

Improving Councillor Accountability

Councillor Conduct Reform Policy Statement

June 2026





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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1 Executive Summary

Serving as a councillor is a privilege that comes with important responsibilities.

As democratically elected representatives, councillors have the privilege of being able to represent community views and engage in political debate, sometimes offering contentious and controversial viewpoints. The ability to be free to engage in political communication comes with a responsibility to not abuse the privilege and engage in poor behaviour, or worse, serious misconduct.

This proposed councillor conduct framework recognises councillors should be able to freely and fairly engage in debate. However, the privilege to engage comes with the need to be held to account when comments veer beyond what their peers (as elected representatives) consider acceptable, or they engage in misconduct such as corrupt conduct or legislative breaches.

There is a need to act as the current Conduct Framework is increasingly struggling to manage the performance and accountability of local councillors. Evidence shows that the framework does not always deter misconduct or impose meaningful consequences when it occurs. Instead of supporting effective political debate and addressing poor behaviour, code of conduct complaints are commonly used as tools in political disputes. This undermines the integrity of the system and can erode public trust in local government. Any reform to councillor conduct must therefore strike a careful balance: safeguarding robust, adversarial political debate and protecting freedom of political communication, while ensuring that inappropriate behaviour is effectively addressed.

The proposed amendments to update and renew the councillor conduct framework are being delivered in two stages:

- **Stage 1:** transfers the jurisdiction for councillor misconduct matters from the NSW Civil and Administrative Tribunal (NCAT) to the Land and Environment Court (LEC) through the *Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025*. The Bill establishes the LEC as the primary judicial forum for serious councillor misconduct and associated disciplinary outcomes. It introduces public interest proceedings with stronger penalties and replaces the existing NCAT resolution pathways with a court-based process.
- **Stage 2:** establishes new definitions of unsatisfactory behaviour and serious misconduct, with new pathways for the consideration of complaints. In the case of unsatisfactory behaviour, a new Privileges Committee will be created to ensure the question of whether a councillor has abused their privileges to speak freely is considered by their peers. In the case of serious misconduct, the Office of Local Government (OLG) will be tasked with investigating the misconduct and deciding whether to take disciplinary action, which includes referral of matters to the LEC. Critical to the new framework will be the process of triaging complaints to ensure genuine cases are referred to the right path for further consideration, while trivial or vexatious matters are filtered out.

These reforms are supported by other initiatives, such as an updated Model Code of Meeting Practice, free speech guidelines, and a revised Code of Conduct for councillors. Together, these changes aim to restore public confidence, ensure fair and effective complaint resolution and deliver a modern, fit-for-purpose regulatory framework for local government in NSW.

2 What we heard

In September 2024, the NSW Government released the Councillor Conduct and Meeting Practices Discussion Paper. This paper looked at the challenges in the current system for councillor behaviour and meeting practices, and suggested ways to improve transparency, accountability, and integrity in local government.

The Discussion Paper proposed several changes, including:

- Making OLG directly responsible for dealing with pecuniary interest and significant non-pecuniary conflicts of interest, with sanctions such as suspension or loss of pay decided by an appropriate tribunal or body
- Referring concerns about councillor behaviour to a panel of experienced councillors who are able to judge their conduct as peers
- Updating the Code of Conduct to be more like the NSW Parliamentary codes, making clearer the expectations for councillor behaviour
- Ensuring the community can observe local democratic processes by banning closed briefing sessions and restoring the dignity and prestige of council chambers.

During the 12-week consultation period, people from across the community, local government and other interested groups were invited to share their views. In total, 216 submissions were received, showing strong support for change and for reforming the councillor conduct framework. Many people felt that the current system was not working well to address poor behaviour.

One of the main issues raised was the high number of unsubstantiated or minor complaints, which puts pressure on resources and leads to dissatisfaction with how complaints are handled. Data reported to OLG shows:

- The total number of conduct complaints councils receive has stayed largely stable; however the number of substantiated complaints has dropped significantly
- Around one in five councils have not received any complaints
- In 2024, one quarter of councils received five or more complaints, making up almost 80% of all complaints. This trend has remained consistent over the past three years, with a small number of councils dealing with most complaints and their associated costs.

Some stakeholders have also reported that serious poor behaviour is becoming more common.

Feedback from community and stakeholders made it clear that the existing approach is not meeting expectations. A more streamlined process for handling complaints, the application of targeted and proportionate sanctions, and implementation of straightforward procedures are seen as essential for restoring confidence in how councillor conduct is managed.

There is a strong desire for a system that is clearer, more efficient and better able to:

- Provide clear guidance to support councillors on what is expected of them in their role as councillors
- Give the community confidence councillors behave with integrity
- Ensure an efficient and effective response to create a disincentive for poor behaviour.

3 The need for a new approach

Elected councillors hold a position of trust and responsibility, representing their communities and upholding democratic values. The role requires councillors to act with integrity, transparency, and in the public interest. However, while most councillors do the right thing, increasing instances of poor behaviour highlight significant weaknesses in the current Councillor Conduct Framework.

