

Overview of the Proposed Oversight and Intervention Framework

On the basis of the consultation feedback and the strong support for independent oversight of local government, it is proposed that oversight and intervention powers are based on the principle of separation of departmental and political intervention. The Director of Local Government, as an independent statutory position, will have certain powers to enable intervention in council administration matters, while the Minister for Local Government will have the power to intervene at the elected member level.

The proposed model focuses on introducing powers to intervene early to address operational performance issues where a council has allegedly mismanaged its operational or administrative responsibilities (for example financial mismanagement, poor procurement process or failure to discharge statutory responsibilities). This was clear in the Glenorchy City Council and the Huon Valley Council Boards of Inquiry, where senior management conduct and operational decisions were a key focus of the investigations. Early intervention measures will assist in quickly returning councils to governing autonomously before more serious issues occur.

Where this approach is unsuccessful, the power is provided for independent oversight mechanisms to be introduced, such as the role of a monitor to advise and support the council, a financial controller to support councils experiencing financial difficulties and formal investigations for serious issues. If these approaches have been exhausted or are unsuccessful, the Minister has the power to intervene directly and address the matter swiftly through the current Performance Improvement Direction provisions, or acting on advice from the Director of Local Government, to suspend or dismiss a council.

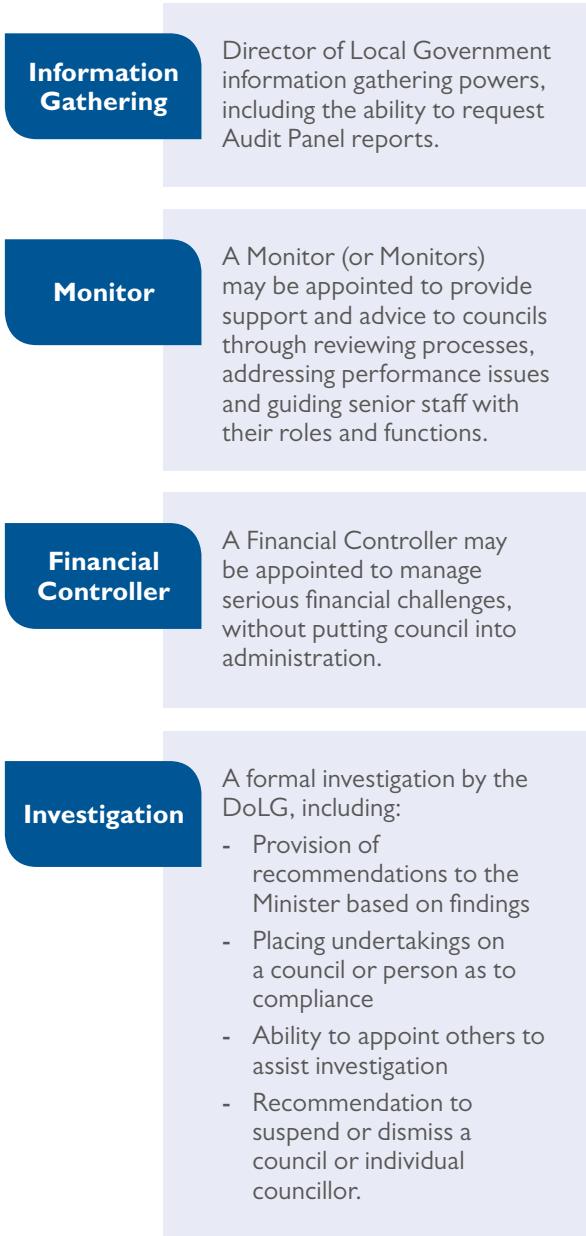
In addition, the introduction of a maladministration offence provision for substantial mismanagement of public office allows for a prosecution to be advanced in parallel to some of these approaches, for serious failures. The maladministration provision will also serve as a serious deterrent to engaging in poor governance practices.

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INTERVENTION MECHANISM



Information Gathering

Director of Local Government information gathering powers, including the ability to request Audit Panel reports.

Monitor

A Monitor (or Monitors) may be appointed to provide support and advice to councils through reviewing processes, addressing performance issues and guiding senior staff with their roles and functions.

Financial Controller

A Financial Controller may be appointed to manage serious financial challenges, without putting council into administration.

Investigation

A formal investigation by the DoLG, including:

- Provision of recommendations to the Minister based on findings
- Placing undertakings on a council or person as to compliance
- Ability to appoint others to assist investigation
- Recommendation to suspend or dismiss a council or individual councillor.

POSSIBLE OUTCOMES

No further action

Recommendations

Undertaking

The Director of Local Government may require an undertaking to be given by a council, councillor or general manager to correct non-compliance, or to ensure there is no recurrence.

Offences

Includes suite of existing offences and new offences to be determined.
Possible consequences include fines and dismissal from office.
Note: Breaches of the Act are referred to the Director of Public Prosecutions for further action.

Performance Improvement Direction (PID)

A PID will be issued to address unsatisfactory performance by a council/councillor. It provides an opportunity to remedy the situation before more stringent penalties apply.
Suspension of council or a councillor can occur for failure to observe a PID.

Board of Inquiry

The Minister may request a Board of Inquiry to investigate a council, if serious issues are identified and it is determined the council is unable to effectively perform its roles and functions as required.

Dismissal

In serious cases, the Minister may dismiss a council or individual councillor.