Foreword

Congratulations on being elected by your community to serve on Council. As a Council Member you have the opportunity to make a positive contribution to your local community in a way that is personally rewarding.

Today’s Councils are forward-thinking, professional and focused on providing high levels of customer service across their communities. The range of services they provide is diverse and includes the environment, planning and development, infrastructure, information management, recycling and waste management, health, aged care, youth and recreation.

Collectively, Council Members are responsible for decisions that impact on the lives and livelihoods of individuals, organisations and businesses in their Council area. You are now part of a team that will shape the strategic directions and policies for many of these areas, and for the Council as a whole. You will need to take an informed and active role in the business of the Council, representing the interests of the community and contributing to the decision-making process.

Another key role for Local Government is to establish strong working relationships with State and Commonwealth governments. To support this role, Councils have worked together through the Local Government Association (LGA) to establish agreements with both the SA Government and the Commonwealth Government.

The material in this 2014 edition of the Council Members’ Guide is based on earlier editions of similar guides prepared by the Local Government Association of South Australia with funding support from the Local Government Research and Development Scheme.

Being a Council Member is an exciting, challenging and rewarding role, but it is one that requires time, commitment, the capacity to see the bigger picture and, importantly, an ability to represent the local community.

We hope that you will find the Council Members’ Guide a useful resource as you work your way through the system of Local Government and the important role you will play as a Council Member.
About the Council Members’ Guide

There is much to learn and you will be taking on quite a lot of work. You will find though that many people, including more experienced Council Members, will want to help you learn about the work of the Council and support is available to all Council Members on an on-going basis.

This guide is designed to inform you about being a Council Member in the current legislative environment and to provide you with practical ideas about:

- how Local Government works; and
- your role, responsibilities, rights and obligations within that system.

While the Guide has been published as a booklet for your convenience, it is designed to provide links to a vast amount of relevant resources. To use live links to legislation and the various guidelines, advisory papers and models produced for the sector by the LGA you may wish to download this booklet as an electronic document.

For further information go to www.lga.sa.gov.au/guidelines

The LGA website also features research and discussion papers on relevant Local Government topics. New information is continually being added to the resource base to keep pace with the changing information needs of Council Members and staff.

You will need to undertake training and development to ensure that you hone the skills necessary to fulfill your role. To support Councils’ training and development efforts, the LGA provides on-line training modules and convenes workshops and training sessions.

The LGA Training and Development Program is at www.lga.sa.gov.au/training

Note: Provisions of the Local Government Act 1999 and other Acts change from time to time and this Guide is not a substitute for checking specific legislative provisions when required. If there is any inconsistency between this Guide and the Act, then the Act must be relied upon rather than this Guide.

Council Members should access the Act directly, and consult it whenever there is doubt about their powers or responsibilities.

This guide was produced by the Local Government Association of South Australia in December 2014.

For further information go to LGA’s website www.lga.sa.gov.au.

If you are using a printed version of, you should check the LGA website to make sure you have the most up to date version.
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Local Government in South Australia

The three spheres of government - Local, State and Commonwealth - work together in various ways to govern and provide services to the citizens of Australia. Although each sphere functions differently and has very different powers and responsibilities, each has an important role in the government of Australia.

Local Government in South Australia is part of the Australian federal system of government.

A significant difference between Local Government and State and Commonwealth governments is that Local Government is not recognised in the Australian Constitution. Local Government’s constitution is not set by the citizens but by the various State Parliaments, and Local Government cannot operate outside the powers that have been given to it by State Parliament.

Local Government has been an important part of community decision making since the earliest days of settlement. South Australia has the distinction of forming the first Local Government Council in Australia in 1840 when four Aldermen and 15 Councillors were elected to the new Adelaide Corporation.

Citizens in other areas of the state proved less eager to form Councils, provided that the central government continued to build railways and major roads to serve them. As a result, the South Australian Government passed the 1887 District Councils Act, which empowered it to form Councils without waiting for residents to take the initiative.

Local Government Legislation

The principal governing piece of legislation is the Local Government Act 1999.


The Local Government Act 1999 enhanced Local Government as a legitimate sphere of democratically elected government with broad powers, responsibilities and discretion in relation to local areas. It was designed to establish a framework for open, accountable, efficient and effective Local Government.

The Local Government Act 1999 provides a framework which promotes open, accountable, efficient and effective Local Government.