The current framework is outdated and has been overwhelmed by an increasing number of trivial and vexatious complaints. It results in delayed complaint resolution, misuse of processes for vexatious or political purposes, and limited transparency in council decision-making. Regulatory resources are disproportionately directed towards minor issues, while serious misconduct can be missed or not resolved in a timely manner to act as a deterrent. These shortcomings undermine governance standards and erode public confidence in local government.

Councillors are expected to act ethically and fairly, without seeking personal gain, yet existing practices fail to consistently uphold these expectations. Expensive and complex complaint investigations, coupled with cumbersome processes, further diminish trust and accountability. Without reform, the sector risks continued inefficiency, inequity, and reputational damage. If councillor behaviour is considered lacking, it risks the processes and community confidence in how local service and regulatory decisions are made.

This issue also affects the majority of councillors who do act appropriately. While most councillors uphold high standards, they often witness peers engaging in poor behaviour or political point scoring, diverting council time and resources into managing complaints. Meanwhile, serious misconduct may receive insufficient attention or take too long to address.

There is also a need to change the approach of OLG. The local government sector should be better positioned to manage its own behaviour, consistent with other levels of government. Where serious misconduct occurs, there should be a strong deterrence that comes from sanctions determined by judicial officers.

To restore trust, confidence and make sure the system works for everyone, it's time to modernise the approach to managing councillor conduct.

3.1 A new Councillor Conduct framework

The key principles of the new Councillor Conduct framework are:

- **Robust political debate is protected:** Recognise that free, fair and robust political debate is fundamental to local democracy. The framework should support and enhance debate, not stifle it, while ensuring councillors uphold the privilege and responsibility of elected office. Councillors that abuse the privilege of free, fair and robust debate by engaging in unsatisfactory behaviour, will have their actions assessed by their peers.
- **Misconduct is clearly defined:** Introduce a simplified, statute-based definition of councillor misconduct within the *Local Government Act 1993* (LG Act), enabling courts to interpret misconduct and allowing case law to evolve in line with sector, community and ministerial expectations. OLG will have clearer and simpler processes to investigate and take action on serious misconduct cases, including commencement of proceedings in the LEC.

- **Complaints have a clear front door:** Redirect complaints about councillor conduct from councils directly to OLG and introduce an early triage process to filter and prioritise complaints based on seriousness and credibility. This will reduce resource strain away from trivial or unsubstantiated complaints and focus attention on severe behaviour.

Figure 2 below offers a simplified overview of the proposed complaints handling process, which varies depending on the severity of the alleged misconduct. In essence:

- Complaints about unsatisfactory behaviour will be referred to a Privileges Committee,
- Complaints involving serious misconduct will be managed directly by OLG, and
- Matters involving legislative breaches and where it is in the public interest for suspensions or disqualifications, will go to the LEC.

