was asked to make a decision on the construction of a fence on this shared boundary.

The councillor registered his pecuniary interest in the council's interest register and declared his pecuniary interest in the matter. He sought advice from the general manager regarding his participation.

Acting on the general manager's advice, the councillor did not participate in the vote on the matter, but remained in the meeting to make a personal statement prior to the vote.

The Director of Local Government received a complaint that the councillor had breached the pecuniary interest provisions in section 48 of the Act.

Upon investigation, the complaint was referred to the Director of Public Prosecutions and legal action was pursued against the councillor. The evidence in the case was not disputed; the councillor argued, in his defence, that the general manager had advised him he could speak on the subject. The councillor was found guilty but no conviction was recorded.

The councillor had a pecuniary interest in the matter and needed to follow the five-step process for managing pecuniary interest set out under section 48 of the Act. The councillor should have applied the principle 'If in doubt ... step out'. The councillor received advice from the general manager which he may have relied upon in good faith. However, error of law is not a defence. It is an individual councillor's responsibility to ensure that they comply with the requirements of the legislation.

Non-pecuniary interests

Non-pecuniary interests are managed through your council's code of conduct and the code of conduct provisions in the Act.

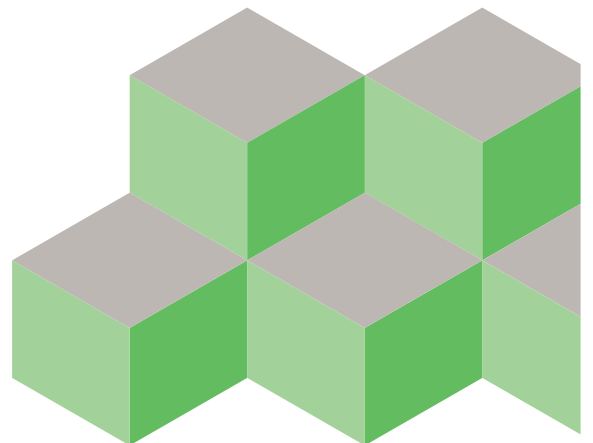
Non-pecuniary conflicts of interest may arise if:

- you are a member (not an office-bearer) of a club, organisation or association likely to be impacted by the council decision; and
- other emotional or social ties might influence your decision.

If a code of conduct complaint is substantiated, the Code of Conduct Panel may apply one or more sanctions including:

- a caution;
- a reprimand;
- a requirement to apologise;
- a requirement to attend counselling or a training course; or
- a suspension from performing or exercising the functions of a councillor for a period of up to three months.

Refer to page 18 for more details on codes of conduct.



Closed meetings

Your council may decide to close part of a meeting to the public. If it is a council meeting, the decision must be made by an absolute majority. If a council committee decides to close a meeting, it may do so by simple majority.

A meeting may be closed to the public only for the reasons outlined in regulation 15(2) of the Meeting Regulations.

These reasons are:

- personnel matters, including complaints against an employee of the council and industrial relations matters;
- information that, if disclosed, is likely to confer a commercial advantage or impose a commercial disadvantage on a person with whom the council is conducting, or proposes to conduct, business;
- commercial information of a confidential nature;
- contracts and tenders for the supply and purchase of goods and services and their terms, conditions, approval and renewal;
- the security of the council, councillors and council staff, or the property of the council;
- proposals for the council to acquire land or an interest in land or for the disposal of land;
- information of a personal and confidential nature or information provided to the council on the condition it is kept confidential;
- applications by councillors for a leave of absence;
- matters relating to actual or possible litigation taken, or to be taken, by or involving the council or an employee or the council; and
- the personal hardship of any person who is a resident in, or is a ratepayer in, the relevant municipal area.

Under regulation 15(3) of the Meeting Regulations, a meeting cannot be closed when council is acting as a planning authority, considering planning permits or dealing with matters relating to the sale of public land under section 178 of the Act.

The only instance in which your council may discuss matters under regulation 15(3) in closed session is where the matters to be considered relate to actual or possible legal action to be taken by or involving the council.

Regulation 15(8) requires councils, when in a closed meeting, to consider whether any discussions, decisions, reports or documents relating to that closed meeting are to be kept confidential or released to the public, taking into account privacy and confidentiality issues.



Useful resources

The Office of Local Government's website contains information sheets with further information related to this section, including:

- Council Meeting Procedures
- Access to Information for Councillors
- Pecuniary Interest.

The Local Government Act 1993 outlines legal requirements related to this section of the Good Governance Guide, including:

- promoting the interests of the community (section 20);
- consulting with the community (section 20 and section 66);
- information requests (section 28); and
- pecuniary interest (sections 48 - 56).

