

SSROC Good Governance Guide

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Introduction

Good governance is about the processes for making and implementing decisions. It's not about making 'correct' decisions, but about the best possible process for making those decisions. Good decision-making processes, and therefore good governance, share several characteristics. All have a positive effect on various aspects of local government including policies, meeting procedures, service quality protocols, councillor and officer conduct, role clarification and good working relationships.

The establishment of a Good Governance Guide for councils was recommended by the Final Report of the Independent Review Panel. This Guide has been modelled on the Office of Local Government's Councillor Handbook (Division of Local Government, 2012) with emphasis added in certain sections to respond to the recommendations of the Independent Review Panel.

The purpose of this guide is to establish a framework of good governance for NSW councils that can be used during the induction programs for new and returning councillors. The Guide provides Councillors an overview of the important elements of good governance that leads to effective decision making.

This Guide aims to complement not replace Council's existing policies and procedures with an emphasis on building and maintaining effective working relationships between Councillors, the general manager and staff.

The Independent Review Panel's Final Report (Independent Local Government Review Panel, 2013) discussed the need for a Good Governance Guide as shown below:

9.7 A Good Governance Guide

It is very difficult, if not impossible, to legislate for sound working relationships and transparent, well-informed decision-making. For example, submissions to the Panel have argued that the Code of Conduct has already become too convoluted.

Recent amendments to the Local Government Act have introduced a power for the Minister to issue 'performance improvement orders' in accordance with pre-determined performance improvement criteria; to appoint temporary advisers to help councils make the required changes; and, if necessary, to suspend an elected council for up to 6 months rather than use the current dismissal power. The Panel supports these changes provided that they are genuinely focused on clearly defined needs for improvement, and that adequate support is provided to facilitate change. 'Good governance orders' might be a more appropriate title. DLG, LGNSW and others have already developed considerable amounts of advisory and educational material that could be assembled into a 'Good Governance Guide'. This could underpin the proposed performance improvement criteria and the work of temporary advisers, as well as consolidating advice on good governance practices generally.

A key objective of such a Guide should be to help build effective working relationships around the respective roles and responsibilities of the governing body, mayors, councillors and General Manager. Deficiencies in those relationships, and in the checks and balances necessary to foster mutual respect and collaboration, are usually at the heart of dysfunctional councils. Detailed guidance and mentoring or peer support is needed to raise the general standard across NSW local government.

The proposed Guide should also include advice on how to undertake the self-assessment processes proposed in Box 20. Such processes are commonplace in private sector boards and

various assessment models could be adapted to local government. The South Australian local government association is currently developing similar materials for its member councils. Good governance is an area in which LGNSW should be playing a strong role, building on its programs for councillor development and mentoring of mayors.

Recommendations for Political Leadership and Good Governance	
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30	<i>Develop a Good Governance Guide as a basis for 'performance improvement orders' and to provide additional guidance on building effective working relationships between the governing body, councillors, mayors and General Managers (9.7)</i>
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Box 20: Councillor Development

- Require the governing body of a council to undertake a periodic audit and self-assessment of its skills base against its role and strategic objectives*
- Require individual councillors to undertake similar self-assessments (this could be a simple on-line process)*
- Require all councils to prepare, resource and implement a Councillor Development Plan linked to each 4-year Delivery Program and in accordance with a set of principles and professional development targets established jointly by LGNSW and DLG*
- Introduce a mandatory component including an extended induction program for new councillors and 'update' modules for re-elected councillors, in both cases to be completed within 3 months after each election*
- Also require councillors to complete a prescribed number of optional professional development activities during each term – such activities to be selected from a list of approved courses and other options.*

1. ROLES, RESPONSIBILITIES AND RELATIONSHIPS

Underlying Principles

- The role of the Council is to set the broad strategic direction for the community;
- The role of the Mayor is to chair meetings of the Council, exercise urgent policy-making functions and carry out civic and ceremonial functions of the mayoral office.
- The role of a Councillor is to represent the interests of the community, providing leadership, and communicating and promoting the interests of the council to other levels of government and relevant bodies; and
- The role of the General Manager is to implement council decisions without undue delay and carry out functions imposed by legislation.

The importance of trust and mutual respect within the council team and between council and senior management cannot be underestimated. Councillors can have a major and positive impact on the health and well-being of the whole community. A good working relationship between councillors, the mayor, the general manager and other council staff is fundamental to an effective council.

1.1 Role of a councillor

The Act divides the role of a councillor into two broad categories:

1. As a member of the governing body to:

- direct and control the affairs of the council in accordance with the Act
- develop the Community Strategic Plan and other long term planning documents
- allocate ratepayers' money efficiently in the best interest of the community
- make sound financial decisions to ensure the long term sustainability of council
- develop and review council's policies and objectives
- review council's performance and its delivery of services

As members of the governing body, and in the interests of ensuring the organisation operates effectively to achieve the best outcomes for the community, councillors should endeavour to work constructively with council staff who are responsible for implementing council decisions.

2. As an elected person to:

- make decisions in the best interest of the whole community and not a particular interest group
- represent the interests of all residents and ratepayers
- provide leadership and guidance to the community
- facilitate communication between the community and the council.

What does a councillor do as a 'member of the governing body'?

One of the most important roles of a councillor is to participate in policy decision-making on behalf of the community. This involves working as part of a team of councillors to make

decisions and policies that guide the activities of the council. Policies can be defined as the principles and intent behind the programs that a council implements.

This includes setting the broad, strategic direction for the local community. To do this councillors have to understand their community, its characteristics and needs, the types of services required to meet these needs. The key responsibilities of the council's governing body in working with and through the general manager are to:

- prepare and adopt the Community Strategic Plan, Delivery Program and Operational Plan
- develop the policy framework for their council in relation to the council's regulatory functions
- develop and oversee the delivery of the council's strategic plans that shape the future direction for the local area
- make sure that taxpayers' money is spend in the best interest of the community
- make sure that the council is fulfilling its regulatory functions appropriately by developing policies
- make sure that the general manager, through performance measurement in his or her employment contract, carries out all of council's resolutions, policies, plans and strategies appropriately.
- provide accountability to the community by reporting on the outcomes of council's activities
- monitor and review the performance of the council.