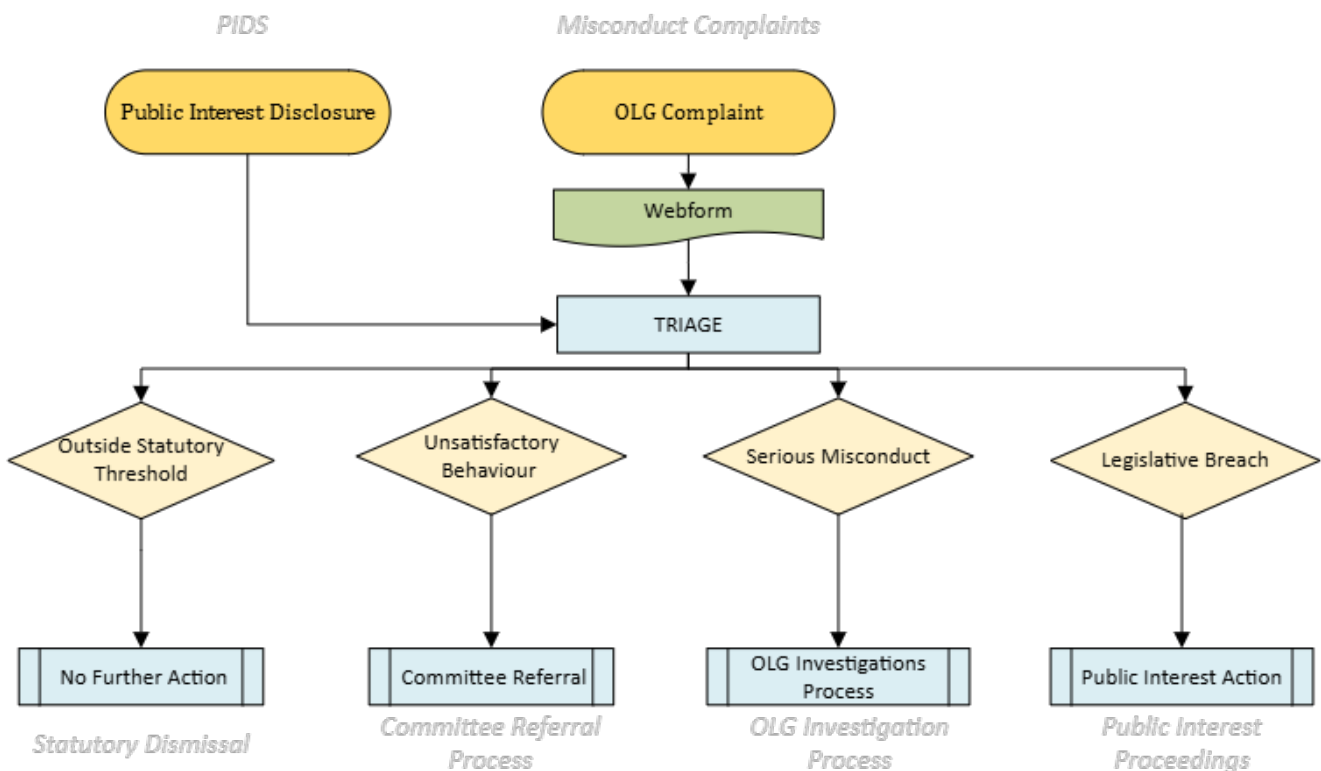


Figure 2: Complaints and triage process

4 Complaints framework

The existing framework has councils primarily handling allegations of councillor misconduct. Complaints are directed to either a council Mayor or General Manager, who initially assesses the legitimacy of the complaint and may refer matters to a Conduct Coordinator and/or engage an external conduct reviewer. In cases where the conduct reviewer has found more serious allegations, councils refer the matter to OLG, which often lead to investigations being restarted from the beginning. This process causes duplication, delays and increased costs.

The proposed framework seeks to centralise responsibility for managing all councillor conduct complaints with OLG, supported by a triage process and clear statutory definitions of councillor

misconduct. This approach aims to deliver a system that is timely, proportionate, transparent and fair, while reducing complexity and protecting councillors from vexatious or trivial allegations.

To make the new framework effective it will be necessary to have clear definitions of unsatisfactory behaviour and serious misconduct to allow an effective application, triaging and allocation process.

4.1 Simplified definition of poor behaviour

One of the key aspects of the new councillor conduct framework is clear definitions to distinguish between unsatisfactory behaviour and serious misconduct. With clearer definitions councillors and the community will be able to more easily understand what is and is not appropriate. It also distinguishes acts of a councillor where a panel of peers are better placed to assess the context of the behaviour and whether it represents an abuse of the privilege of representing the community. The definitions also assist to identify matters of misconduct where OLG as the regulator needs to investigate and potentially commence proceedings in the LEC to adjudicate on appropriate sanctions.

Specifically, Councillor Misconduct definitions are intended to be updated to reflect:

Unsatisfactory Behaviour of a councillor, which involves:

- Behaviour that is outside the norms and expectations of a sitting councillor, and/or
- Behaviour that is beyond the implied right of free political communication and represent harassment and bullying.

The reason why unsatisfactory behaviour needs to be judged by a councillor's peers is because it represents an abuse of the privileges that a democratically elected representative enjoys. It can't be codified and will depend on a view as to whether debate or a campaign on an issue is being undertaken in a way that crosses an expectation around appropriate, free and fair debate.

Examples of actions that may constitute unsatisfactory behaviour include the use of language that uses racial, gendered or other demeaning commentary as an alternative to debate on an issue. Other examples could include using media and other commentary to deliberately spread disinformation in order to achieve a political or personal outcome. Of course, any continued and low-level harassing or abusive activities, if not a Police matter or serious misconduct (see below), would also represent unsatisfactory behaviour.

Serious Misconduct of a councillor, would involve any of the following:

- A councillor engaging in council decision-making where they have a significant conflict of interest or have failed to declare or have provided an incomplete return of interests
- A councillor that has engaged in repeated unsatisfactory behaviour of a serious nature as determined by a panel of their peers (the Privileges Committee)
- A pattern of behaviour, carried out on more than one occasion, or that involves more than one participant, that is indicative of systemic issues and an abuse of the broader legislative obligations any person may face
- A councillor potentially breaching workplace health and safety legislation by engaging in threatening or menacing behaviour, or using intimidation to create physical or mental harm to another person
- Serious corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988*.

- A councillor having been found guilty of an offence under other legislation.

Further work will be undertaken to streamline the referral of matters from the Independent Commission Against Corruption (ICAC) and the NSW Ombudsman through the creation of nexus with the relevant tests and legislation of those regulators and the definitions of serious misconduct. This will allow for more effective referral of matters to OLG and improve their management.

4.2 An improved complaints process

The proposed framework introduces statutory criteria to ensure complaints are assessed consistently and dismissed early if they do not meet defined thresholds. Critically, a web form will be created to capture consistent information, including clear descriptions of the complaint, who is making the complaint (whether anonymous or declared), and details of any corroborating information.

Those wanting to make a Public Interest Disclosure will be encouraged to use the web form. However, it is also recognised that one of the principles of whistleblower-style legislation is the ability for issues to be raised through multiple points.

4.3 Triage and management of complaints

Creating a new single-entry point for complaints also requires a new triage process managed by OLG. The proposed approach simplifies the pathway to make and track complaints, improves efficiency, and ensures complaints are allocated to the correct resolution mechanism including commencing proceedings for serious misconduct matters for judgement by the LEC.

Procedural fairness safeguards will apply throughout the complaints process. This includes timely notification to councillors of escalated allegations and the opportunity to provide a response before adverse decisions are made. These safeguards are intended to promote confidence in the system for both councillors and the community.