The objects of the Local Government Act 1999 Section 3 are outlined below:

- to promote the continuance of a system of Local Government in South Australia under which elected Local Government bodies are constituted for the better governance of the State in a manner that is consistent with the provisions of Part 2A of the Constitution Act 1934;
- to encourage the participation of local communities in the affairs of Local Government and to provide local communities, through their Councils, with sufficient autonomy to manage the local affairs of their area;
- to provide a legislative framework for an effective, efficient and accountable system of Local Government in South Australia;
- to ensure the accountability of Councils to the community;
- to improve the capacity of the Local Government system to plan for, develop and manage local areas and to enhance the capacity of Councils to act within their local areas as participants in the Australian system of representative government;
• to encourage Local Government to provide appropriate services and facilities to meet the present and future needs of local communities;
• to encourage Local Government to manage the natural and built environment in an ecologically sustainable manner; and
• to define the powers of Local Government and the roles of Council Members and officials.

Councils have authority to act in areas specified in the Local Government Act 1999 and other legislation where specific tasks and functions have been devolved to Councils. A long list of State and Commonwealth Acts impact on the functions and activities that Councils undertake. Ask your Chief Executive Officer (CEO) about the Acts that are relevant to your Council’s operations.

The principles to be observed by Councils are set out in Section 8 of the Act. They include that a Council must, in the performance of its role and functions:
• participate with other Councils, and with State and national governments, in setting public policy and achieving regional, State and national objectives;
• give due weight, in all its plans, policies and activities, to regional, State and national objectives and strategies concerning the economic, social, physical and environmental development and management of the community; and
• seek to co-ordinate with State and national governments in the planning and delivery of services in which those governments have an interest.

Communities outside Traditional Local Government Areas

99% of South Australians have Local Government. Local Government Councils do not cover all areas of South Australia. The majority of the population in South Australia (about 99%) is settled in approximately 15% of the area of the State and is served by Local Government of the form described in this Guide. The remaining 85% of the land, with a very small percentage of the population, is served by the Outback Areas Authority or one of five Aboriginal community organisations.

Roles and Functions of Local Government

*Local Government in South Australia is an elected system directly accountable to the community. The residents and enrolled ratepayers of an area are eligible to vote in Council elections.*

Councils in South Australia form important political and social networks and are often referred to as the ‘grass roots’ sphere of government because they are in touch with the changing needs and aspirations of the local community. Councils then jointly or separately use their resources either to meet some of those needs or to ensure that the State or Commonwealth governments are made aware of those needs and priorities.
The Roles, Functions and Objectives of a Council

Councils in South Australia participate in the provision of important social and economic infrastructure and, where appropriate, act as an advocate, planner, coordinator and facilitator.

An effective Local Government system requires informed and involved communities, contributing to the local decision making process through their Councils, within a co-operative State and Commonwealth framework.

A principal role of a Council is ‘to act as a representative, informed and responsible decision maker in the interests of the community’.

Section 5, 6, 7 and 8 of the Local Government Act 1999 sets out the principal roles, functions and objectives.

In summary, Sections 6, 7 and 8 of the Act:

- make specific reference to the importance of service provision, equity in access to services and the use of resources in an effective and efficient manner;
- provide scope for Councils to determine the level of participation, involvement or direct service delivery desirable for local communities;
- place emphasis on economic and social development and environmental management;
- encourage participation with other Councils, regions and State and Commonwealth governments in public policy setting and planning and delivery of services; and
- require Councils to strike a balance within communities between economic, social, environmental and cultural considerations.

In addition, Section 132A of the Act states that:

A Council must ensure that appropriate policies, practices and procedures are implemented and maintained in order—

- to ensure compliance with any statutory requirements; and
- to achieve and maintain standards of good public administration.

Services Provided by Councils

Councils provide statutory (obligatory), core and discretionary services in accordance with specific roles and powers defined by the Local Government Act 1999 or other legislation.

Councils must provide regulatory services such as:

- land use planning and development and building control;
- fire prevention;
- dog and cat management and control;
- parking control;
- domestic waste collection; and
- food and public health inspection.
Councils are expected to provide core services such as:
- road and footpath construction and maintenance;
- street lighting;
- waste management and recycling;
- library and information services; and
- stormwater management and water conservation.

Other services are provided and work is carried out at the discretion of each Council. The majority of Councils provide infrastructure and community services and facilities such as:
- care and maintenance of parks, ovals and sporting facilities;
- community facilities and halls;
- community services for elderly people and people with a disability; and
- promoting environmental sustainability.

For more information about services, refer to the section titled Efficient and Effective Service Provision in this Guide.