In doing all of these things councillors must consider the Council's Charter included in Section 8 of the Act. Council will benefit by analysing its activities from time to time, including asking how is it spending its time, where should its priorities be and does it have the balance of its priorities right?

What does a councillor do as 'an elected representative'?

A councillor's role as an elected representative is to provide an essential link between the community and council. This involves representing the interests of the community, providing leadership, and communicating and promoting the interests of the council to other levels of government and relevant bodies. Councillors have a responsibility to make decisions in the best interest of the whole community while deciding about the provision of services and the allocation of resources.

How do councillors balance their dual roles?

Councillors must attempt to find a balance between the obligation to represent the interests of individual constituents and the need to make decisions on behalf of the whole community. Councillors need to display leadership and integrity to help ensure that the decisions they make as a member of the governing body are in the best interest of all the community.

Councillors can best help individual members of the community by satisfying themselves that their council's policies are being carried out correctly. If a councillor thinks that a policy needs changing they need to debate this in a full meeting of council. It is inappropriate for a councillor to informally attempt to ignore or alter a policy in order to satisfy the demands of special groups.

The community expects every councillor to understand and provide representation on all council activities. So it is important that councillors quickly become familiar with the whole council area and the important issues affecting their community.

Appointment and oversight of the General Manager

The current Local Government Act 1993 requires the governing body of council to determine:

- an organisation structure
- the senior staff positions within that structure
- the resources to be allocated towards the employment of staff.

The Act also requires all councils' governing bodies to appoint a person to be general manager. The Office of Local Government has prepared Guidelines for the Appointment and Oversight of General Managers (Division of Local Government, 2011) with the assistance of the Local Government and Shires Associations of NSW (LGSA) and the Local Government Managers Association (NSW) (LGMA). The Guidelines provide a guide and checklist for councillors to refer to when considering:

- the recruitment and appointment of general managers
- re-appointment of general managers or ending contracts
- conducting performance reviews of general managers
- engaging in the day to day oversight of general managers.

1.2 Role of the mayor

The mayor is considered to be the voice of the council and the leader of the community. The mayor has the same role and responsibilities as councillors with a few extra responsibilities. Under the current Local Government Act, 1993 the role of the mayor is to:

- chair meetings of the council
- exercise urgent policy-making functions, where necessary
- exercise such other functions as determined by the council
- carry out civic and ceremonial functions of the mayoral office.

1.3 Role of the general manager

The general manager's role is to implement council decisions without undue delay and carry out functions imposed by legislation. A council's governing body monitors the implementation of its decisions via reports by the general manager to council.

The general manager is the most senior employee of a council and is the only member of staff selected and appointed by councillors. The general manager is appointed on a renewable, fixed term, performance-based contract for a maximum period of five years.

Under the Act the general manager's responsibilities include:

- assisting the council in connection with the development and implementation of the Community Strategic Plan, council's Resource Strategy, Delivery Program and

Operational Plan and the preparation of its annual report and state of the environment report.

- efficient and effective operation of the council organisation and day-to-day management. This includes ensuring council decisions and policies are implemented without undue delay
- appointing, directing and dismissing staff in accordance with an organisational structure and resources approved by the council
- ensuring councillors are provided with information and the advice they need in order to make informed decisions and to carry out their civic duties
- implementing council's equal employment opportunity management plan
- exercising other functions as delegated by the council.

A governing body of council may by a resolution delegate certain functions to the general manager. The general manager may, in turn, delegate functions to other staff with some exceptions. However, the general manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

1.4 Role of council staff

General Managers employ council staff to carry out the day-to-day operations of the council and implement council policies and other decisions, as directed by the general manager. The general manager is the primary link between the elected body and its employees. Council staff are responsible to the general manager who is responsible for the conduct and performance of council staff.

2. Managing internal council relationships

Underlying Principles

- The Councillors are responsible for appointing and oversight of the General Manager;
- Mutual respect, sharing of information and open debate are hallmarks for a successful relationships between councillors and staff; and
- Councillors and staff should ensure that their interactions with each other are in accordance with the Model Code of Conduct.

A good working relationship between councillors, the mayor, the general manager and other council staff is fundamental to an effective council.

2.1 Relationship between the mayor and the general manager

The relationship between the mayor and the general manager is the most important one in a council and can have a significant impact on the council's performance. As their relationship is often subject to community and media scrutiny it is important for the mayor and general manager to have a transparent and supportive working relationship. Should conflict or significant differences of opinion arise, both the mayor and the general manager should work to ensure that they are resolved in a timely manner, and not in the public eye.

If Council appoints an external organisation to manage the performance management process for the General Manager, any conflict between the Mayor and General Manager that cannot be resolved could be referred to this organisation for advice on how to deal with and/or resolve this conflict. This organisation may also be able to provide mediation to resolve such conflict.

The NSW Local Government Professionals provides a mentoring program for General Managers and Senior staff to assist its members in their role. This program may assist General Managers in dealing with any conflict that may arise.

The mayor and general manager also play an important role in ensuring that councillors and officials are acting in an ethical manner. The mayor also has a key role in the appointment of the general manager and therefore requires a full understanding of the general manager's role and responsibilities.

2.2 Relationship between councillors and the general manager

The quality of the relationship between a general manager and councillors is vital to a healthy and effective organisation. The experience of public inquiries has been that where this relationship breaks down, the organisation may become dysfunctional with the result that the community loses confidence in the council. Indicators of good working relationships are shown below adapted from (Australian Centre of Excellence for Local Government, 2012)":

- Councillors who publicly express faith in general managers and staff
- General managers who support councillors in their role and who consider ways to improve their levels of support
- A clear understanding about how councillors ask questions and receive information from staff, and a formal communication protocol which matches everyday practice
- Informal briefings and discussions in which councillors can ask for advice and discuss their position on key decisions
- Opportunities for staff who are experts in their area to put forward their experiences and opinions to councillors to inform key decisions
- Council decisions which are seen as being based on merit rather than "the numbers game"
- Relationships which are characterised by respect, good humour and good faith.

