

# Session 4B

## Office of Local Government Update

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# Overview



- The new Model Code of Conduct and Procedures
- The Model Code of Meeting Practice
- New requirements for councillor induction and professional development
- Internal audit

# Review of the Model Code of Conduct and Procedures



- The new 2018 version of the Model Code of Conduct will see, for the first time, all ethical standards for local government prescribed in a single statutory instrument
- Consultation drafts of Model Code of Conduct and Procedures were released for comment late last year
- Final versions of the Model Code of Conduct and Procedures are available on OLG's website

# Key changes to Model Code of Conduct



- New standards relating to discrimination and harassment, bullying, work health and safety, behaviour at meetings, access to information and maintenance of council records
- New rules governing the acceptance of gifts including mandatory reporting
- Pecuniary interests provisions are included
- A new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them

# Key changes to Procedures

- Expanded and clearer definition of what is a “code of conduct complaint”
- Greater flexibility to allow GMs and mayors to delegate complaints management functions
- Clearer guidance on what complaints can be declined at the outset
- Clearer prescription of what complaints are sufficiently serious to warrant investigation
- Requirement for conduct reviewers to consult with OLG before recommending referral for disciplinary action under misconduct provisions
- New sanctions against complainants who publicly disclose information about complaints

# Implementation of new Model Code



- Councils have 6 months to adopt and implement
- OLG will be preparing separate codes of conduct based on the Model Code for councillors, staff and delegates and committee members for adoption by councils should they wish
- OLG will also be issuing plain English guides and specific topic guides to promote understanding of obligations
- OLG will also be preparing procedural guides for complaints coordinators, and for GMs/mayors on initial complaints management, and for conduct reviewers on preliminary assessments and investigations

# Development of Model Code of Meeting Practice



- Amendments made to the Act also provided for a model code of meeting practice to be prescribed by regulation.
- Consultation draft was issued at the end of last year with the consultation period ending in March.
- Once finalised, it will replace the meeting rules currently prescribed in the Regulation.
- The Model Meeting Code has two elements:
  - Mandatory Provisions
  - Non-mandatory Provisions

# Model Meeting Code Objectives

The Model Meeting Code has been designed to achieve a range of outcomes, namely:

- promoting the making of decisions that are in the best interests of the council and the community as a whole
- promoting more accessible, orderly, effective and efficient meetings
- prescribing principles to inform the way in which meetings are conducted
- codifying areas of common practice
- promoting greater consistency between councils across the state
- allowing greater flexibility in the conduct of meetings
- simplifying the language currently used
- modernising the rules to accommodate current and emerging technologies

# Model Meeting Code – Key changes

## Key changes:

- New meetings principles
- Optional rules for pre-meeting briefings
- Optional rules for public forums
- A new requirement for meetings to be webcast
- New rules limiting the use of mayoral minutes without notice to cases of urgency
- Optional rules requiring a staff report for motions seeking decisions that do not align with councils' IP&R objectives
- Optional rules allowing multiple items to be adopted in a block
- Optional rules allowing rescission motions to be dealt with at the same meeting in cases of urgency and allowing matters to be recommitted to correct an error
- Optional rules placing time limits on meetings

# Councillor induction and professional development



- Section 232(1)(g) places a responsibility on each mayor and councillor to *“make all reasonable efforts to acquire and maintain the skills necessary to perform their roles”*.
- This will soon be complemented by regulations requiring councils to deliver to elected members:
  - an induction program in the first six months, and
  - an ongoing professional development program over the council term to address skills and knowledge gaps
- These requirements will be supported by comprehensive guidelines

# Snapshot of proposed framework



Councils' induction and professional development program is proposed to consist of three elements:

## 1. Pre-election information sessions

- not a mandatory requirement but encouraged
- ensures candidates are fully aware and informed of what will be expected of them if they are elected
- provides understanding of roles and responsibilities; legislative requirements; time commitment necessary; and skills, knowledge and personal attributes required

# Snapshot of proposed framework

## 2. Induction program

- provides essential knowledge so councillors and mayors can perform their role effectively in first few months – i.e. information about council's structure, operations, finances, meetings, policies and procedures etc
- focuses on building positive, collaborative relationships between councillors
- ensures councillors and mayors are more productive in a shorter period of time
- includes a supplementary induction program for mayors
- must be delivered within 6 months of election

# Snapshot of proposed framework

## 3. Professional development program

- ensures mayors and councillors fill any skills or knowledge gaps that may prevent them from effectively fulfilling their role, or that the governing body as a whole lacks
- individual professional development plan to be developed for, and in consultation with, each councillor and mayor
- content to be based on both the needs of council and the needs of the councillor or governing body
- guidelines will contain a checklist of the skills, knowledge and personal attributes required to fulfil legislative roles

# Other key aspects

- Proposed framework sets minimum benchmark – can be implemented flexibly and councils with existing programs will not be disadvantaged
- Takes into account the new roles of councillors, mayors and the governing body under the LGA
- Strong focus on team building and establishing a positive and collaborative focus for the governing body
- Participation to be reported annually in council's annual report

# New internal audit framework for councils



- The Phase 1 amendments in effect mandate internal audit for all councils - The LGA requires all councils to appoint Audit, Risk and Improvement Committees (councils may share committees)
- The internal audit provisions are yet to commence - Under the transitional provisions, the internal audit provisions do not take effect until 6 months after the next ordinary election following commencement (likely to be March 2021)
- The internal audit provisions will be supported by regulation/guidelines which will contain most of the prescriptive detail

# Why internal audit?

- The Government sees internal audit in councils as an integral part of its reform agenda for Local Government to achieve improved governance and performance
- The reforms contemplate internal audit operating not only as an internal assurance mechanism but also as a powerful business improvement tool to support councils to better achieve their strategic objectives and to meet the needs of their communities more effectively and efficiently
- Internal audit is used extensively in the private sector, and in NSW and Australian Government public sector agencies

# Policy objectives

The regulatory framework is being designed to ensure that internal audit:

- operates effectively as an internal assurance mechanism and business improvement tool
- conforms with standards and best practice
- meets the “Brewarrina test” i.e. it is deliverable by all councils regardless of size, budget and capacity
- is cost effective and adds value

# Progress so far

- Development of the new internal audit framework is well-advanced - a discussion paper will be released for consultation on the key elements of the proposed regulatory framework for internal audit
- The proposed framework will be based on:
  - NSW public sector model developed by NSW Treasury
  - International standards (IIA)
  - OLG's 2010 Internal Audit Guidelines
  - ICAC inquiry recommendations
  - Independent Local Government Review Panel recommendations



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# Questions?

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