**Composition, Structure and Operation of Councils**

*Individual Councils provide Local Government in South Australia. Each Council is a corporate body and bears the name assigned to it. The Council Members form the governing body of the Council.*

As a corporate body, a Council is regarded in law as a single legal entity and is capable of acquiring rights and incurring liabilities in the legal sense. It may take action against other individuals and bodies and in turn may have action taken against it or be sued. Individual Council Members have no authority to make decisions or act on behalf of the Council. Only the Council Members, as a whole, form the corporate body that has these powers and responsibilities. The general powers of a Council are set out in Section 36 of the Local Government Act 1999.

Each Council covers a defined geographic area which may be divided internally into areas known as wards. Some Councils are constituted with wards, others are not. Wards are an electoral division for the election of Council Members.

If a Council is divided into wards there is a requirement in the Act that the number of people represented by a Council Member in a ward, the ward quota, must not vary by more than 10 percent from other wards.

Periodic elections for Councils are held in November every fourth year (2014, 2018 and so on) and Council Members are elected for a four year term.
The Composition of the Elected Council

The Members of a Council are known as Council Members. This collective noun is sometimes broken down into “Councillors” and “Mayor/Chairperson” (or Principal Member).

A Council is comprised of the following:

- a Principal Member who is either elected as a representative of the area as a whole, or chosen by the Council Members from amongst their own number.

If the electors elect the Principal Member he or she is called the Mayor. The Mayor is elected for a four year term.

The Principal Member may be referred to as a Mayor or a Chairperson depending on the way in which she or he is elected. If the Principal Member is chosen by Council Members from amongst their own number he or she is called the Chairperson, or another title determined by the Council. A Chairperson’s term of office must not exceed four years and but can be fewer than four years.

- a number of Council Members elected for a four-year term to represent the Council area or a ward.

For further information see LGA’s Website Legislation page: www.lga.sa.gov.au/guidelines:
Guidelines for Choosing a Chairperson, Deputy Mayor or Deputy Chairperson

The Role of the Principal Member

The Local Government Act 1999, specifies the role of the Principal Member (the Mayor or Chairperson) as:

- presiding at meetings of the Council;
- if requested, to provide advice to the CEO between Council meetings regarding the implementation of a decision of the Council;
- to act as the principal spokesperson of the Council;
- to exercise other functions of the Council as the Council determines; and
- to carry out the civic and ceremonial duties of the office of Principal Member.

A Council may decide to appoint a deputy to its Mayor or Chairperson. Council Members choose the deputy from within their own numbers, and decide the term of the office.

The Mayor/Chairperson and Deputy Mayor/Chairperson have an important role in guiding and coaching the Council in the discharge of its governance and leadership responsibilities for the community.

A deputy acts for the Mayor or Chairperson in her or his absence. If a deputy has not been appointed, or is not available, the Council can choose another Member to be acting Mayor/Chairperson for a specific time. In this case the provisions of the Local Government Act 1999 in relation to the Mayor or Chairperson relate to that Member while they are in the position of Principal Member.
Terms of Office of Council Members

The term of office for Council Members is four years. All positions become vacant at the next periodical election. Members may seek re-election.

A Council Member’s office must be vacated if he or she:

- becomes bankrupt;
- is convicted of an indictable offence;
- becomes a Member of a State or Commonwealth Parliament;
- becomes an officer or employee of the Council for which he or she is a Council Member; or
- fails to submit a Register of Interest under the Act or the Local Government (Elections) Act 1999. For further information see Register of Interests in this Guide.

A Council may remove a Council Member from office if he or she has been absent from three or more consecutive Council meetings over a period of three months without the Council’s approval.

If a Council Member resigns or is removed from office during his or her term, the office becomes vacant and a supplementary election may be held if the resignation is before 1 January of a year in which a periodic election is due.

To resign, a Council Member must provide notice in writing to the CEO. This notice becomes effective from the date the CEO receives it or up to 14 days later according to what is stated in the letter of resignation. A resignation, once submitted, cannot be withdrawn.

Administration of Council

To assist the elected Council to discharge its responsibilities to the community it relies on the CEO and senior staff to:

- guide or assist in policy formulation;
- undertake the day-to-day management of the Council; and
- put into place the decisions of the Council.

The Principal Member and CEO in particular have a responsibility to ensure that team work between the elected Council and its administrative arm is conducive to achieving optimal outcomes.
The Local Government Association of South Australia

The Local Government Association of South Australia is a Council membership organisation that exists to facilitate collaborative activity by Councils and provide quality service and leadership relevant to the needs of Local Government. Membership of the LGA is voluntary, however every Council in the State, along with the Anangu Pitjantjatjara, has elected to join as a member.