The general manager is made accountable to their council principally through their contract of employment. The role of the governing body is to oversee the general manager's performance in accordance with the Standard Contract. The standard contract provides for the performance of the general manager to be formally reviewed at least annually against performance criteria for the position as set out in the agreement. These performance agreements should reflect the activities, performance targets and performance measures as outlined in the council's Delivery Program.

It is recommended that the general manager's performance be reviewed by a panel of councillors who would:

- set benchmarks
- develop Key Performance Areas and performance measures
- conduct performance reviews

- report the findings and recommendations of those reviews to council
- develop the performance agreement.

Councillors selected to take part in the Panel should have received training on the performance management of general managers. Although the composition of the panel is up to the governing body, the usual mix is the mayor, the deputy mayor and one councillor nominated by the governing body. The general manager should also have the option of nominating another councillor to the Panel. While there may be instances where immediate action is necessary, it is generally expected that termination of a contract on the basis of poor performance would be the last resort.

The Panel should maintain the confidentiality of the review process, including the paperwork and substance of the review. In some instances the information may be potentially damaging. Performance management guidelines are available from www.dlg.nsw.gov.au.

2.3 Relationships between councillors and staff

The general manager is the crucial link between councillors and staff. Generally, requests for assistance or information should go through the general manager or directors, except where he or she has authorised another council officer to undertake this role.

Similarly, if a staff member needs to talk with a councillor or the mayor, approval should be obtained from the general manager or the appropriate authorised officer. Where authority is given to another council officer, it is the general manager's responsibility to monitor, as far as practicable, that the policy is being observed.

Individual councillors do not have the right to direct council staff in their day-to-day activities. Councillors must not contact a member of the council staff on council related business unless in accordance with Council's policy and procedures governing the interaction of councillors and council staff.

It is sometimes necessary for councillors and staff to interact and work together so that informed decisions can be made and positive outcomes achieved. Mutual respect, sharing of information and open debate are hallmarks for successful relationships between councillors and staff. The table below demonstrates these principles adapted from (Australian Centre of Excellence for Local Government, 2012)

Sharing information	Demonstrating respect	Ensuring open debate
<ul style="list-style-type: none"> • Regular meetings between the general manager and councillors • Briefing sessions for councillors which are well attended • Clear protocols about councillor contact 	<ul style="list-style-type: none"> • Honouring the Code of Conduct • Meeting behaviour which is characterised by respectful language, even in difficult times • Staff and councillors presenting a united 	<ul style="list-style-type: none"> • Briefing sessions which enable both councillors and staff to contribute freely • Council records which include staff recommendations, council resolutions and a rationale if the

<p>with staff which are agreed and implemented, including a systematic approach to responding to councillor requests</p>	<p>front in public forums</p> <ul style="list-style-type: none"> • Media statements which refrain from personal criticism • Joint participation in community engagement activities • Support for professional development for councillors, managers and staff 	<p>two differ</p>
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Personal interaction between councillors and staff

The current Model Code of Conduct (Division of Local Government, 2012) governs the interactions between councillors and staff that relate to council business while they are undertaking their public duties. However, the current Model Code does not prevent councillors and staff communicating. It is a normal part of community life that council staff and councillors would be, from time to time, present at the same social or community events.

3. Effective Decision Making

Underlying Principles

- In order to make effective decisions Councillors need to be provided with information to allow them to consider the impact on the community, environment, budget and long term strategic plans;
- Delegations to the General Manager and staff should be reviewed regularly and a register maintained that is easily accessible; and
- Advisory Committees provide a channel for direct community input into Council affairs on matters referred to the committee. Each committee should have a charter which sets out its purpose, objectives, membership and reporting framework.

The great majority of councillors’ work involves making important decisions about council’s future desired direction and development. It is critical for all councillors to have the skills and information needed to make well-informed decisions that benefit council and the whole community.

To make effective and well informed decisions councillors must understand how to evaluate the range of plans, proposals, strategies and other matters that will constantly be before council. All reports before council should:

- enable councillors to assess council’s ability to achieve its strategic goals
- provide information which is linked to council approved strategic or project plans and the budgets that support those plans
- assist councillors in assessing the merits of a proposal, or any other matter before council, and make well-informed decisions.

Prior to making decisions councillors should ask four key questions:

- What impact will the decision have on the community (including residents and ratepayers) and the environment in both the immediate and long term?
- What impact will the decision have on council's finances both in the immediate and long term?
- How does this decision fit in with the long-term direction of the council?
- Are all of the relevant materials and facts available to make an informed decision?

In addition, specifically in relation to project proposals before the council, the first step in the process is to ensure that the proposal makes sense and that each part is logically supported with sound analysis and actions.

Some additional questions to ask include:

- Will the performance measures contained in the proposal enable council to adequately monitor its progress and measure if it is achieving the desired outcome?
- Does the proposal provide value for money?
- Is the cost-benefit acceptable?

3.1 Delegations

The Council can delegate a number of functions to the General Manager to carry out without a resolution of the Council. The General Manager can then sub-delegate these functions to members of staff. Each Council should have a Delegations Register that details the delegations made by the Council to the General Manager and subsequently the delegations given to staff by the General Manager. A signed instrument of delegation and sub-delegation should be created each time these Delegations are amended and stored in Council's Records Management System.

Section 377 of the current Local Government Act sets out the functions a Council cannot delegate to the General Manager. These functions must be the subject of a report to Council and resolution before any action can be taken and cannot be delegated to the General Manager.

Section 380 of the current Local Government Act requires each Council to review its delegations within 12 months of a local government election. However, it is best practice that all Delegations are reviewed every 12 months.

3.2 Advisory Committees

Advisory committees provide a mechanism by which interested persons can play an active role in the formulation of Council policy and practice. Advisory Committees give members of the community an opportunity to communicate with Councillors and staff on particular issues and gives Council valuable feedback on services, facilities and policies.

The primary aim of Advisory Committees is to provide a channel for direct community input into Council affairs on matters referred to the committee. Advisory committees are established by a resolution of Council in accordance with the provisions of the current Local Government Act.