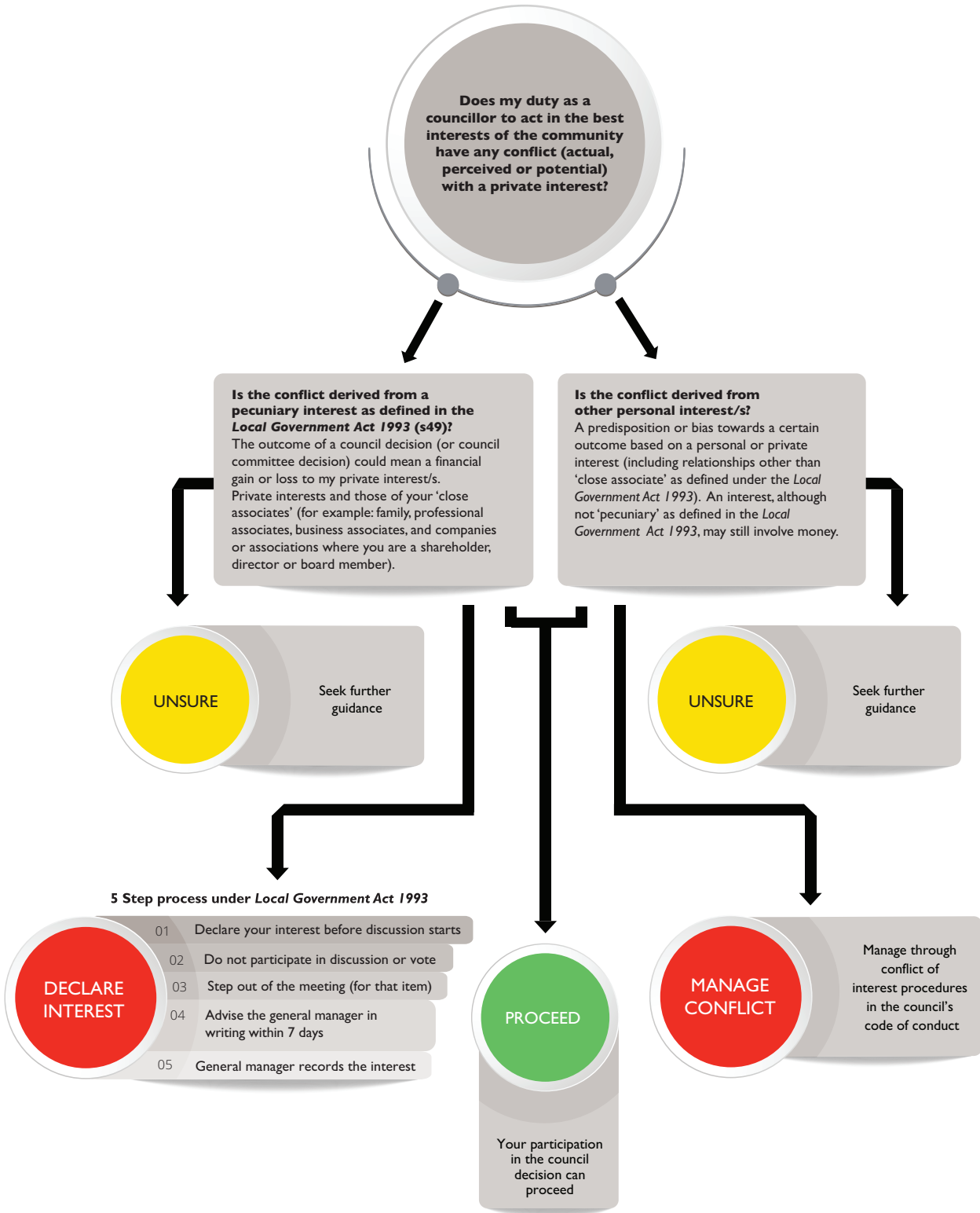
The Local Government (Meeting Procedures) Regulations 2015 provide a uniform and comprehensive set of rules for the conduct of council meetings, including key meeting procedure requirements.

Information in the form of written guides accompanying video scenarios on conflict of interest, both pecuniary and non-pecuniary, can be found on the Office of Local Government's website.

The Local Government Association of Tasmania's website contains the *Councillor Resource Kit*, which provides useful advice about council meetings.

The Integrity Commission Tasmania's website provides information about conflict of interest.

Figure 4: Managing pecuniary and non-pecuniary interests flowchart



WHAT DOES GOOD GOVERNANCE MEAN IN PRACTICE?

LEGISLATIVE COMPLIANCE

Good governance is law-abiding. This means that the decisions and conduct of councillors and councils must be consistent with relevant legislation or common law, and within the powers of local government.

In Tasmania, the key legislation that local government elected members and council officers must comply with is the *Local Government Act 1993* (the Act). The Act is designed to give councils the general power of competence. As a result, councils are generally free to do anything they believe will benefit communities, as long as it is in line with the law. At the same time, however, it provides a framework for good governance by setting specific requirements.

Besides the Act, there are numerous Acts of Parliament (State and Commonwealth) that councils are required to comply with.

These include, but are not limited to:

- ❑ *Land Use Planning and Approvals Act 1993;*
- ❑ *Building Act 2016;*
- ❑ *Food Act 2003;*
- ❑ *Vehicle and Traffic Act 1999;*
- ❑ *Roads and Jetties Act 1935;*
- ❑ *Right to Information Act 2009;*
- ❑ *Public Health Act 1997;*
- ❑ *Dog Control Act 2000;*
- ❑ *Burial and Cremation Act 2002;* and
- ❑ *Environmental Management and Pollution Control Act 1994.*

Legislative compliance is a key component of good governance. However, it is important to remember that good governance goes beyond acting in line with the requirements of the Act and other relevant Acts of Parliament. As such, you must have the capacity to make good judgements about the way you behave.

