

Attachment 1 – Survey submission to Local Government Reforms 2024 – Model Councillor Code of Conduct

1. Should the Standards of Conduct be strengthened in the Model Code?

The standards of conduct are set out in Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 and define specific acts and omissions of behaviour that apply to all councillors in all councils.

- Yes
 No

2. Should the Model Code set out the conduct expected of councillors as public officials?

Councillors hold public office and are elected to represent their municipal community by participating in the decision making of councils.

- Yes
 No

2.1 Select the behaviours you think should be included: **Required**

Listed are some of the common behaviours included in councillor codes of conduct. To provide your own, select other. Please select as many options you think should be included.

- working together and being accountable to achieving the aspirations and best interests of the community
- being prepared when coming together to discuss council business
- engaging in an open and respectful way towards each other's viewpoints without shutting down or denigrating the contributions of others
- always acting with the highest levels of integrity, care and diligence to promote the best interests of the community as a whole
- exercising reasonable care and diligence in performing the functions of councillors
- complying with all relevant laws, including Federal, State, or Local Laws
- not exercising undue influence on other councillors, members of council staff or members of the public to gain or attempt to gain an advantage
- not seeking preferential treatment in their private personal or business dealings with the council
- exercising their duties in a way that is compatible with the human rights set out in the Charter of Human Rights and Responsibilities

3. Should the Model Code require councillors to treat other councillors, council staff and members of the community with dignity, fairness, objectivity, courtesy, and respect?

The current standards of conduct require councillors to treat other councillors, members of council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect.

- Yes
- No

3.1 Should the Model Code expand on the conduct expected of councillors when they are interacting with: *Required*

The current standards of conduct require councillors to treat other councillors, members of council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect. Many councillor codes of conduct also include clear expectations to guide councillors in their interactions with others. Please select as many options you think should be included.

- other councillors
- council staff
- members of the community
- other: [please specify]

3.2 Should the Model Code set out the conduct required in relation to any of the following: *Required*

Many councillor codes of conduct also set out the positive and preventative steps required under Acts like the Charter of Human Rights and Responsibilities Act 2006, Equal Opportunity Act 2010, Gender Equality Act 2020 and Child Wellbeing and Safety Act 2005. Please select as many options you think should be included.

- occupational health and safety for councillors, council staff, and community members
- bullying
- discrimination and victimisation
- sexual harassment
- gender equality
- respect for Traditional Owners
- Cultural awareness
- LGBTQIA+ inclusiveness
- Child Safe Standards
- other: [please specify]

4. Should the Model Code provide that councillors must do everything reasonably necessary to ensure that they perform the role of a councillor effectively and responsibly?

The current standards of conduct require councillors to do everything reasonably necessary to ensure that the councillor performs the role of a Councillor effectively and responsibly.

- Yes
- No

4.1 Should this be clearly set out in the Model Code in relation to any of the following: Required

The current standards of conduct require councillors to do everything reasonably necessary to ensure that the councillor performs the role of a Councillor effectively and responsibly. Some councillor codes of conduct also include conduct relating to performing the role of councillor, including those listed. Please select as many options you think should be included.

- making sound decisions
- attending meetings
- using council resources appropriately
- not performing any responsibilities or functions of the Chief Executive Officer
- acknowledging and supporting the role of the mayor and council
- becoming informed about matters subject to a council decision by reading briefing materials and participation in council briefings
- considering the diversity of interests and needs of the municipal community
- planning processes and regulatory functions
- other: [please specify]

5. Should the Model Code provide that councillors must diligently and properly comply with council policies for managing interactions with council staff and councillor expenses and the council's Governance Rules?

The current standards of conduct require councillors to diligently and properly comply with council policies for managing interactions with council staff and councillor expenses and the council's Governance Rules.

- Yes
- No

5.1 Should the Model Code also require councillors to comply with council policies and processes relating to: *Required*

The current standards of conduct require councillors to diligently and properly comply with council policies for managing interactions with council staff and councillor expenses and the council's Governance Rules. Listed are the policies council's are required to have in place. Please select the ones you think are appropriate to have sanctions applied to through the Model Code. Please select as many options you think should be included.

- gifts and benefits (including donations)
- private interests
- conduct during elections
- complaints
- fraud and corruption
- the employment and remuneration of the Chief Executive Officer
- community engagement
- public transparency
- privacy and data protection, and confidentiality
- procurement
- other: [please specify]

6. Should the Model Code detail the behaviour that would bring discredit upon the council or deliberately mislead the council or the public? Required

The current standards of conduct require councillors to ensure that their behaviour does not bring discredit upon the council and not deliberately mislead the council or the public about any matter related to the performance of their public duties.