Each committee will have a terms of reference which detail the role of the committee, membership, quorum of the committee and where appropriate, a specified sunset clause. Often Councillors are appointed to be members of Advisory Committees and may be appointed Chairperson of the meetings. Councillors in chairing meetings should ensure that Council's Code of Conduct is complied with at all times and that Committee Members do not breach the terms of reference or instruct staff or make decisions for Council.

The Advisory Committee will be responsible for providing advice to Council in accordance with the committee's Terms of Reference. Advisory committees do not have any decision making powers. Advisory committees cannot instruct staff or make decisions for Council. All matters raised by the committee must either be referred to Council, or to the General Manager, for determination. The Advisory Committee will observe any rules and regulations made by the Council including complying with the Code of Conduct.

While the Local Government Act specifies that members of Advisory Committees cannot have a pecuniary conflict of interest, committee members should still disclose any non-pecuniary conflicts of interest. Councillors appointed to Advisory Committee meetings must ensure that they disclose any non-pecuniary conflicts of interest and represent the views of the Council where a decision of Council has been made on a specific issue.

There will also be circumstances where Councillors participate on external boards and their role may conflict with their duty as a Councillor. Councils may wish to consider developing a Conflicts of Duty Policy as introduced by the City of Sydney that deals with Councillors participating on commercial boards where their duties as a Director to shareholders could conflict with their duty as a Councillor.

3.3 Access to Information

Any person has a right to request information held by a Council in accordance with the Government Information (Public Access) Act 2009. Each Council should have a policy on Access to Information. In addition to these requirements the current Model Code of Conduct states:-

" 7.1 The general manager and public officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.

7.2 The general manager must provide councillors and administrators with information sufficient to enable them to carry out their civic office functions.

7.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.

7.4 Members of staff of council who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it and in accordance with council procedures.

7.5 Councillors and administrators who have a private (as distinct from civic) interest in a document of council have the same rights of access as any member of the public ".

4. Code of Conduct and Acting Ethically

Underlying Principles

- Councillors must always act ethically and in accordance with Council's Code of Conduct;
- Councillors must declare any conflicts of interest that may arise;
- Public Comment is only to be made in accordance with Council's Policy; and
- Councillors should not disclose any confidential information to other persons.

The role of a councillor is a public one. Whenever councillors appear in public, even though they may not be doing anything related to their council position, they are usually seen as acting in their councillor role and judged in this light. This means the position of councillor is really a “24/7” one.

Councillors need to act at all times in a way that does not bring disrepute to either themselves or their council. This includes giving the perception to the public that they are acting in this manner. Some general conduct, special obligations and protocols they must follow are outlined in a council's Code of Conduct, which the Local Government Act 1993 requires every council to adopt.

Acting ethically is not just about avoiding or managing conflicts of interests. It also applies to the interactions of councillors with council staff, members of the public, use of resources and any personal benefits councillors might obtain.

4.1 General obligations

The current Model Code of Conduct sets the standards of ethical and appropriate conduct for council officials in relation to their general conduct, conflicts of interests and personal benefit, relationships between council officials, access to council resources and information, and maintaining the code's integrity.

The obligations of council officials under the current Model Code are based on eight key principles: integrity, leadership, selflessness, impartiality, accountability, openness, honesty and respect. Councillors have certain general conduct obligations under the current Model Code of Conduct. Specifically, councillors must:

- act lawfully, honestly and with care and diligence in carrying out their functions
- not conduct themselves in a manner that is likely to bring the council into disrepute
- treat others with respect
- consider issues consistently, promptly and fairly
- not harass or discriminate against others
- ensure that development decisions are properly made
- not participate in binding caucus votes except in relation to nominations and elections.

Councillors are not to participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.

4.2 Ethical decision-making

Key questions that councillors should ask themselves to ensure that their decisions are ethical and sound are:

- Is the decision or conduct lawful?
- Is the decision or conduct consistent with council's policy and with council's objectives and the code of conduct?
- What will the outcome be for the employee or councillor, work colleagues, the council, persons with whom you are associated and any other parties?
- Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

If councillors are uncertain about an action or decision, they should seek advice from the general manager. They may also wish to seek their own independent legal advice. Councillors should exercise due care in undertaking their functions by acquainting themselves with the requirements of the Local Government Act 1993, their council's Code of Conduct, the details of the matters they are dealing with, and any factors which may affect their involvement in decision-making.

4.3 Conflicts of Interests (pecuniary, non-pecuniary and political donations)

A conflict of interests exists where a reasonable and informed person would perceive that a councillor could be influenced by a private interest when carrying out their public duty.

The importance of following the principles of ethical decision-making cannot be underestimated. There is significant potential for conflict of interests to arise in the course of a councillor's role as an elected person, resident of the local area they represent and member of the governing body of council. Conflict of interests must be managed appropriately. Councillors must consider how a reasonable person who is informed about the situation would view it.

Pecuniary conflicts of interests

A pecuniary interest is an interest a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter.

Where a conflict of interests is pecuniary in nature, you must comply with the requirements of the Local Government Act 1993, including declaring the interest at a Council Meeting and not participating in discussion or debate on the matter. An example of a pecuniary conflict interest may be; considering a tender or Development Application submitted by a family member or being part of a decision which may result in a financial gain or loss to yourself or someone close to you.

Councillors also need to submit an annual written return of interests to the council including information on real property (meaning land and anything attached to it, including buildings), gifts, interests and positions in corporations, sources of income, and debts. These may give rise to a pecuniary interest at a meeting and are made publicly available to make sure councillors are seen to be acting openly and honestly in the decisions they make.

Non-pecuniary conflicts of interests

Non-pecuniary conflicts of interests commonly arise out of family or personal relationships, through an association a councillor, or someone close to them may have, through involvement in a sporting, social or other kind of group or association. The political views of a councillor do not constitute a private interest. The greater a councillor's involvement with the club or organisation, the greater the likelihood of a real or perceived conflict of interests.

The current Model Code recognises two forms of non-pecuniary conflict of interests: Significant and Less than significant. An example of a significant non-pecuniary conflict of interests could be where the councillor is an active member and involved in the running of a sporting club that submits a development application to the council for a major extension of its facilities.