Complaints will be lodged directly with OLG using a secure webform, which captures necessary information upfront. This enables faster assessment and categorisation of complaints according to their nature and seriousness. The triage process will:

- Enable departmental officers, under delegation from the Departmental Chief Executive (DCE), to dismiss complaints that outside the scope of the LG Act.
- Refer matters involving unsatisfactory behaviour to a newly established Privileges Committee, ensuring behavioural issues are addressed without escalating to formal misconduct proceedings.
- Escalate serious allegations involving misconduct or legislative breaches for formal investigation under enhanced powers.

As part of the review of the Code of Conduct, it will be made clear to councillors that vexatious, frivolous or trivial complaints could be subject to a surcharging decision by the DCE. This will further ensure councillors are not making complaints for political purposes.

5 Privileges Committee

To assess whether a councillor has abused their privilege of being able to use the implied right of freedom of political communication and engaged in unsatisfactory behaviour, a Privileges Committee will be established. This ensures democratically elected representatives are assessed by their peers on whether the context and actions of the councillor are an abuse of privilege, or an acceptable form of campaigning and debate over a matter of public policy.

The proposed Committee will be established under the LG Act, with supporting provisions in the Regulation. Its purpose is to provide a fair, peer-based mechanism for reviewing and addressing unsatisfactory behaviour by elected councillors.

5.1 A panel of peers

The Privileges Committee will be appointed by the Minister for Local Government and comprise of experienced mayors and councillors.

When a complaint is referred for review, a smaller panel will be convened from this group to consider the matter. This model ensures that every case is reviewed by peers who bring a wealth of experience and a deep understanding of the challenges and responsibilities of elected office.

The concept of having a broader group of members for the Committee that are then called to establish a panel is similar to the approach of the Independent Planning Commission, which allows for an appropriate mix of experiences and backgrounds to consider complaints, while also managing for any conflicts that may arise. The decision on allocation of Committee members to Panels will be undertaken by a Ministerially appointed Chairperson.

5.1.1 Adviser support

To ensure fairness, a convened panel will operate under clear procedures that uphold the principles of natural justice. Councillors will have the opportunity to respond to complaints, and all decisions will be based on relevant evidence. Support will be provided by an independent legal adviser, who will guide on legislative requirements and procedural fairness, but will not participate in panel decision-making.

5.1.2 Scope of matters for a Privileges Committee Panel

The Panel's role will be to review complaints about unsatisfactory behaviour that have been triaged by OLG. The Panel will receive a summary of the allegation and a response from the councillor involved. After considering the evidence, the Panel may issue a formal warning, reprimand, or censure, take no further action, or refer more serious matters back to OLG for further consideration.

OLG will provide a report on the matters that were dismissed through the triaging process to the Privileges Committee on a regular basis to ensure the process is appropriately calibrated to views on what the Committee believes are appropriate matters to review.

5.1.3 Escalating complaints

If a complaint is determined to fall outside the defined scope of unsatisfactory behaviour, or if the Panel considers the severity of unsatisfactory behaviour warrants stronger penalties than it is able

to impose, they can recommend an alternative course of action. In these instances, the Panel will refer the matter to the DCE, who will determine whether disciplinary action is warranted from the available options. Importantly, the Panel will be required to provide clear reasons for its referral to the DCE, without making a final decision on the complaint itself. This approach helps to prevent double jeopardy and will ensure the complainant has the opportunity to provide any further statements regarding their complaint. Once referred, the discretion to take further action will rest entirely with the DCE.

Figure 3 below offers a simplified overview of the proposed Committee and Panel composition, empanelment, referral process and outcomes.

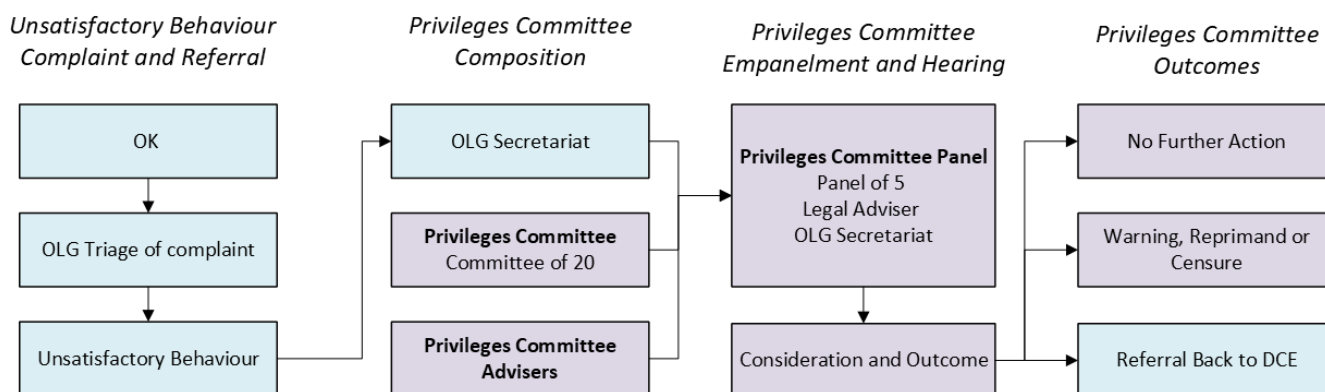


Figure 3: Privileges Committee

6 Investigation powers

To support the practical implementation of the new framework a range of new and expanded powers are proposed to strengthen OLG’s regulatory role, particularly in relation to councillor conduct. These measures aim to ensure the lawful collection of evidence and information relevant to conduct and compliance matters.

