

## Councillor Conduct & Governance Reform Discussion Paper: Monash Community Submission

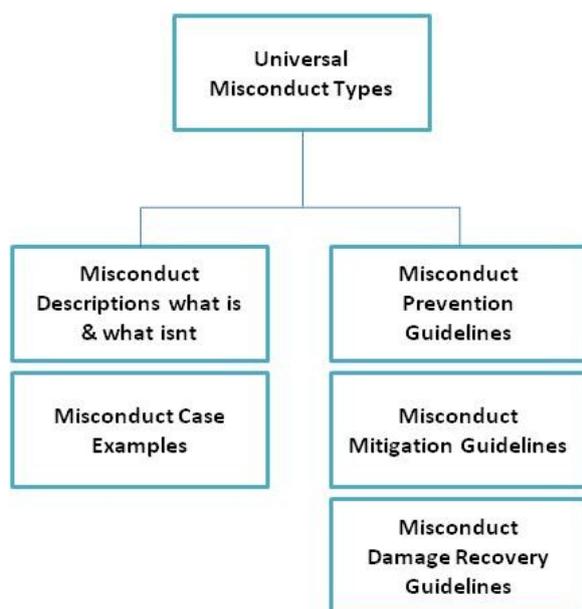
The Councillor Conduct and Governance reform discussion paper limits itself to institutional parties dealing with councillor misconduct. As such, it sets the framework and reform inquiries of how people in institutional settings can regulate and improve the management of councillor misconduct issues. Involving the ratepayer community is missing in the discussion matter. Their participation in future reform implementations and post reform operations should be included, to recognise them as a key stakeholder in local government affairs.

The feedback below reflects the views of the Monash community in regard to their experiences with Councillors' behaviours.

### Identified Issues:

**Misconduct Definition:** The identified issues in the discussion are most valid and the questions asked indicated areas of reforms to improve the detection and management of miscondacts that are deemed not serious, but never the less their cumulative occurrences do put good governance, especially accountability at risk and hence compromise public trust in the local government sector.

What constitute misconduct needs definition guidelines, otherwise there will be different interpretations of misconduct by different stakeholders, making misconduct difficult to pin down and its cumulative impacts difficult to mitigate. It is recommended that a **universal list of the types of misconduct** be provided, also supported by an independent change management process to allow new definitions to be added.



The universal misconduct definitions can be supported by:

- Clear explanations of what each misconduct type is and isn't about
- Case examples
- Risk management procedures:
  - Prevention procedures
  - Mitigation procedures
  - Damage control procedures.

The risk management procedures should also allow ratepayer communities to participate, as Councillor complaints are not just reported by institutional parties as in the limited scope of the discussion paper.

The prevalence of risk management procedures also imply that managing misconduct is a risk management exercise, to ensure some underlying conduct goals. Presently, Councils define their own *code of conduct* standards, which also imply different interpretations of compliance to internal

policies as well to the Local Government Act. This is another implementation risk that can undermine effective misconduct management.

To prevent this risk, it is recommended that misconduct management is regarded as a component of **a universal agreement of corporate values for the local government sector**. As Councils have no constitution because they are delegated units of the Victorian Government, it make sense to subject all Councils to comply with “corporate values” standards such as the [Victorian Public Sector Values](#) policy or customised version of it. In this approach, the risk management is then more focused on ensuring not just the desired “corporate values” are reflected in not just general Councillor behaviours, but also to ensure:

- The prevalence of ethical and responsible decision making behaviours
- The avoidance of groupthink behaviours influenced by different allegiances to political parties and secret caucus pre-meetings to orchestrate planned power plays during actual Council meetings.

These *hard to qualify* behaviours have undesired negative impacts on good governance, and have lead to encouraging prevailing Council cultures of sophisticated and artful manipulations of the local government system to support agendas other than in the real interest of the community.