In this instance there may be a public perception that the councillor's activities with the club would make it difficult for the councillor to view the matter before the council impartially. When the matter comes before council the councillor needs to consider whether or not he or she has a significant conflict of interests, and if so, must disclose the nature of the conflict and refrain from participating in the discussion or voting on the matter.

By contrast, if a councillor is merely a member of a large club and utilises its facilities via membership it is unlikely that this membership alone would conflict with their role as a councillor representing the views of the residents and ratepayers generally.

Councillors should make an assessment of the circumstances to help them determine if a conflict is significant. The nature of a friendship or business relationship, the frequency of contact and the duration of the friendship or relationship, the strength of an affiliation with an organisation are all matters that should be considered when assessing whether or not a conflict of interests is significant.

However, if a conflict of interests is **significant**, e, in addition to their written disclosure, Councillors will need to take further action. This additional action will be to either remove the source of the conflict, or have no involvement in the matter, including not taking any part in a debate or a vote on the matter.

However, a councillor should still consider if this raises a less than significant conflict of interests and if so, he/she should disclose this, as well as the nature of the interest and a brief explanation of why no further action is required in the circumstances. It always remains open for councillors to take additional steps to manage any perception of a conflict of interests.

4.4 Appropriate Interactions

The current Model Code and the Local Government Act recognise that appropriate lobbying of councillors is a normal part of the democratic system and that councillors have a representative role in considering the views of their constituents and communicating with them. A lobbyist is a person, company/organisation who conducts lobbying activities on behalf of a third party client

or whose employees conduct lobbying activities on behalf of a third party client. Some councils have established a register for lobbyists which they publish in order that the activities of registered lobbyists is open and accountable to members of the public.

Lobbying is a legitimate activity. Lobbyists can help individuals and organisations communicate their views on matters of public interest to council. In the interests of transparency and integrity of decision making, lobbyists are encouraged to register any lobbying activity with council.

Councillors would be aware that they are at some time likely to be lobbied by a wide range of people including individuals, organisations, companies and developers. It is essential that councillors understand the difference between appropriate and inappropriate lobbying, and do not undermine the public's confidence by engaging in lobbying which could be considered inappropriate or unlawful.

Inappropriate lobbying usually involves an attempt to obtain preferential consideration or treatment based on factors other than the merits of a matter. ICAC has produced a brochure which contains specific information about all aspects of lobbying local government councillors.

Appropriate vs Inappropriate lobbying

Examples of appropriate lobbying:

- Keeping records of meetings with lobbyists or objectors
- Holding meetings in appropriate locations such as council offices
- Ensuring other people are present
- Making sure that any information obtained when being lobbied is available to council staff and other councillors.

Examples of inappropriate councillor conduct that could occur during lobbying include:

- Disclosing confidential information while being lobbied
- Accepting a political donation in return for a favourable exercise of discretion during decision-making
- Giving undertakings to an interested party prior to consideration of all the information relevant to a decision.

4.5 Confidential Information

Staff and Councillors from time to time may be provided with Confidential Information in the course of their official duties. The current Model Code of Conduct states:-

"7.8 In regard to information obtained in your capacity as a council official, you must:

- a) only access council information needed for council business
- b) not use that council information for private purposes
- c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with council
- d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

7.9 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

7.10 In addition to your general obligations relating to the use of council information, you must:

- a) protect confidential information
- b) only release confidential information if you have authority to do so
- c) only use confidential information for the purpose it is intended to be used
- d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- e) not use confidential information with the intention to cause harm or detriment to your council or any other person or body
- f) not disclose any information discussed during a confidential session of a council meeting.

4.6 Public Comment

Staff and Councillors must ensure any public comment (including comments on Social Media) they make is in accordance with the Council's Media Policy. If a staff or Councillor make a public comment in opposition to a decision of Council they should not make sure that their comment is clarified as a personal view and not the view of the Council.

5. Training and Professional Development

Underlying Principles

- Councillors should be provided with a detailed induction program;
- Councils should consider providing a program of continuous Professional Development for Councillors; and
- An audit of Councillor Skills and knowledge may assist in developing a training plan for individual Councillors.

It is the responsibility of individual councils to identify the training and professional development needs of councillors, and to plan and deliver this training. The Office of Local Government and the Local Government Association provide a wide range of support for councillors, including training and induction programs.

As soon as possible after the elections councillors should be briefed by council staff on the key tasks to be undertaken by the new council at its first meeting. All councils should prepare and deliver an induction program that introduces new councillors to the council, its main policies and protocols and key staff.

5.1 Skills and Knowledge Checklist

While Councillors do not require any special formal qualifications, having or being able to develop the following skills, knowledge and attributes will help Councillors to be effective in their role.

5.2 Councillor Skills

Good communication skills

- This includes good listening and interpersonal skills, public speaking skills, the ability to accept alternative points of view as well as the ability to negotiate, mediate and resolve conflict.

Ability to engage with the community

- Effective councillors inform residents about important local issues or council policies and seek their views. Councillors should also have an understanding of why this is important and the various ways to consult, such as through meetings, the media, the Internet, public forums, debates and surveys.
- It is important for councillors to consult with as wide a cross-section of the community as possible. Developing networks within the local community can provide a sounding board against which the impact of council policies can be assessed.

Problem solving and analytical skills

- This includes being able to get to the bottom of an issue and to think of different ways to resolve it, including advantages and disadvantages of each. It is also important for councillors to be able to think strategically and consider the long term impacts of council policies.

Teamwork skills

- This includes being able to work with others in meetings and on committees and being able to complete any tasks on time that councillors agree to do.
- Other councillors can be a valuable resource. Assuming they are not also newly elected, other councillors will already have a good idea of the main issues in the area and should have contact with key groups and individuals. They can show new councillors the ropes and introduce them to useful people.

Organisational skills

- This includes being able to plan and manage time, keep appointments and deadlines, make priorities and manage stress. Practical ways to do so include:
- Developing a filing system for paperwork and emails
- Learning to use existing council record keeping systems so as to prevent the duplication of information
- Prioritising what is needed to be read and responded to
- Having an effective diary management system

Leadership qualities

- This includes, for example, attributes such as energy and optimism, motivation, resilience, confidence, assertiveness, strategic thinking, advocacy, networking, active listening and negotiating.

