

Councils are responsible for driving their improvement and are generally best placed to do so. Where councils are dysfunctional or failing to meet their legal obligations, the Minister for Local Government and the Office of Local Government encourage and support councils to act voluntarily to fix the problem. Where this fails, powers to issue performance improvement and suspension orders may be used.

HOW DOES THE PROCESS WORK?

- Notice of intention to issue a performance improvement order will be given.
- Councils will be given no less than 7 days to respond.
- Notices of intention and orders will outline what is required.
- Council should consider and table the notice of intention at an open council meeting.
- Council should provide its response to the notice of intention by resolution.
- The Minister is required to consider council's submission when making a decision.
- Council should table a performance improvement order at the next available council meeting.
- Council is required to publish the order on its website.
- Council will be required to complete a compliance report on the implementation of the performance improvement order.
- If a temporary adviser is appointed, the council, councillors and members of staff are required to co-operate with the temporary adviser. This includes providing any information or assistance that the adviser reasonably requires to exercise his or her functions.
- If a temporary adviser is appointed, the council is required to provide the temporary adviser with an opportunity to review any proposed compliance report at least 14 days before it is given to the Minister. A copy of the reviewer's comments (if any) is to be provided to the Minister. Failure to comply with this is a contravention of the legislation.
- The Office of Local Government will monitor the implementation of performance improvement orders.
- Council will be advised in writing of the outcome of the Minister's consideration of its compliance report.
- The Office will publish orders, compliance reports and monitoring assessments on its website.

This is a quick guide to how the process of issuing a performance improvement order will work. Further detail is contained in the Framework for Implementing Early Intervention Orders. This document, available at www.olg.nsw.gov.au, provides more detail about who can request an order, the criteria for issuing orders, actions the Minister must take to ensure procedural fairness (e.g. notice requirements) and procedures for implementation, including actions required by councils.