It is proposed that OLG’s current investigation powers, including disciplinary provisions, be consolidated into a single chapter within the LG Act. This will provide a clear, centralised source of investigation authority for all complaint types, including conduct, pecuniary interest, performance improvement, and compliance matters.

The amendments proposed to be introduced by the *Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025* shift responsibility for disciplinary outcomes to the LEC. This change highlights the need for a robust investigation framework that supports referrals to the Court, ensuring all evidence presented meets the required legal and evidentiary standards.

6.1 Compelling answers and protecting individual rights

A new power is proposed to allow investigators to compel individuals, including third parties, to provide answers during an investigation. The power is available to other NSW Government agencies playing regulatory roles in environmental protection and resource regulation fields. Importantly, this power would include protections against self-incrimination, thereby preserving the liberty and legal status of those involved. This approach is designed to balance the need for comprehensive information gathering with respect for individual legal rights.

6.2 Enhanced entry and seizure powers

The current powers of entry are proposed to be strengthened by introducing clearer authorities for the seizure of items and for the management of seized materials. These enhancements aim to support effective evidence collection while ensuring security and continuity throughout the process.

6.3 Undertakings for early resolution of misconduct

Consideration is being given to a new mechanism allowing councillors and councils to enter into voluntary undertakings. This would provide an alternative to court proceedings for those who would like to undertake specific activities that can demonstrate an improvement in their council or own behaviour.

Currently, OLG has powers to issue a performance improvement order (PIO) to councils, which may include any actions the Minister considers necessary to improve or restore the proper or effective functioning of the council. Although PIO's cannot currently be issued directly to councillors, those issued to councils may include directions to councillors to improve the performance of a council.

The difference between this power and the proposed undertaking is the voluntary nature of the order. The current PIO process requires formal notice of intent and can only be issued after the Minister has considered the factors prescribed under section 413D of the Local Government (General) Regulation 2021.

In contrast, a voluntary undertaking would operate as a binding agreement to adopt agreed and specified behaviours within a designated timeframe, with penalties or further sanctions applied if the conditions are not met.

6.4 Disciplinary action

Most existing enforcement measures will continue to apply, except for outcomes proposed to be transferred to the LEC. This continuity ensures a consistent approach to councillor conduct and compliance.

Some matters referred from the Privileges Committee may involve issues of misconduct, so it is necessary to preserve a range of available sanctions. These include the issuance of cautions, the requirement for councillors to undertake training, and the provision for formal apologies. Retaining these sanctions ensures there are appropriate mechanisms in place to address misconduct in a manner proportionate to the seriousness of the behaviour.

6.5 Use of powers

Utilising the compliance triangle pictured below, OLG would apply a risk-based approach to compliance and enforcement. Under this approach, investigative powers would be exercised only in limited circumstances, ensuring proportionality and necessity. While stronger compliance and enforcement measures will be available, they are expected to be reserved for situations where less intrusive steps are insufficient or inappropriate. In practice, these powers provide flexibility but will

not be used routinely. To support transparency, regulatory materials such as guidelines will be developed and made publicly available, clarifying OLG’s role and operations as a regulator.

