

LOCAL GOVERNMENT CODE OF CONDUCT – INFORMATION FOR COUNCILS

INFORMATION SHEET
28 July 2022

Local government Code of Conduct framework

The Model Code of Conduct framework was introduced into the *Local Government Act 1993* (the Act) in 2016 to provide a uniform set of behavioural and conduct standards for Tasmanian councillors. The framework was developed in consultation with the local government sector and approved by the Minister for Local Government. It provides a consistent, effective and enforceable means to address councillor misconduct.

The purpose of this information sheet is to provide guidance to councils on their responsibilities under the Code of Conduct framework.

How is the Model Code of Conduct made and what can be included in it?

Under the framework, the Minister can make an order containing a Model Code of Conduct for councillors. The Model Code of Conduct must be consistent with the Act and can provide for any of the following matters:

- What constitutes a conflict of interest for councillors and the procedures to be followed where conflict arises;
- The proper and improper use by a councillor of:
 - o the office of councillor;
 - o the use of council resources;
 - o information obtained in the course of a councillor's office;
- The right of a councillor to receive gifts and benefits and the procedure to be followed when doing so;
- Appropriate or inappropriate behaviours by councillors in their relationships with the community, other councillors and council staff;
- The proper and improper manner in which a councillor represents themselves as a councillor and represents the council to the community;
- Any other prescribed matter.

The Minister may amend, revoke or substitute a Model Code of Conduct by order.

The Minister must make a copy of the Model Code of Conduct available to each council as soon as practicable after making, amending or revoking and substituting it.

[Act reference: sections 28R & 28S]

How do councils implement the Model Code?

Each council must adopt the Model Code of Conduct as its councillor Code of Conduct within three months of an order making the Model Code coming into effect. Each council must adopt an amended or substituted Model Code within three months of the Minister making it available to councils.

A council is required to provide a copy of the Code of Conduct it adopts to the Director of Local Government within 14 days of doing so.

[Act reference: section 28T]

What steps does a council need to take to make its Code of Conduct available?

The general manager must make a copy of the council's code of conduct available for inspection at its public office during normal business hours free of charge and on its website and for purchase at a reasonable charge.

[Act reference: section 28T]

Can a council vary the Model Code?

Yes, but only in accordance with the process set out in the Act.

A council may vary the Model Code of Conduct as made, amended or substituted by the Minister. However, any variation must be:

- consistent with the Model Code made, amended or substituted by the Minister; and
- must be approved by the Minister.

Any variation must be set out in a schedule to the Model Code of Conduct.

This means that the Model Code of Conduct will remain consistent across councils, with any supplementary council policies/procedures included as attached schedules to the Model Code of Conduct. For example, a council may wish to attach a schedule providing for a councillor expenses policy or gifts and benefits policy.

Once a variation to the Model Code of Conduct is approved by the Minister, and adopted by the council, the relevant policies and procedures adopted under the variation form part of the council's code of conduct and are enforceable through the Code of Conduct framework contained in the Act.

A council wishing to make a variation to the Model Code should submit a written request to the Minister for Local Government.

[Act reference: section 28T]

How often is a council required to review its code of conduct?

A council must review its code of conduct within three months after each ordinary election.

[Act reference: section 28T]

What are the obligations on councillors?

A councillor must comply with the provisions of the council's code of conduct while performing the functions and exercising the powers of their office.

[Act reference: section 28U]

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