

# Statutes Amendment (Local Government Review) Act 2021

The amendments to the *Local Government Act 1999* (the Act) which implements the new local government conduct management framework reform, commenced on 17 November 2022, includes the following:

- The separation of poor behaviour from matters that can affect the integrity of council decisions and provides clearer pathways for the investigation and resolution of behaviour, integrity and corruption matters.
- Greater flexibility for councils to manage lower-level council member behavioural matters.
- The establishment of the Behavioural Standards Panel (the Panel), an independent body which has been specifically designed to deal with repeated or serious misbehaviour by council members. The Panel has wide-ranging powers to enable efficient resolution of difficult issues that can arise. The Panel will also be able to act in response to this misbehaviour, including the suspension of members for a maximum period of three months (with or without allowance).
- Repeal of the *Code of Conduct for Council Members* in favour of the establishment of the Behavioural Standards for Council Members (Behavioural Standards) (under section 75E of the Act).
- The establishment of council behavioural management policies (section 262B of the Act) and behavioural support policies (section 75F of the Act).
- 'Health and safety duties' for council members, in new section 75G of the Act, that provides that council members must take reasonable care that their acts do not adversely affect the health and safety of other members or council employees. Council members must also comply with reasonable directions that may be given to them by a 'responsible person' to protect the health and safety of other members and employees. The 'responsible person' is generally the Mayor; or where an affected person is an employee, the chief executive officer.
- Provides councils with the power to suspend a member from council when a member fails to submit a return for the register of interests (section 68 of the Act), fails to comply with the mandatory training requirements (section 80A of the Act), or is subject to a final intervention order (section 80B of the Act).
- Strengthens provisions covering how members and employees manage gifts and benefits and simplifies conflict of interest provisions into two types—material and general (Chapter 5 Part 4 Division 1 of the Act).
- Clarifies council members' obligations to complete appropriate mandatory training (section 80A of the Act).

- Provides the Presiding Member of a council meeting with the ability to exclude council members who behave in an improper or disorderly manner for a maximum of 15 minutes (section 86 of the Act).
- Empowers the Ombudsman to recommend that suspension of council members for up to three months following an investigation and clarifies that if the Ombudsman requires a member to reimburse a council a specified amount that this may include the reimbursement of the council's costs relating to investigation. This power is also clarified for the SA Civil and Administrative Tribunal (SACAT) following the investigation of council member complaints referred to it. SACAT has also been given the ability to suspend a member for up to six months (increased from two months). SACAT will continue to be the body able to disqualify a council member from office. (Chapter 13 Part 1 of the Act).
- Amends various provisions covering council employee integrity and behaviour, including a requirement for council chief executive officers to better protect employees from sexual harassment (Chapter 7 of the Act).

**Note:**

The following set of four supporting regulations also came into operation on 17 November 2022, and give effect to the abovementioned reforms:

- *Local Government (General) (Miscellaneous) Amendment Regulations 2022;*
- *Local Government (Procedures at Meetings) (Presiding Member) Amendment Regulations 2022;*
- *Local Government (Transitional Provisions) (Conduct) Amendment Regulations 2022;* and
- *Local Government (Amendment of Schedule 5 of Act) Regulations 2022.*