The mission of the LGA is to provide leadership, support, representation and advocacy on behalf of South Australian Councils, for the benefit of the community. To ensure this mission is achieved the LGA has set itself four key result areas:

**The LGA provides a voice for Local Government at the State and Commonwealth level.**

- Encouraging better community understanding of Local Government and increased participation in Council decision making and processes.
- Achieving greater influence for Local Government in matters affecting local communities.
- Facilitating and supporting continued capacity-building in Councils.
- Continuously improving the governance of the LGA and related Local Government enterprises.

The LGA is federated nationally with other similar state associations in the Australian Local Government Association (ALGA).

The LGA Board and Executive Committee

The role of the LGA’s Board is to manage the activities of the LGA in between General Meetings in accordance with policy and other decisions made at General Meetings.

All Councils have the opportunity to nominate and elect regional representatives to the Board.

The LGA Board and Executive Committee and the LGA Secretariat are essential in providing policy direction to Local Government.

The Management Group, which comprises the President, four Vice Presidents, the Immediate Past President and the Executive Director, carries out tasks assigned to it by the Board and considers issues between Board Meetings.

The LGA has numerous nominees on working parties, boards and committees including on many State and Commonwealth Government bodies. The majority of these nominees are Council Members and officers of Councils.
The LGA Secretariat

The Secretariat, led by the CEO, carries out the decisions of the Board, Executive Committee and General Meetings. The Secretariat maintains close contact with Councils and consults with Council Members, Council staff and professional organisations on specific issues. The activities undertaken by the Secretariat include:

- supporting and providing research and reports for the Board and other decision making structures of Local Government;
- ensuring appropriate representation in a wide range of forums;
- providing services as directed by the General Meetings, or by Councils through the Board;
- negotiating and responding to legislative change which affects Local Government;
- supporting Local Government enterprises;
- assisting with general inquiries from Councils and the public; and
- liaising with government departments/agencies on behalf of Local Government.

Local Government Research and Development Scheme

The LGA administers the LGR&DS, which funds research projects to benefit the Local Government sector.

More information about the LGR&DS is available at www.lga.sa.gov.au/research

Local Government Enterprises

The LGA Mutual Liability, LGA Workers Compensation Schemes, and the LGA Asset Mutual Fund (property insurance) are Local Government Association enterprises. They have been created and are owned by the LGA for the benefit of members. The services the Local Government Enterprises offer are demonstrably superior to alternatives both in terms of cost, effectiveness and quality of service. The LGA has initiated or facilitated the establishment of various other commercial entities that have delivered substantial economic and other benefits to Local Government.

Examples include:

- Local Government Finance Authority, which is used by the majority of Councils;
- Local Government Super; and
- LGA Procurement.
Council Member Roles and Responsibilities

The position of Council Member in Local Government is one of trust and custodianship of public assets.

The role of a Council Member is both rewarding and challenging. Whether as the Principal Member or a Councillor, you are now a community leader, with the opportunity to represent your community in a number of different roles. In order to carry out these roles effectively you will need to take an informed, active role in the business of the Council, representing the interests of the community and participating in the decision-making process.

As a Council Member you are a member of a team elected by your community to work collectively in the interests and for the benefit of your whole community.

Under the Act, the role of Council Members is:

• as a member of the governing body of the Council;
• to participate in the deliberations and civic activities of the Council;
• to keep the Council’s objectives and policies under review to ensure they are appropriate and effective;
• to keep the Council’s resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review;
• to ensure, as far as practicable, that the principles set out in Section 8 are observed; and
• as a person elected to the Council, to represent the interests of residents and ratepayers, to provide community leadership and guidance, and to facilitate communication between the community and the Council.

In practice, this means:

• participating in Council meetings conducted using formal meeting rules;
• reading and understanding reports and recommendations for decision of the Council, including financial, environmental and social reports;
• presenting arguments and constructively debating with other Council Members before making informed decisions about what is in the best interests of the whole community; and
• contributing to the Council’s strategic directions and local governance in general (see ‘Policy Making and Strategic Management Planning’ below).

Council Members can make decisions and act only through a decision of the Council as a whole. Individual Council Members have no legal role independent of the Council and do not have authority to act or make decisions for or on behalf of the Council.
The Act makes a clear distinction between the role of the elected Council and the administration. A Council Member has no direct authority over an employee of the Council with respect to the way in which the employee performs his or her duties. This is the responsibility of the CEO.

You must also be aware of your fiduciary duties. Fiduciary duty has been defined by the High Court of Australia as “the duty to act with fidelity and trust to another”. What this means is that you, as a member of a governing body, must act honestly, in good faith and to the best of your ability in the interests of the organisation (in this case, the Council). You must not allow conflicting interests or personal advantage to override the interests of the Council or the community.