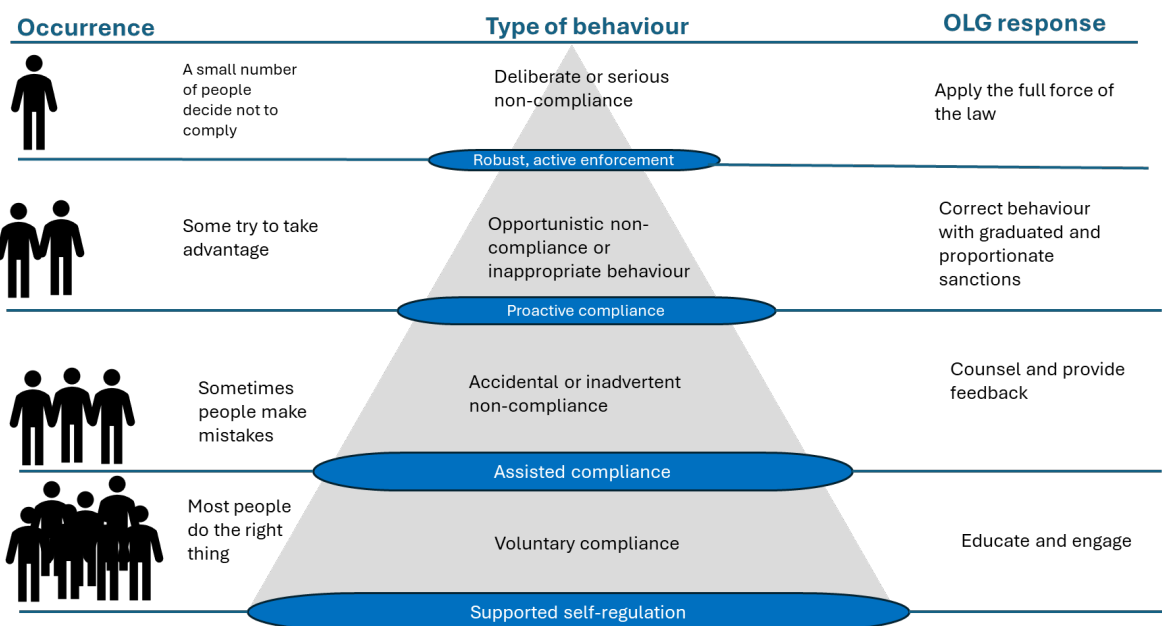


Figure 4: Risk-based approach to compliance and enforcement.

7 Proposed sanctions and appeals

Sanctions must be proportionate to the nature and severity of the conduct. The proposed approach aims to provide a balance of supportive correction for minor issues while taking firm action when serious misconduct occurs. The framework adopts a graduated approach, ensuring responses escalate in line with the seriousness of the breach.

The newly proposed framework builds on the public interest offences proposed in the Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025, providing an appropriate range of sanctions:

- **Lower-level sanctions** - Formal warnings, reprimands, and censure issued by the Privileges Committee reinforce standards and expectations without imposing financial consequences.
- **Intermediate sanctions** – Where serious misconduct is identified but a graduated response is appropriate, OLG may impose corrective actions such as formal apologies, mandatory training, voluntary undertakings, or performance improvement orders to encourage behavioural change.
- **Severe sanctions** – For systemic or serious misconduct, referral to the LEC for court-determined penalties – including suspension or disqualification – may be imposed, reflecting the significant impact and gravity of such actions.

This proportionate framework ensures fairness, clarity, and the ongoing integrity of elected councillors.

7.1 Objectives of the proposed sanctions

The sanctions framework establishes clear, enforceable consequences for misconduct that are proportionate to the seriousness of the behaviour. It seeks to ensure consistency and clarity in how sanctions are interpreted and applied, while deterring future undesirable conduct.

The framework will be guided by the following principles:

- **Fairness:** Sanctions would be determined and applied through impartial processes that uphold procedural fairness.
- **Transparency:** The rationale for each sanction will be clearly articulated and based on established criteria.
- **Deterrence:** Sanctions will serve to discourage future misconduct by both the individual and the broader sector.
- **Accountability:** Councillors will be held responsible for their conduct, reinforcing public trust in local government.

This framework provides a clear escalation pathway for sanctions, ensuring they are appropriate and proportionate to the nature of the misconduct.

7.2 Privileges Committee sanctions

When the Privileges Committee reviews and substantiates a complaint, the focus of any sanction is on upholding expected standards, correcting behaviour and preventing reoccurrence. These outcomes are not intended to be punitive but serve as formal expressions of disapproval from a panel of peers and create a record of unsatisfactory behaviour.

The Privileges Committee would have the authority to issue the following sanctions:

- **Warning:** A formal written notice to the councillor that their conduct was unacceptable and that a reoccurrence could result in a more severe sanction.
 - **Reprimand:** A more significant formal rebuke of a councillor's conduct, signifying a serious departure from expected standards.
 - **Censure:** Typically reserved for more serious breaches of conduct or ethics, especially where public trust is involved.
 - **Return to OLG:** For consideration as serious misconduct for other disciplinary action. Note this remains a discretionary decision of OLG whether to progress with a matter.
-

7.3 Departmental Chief Executive sanctions

For councillor misconduct matters escalated for formal investigations, DCE may determine that, while significant, the conduct can be addressed more efficiently and proportionately through direct action rather than escalation to the LEC. In these circumstances, OLG would have the statutory authority to impose the following sanctions:

- **Formal warning:** Issued where the breach is minor or results from an honest error, and alternative actions would be unreasonable.

- **Caution:** Applied in more serious cases of unsatisfactory behaviour, typically on referral from the Privileges Committee.
- **Training order:** Where corrective action is best achieved through improved understanding of roles and responsibilities or targeted training.
- **Formal apology:** Ordered where appropriate to address harm caused to an affected party.
- **Performance improvement orders and voluntary undertakings:** Designed to support behavioural change, either through mandatory compliance or agreed commitments, to achieve long-term improvement.
- **Suspension or suspension without sitting fees:** Considered in more serious cases of unsatisfactory behaviour, following referral from the Privileges Committee.

7.4 Penalties for obstruction and non-compliance

If these proposals are introduced, new penalties are planned to address instances where individuals obstruct an investigation or fail to comply with an investigator’s direction. The intent behind these penalties is to reinforce the importance of cooperation and compliance throughout the investigative process. By emphasising this expectation, the framework aims to ensure investigations are conducted efficiently and that all parties adhere to the requirements set by investigators. Additional penalties may apply for failing to declare pecuniary interests without reasonable excuse.