Ethical accountable behaviour

- This includes being able to follow a code of conduct that involves, amongst other things, acting in the best interests of the community as a whole, transparent decision-making and accountability.

5.3 Councillor Knowledge

Effective councillors understand the broader local government picture. It is important that councillors understand the structure of their council and its responsibilities to the community. Specialist council staff can provide information and advice on a wide variety of issues, but this must happen through the general manager, except where he or she has authorised another council officer to undertake the role.

Knowledge or understanding of strategic planning and financial reporting processes

- This includes an understanding of the importance and role of strategic planning and a comprehensive understanding of budgets, the budgetary process and financial reports.

Knowledge or understanding of social justice principles

- This includes having an understanding of why it is important to make sure all people in the community are treated equitably, have the right to be heard and are able to participate in public forums and events if they choose to. Groups of people whose voices are not always heard include Aboriginal people, people with a disability, people from culturally and linguistically diverse backgrounds, older people, women and young people.

Knowledge and understanding of local government functions

- This includes, for example, land use planning, environmental management and community development and services.

Understanding of relevant State Government legislation

This includes, for example, the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*.

5.4 Tips for Developing Skills and Knowledge

The following tips have been adapted from (Local Government Group, 2011):

- talk to the mayor and other councillors
- talk to the general manager
- take up training courses offered by the council or other training bodies
- read the council's strategic and operational plans to gain an overview of the council's agenda and priorities
- learn how the council makes decisions and how you can influence these on behalf of the people you represent
- take on new responsibilities with care – don't take on too much too soon

- learn to manage the paperwork – learn what you need to read and what you don't, and don't hoard outdated or irrelevant material
- set up a good filing system
- concentrate on matters that interest you and learn them thoroughly
- set up a schedule for visiting the key groups in your area over your first year – including faith groups, voluntary groups, major employers, schools, youth centres, tenants' and residents' associations.

5.5 Audit of Councillor Skills

The Independent Review Panel recommended that *“council to undertake a periodic audit and self-assessment of its skills base against its role and strategic objectives and require individual councillors to undertake similar self-assessments (this could be a simple on-line process)”*.

An Audit or Self Assessment of Councillor skills could be in two parts. Firstly, based on the skills and knowledge listed in Section 5.2 & 5.3 of this document. Secondly, it would need to take into account the strategic objectives the Council intends to implement through its Delivery Program and what skills Councillors would need in order to implement these objectives. The results of the audit and self-assessments would assist in preparing a Councillor Development Plan linked to each 4-year Delivery Program which would list professional development activities available to Councillors to assist them in implementing the strategic objectives of the Delivery Program over the term of Council.

The Local Government Association of South Australia (Local Government Association of South Australia, 2014) has developed the below template for its member councils. SSROC councils could use a similar template in order to assess the skills and knowledge of its Councillors:-

<http://training.lga.sa.gov.au/default/assets/File/Council%20Members'%20Training%20Gap%20Analysis%20and%20Record%20Keeping%20Template.xlsx>

6. Risk Management

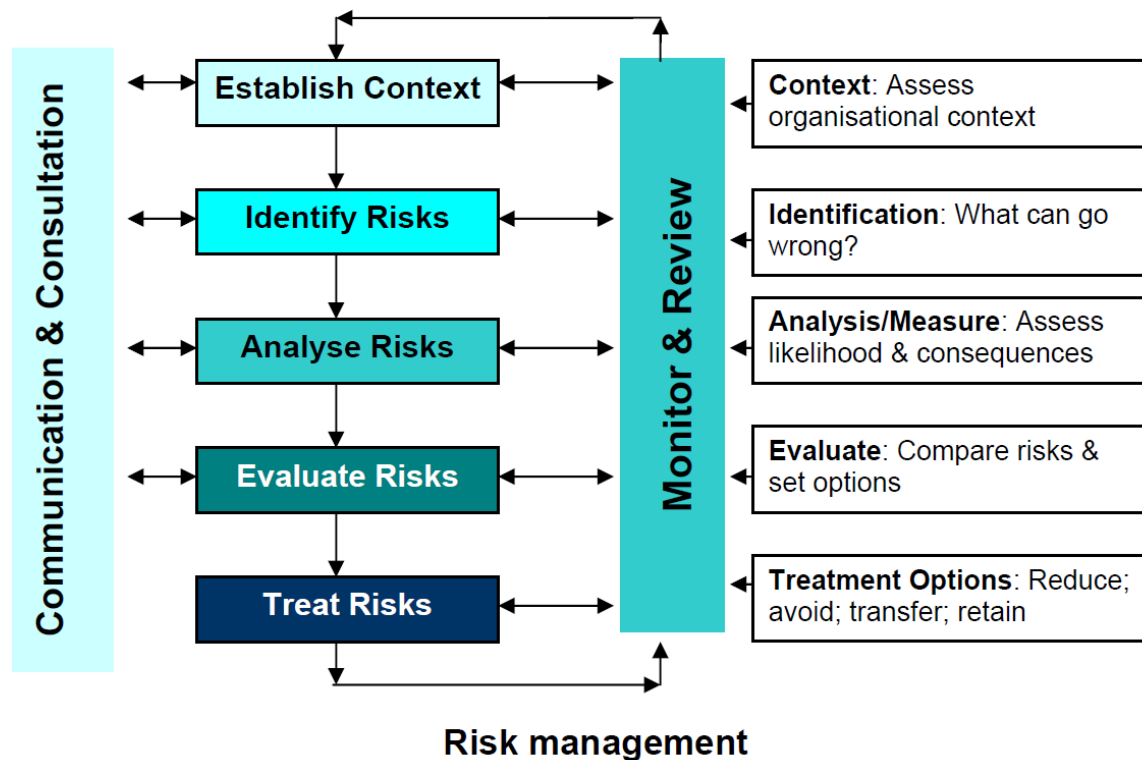
Underlying Principles

- Risk management is an essential part of any Good Governance framework;
- Risk management is an important element in evaluating the cost/benefits of potential projects ; and
- Councillors should be aware of Council's Internal Audit Program and Annual Internal Audit Plan.

