Local Government Association Tasmania

Targeted Amendments to the Local Government Act

LGAT Response

Reform Priority	**LGAT Response**
Strategic Priority 1: Lifting standards of professionalism, conduct, and integrity	
1. Legislating the good governance principles	Supported. It is important that the aim be to establish an expectation of a culture of good governance, and that an overly prescriptive approach is avoided. The early development of guidelines is strongly encouraged and will support councils in implementing the principles. However, legislating alone will not guarantee compliance or improvement in governance practices without robust enforcement mechanisms and consequences for non-compliance. Given the broad nature of the good governance principles, it is unclear what effective compliance provisions can be established without them being weaponised to subvert the lawfully made decisions of councils. It is noted that the mandatory learning and development modules will include a focus on the practical application of the principles. Clarity is required on what changes are necessary to the existing modules, given the existing content appears to already cover good governance comprehensively.
2. Introducing serious councillor misconduct provisions	Supported. It is important that the definition of serious misconduct is expanded beyond just the matters contained in the Code of Conduct to capture: – Behaviour which materially and negatively impacts the reputation of a council, – Persistent and repeated Code of Conduct offences, and

	– Material workplace health and safety breaches. See response to reform priority 5 below for further information.
3. Broadening performance improvement direction provisions	Supported. See response to reform priority 5 below.
4. Introducing temporary advisors for councils	Supported. There needs to be clear guidance on the circumstances that would trigger the appointment of an advisor and ensuring that the focus remains on empowering councils rather than creating a reliance on external oversight for achieving sustainable governance improvements.
5. Clarifying work health and safety obligations	Supported in principle. While in the past there may have been a lack of clarity on the definition of elected representatives as 'other persons' in the workplace, this is no longer the case. Recent work by LGAT[1] and the Office of Local Government[2] have improved the sectors understanding of their role and responsibilities. The current challenge for the sector is the absence of a reliable escalation pathway in instances where infringing behaviour of 'other persons' (specifically psychosocial hazards caused by poor behaviour from a minority of elected representatives) continues despite reasonable attempts by the Person Conducting a Business Undertaking (PCBU) to manage risks. There remains a fundamental challenge for General Managers / CEOs of councils to effectively discharge their responsibilities under the *Work Health and Safety Act 2012* when seeking to manage the actions of councillors, who are also their employer. The regulatory pathway via the *Work Health and Safety Act 2012* remains unclear and untested. It is recommended that reform priority 2 or 3 includes material workplace health and safety breaches by elected representatives, similar to the regime in South Australia.

[1] *LGAT Guide for the Unreasonable Conduct of Elected Representatives*
[2] *Model Guidelines, Unreasonable Conduct within Councils (Elected Members) Recognition and Response*

	To support the changes suggested above and consistent with a sector wide resolution in September 2024, it is also requested that the State Government investigate mechanisms to have workers' compensation insurance (or equivalent) made available to councillors.
6. Mandating council learning and development obligations	Supported. The requirement to undertake core learning requirements within 12 months of election is too short. Further, it is important to foster a culture of continuous learning and development, not a set and forget mentality. Further information on the consequences of failing to undertake the mandatory training is required.
Strategic Priority 2: Driving a high-performing, transparent, and accountable sector	
7. Introducing a contemporary role statement and a charter for local government	Supported. A critical component of this reform is the commitment from the State Government that the Charter: "*Sets clear principles and processes for how the Tasmanian Government* ***will support local government to deliver on their role****, including in connection with consultation and engagement between the state and local government*." To support this commitment, at the March 2024 LGAT General Meeting members resolved that LGAT seek: "*The renegotiation of the Partnership Agreement on Communication and Consultation 2003 (Partnership Agreement), between the Tasmanian Government and Councils*." Development of the Charter must include this associated partnership agreement. Councils need flexibility and discretion when progressing initiatives for their communities. An overly prescriptive Charter that mandates the role of councils could hinder opportunities. Councils often step in to provide services where there is market failure for example. It is recommended that the core functions of councils be defined and then also identify principles for when councils might move into areas outside the defined scope.

8. Improving the strategic planning and reporting frameworks	Supported in principle. The development of sector templates and guidelines is required to support this reform. The 2019 Review of the *Local Government Act 1993* included the requirement for councils to develop and adopt a community engagement strategy (reform #17), as is contemplated by this reform priority. The 2019 review also included a commitment from the Government that: *"Councils will have broadened capacity to engage with their communities in accordance with their Community Engagement Strategy. Wherever possible, prescriptive requirements to provide reports and information in a specified way, such as by post, will be removed"* (reform #18). It is noted that Reform 33 of the Local Government Electoral Bill Discussion Paper increases the threshold and will restrict the matters on which a council must hold an elector poll. However, consistent with the Government's previous commitments, what further "prescriptive requirements" for engagement /notification will be removed to accompany this reform priority? The requirement for councils to prepare Workforce Development Plans does not recognise the multifaceted workforce issues facing councils. On its own it will have limited utility and risks just being another plan that councils must produce that does not address the root causes. The attraction and retention of key staff, such as Planners and Environmental Health Officers, is a key issue for our sector and requires an ongoing and funded program to address. The sector is very willing to work with the Government on what this might entail.
9. Improving consistency in data collection and reporting methodologies	Supported. The data collection process and content should be fit for purpose, integrate with councils' existing systems, be useful and the reporting framework needs to be of value to councils. The current Consolidated Data Collection does not meet these aims.
10. Enhancing transparency of information in council rates notices	No definitive position. Ratepayers should have access to easy-to-understand information about their rates, how they are calculated and what are the drivers for change in a transparent manner. Many councils already provide this information.

<table>
<tr><td></td><td>Year on year comparisons presented at a property class level would allow accurate benchmarking between councils without the same resourcing implications of doing so at the individual property level.

Detailing total rates paid over the preceding 5 years seems excessive and beyond other examples where year on year comparisons are provided (i.e. insurance).

Additional detailed consultation is required with local government on what further information should be included on rates notices (or alternative processes for supporting this reform) to ensure it is both useful for the rate payer and not an unreasonable burden on councils.</td></tr>
<tr><td>11. Mandating internal audit for councils</td><td>Supported.

Many councils already have an externally managed internal audit function, reporting directly to their Audit Panel. Any new mandated internal audit process should not impact on established multi-year schedules which are already in place.

In those councils that are yet to establish an internal audit program the success of the reform will depend on its implementation. It will require many of our smaller councils to provide additional financial and human resources to comply with this direction. It is important the State Government supports councils in the introduction of this function.

There also needs to be clear guidance on the circumstances that would allow the Director of Local Government to require internal audits.</td></tr>
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