CONTINUOUS IMPROVEMENT

Continuous improvement promotes accountability and transparency. It is about being responsive, and striving for efficiency and effectiveness – key characteristics of good governance.

What is continuous improvement?

Continuous improvement is an ongoing cycle of evaluation and improvement. Following a continuous improvement process helps to refine the ways things are done to make them as effective and efficient as possible. In the long term, this leads to better use of resources and improved outcomes.

The continuous improvement process can be summarised as follows:

1. Collect and interpret data to assess and identify opportunities to improve performance.
2. Develop and implement an improvement plan.
3. Re-evaluate performance.

Benefits of continuous improvement can include:

- higher quality service provision;
- cost savings and potentially income generation;
- more efficient use of limited resources;
- enhanced partnerships with other councils; and
- increased capacity to operate effectively in a changing environment.

The continuous improvement process can be applied to the organisation as a whole, or individual departments, services or processes. Committing to continuous improvement builds the capacity of staff to think critically and systematically about the way they do the things they do, which leads to innovation.

Setting the scene for continuous improvement

Elected members play an important role in promoting continuous improvement: they can help to create an environment that supports continuous improvement and champion a continuous improvement culture. An important part of promoting a culture of continuous improvement is acknowledging and celebrating successes as they occur.

Elected members may choose to develop a continuous improvement strategy to provide the context for a framework and process to be developed by the administration.

Continuous improvement as a council

Other than setting the scene for continuous improvement and celebrating success, elected members are most likely to engage in the continuous improvement cycle when data becomes available that relates to council performance. Council annual reports are the primary source of information on council performance, as well as the Auditor-General's annual assessment of local government performance and position. Elected members can use this data to identify areas where there is scope to improve the performance of the council, and set priorities for performance improvement.

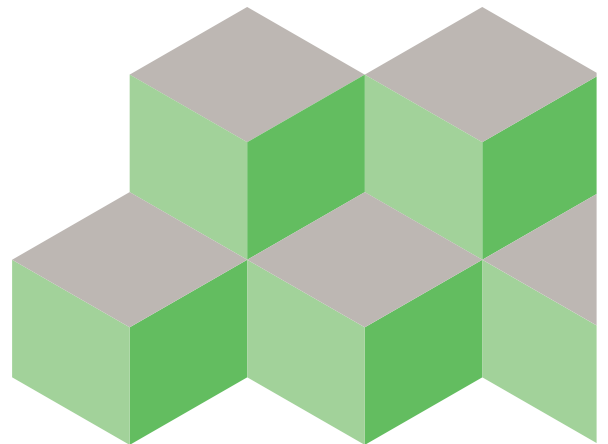
The City of West Torrens, South Australia, has a strong focus on continuous improvement. To find out more about the approach taken by the City of West Torrens, visit the Council's website.

Continuous improvement for individual elected members

Continuous improvement is also important at the individual elected member level. It is incumbent on you as an elected member to ensure that you are representing your community to the best of your capacity, and acknowledging where there are opportunities for you to enhance your knowledge and understanding.

It can be daunting when you are first elected as a member of a council to find that you are expected to be making decisions related to matters in which you have no previous experience. This is often the case when it comes to approving budgets, or making land-use planning decisions.

The Local Government Association of Tasmania's *Councillor Resource Kit* provides valuable information on the skills you require as an elected member and development opportunities.





3. GOOD GOVERNANCE AND LAND-USE PLANNING

INTRODUCTION

When is a council not a council? When it is a planning authority. Councils act as planning authorities when they are undertaking responsibilities in relation to the *Land Use Planning and Approvals Act 1993* (LUPAA). Under LUPAA, planning authorities are responsible for developing planning schemes, proposing amendments to planning schemes, supporting or rejecting changes proposed by others, and making decisions on individual developments in accordance with the planning scheme.

Planning can be one of the most important and challenging areas for councillors. Strategic land-use planning is a vital part of how a municipality will develop now and into the future. Statutory planning decisions are complex and often controversial. They demand high levels of knowledge and understanding about the processes, the statutory requirements and the different roles that a councillor has to play. There are specific requirements that councillors must adhere to when they are acting as part of the planning authority.

This section looks at how good governance applies to land-use planning:

- understanding your role as part of a planning authority;
- relationships between the planning authority and stakeholders;
- decision-making as part of a planning authority;
- complying with relevant legislation; and
- strategic land-use planning.

The Tasmanian Government has committed to significant reform in land-use planning, including the establishment of a single statewide planning scheme. More information on the progress of the planning reform is available at www.planningreform.tas.gov.au.

YOUR ROLE AS PART OF A PLANNING AUTHORITY

As a member of a planning authority, you play both a strategic role and a statutory role. Acting in a strategic capacity, you are required to develop planning schemes, propose amendments to planning schemes, and support or reject changes proposed to planning schemes. In a statutory capacity, you are required to make decisions on individual developments in accordance with the planning scheme.