**Roles of Councillors:** The discussion paper asks if defining the roles of Councillors is possible preventive measure. The answer is yes, but it has to go beyond just defining the roles. It has to include descriptions of **responsibilities and accountabilities**, which then require Human Resource Management (HRM) reform to apply performance appraisals for Councillors, integrating with more vigorous enhancement of the KPI reforms currently being rolled out. Without a HRM framework for Councillors, long standing Councillors with misconduct track histories can subjectively and discretionary create their own achievement performance profile, an example in this hyperlinked Monash Council [case](#), which is hard to prove or disproved and have a higher chance of misleading the public. Simply put, Councillors need to be assigned portfolios and be responsible for delivering them. They are not quite “Board of Directors” as local government is a divisional of State Government and portfolios allocation and performance accountability is a natural expectation of what makes credible and high performing Councillors.

**Role of the Minister:** The Minister can **restructure existing conduct governance arrangements** to:

1. Expand the roles and responsibilities of the Local Government Inspectorate to look into breaches of the [Good Governance Guide](#). Presently, while this guide promises good things, breaching it is not enforceable and offences cannot warrant effective and sustaining remedial actions. There also exist strong organisational skills and cultures in presenting breaches as non breaches because they are said to comply with legislative and policy procedures, minus the resulting poor information transparency or outcomes accountability ownership.
2. Include ratepayers to be involved in the conduct governance review panel of their Councils. Presently, Councillors can dictate the membership arrangement of such panels, giving them more room for manipulating the system to their advantage. This approach also requires

choosing ratepayers with the appropriate capabilities to perform such roles or training ratepayers to effectively play their roles in such panels.

3. Setup a universal complaint system for all stakeholders to use, including support of the Whistleblower Act, especially to protect staff from whistle blowing. The feedback system regularly reports publically the number and status of complaints, and its information can be used to profile the conduct performance of Councillors and to the level of the organisation. Standards already exist, notably the Victorian Ombudsman's [complaint handling good practice guide](#), which can be readily be reused or customised to implement this recommendation.
4. Setup universal criteria, procedures and leveraging the compliant system to provide the evidence for counselling to ultimately discharging Councillors who continue to show poor character and unfitness to hold public office.

### **Other Issues Regarding Councillor conduct that needs addressing:**

Decision making behaviours also need explicit definition. Presently, Council meeting debates, the actionable aspects of decision making, foster a culture that:

- Promotes groupthink influenced arguments and emotionally persuasive debates,
- Allow personal disrespect and even insulting commentaries during debates
- Encourages poor profiling and hence debates of decision alternatives,
- Lacks requiring quality and well researched evidence to validate arguments and hence justifying the consensus decision directions
- Allows Councillors to amend decision criteria or directions in Council documents, or most ironically even amend their amendments during Council meetings. This is growing decision making culture in Monash Council.
- Allows strong personalities to frequently interrupt the weak Mayor's call for meeting order and control, and take over with more debates that are opinionated and requesting amendments and time extensions to support and explain these poor debates.
- Allowing groupthink members use ipads or other mobile devices (on the pretence of reading meeting agenda documents online) to coordinate their pre-orchestrated debates, access information and immediate responses to unforeseen perspectives of debates.

Simply put, present Council decision making aka meeting behaviours do not support a rational decision making model, hence decisions are made no clear evaluation of alternatives, selection criteria and even disclosing implementation KPIs.

### **Governance Issues in Misconduct**

Presently, compliance to the Good Governance Guide is not enforceable. An explicit framework of Corporate Government does not exist. The Local Government Act is the de facto corporate governance framework, which most Councils are skilful in validating bureaucratic process compliance, often with no commitment to whether information and decision outcomes comply with the Local Government Act and other legislative frameworks.

There is an urgent need to explicitly declare:

1. A universal “corporate governance” framework for all Councils, to not just comply with the Local Government Act, but also other relevant laws, the Good Governance Guide, etc.
2. The associated enforcement procedures.

Councillors conduct management is one component category of this corporate governance system.

### **Proposals for reforms**

In addition to recommendations proposed earlier, Council meetings should be randomly audited by a panel of State Government and ratepayer representatives, to evaluate behavioural conduct during Council meetings. Videoing of Council Meetings should also be promoted and uploaded online – which also have an additional purpose for civic participation for people unable to attend Council meetings in person.