7.5 Judicial penalties

As proposed in the Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025, the LEC is proposed to have the power to impose a range of significant disciplinary orders as prescribed by the LG Act. It will be important to ensure the LEC has the ability to select the most appropriate disciplinary order, including a combination of orders, to respond to findings of serious misconduct. The range of disciplinary orders include:

- **Disqualification:** an order disqualifying the councillor from office for no more than 5 years.
- **Suspension:** an order suspending the councillor from office for up to 5 years.
- **Reversal of unjust benefit:** an order requiring the councillor to take action to reverse an unjust benefit derived through the contravention.
- **Compensation or restitution:** an order requiring the councillor to pay compensation, damages, a debt or restitution to another person.
- **Civil penalty:** an order requiring the councillor to pay the State a civil penalty of an amount of not more than 454 penalty units.

Additionally, the LEC may, on application, order the suspension of a councillor from office until the determination of proceedings if the Court considers it is in the public interest.

Figure 5 below offers a simplified overview of the outcomes of an investigation and the pathway to the judicial process.

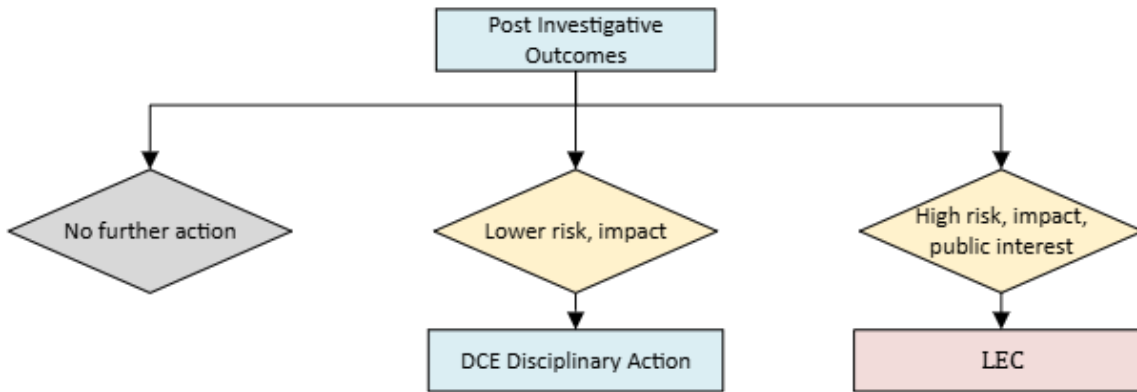


Figure 5: Post investigate outcomes

8 Implementation

In support of the delivery of the framework, several structural, procedural and process changes are needed to support councils in order to deliver the expected benefits of the reforms. This will include supporting the transition to lodgement of complaints directly with OLG rather than directly to the Council as well as establishing a clear reconciliation of costs model, committee processes, and a clear risk-based prosecution framework.

Implementing these reforms is about more than updating rules – it’s about supporting councillors, councils, and communities to adapt to a new, fairer system. This transition should be as smooth and transparent as possible, so everyone benefits from the improvements.

To support councils and councillors adjust, clear guidelines, targeted training, and practical resources will be provided. These will explain the new processes, outline expectations, and offer step-by-step support for lodging and managing complaints. Our goal is to empower councillors to focus on serving their communities, knowing they have the tools and knowledge to meet the new standards.

Importantly, these changes must make it easier for the majority of councillors to understand and comply with expectations. As OLG also moves to streamline complaint handling, matters will be dealt with efficiently and effectively, reducing administrative overheads and investigation time and reporting costs for councils.

8.1 Transitioning to a new framework

These reforms represent a major overhaul of the current regulatory model. In recognition that some complaints and investigations will already be underway when the new framework begins, any conduct that occurred before the new laws take effect will be judged according to the rules in place at the time. However, new and improved procedures, such as faster complaint handling and clearer communication, will be applied wherever possible as long as they do not disadvantage anyone involved.

Consideration was given to the application of a ‘Date of Conduct’, ‘Date of Complaint’ or ‘On Commencement’ approach to each element of reform. A balanced approach is recommended, with different applications for specific elements of the reforms to manage the transition effectively.