When sitting as a planning authority, you will usually only consider planning applications that require an element of discretion in relation to the planning scheme, and where representations have been made. Otherwise the decision is delegated to a planning officer.

It is important to be aware that your roles as a councillor and as a member of a planning authority are different. The key difference relates to decision-making: as a member of a council, your decisions may be swayed by community feedback, but as a member of a planning authority, your decisions must be based on the provisions of the planning scheme.



RELATIONSHIPS BETWEEN PLANNING AUTHORITIES AND STAKEHOLDERS

As an elected member, you may feel conflicted when it comes to carrying out your responsibilities as a member of a planning authority. On the one hand, you were elected by the community to represent the community's views. On the other hand, when it comes to land-use planning matters, you are obliged to make decisions based on the municipal area's planning scheme.

Planning is concerned with the public good, not private interests. Planning schemes are developed to reflect community aspirations for the future of their municipal area. If you genuinely believe that the planning scheme is allowing inappropriate development, then the appropriate course of action is to seek changes to the planning scheme.

There are likely to be occasions when you have no option but to approve developments that are consistent with the planning scheme, even though there is considerable dissatisfaction in the community. In such situations, it is important to understand that by virtue of election to a council, you are also fulfilling a role and a responsibility in accordance with the State's planning legislation. Therefore, in carrying out that responsibility you are bound to take a broader and longer-term view of things – perhaps to the detriment of individual constituents.



You are bound by the law to make decisions that are in line with the planning scheme. You do not have the discretion to make a decision that does not align with the planning scheme.

You may need to help the community understand that the planning scheme aligns with the council's strategic plan, which was developed in consultation with the community. Therefore, the appropriate time for community members to provide input is through the council's strategic planning process.

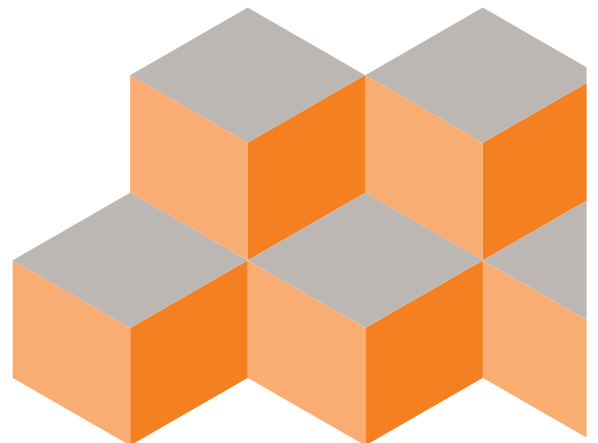
DECISION-MAKING AS PART OF A PLANNING AUTHORITY

There will often be occasions when you will consider a development application that is allowable under the council's planning scheme, but members of the community may object to the proposal. In this case, you must follow the planning scheme, whether or not it is politically palatable, and you must act with procedural fairness.



In making a decision, particularly if going against the planning officer's recommendation, the council must give reasons for its decision. These reasons are to be recorded in the council's minutes. Decisions and reasons must be based on the planning scheme.

Councils must make decisions on all types of applications within prescribed timeframes, unless the applicant agrees to an extension of time. Otherwise, the applicant may lodge an appeal on the basis that no decision has been made. If this occurs, the council must pay all the costs of parties to the appeal. There have been many cases where such appeals have cost councils many thousands of dollars. It is important that council decisions are based on the planning scheme and professional advice is provided by council's expert staff.



SCENARIO

A councillor's constituents are furious because he has voted in favour of a major apartment development, which many people in the community opposed. The constituents believe that they made their views very clear in meetings with the councillor, as well as during consultations with the applicant that the councillor chaired.

Councillors can often have multiple roles on planning applications, which can be difficult for constituents to understand. While councillors are obliged to consider their community's views, this doesn't mean that they can vote in favour of those views. Councillors have to make decisions based on whether the application is consistent with the local planning scheme. This can reduce the scope for councillors to vote according to their personal opinions or to reflect the views of their constituents.

To improve governance in this situation:

- councillors need to be clear what role they are playing in different stages of the application process;
- councillors should try to ensure that their constituents understand these roles; and
- councillors need to understand their administrative role as part of the local planning authority – councillors should ensure that they make decisions that are in line with the planning scheme.

COMPLYING WITH RELEVANT LEGISLATION

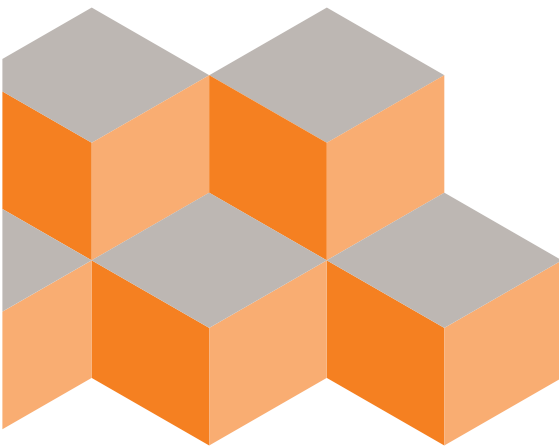
Land-use planning is the process of deciding in a broad sense which areas of land are available for what purpose. In Tasmania, it is described through the Resource Management and Planning System of Tasmania (RMPS).