The Local Government Act 1993 was enacted before enterprise risk management was a widely accepted element of good governance. The Act does however require councils to ensure that the services and facilities council provides are managed efficiently and effectively (section 8) and that the general manager is responsible for the efficient and effective operation of the council's organisation (section 335(1)).

The Office of Local Government's Promoting Better Practice reviews frequently make recommendations to actively encourage councils to undertake risk management reviews. It also encourages councils to plan across all functions of council to proactively identify and manage risk exposures. It is now well established that risk management is an essential part of effective corporate governance. Risk management is a process through which an organisation can systematically identify the risks to its operation;

analyse, evaluate and treat those risks; and implement a systematic process for the ongoing monitoring and review of the management of the organisation's risks.



The diagram above illustrates the cyclical nature of risk management. Councils should continually monitor and review their risk management strategies and practices, and also ensure that effective consultation is undertaken in all stages of the process.

By understanding the potential risks they face, councils are better prepared to take appropriate action to minimise the impact of adverse risks and maximise opportunities to benefit from positive risks. Good risk management should be forward looking and assist in making good business decisions. Through proactive risk management treatment the following outcomes can be achieved:

- higher level of service delivery
- more efficient, effective and economic allocation of resources
- improved responsiveness and flexibility
- increased accountability and transparency.

The administrative body of council, led by the general manager, has primary responsibility for the design and operation of the risk management and internal control framework of the council. However, good governance in local government relies on the robust independent review of management, finances, risks and operations by council's governing body and a properly constituted audit committee which reports regularly to council's governing body. As members of the governing body responsible for deciding the direction of council, councillors are responsible for determining the amount of risk exposure that the council is prepared to take. By having a risk management process in place councillors are able to make these decisions in a more accountable and transparent way.

Consequently, residents and ratepayers can be better informed about the reasons underpinning council decisions and will result in a greater confidence and trust in council's decisions. The benefits for councillors of risk management include:

- assistance in assessing proposals and allocating resources.
- assurance that the council has appropriate controls in place and is managing its compliance obligations appropriately; and
- consequently freeing the councillors to focus on the key strategic business of council.

Risk management is a very valuable support to good governance and provides guidance in developing an annual Internal Audit Plan. It provides the community with confidence that council is being managed in a responsible and accountable manner.

7. Community Strategic Planning

Underlying Principles

- The Councillors role in the Community Strategic Planning process is to set the strategic direction for the community;
- Each year Council needs to prepare a Delivery Program, Operational Plan and Annual Report ; and
- Every 4 years Council undertakes a review of its Community Strategic Plan to progress is being made to achieve the goals, objectives and strategies.

Community strategic planning is the process by which a council, with its community, establishes a vision for the future of the local government area, and develops goals, objectives, strategies and actions to achieve that future. To perform their role effectively, councillors need to actively participate in determining the strategic direction for the community and the planning process supporting it. Councils develop a hierarchy of plans which fall out of the Community Strategic Plan, known as the Integrated Planning and Reporting framework.



Integrated Planning and Reporting Framework

The plans councils prepare under the Integrated Planning and Reporting framework must adequately address the quadruple bottom line:

- social and community considerations
- economic considerations
- environmental considerations
- civic leadership and governance considerations.

The plans must also prepare council for a sustainable future, one that ensures that future generations aren't left with an unsustainable legacy as a result of irresponsible decisions made now. The Integrated Planning and Reporting framework recognises that councils don't exist in isolation, but are part of a larger natural, social, economic and political environment that influences and shapes their future direction. Nor do council plans exist in isolation: land use and infrastructure planning has social, environmental and economic outcomes, and vice-versa.

The Integrated Planning and Reporting framework opens the way for councils and their communities to have important discussions about funding priorities, service levels, preserving local identity and planning in partnership for a more sustainable future.

7.1 Community Strategic Plan

The Community Strategic Plan is the highest level plan that a council will prepare. The plan identifies the community's main priorities and aspirations for the future (at least 10 years), and plans strategies for achieving these goals. While councils prepare the Community Strategic Plans on behalf of their communities, they are not wholly responsible for implementing the Plan. Other partners such as State agencies, community groups and business may also be engaged in delivering the long-term objectives of the Plan. The Community Strategic Plan is reviewed and updated by each new Council following its election.

7.2 Community Engagement Strategy

Councils must prepare and implement a Community Engagement Strategy for engagement with the local community in the development and review of the Community Strategic Plan. The Community Engagement Strategy must be based on the social justice principles of access, equity, participation and rights.

7.3 Delivery Program

The Delivery Program is where the Community Strategic Plan goals are translated into actions. It is each newly elected Council's commitment to the community, outlining what it intends to do toward achieving the goals of the Community Strategic Plan. It becomes the single point of reference for all principal activities undertaken by Council during that term of office. All plans, projects, activities and funding allocations must be directly linked to the four-year Delivery Program.

Operational Plan

The Delivery Program is supported by an annual Operational Plan. This document spells out the details of the Delivery Program, identifying individual projects and activities that will be undertaken in that year to achieve the commitments of the Delivery Program. The Operational Plan is supported by a detailed budget and a Statement of Revenue Policy, which also sets the fees and charges for that year.

Resourcing Strategy

The Resourcing Strategy resources the implementation of the Community Strategic Plan, Delivery Program and Operational Plans. It consists of three components:

- long-term financial planning;
- workforce management planning; and
- asset management planning.

Long-Term Financial Plan

Each council must prepare a Long-Term Financial Plan (at least 10 years), which is used to inform decision-making during the development and review of the Community Strategic Plan and the Delivery Program. The Long-Term Financial Plan is updated annually as part of the development of the Operational Plan, and is reviewed in detail as part of the review of the Community Strategic Plan following each local government election.

Workforce Management Strategy

A council must develop a Workforce Management Strategy to address the human resourcing requirements of its Delivery Program. The Workforce Management Strategy, therefore, has a four-year minimum timeframe.