- Yes
- No

6.1 Should this include conduct in relation to: Required

Some Councillor Codes of Conduct also reference other council policies and procedures, including council gifts and benefit policies, election period policies, social media policies, complaints policies and fraud and corruption policies.

- communicating council decisions
- social media use
- the use and disclosure of council information
- other: [please specify]

7. Should the Model Code encourage the reporting of improper conduct to the relevant authorities, including corruption conduct, breaches of the Local Government Act 2020 and public interest disclosures? Required

Complaints about breaches of the Local Government Act 2020 can be made to the Local Government Inspectorate. Complaints about serious corruption or wrongdoing by a public officer can be made to IBAC.

- Yes
- No

8. Should the Model Code include conduct relating to existing offences under the Local Government Act 2020, such as directing council staff, use of office for personal advantage and failing to declare conflicts of interest?

Most councillor codes of conduct reference conduct that constitutes an offence under the Local Government Act 2020 relating to misuse of position, directing a member of council staff, confidential information, and conflict of interest. Some codes also provide useful protocols to assist councillors to comply with these requirements.

- Yes
- No

9. Which of the following should the Model Code not limit or restrict? Required

The current standards of conduct provide that nothing in the standards is intended to limit, restrict or detract from robust public debate in a democracy to ensure that issues can be properly debated without risking a misconduct finding. Please select as many options you think should be included.

- robust public debate carried out in a respectful manner
- a reasonable direction given by the chair of a council or delegated committee meeting
- a reasonable direction in relation to behaviour that poses a risk to health or safety
- other: [please specify]

10. Should the Model Code make clear that robust political debate does not include

: Required

Councils can sometimes become heightened political environments. This can create a number of challenges for councils. The focus of debate should always be on the issues and never on personal criticisms or unreasonable criticisms of council decisions. Please select as many options you think should be included.

- a refusal to participate in a decision-making process on the grounds that it is invalid, corrupt or otherwise inappropriate
- unreasonable criticism of the decision-making process that led to a council decision
- criticism of a Council decision after it has been made
- suggestion without evidence that an individual participant in the decision-making process has a conflict of interest or reasonable apprehension of bias
- other: [please specify]

11. Should there be a uniform process set out in the Regulations for councils to manage complaints about alleged breaches of the Model councillor Code of Conduct in the first instance?

Even though councils are not required to have internal resolution procedures, all 79 councillor codes of conduct include supplementary processes for managing interpersonal disputes and alleged breaches of the code outside the formal councillor conduct framework.

- Yes
- No

12. Which of the following steps should be included in an internal dispute resolution process? Required

Even though councils are not required to have internal resolution procedures, all 79 councillor codes of conduct include supplementary processes for managing interpersonal disputes and alleged breaches of the code outside the formal councillor conduct framework. Listed are the dispute resolution processes most commonly included in councillor codes of conduct. Please select as many options you think should be included.

- councillors are encouraged to attempt to resolve disputes themselves in the first instance
- a councillor may request that the mayor (or the deputy mayor if the mayor is a party to the dispute) convene a meeting between the parties to the dispute to attempt to facilitate a resolution
- a councillor may request that the mayor (or the deputy mayor if the mayor is a party to the dispute) act as a mediator to attempt to find an agreed way forward between the parties
- a councillor may request that the CEO appoint an external mediator to attempt to find an agreed way forward between the parties
- other: [please specify]

13. Should guidance be provided to support councillors to understand and comply with the Model Code?

Currently there is no supporting guidance to help councillors understand the councillor code of conduct and how it relates to the role of a councillor under the Local Government Act 2020.

- Yes
- No

14. Which of the following should be included in a guide for councillors? Required

Currently there is no supporting guidance to help councillors understand the councillor code of conduct and how it relates to the role of a councillor under the Local Government Act 2020. Having a consistent Model Code provides an opportunity to develop additional guidance materials to support councillors. Please select as many options you think should be included.

- the roles and responsibilities of councillors, mayors, and the CEO
- examples of what may constitute a breach of the Model Code
- what is considered to be robust public debate
- councillor conduct framework application processes
- the role of integrity bodies
- occupational health and safety for councillors, council staff and community members
- other: [please specify]

15. Are there any other matters you would like to see covered in the Model Code?

The Model Code still needs to ensure that it meets the principles of the Local Government Act 2020. It is important to highlight the hierarchy of legislation, the Code and various Council policies.

16. Are you: Required

This survey is anonymous but your response to this question will allow us to assess the segment of the population that has responded to the survey and design the next consultation to address any gaps.

- mayor
- deputy mayor
- councillor
- council CEO
- council staff
- peak body representative [please list peak body]
- community member
- other: [please specify]