The RMPS is a package of laws, policies and procedures that aims to ensure that all decisions about the use of land and natural resources in Tasmania are based on the same set of principles around ecologically sustainable development. The principle legislation is the *Land Use Planning and Approvals Act 1993*. Other relevant legislation is the *State Policies and Projects Act 1993* and the *Tasmanian Planning Commission Act 1997*.

To be effective, councils' planning schemes need to support and be consistent with state policies, planning directives and any relevant regional land-use strategy, as well as with other council policies and strategies, such as those providing infrastructure and open space.

STRATEGIC LAND-USE PLANNING

Land-use planning decisions are made in line with councils' planning schemes, which are developed to reflect the community's vision for the future of the municipal area. The development of planning schemes is a critical stage in the land-use planning process. This process takes into account the view of the public, as well as public transport needs, public safety and security, air, land and water quality, management of coastal and rural resources, and conservation of natural and cultural heritage.



APPENDIX

ARE YOU PRACTISING GOOD GOVERNANCE?

ARE YOU PRACTISING GOOD GOVERNANCE?

INDIVIDUALS

Are you practising good governance? To practise good governance you need a sound understanding of good governance and you need to act in a way that will promote a culture of good governance within your council.

COUNCILS

Is your council practising good governance? For a council to practise good governance there needs to be a culture of good governance, processes that support good governance, processes to identify where good governance is lacking and motivation to improve governance.

PRACTISING GOOD GOVERNANCE AS AN INDIVIDUAL

The following checklist²¹ is designed to help you evaluate your understanding of good governance and assess whether your behaviour aligns with good governance practices. If you answer 'not sure' or 'disagree' to any of the following questions, you could refer to resources available on page 4 and 5 to help you improve your governance capacity.

MAINTAINING HIGH ETHICAL STANDARDS	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
I am familiar with, endorse and comply with relevant legislation, the council's code of conduct and council policies.					
I act in the best interests of the community.					
I lead by example.					
My decisions and actions are transparent and accountable.					

UNDERSTANDING YOUR ROLE AND THE ROLE OF OTHERS	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
I understand the role of the: <ul style="list-style-type: none"> <input type="checkbox"/> council <input type="checkbox"/> Mayor <input type="checkbox"/> Deputy Mayor <input type="checkbox"/> General Manager <input type="checkbox"/> Minister responsible for local government <input type="checkbox"/> Office of Local Government <input type="checkbox"/> Director of Local Government <input type="checkbox"/> Local Government Association of Tasmania <input type="checkbox"/> council administration. 					
I attend all council meetings and relevant committee meetings (except where I have a valid reason not to).					

²¹ The self-assessments have been adapted from the City of Joondalup's Governance Framework.

BUILDING GOOD RELATIONSHIPS	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
I have a respectful relationship with my colleagues and stakeholders.					
I listen and give due consideration to the views of others.					
I do not engage in bullying or harassment.					

EFFECTIVE STRATEGIC PLANNING AND MONITORING PERFORMANCE	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
I actively participate in strategic planning.					
I listen to the views of the community when I engage in strategic planning.					
I understand the importance of integrated strategic and financial asset management plans.					

ROBUST RISK MANAGEMENT	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
I understand the importance of risk management and I understand the risk management process.					
I am familiar with my council's risk management policy.					

ARE YOU PRACTISING GOOD GOVERNANCE?

FAIR AND TRANSPARENT DECISION-MAKING	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
I engage with the community to help inform my decision-making.					
I follow the five-step decision-making process.					
I am aware of and manage my conflicts of interest.					

LEGISLATIVE COMPLIANCE	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
I am aware of my obligations under the <i>Local Government Act 1993</i> and other relevant Acts of Parliament.					

GOOD GOVERNANCE AND LAND-USE PLANNING	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
I understand the role of councils as planning authorities.					
I understand my role as a member of a planning authority.					
I understand the importance of the links between strategic planning and land-use planning.					

Mayors - setting the scene for continuous improvement

As mayors, you have additional responsibilities which, when carried out effectively, can contribute to good governance. Use this checklist to help you understand whether you act in a way that promotes good governance.

GOVERNANCE PRACTICES UNIQUE TO MAYORS	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
I act as a leader of the community.					
I am a fair and responsible spokesperson for the council.					
I understand the importance of my relationship with the general manager, and I work hard to ensure a seamless link between elected members and the administration.					
I promote good governance by and within the council.					
I understand my role as principal officer under section 32 of the <i>Integrity Commission Act 2009</i> .					
I ensure that all councillors have the opportunity to be heard and speak without interruption at council meetings.					
During council meetings, I ensure that debate stays focused and I help to clarify any misunderstandings.					
I ensure that meetings are chaired, and matters are discussed and debated, in a structured and effective way.					
I effectively manage any poor behaviour that arises at council meetings, including bullying and harassment.					
I provide fair summaries of debate and help elected members come to a decision.					
I make sure that the council addresses all of the appropriate strategic issues.					
I make sure there is sufficient time to discuss the important issues on the agenda.					