7.4 Asset Management Planning

Councils must account for and plan for all the existing assets it owns, and plan for any new asset solutions proposed in the Community Strategic Plan or Delivery Program. To achieve this, councils must prepare an Asset Management Strategy, incorporating an Asset Management Policy, as well as Asset Management Plans for each class of assets under Council's control. The strategy and plans must have a minimum 10-year timeframe.

Asset Management Plans must identify service standards, and contain long-term projections of asset maintenance, rehabilitation and replacement costs. Councils must report on the condition of their assets in their annual financial statements, in line with the Local Government Code of Accounting Practice and Financial Reporting.

7.5 Annual Report

The Annual Report is one of the key points of accountability between a council and its community. It is not a report to the Division of Local Government or the NSW Government; it is a report to the community.

The annual report focuses on council's implementation of the Delivery Program and Operational Plan because these are the plans that are wholly the council's responsibility.

The report also includes some information that is prescribed by the Local Government (General) Regulation 2005. This information has been included in the Regulation because the Government believes that it is important for community members to know about it – to help their understanding of how council has been performing both as a business entity and a community leader.

The annual report in the year of a local government election also includes a report as to the state of the environment in the local government area, specifically in relation to the objectives established for the environment by the Community Strategic Plan.

An outgoing Council will table a report at its final meeting, for inclusion in that year's annual report, which reports on the progress of implementing the Community Strategic Plan.

7.6 Roles and Responsibilities of the Mayor and Councillors in Strategic Planning

The success of the planning process relies heavily on the commitment of the mayor and the general manager as well as all councillors. Without strong support and commitment, council will find it difficult to develop and implement a meaningful plan.

The mayor, as spokesperson for council, is the public face of the planning process. The mayor is responsible for explaining the purpose of the Community Strategic Plan to the community and for encouraging public support for the planning process. The mayor and the councillors' ability to capture a vision for the community's future and to inspire others to participate in that future will be fundamental to the success of the process. It is important that all councillors support and are fully committed to the value of strategic planning.

Similarly, the general manager has a pivotal role to play in mapping out the council's approach to the planning process and ensuring the community receives the information it needs to participate in a meaningful way.

The general manager will also be responsible for guiding the preparation of the Community Strategic Plan and council's response to it via the Delivery Program. She or he is responsible for implementing the Delivery Program and will report regularly on progress and ensure that it becomes a living document with regular updates and reviews, as required.

The general manager's clear understanding of the planning process and the way the various components are integrated will be fundamental to its success. He or she has an important leadership role to play in ensuring that each member of council's staff understands how their particular work activity contributes to achieving the objectives of the Community Strategic Plan and what is expected of them in delivering its outcomes.

Assessing Strategic Plans

One of the most important roles of the governing body of council is to endorse strategic plans. As well as the Community Strategic Plan, councils may prepare other strategic plans which are not required by legislation but which may assist in implementing the Community Strategic Plan. These may include cultural plans, public health plans, economic development plans, environmental management plans and crime prevention plans.

In order to endorse strategic plans councillors must be able to assess their appropriateness. Councillors should first be satisfied that the plan as a whole makes sense and that each part is logically supported with sound analyses and actions.

8. Planning Decisions

Underlying Principles

- Councils are usually responsible for the approval of Development Applications;
- The principal local government planning instruments, Local Environmental Plans (LEPs) and Development Control Plans (DCPs), are made under the Environmental Planning and Assessment Act (EPAA); and
- Every 4 years Council undertakes a review of its Community Strategic Plan to progress is being made to achieve the goals, objectives and strategies.

Some Councils have established Independent Hearing and Assessment Panels (IHAPs) with different degrees of delegation to determine development applications on behalf of Council. These Panels are made up of appropriately qualified people independent of Council charged with determining a range of development applications on behalf of Council. The purpose of IHAPs is to provide:

- increased transparency, integrity and confidence in the development application assessment process; and
- an independent hearing forum for objectors and applicants with an increased sense of involvement in the outcomes of the assessment process.

8.1 Local Environmental Plans (LEPs)

An LEP may be made for all or part of a local government area. It determines the development status of any site within the area it has effect for. The EPAA outlines the

processes that a council must follow if it decides to prepare a draft LEP or is directed to do so by the Minister for Planning.

8.2 Development Control Plans (DCPs)

DCPs provide a detailed guideline that illustrates the controls that apply to particular types of development or particular areas in a council's area. To be valid, DCPs must generally conform to the provisions of the relevant LEP. Similar requirements exist for public exhibition as for LEPs.

Councils may choose to develop DCPs in order to:

- Identify development as advertised development, which then allows for notification of the proposal to adjoining owners/occupiers and notice being given in the local newspaper. Submissions on the proposal may then be made to Council prior to consideration of consent;
- Provide additional notification requirements for certain types of developments; and
- Specify additional matters to be taken into account in making orders.

8.3 Environmental Impact Statements (EIS)

A development application for a project, identified as a designated development under the Regulations or another planning instrument, must be accompanied by an environmental impact statement (EIS). Such projects are usually in the nature of major works such as industrial facilities, extractive industries and the like. In such cases, public exhibition of the application and any accompanying information for at least 30 days is required.

8.4 Conditions of consent

Council may choose to allow a development subject to certain conditions. These must generally be imposed for a planning purpose, fairly and reasonably relate to the development and be reasonable. They may be tested by appeal to the Land and Environment Court.

9. Supporting Documents

The Local Government Professionals Australia has also developed an eLearning module on Governance as well as a Governance Health Check which can be accessed by clicking on the link below:-

[Local Government Professionals Australia Governance Health Check](#)

This Guide should be read in conjunction with the following policies of Council:

Policies

Access to Information

Asset Management

Audit Plan

Code of Meeting Practice

Code of Conduct

Councillor Interaction with Staff

Fraud and Corruption Prevention

Media and Public Comment

Public Interest Disclosures

Risk Management

Secondary Employment

Councils may also wish to consider developing a Conflicts of Duty Policy as introduced by the City of Sydney that deals with Councillors participating on commercial boards where their duties as a Director to shareholders could conflict with their duty as a Councillor.

10. References

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