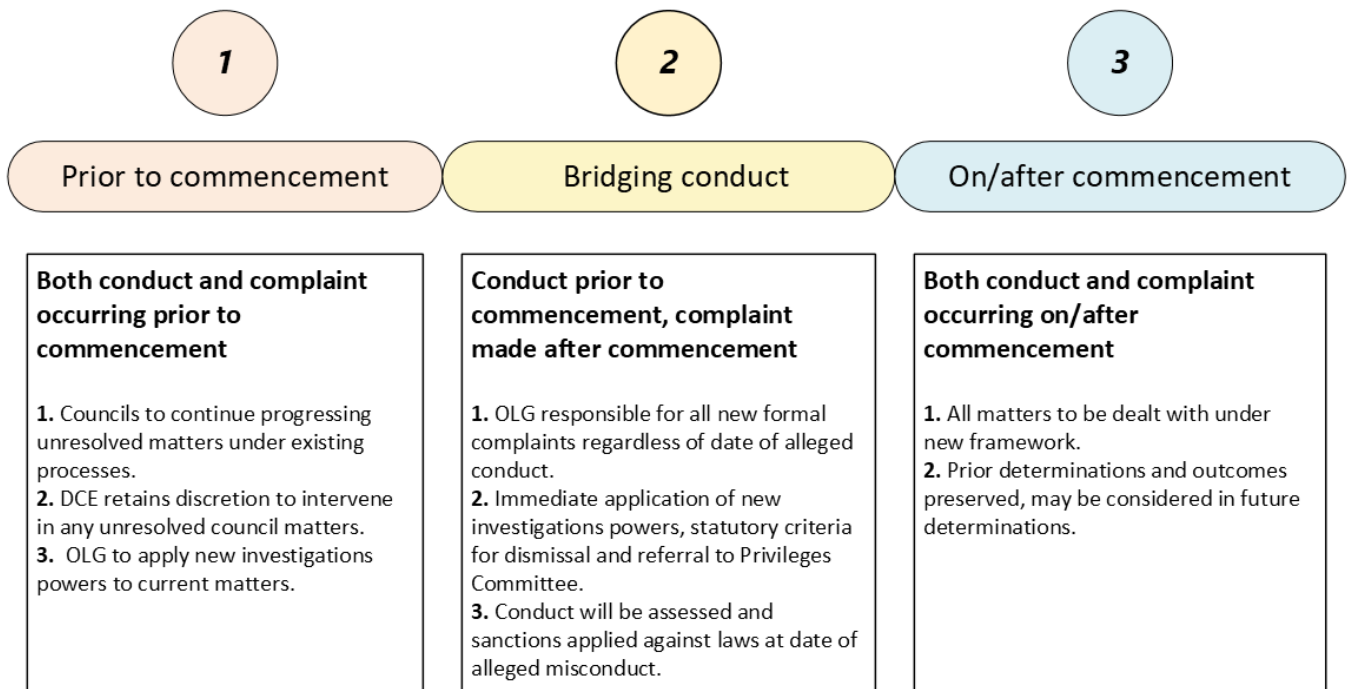


Figure 5: Proposed approach to transitional changeover

8.1.1 Distinction between liability and procedural elements of reform

When introducing these changes, it's important when crafting transitional provisions to separate liability from procedure. Liability means what actions are considered to be unsatisfactory behaviour or serious misconduct and what penalties can be given. Procedure refers to how investigations and decisions are carried out. It's intended that liability follows the rules that were in place when the behaviour occurred, so no one is penalised unfairly by new rules that commence later.

Procedural elements, however, may transition to the new framework sooner provided they do not disadvantage the councillor or increase exposure to penalties. This distinction enables modernisation of investigative and decision-making processes without altering the substantive rights or obligations that applied at the time of the conduct.

8.1.2 Efficiency and fairness

The reform aims to deliver a more efficient, streamlined system while preserving fairness for pre-commencement matters. Allowing updated procedures to apply to transitional matters supports faster resolution, reduces duplication and prevents a long tail of legacy investigations. At the same time, maintaining liability settings (definitions, thresholds penalty limits) under the old framework ensures councillors are not disadvantaged by retrospective amendments. This distinction enables modernisation of investigative and decision-making processes without altering the substantive rights or obligations that applied at the time the conduct occurred.

To support a smooth transition and avoid resourcing pressures, it is intended that matters received and/or currently being investigated or managed by councils will continue to be progressed by them under the existing framework. However, the DCE will continue to exercise discretion to assume responsibility for a matter when considered appropriate.

8.2 Proportionate costs model

A key criticism of the current process is the reliance on external investigators, which can be costly and lead to inconsistent outcomes depending on who conducts the review. By introducing a centralised approach to complaint management, coordinated by OLG, there is an opportunity to reduce inconsistencies and streamline investigations. By consolidating complaint management, councils benefit from standardised procedures, access to specialised expertise, and consistent application of the conduct framework.

To support this centralised complaint management and investigation process, a cost recovery approach is proposed. Councils would contribute to the cost of managing conduct matters, particularly the work of the Privileges Committee, but not the core regulatory functions of OLG.

Importantly, this model promotes shared responsibility for councillor behaviour management, while helping councils reduce overall expenditure and resources used on external reviewers.

Centralisation avoids councils duplicating costs and resources associated with conducting individual reviews or engaging external reviewers. The OLG's expertise and economies of scale enable more efficient and cost-effective resolution of complaints.

Further work on the design and build of the cost recovery model is ongoing and will examine options for cost distribution models.

9 Conclusion

Ultimately, the intent with the proposed reform is to achieve a reduction in weaponised complaints, ensuring that councillors can engage freely and fairly in robust political debate without undue procedural burden or fear of reprisal. Where a councillor abuses the privilege they have of being an elected representative the proposed framework provides a fair and efficient means of addressing the behaviour, setting a clear standard for all. This approach supports a healthy democratic process and fosters a culture of open discussion and genuine accountability within local government.

The proposal assumes that councils will be responsible for funding the costs associated with managing conduct complaints, reinforcing accountability in line with governance standards. This change will need a measured approach to ensure the transition over to the new framework is fair for all councils.

Looking ahead, work will commence for the drafting of a Bill and accompanying Regulations, to support these proposals. This legislative framework will provide clarity and certainty for all stakeholders.

To support councils with the implementation of these reforms, OLG will coordinate targeted education, training, and communication to ensure a smooth transition and understanding of what is planned, how it will progress and what can be expected.

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