PRACTISING GOOD GOVERNANCE AS A COUNCIL

The following checklist²² will give you a basic understanding of whether your council has the culture and processes to support good governance.

MAINTAINING HIGH ETHICAL STANDARDS	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
Elected members display integrity and impartiality in their decision-making.					
The council acts in the best interests of the community.					
Elected members lead by example.					
The council actively promotes transparency and accountability.					
Elected members respect the council's code of conduct.					
The council reviews the code of conduct within three months of an ordinary election (as required by the <i>Local Government Act 1993</i>).					

UNDERSTANDING YOUR ROLE AND THE ROLE OF OTHERS	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
Elected members understand their role, and the roles of the Mayor and the General Manager.					
Elected members come to meetings well prepared and participate effectively in debate and discussions.					
The council is not drawn into operational management matters.					
The council is effective in monitoring and evaluating the performance of the General Manager.					

²² The self-assessments have been adapted from the City of Joondalup's Governance Framework.

BUILDING GOOD RELATIONSHIPS	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
The council communicates effectively with its community.					
The Mayor liaises effectively with the General Manager.					
The relationship between the Mayor and elected members is effective in enabling the council to fulfil its duties and responsibilities.					
The relationship between the council and the General Manager is effective in enabling the council to fulfil its duties and responsibilities.					
Elected members are respectful towards one another, members of the community and the council administration.					
The council has a protocol in place to guide engagement between elected members and the administration.					

ARE YOU PRACTISING GOOD GOVERNANCE?

EFFECTIVE STRATEGIC PLANNING AND MONITORING PERFORMANCE	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
The council has been effective in setting the overall direction of the council area.					
The council is effective in considering and determining all major policy issues.					
The council monitors appropriate financial and non-financial performance indicators.					
The council regularly inputs into strategy development and review.					
Council meetings address the key issues facing the community.					

ROBUST RISK MANAGEMENT	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
The council has a risk management policy.					
The council has a clear understanding of business risk.					
The council balances risk and opportunity as part of the policy development and decision-making processes.					
The council identifies, analyses, evaluates, treats, monitors and communicates risks in a way that will maximise the potential to achieve goals and objectives, and minimise the potential for harm or loss.					

FAIR AND TRANSPARENT DECISION-MAKING	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
There are clear expectations around setting the meeting agenda, circulating papers, and decision-making protocols.					
The council gives due consideration to advice provided by the administration.					
Elected members are committed to the principle of natural justice.					
Elected members make decisions that are in the best interest of the community.					
The council engages in robust debate at council meetings.					
Elected members manage their conflicts of interest.					
The council uses closed meetings appropriately.					
The council has a community engagement policy.					

LEGISLATIVE COMPLIANCE	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
Elected members are aware of their responsibilities under the <i>Local Government Act 1993</i> and other relevant Acts of Parliament.					
The council monitors compliance with legislative requirements.					
The council has a register of delegations.					

CONTINUOUS IMPROVEMENT	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
The council consciously manages its performance and pursues continuous improvement.					
The council has an elected member training and development policy.					
Elected members' training and development activities are reported in the annual report.					
The council's audit panel plays a key role in ensuring that the council's activities meet requirements.					

CONTINUOUS IMPROVEMENT	STRONGLY AGREE	AGREE	NOT SURE	DISAGREE	STRONGLY DISAGREE
Elected members understand the different roles they play as community representatives and members of a planning authority.					
Elected members understand the role of the council as a planning authority.					
The council aligns its land-use planning with the strategic plan.					

ARE YOU PRACTISING GOOD GOVERNANCE?

These checklists are just a starting point.

There are a number of ways that you and your elected member colleagues can assess your council's governance performance to develop a more detailed understanding:

- ❑ Internal review – An internal review might involve reports (prepared by the council administration) that assess council performance across the range of governance components and are considered by elected members at a workshop or meeting. This would be a useful step in starting to develop a picture of the effectiveness of your council's governance culture and processes.
- ❑ Governance audit by an external consultant – Your council may wish to engage the services of an external consultant to provide an objective perspective on governance arrangements.
- ❑ Benchmarking/best practice partnerships – Your council may be interested in working in partnership with a similar council to compare practices and identify opportunities to improve processes.
- ❑ Community surveys – Your council may consider developing a community survey to understand what the community thinks of its council's governance.
- ❑ Feedback – Your council may be able to identify shortcomings in governance practices through feedback received from residents who lodge complaints, negative press, or findings from the audit panel.

Assessing your council's governance processes can help to build an understanding of where there may be opportunities to improve. Improving governance within councils is a simple continuous improvement process. Councils should take time to assess their governance performance, identify opportunities to improve, develop a strategy to implement improvements, implement the strategy and reassess governance performance.

Refer to page 4 for a suite of resources that may be useful to your council as you enhance your governance performance.



GLOSSARY

Accountability

A council is accountable when it is able to explain and justify its decisions.

