

# Parliamentary Inquiry into Fraud and Corruption in Local Government

## Additional questions

### **1. How could ARCs across local councils benefit from having standardised terms of reference, to ensure they are operating consistently?**

The *Local Government Act 2020* (the Act) sets core, consistent requirements for operating Council Audit and Risk Committees (ARC). Section 53 of the Act addresses ARC establishment, membership, independence and required skills and expertise amongst other matters. Section 54 of the Act requires Councils to prepare and approve an ARC Charter (that is, the terms of reference) that must specify the functions and responsibilities of the ARC. The Act requires all ARCs to include specific responsibilities in their Charter, to adopt an annual work program, conduct an annual performance assessment and prepare a biannual audit and risk report.

It is recognised that Councils vary in size, complexity, resources, capacity and capability. The ARC at a large metropolitan council will face different risks and challenges compared to the ARC at a small rural shire council. Noting the consistent legislative requirements, each ARC needs to tailor its Charter and work program according to the needs of its council.

### **2. LGV is currently co-designing Model Governance Rules and a Model Transparency Policy with the local government sector in response to IBAC's Operation Sandon special report.**

#### **a. What is timeline for the finalisation of these policies?**

#### **b. How does LGV intend to assist councils to uptake these policies once released?**

The Department of Government Services (DGS) has commenced work to address the recommendations made in IBAC's Operation Sandon Special Report to develop and introduce Model Governance Rules and a Model Public Transparency Policy.

DGS convenes a Local Government Steering Committee comprised of sector representatives to oversee the development of these Model policies.

In relation to the Model Governance Rules, DGS has undertaken two rounds of consultation with council Chief Executive Officers and the broader sector. The consultation has assisted understanding of how current Governance Rules currently operate, and to identify areas that the sector would benefit from having model governance rules on.

To support developing and drafting the Model policies, DGS has established two Technical Working Groups (TWG) composed of specialist advisers within local government to draft and test the policies. The TWGs address IBAC Operation Sandon issues, any preliminary sector feedback, and feedback provided through targeted consultation.

Release of the Model Public Transparency Policy is proposed in the final quarter of 2025.

The proposed Model Governance Rules will be subject to a separate public consultation process on Engage Victoria in late 2025. It is intended that they be finalised and released in 2026.

DGS will seek advice of the TWGs regarding implementation of the Model policies, including assisting councils. The TWGs include specialists and council staff and are well placed to advise on these matters.

Further information about the Model policies, including updates on the consultation process and timing of their release, is available on the LGV website: <https://www.localgovernment.vic.gov.au/council-governance/how-we-regulate-councils>.

### **3. What is preventing COI declarations being overseen by an external body, such as LGV or another integrity oversight agency to increase transparency?**

Council meetings and meetings of a delegated committee are the central decision-making forum for a council. In these meetings, a councillor or delegated committee member (including a member of council staff) must disclose any conflict of interest in accordance with the council's Governance Rules and exclude themselves from the decision-making process (e.g. leave the meeting while the matter is considered). It is not sufficient to simply leave the room or be absent for the item without disclosing the conflict.

A failure to disclose a conflict of interest may result in criminal or conduct proceedings:

- The Chief Municipal Inspector is responsible for investigating and bringing charges for a criminal offence under the *Local Government Act 2020*, including a conflict of interest offence. If found guilty, a councillor, member of a delegated committee or member of council staff may be fined up to 120 penalty units.

- A councillor convicted of a conflict of interest offence is not qualified to be a councillor for eight years, meaning the councillor will be dismissed from office and disqualified from being a councillor for 8 years.
- If a councillor fails to disclose any conflict of interest, an application for serious misconduct may be made to a Councillor Conduct Panel by the Chief Municipal Inspector. If a Councillor Conduct Panel makes a finding of serious misconduct it may, among other things, suspend the councillor for up to 12 months.

Note that IBAC's Operation Sardon identified specific meeting practices that have the potential to seriously undermine the integrity of council decisions. These include declaring and managing conflicts of interest.

DGS and the Model Governance Rules TWG is giving consideration to developing standard processes that aim to improve compliance and transparency in relation to the declaration and management of conflicts of interest at council meetings and meetings of delegated committees.

**4. In their Questions on Notice, VAGO cited a 2023 report on Local Government audits, that suggests LGV or the Municipal Association of Victoria, as key stakeholders in the sector, may be best positioned to develop and deliver a structured training program for councillors and their audit and risk committee members.**

- a. Would LGV be the best placed organisation to oversee and deliver mandatory councillor training and instruction on the Local Government Act?**
- b. If not, what is preventing LGV from undertaking this obligation and who may be better placed?**

VAGO's Results of 2022-23 Audits: Local Government report included the following recommendation:

*We recommend that Local Government Victoria or the Municipal Association of Victoria, or both in partnership deliver a governance training program, which may include tailored resource material, to support councillors and their audit and risk committee members throughout their term of appointment.*

In a previous submission to the Parliamentary Inquiry into Fraud and Corruption Control in Local Government, DGS has noted that it is currently working on responding to this recommendation. It is expected that DGS will develop and issue updated guidance to support the operation of Council Audit and Risk Committees under the *Local Government Act 2020*. Responsibility for the delivery of a governance training program will be subject to further discussion between MAV and DGS. As a peak organisation

providing a range of council training, MAV is well placed to deliver such a training program to councillors.