Administration

The paid staff of the council including the general manager.

Alderman

An individual who is elected to a city council.

Annual plan

Annual plans explain the activities that a council will undertake in order to achieve the objectives set out in its strategic plan. A council is to prepare an annual plan for the municipal area for each financial year.

Code of conduct

Each council is required to adopt a model code of conduct. The council's code of conduct defines the way that elected members are expected to behave in relation to all aspects of their role.

Conflict of interest

A conflict of interest arises from a conflict between the performance of a public duty and a private or personal interest.

Council

A group of people elected to govern the affairs of a municipal area.

Councillor

An individual who is elected to council.

Council committee

A committee established by a council to assist in carrying out statutory functions.

Council meeting

The elected members (councillors) meeting formally as council.

Council officer

A paid member of staff (see administration above).

Director of Local Government

The Director of Local Government is responsible for the administration of the *Local Government Act 1993*.

Elected member

See councillor above.

Equitable decision-making

Fair and impartial decision-making.

Estimates

The general manager must prepare estimates of the council's revenue and expenditure for each financial year.

Estimates are to contain details of the following:

- the estimated revenue of the council;
- the estimated expenditure of the council;
- the estimated borrowings by the council;
- the estimated capital works of the council; and
- any other detail required by the Minister responsible for local government.

Estimates for a financial year must be adopted by the council before 31 August in that financial year.

Ethics

Standards of right and wrong that prescribe what people ought to do.²³

General manager

The general manager is responsible for the day-to-day operations of the council administration. The general manager is appointed by, and accountable to, the elected members.

Good governance

Good governance in local government is when elected members:

- act with the highest ethical standards;
- understand their role and the role of others;
- foster positive relationships;
- show a commitment to risk management;
- engage in effective strategic planning;
- follow a transparent and accountable decision-making process;
- understand and abide by the law; and
- have good judgement.

These behaviours result in organisations that act in the best interest of the community and are accountable, transparent, law-abiding, responsive, equitable, inclusive, effective, efficient, participatory and consensus oriented.

Governance

Governance is the processes and culture of decision-making that guide the activities of an organisation beyond its basic legal obligations.

²³ Definition courtesy of the Integrity Commission Tasmania

Integrity

To be consistently transparent, accountable, reliable, trustworthy and honest.²⁴

Local government

'A local government' is a corporate entity for each municipal area, which is made up of elected members (councillors) and the administration (council officers).

'Local government' is a collective reference to the sector comprising all the local governments.

Local Government Act 1993

This is the Tasmanian Government Act that is the legal framework for local government.

Long-term financial management plans

Long-term financial management plans outline how a council will fund the projects that are identified in its strategic plan. Long-term financial management plans must cover at least a 10-year period.

Long-term asset management plans

Long-term asset management plans describe the process of planning, purchase, operation, maintenance and disposal of assets. They take into account desired service outcomes, the durability of assets, and the available financial resources, and enable councils to meet their service delivery objectives efficiently and effectively.

Minister

The Minister responsible for local government plays an important role at a strategic level, and is responsible for ensuring that councils are meeting their obligations under the *Local Government Act 1993*.

Municipal area

The geographic area of a local government area.

Planning authority

A council is a planning authority when it is undertaking its responsibilities in relation to the *Land Use Planning and Approvals Act 1993*.

Risk

The effect of uncertainty on council objectives.

Risk management

Coordinated activities to direct and control a council with regard to risk.

Special committee

A special committee of the council as defined in section 24 of the *Local Government Act 1993*. Councils may delegate some decision-making powers to these committees, which can include just councillors or any combination of councillors, council officers and other people.

Statutory planning

Statutory planning involves administering the planning scheme and assessing permit applications.

²⁴ Definition courtesy of the Integrity Commission Tasmania.



GOOD GOVERNANCE GUIDE

THE OFFICE OF LOCAL GOVERNMENT
DEPARTMENT OF PREMIER AND CABINET

GPO Box 123
Hobart TAS 7001
P (03) 6232 7022

Email: localgovernment@dpac.tas.gov.au

Visit: www.dpac.tas.gov.au/divisions/local_government

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The Office of Local Government



NORTHERN MIDLANDS COUNCIL

POLICY MANUAL

CODE OF CONDUCT FOR ELECTED MEMBERS

Originated Date:	Adopted 5 June 2006 – Min Ref 187/06 (as Policy 47)
Amended Date/s:	Amended 17 September 2007 – Min. No. 297/07 Amended 17 November 2008 – Min. No. 261/08 Endorsed 18 October 2010 – Min. No. 273/10 Amended 20 August 2012 – Min. No. 209/12 Amended 15 October 2012 – Min. No. 274/12 Amended 22 June 2015 – Min. No. 159/15 Amended 16 May 2016 – Min. No. 126/16 Amended 18 February 2019 – Min. No. 037/19 Amended 20 January 2020 – Min. No. 009/20 Endorsed 30 January 2023 – Min. No. 23/026
Applicable Legislation:	Part 3, Division 3A - <i>Local Government Act 1993</i>
Objective	This Code of Conduct provides Councillors with guidelines for their conduct in their duty as an elected member.
Administration:	Governance
Review Cycle/Date:	Within 3 months following a Council election. Next review 2026.

1. PURPOSE

This Code of Conduct sets out the standards of behaviour expected of the councillors of the Northern Midlands Council, with respect to all aspects of their role.

As leaders in the community, councillors acknowledge the importance of high standards of behaviour in maintaining good governance. Good governance supports each councillor's primary goal of acting in the best interests of the community.

Councillors therefore agree to conduct themselves in accordance with the standards of behaviour set out in the Code of Conduct.

This Code of Conduct incorporates the Model Code of Conduct made by Order of the Minister responsible for local government.

2. APPLICATION

This Code of Conduct applies to a councillor whenever he or she:

- conducts council business, whether at or outside a meeting;
- conducts the business of his or her office (which may be that of mayor, deputy mayor or councillor); or
- acts as a representative of the Council.

A complaint or failure to comply with the provisions of the Code of Conduct may be made where the councillor fails to meet the standard of conduct specified in the Model Code of Conduct.

3. STANDARDS OF CONDUCT

The model code of conduct provides for the following eight standards of conduct:



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DECISION MAKING

A councillor is to bring an open and unprejudiced mind to all matters being considered in the course of his or her duties, so that decisions are made in the best interests of the community.

CONFLICT OF INTEREST

A councillor effectively manages conflict of interest by ensuring that personal or private interests do not influence, and are not seen to influence, the performance of his or her role and acting in the public interest.

USE OF OFFICE

A councillor uses his or her office solely to represent and serve the community, conducting himself or herself in a way that maintains the community's trust in the councillor and the Council as a whole.

USE OF RESOURCES

A councillor uses Council resources and assets strictly for the purpose of performing his or her role.

USE OF INFORMATION

A councillor uses information appropriately to assist in performing his or her role in the best interests of the community.

GIFTS AND BENEFITS

A councillor adheres to the highest standards of transparency and accountability in relation to the receiving of gifts or benefits, and carries out his or her duties without being influenced by personal gifts or benefits.

RELATIONSHIPS WITH COMMUNITY, COUNCILLORS AND COUNCIL EMPLOYEES

A councillor is to be respectful in his or her conduct, communication and relationships with members of the community, fellow councillors and Council employees in a way that builds trust and confidence in the Council.

REPRESENTATION

A councillor is to represent himself or herself and the Council appropriately and within the ambit of his or her role, and clearly distinguish between his or her views as an individual and those of the Council.

4. PRINCIPLES OF GOOD GOVERNANCE

By adopting this Code of Conduct, councillors commit to the overarching principles of good governance by being:

ACCOUNTABLE

Explain, and be answerable for, the consequences of decisions made on behalf of the community it represents and serves.

TRANSPARENT

Ensure decision making processes can be clearly followed and understood by the community.

LAW-ABIDING

Ensure decisions are consistent with relevant legislation or common law, and be within the powers of local government.

RESPONSIVE

Always try to represent and serve the needs of the entire community while balancing competing interests in a timely, appropriate and responsive manner.



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EQUITABLE

Provide all groups with the opportunity to participate in the decision making process and treat all groups equally.

PARTICIPATORY AND INCLUSIVE

Ensure that anyone affected by or interested in a decision has the opportunity to participate in the process for making that decision.

EFFECTIVE AND EFFICIENT

Implement decisions and follow processes that make the best use of the available people, resources and time, to ensure the best possible results for the community.

CONSENSUS ORIENTED

Wherever possible, take into account the different views and interests in the community, to reach a majority position on what is in the best interests of the whole community, and how it can be achieved.

6. COMPLYING WITH THE CODE OF CONDUCT

Tasmanian councillors are required to comply with the provisions of the Council's Code of Conduct while performing the functions and exercising the powers of his or her office with the Council.

The Code of Conduct incorporates the Model Code of Conduct (made by order of the Minister responsible for local government) and may include permitted variations included as attached schedules to the Model Code of Conduct.

7. MAKING A CODE OF CONDUCT COMPLAINT

A person may make a code of conduct complaint against one councillor in relation to the contravention by the councillor of the relevant council's code of conduct.

A person may make a complaint against more than one councillor if the complaint relates to the same behaviour and the same code of conduct contravention.

Code of conduct complaints are lodged with the general manager of the relevant council and must comply with legislative requirements, as outlined below.

A complaint may not be made by more than two complainants jointly.

A code of conduct complaint is to –

- be in writing;
- state the name and address of the complainant;
- state the name of each councillor against whom the complaint is made;
- state the provisions of the relevant code of conduct that the councillor has allegedly contravened;
- contain details of the behaviour of each councillor that constitutes the alleged contravention;
- be lodged with the general manager within six months after the councillor or councillors against whom the complaint is made allegedly committed the contravention of the code of conduct; and
- be accompanied by the code of conduct complaint lodgement fee.

Once satisfied that the code of conduct complaint meets prescribed requirements, the General Manager forwards the complaint to the Code of Conduct Panel.

The code of conduct complaint lodgement fee is prescribed under Schedule 3 (Fees) of the