Induction and Personal Development of Council Members

Given the weighty responsibilities incumbent on Council Members, it is important that you undertake a formal program of induction at the earliest opportunity. The CEO is responsible for devising a program which assists you to participate appropriately from the first Council meeting. It is your responsibility to fully engage in the induction process and continue to seek appropriate learning opportunities.

Personal development is an ongoing journey and all Council Members will be provided with opportunities in accordance with the Council’s Training and Development Policy. The CEO and Principal Member, as the leaders of the elected Council, have a joint responsibility to ensure that sufficient induction is provided. Early in the life of the Council they must forge a working relationship, which will be critical to success.

The LGA has produced a comprehensive “Guide to the Induction and Training of New Councils 2014” which is available on LGA’s Website: www.lga.sa.gov.au/guidelines

As the Council begins its four-year commitment to the community, measuring its ongoing performance will provide feedback about areas of strength and opportunities for improvement which can then be addressed. The LGA is about to release a tool designed specifically to help elected Councils to assess their performance. Ask your CEO for further details.

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Community Representation

*Council Members need to keep in touch with the community.*

When representing the Council in the wider community you should be fair and honest in your dealings with individuals and organisations and behave in a manner that facilitates constructive communication between your Council and community.

In tandem with your role as community representatives, you are the Council’s representatives to the electors. You are expected to communicate to individuals and groups in the community about Council policies, decisions and long-term plans, and to raise new ideas and proposed changes to gauge community responses.

The achievement of good outcomes for the local area is dependent on a mature and constructive working relationship with other Council Members and Council staff. Those relationships must respect diversity of opinion and the right of all points of view to be heard.

You will also need to listen to and be interested in the wider community, not just people who may have elected you, and be responsive to residents and ratepayers including those from different cultural and socio-economic backgrounds. It is helpful for you to become involved in local activities and to consult regularly with various local community groups.

It is a good idea to establish early contact with the various interests and groups and invite them to keep in touch and attend relevant Council events/meetings.

You may find it advantageous to establish a regular time dedicated to dealing with constituents’ queries which you could then publicise, via the Council office, local library and Council’s website.

You are likely to receive letters, emails and telephone calls from constituents. Some of these contacts will be to find out the reasons for various Council decisions and policies; others will be about day-to-day operational activities of the Council. It is important to understand that official correspondence and records you receive must be maintained by the Council as a requirement of the State Records Act 1997. Speak to your CEO for more detail.

Remember that the role of Council Members collectively is to make the decisions that determine the policy framework for Council activities and services. If you do not have the information you need in order to respond to a constituent you should feel confident to say so and refer the inquiry to the relevant officer or the CEO and ask them to respond on your behalf. This will also help prevent you from giving incorrect advice or perhaps promising action that may subsequently be impossible to implement.
**Council Members are community advocates.**

To stay well informed you will need to seek views from all sections of the community about issues before the Council. Once a decision has been made, you may need to explain why the Council made the decision and any potential impacts.

As a community representative, you will be speaking on behalf of the community as a whole, so you must be sure that you present the broad views of all constituents not just sectional interests. It is important that you recognise the interests not only of those who elected you but those with no voting franchise, particularly young constituents, those of differing cultural or ethnic backgrounds and minority groups that make up your community.

While you may have been elected by voters in one ward you are expected to represent the interests of all electors in the Council area (residents, ratepayers and businesses) to be informed and to vote on all issues before the Council.

You are also an advocate for your community, expected to bring to Council any issues of concern to the community. However, rather than take direct action Councils may decide to take up broader community causes or concerns and act as an advocate for the community to State or Federal government. This frequently occurs with issues that are outside direct Local Government control such as transport, hospitals, education etc.

**Council and Committee Meetings**

**Council Members most important function is participation in the decision-making processes of Council.**

The decisions made by Council Members at formal meetings provide the direction and authority for the ongoing operation of the Council. The decisions of the Council give direction to the CEO to act. This role is discussed in more detail in the ‘Council Meetings’ section.

A significant amount of your time will be spent in Council and committee meetings. Committees report to the Council and are subject to the requirements of the Local Government Act 1999, an exception being Development Assessment Panels (see the Planning and Development section of this Guide).

When a Council establishes a committee it must determine the reporting and other accountability requirements that apply in relation to a committee.

The role and tasks of committees are varied and Councils establish committees to:

- inquire into matters and to provide and make recommendations to the Council on matters within the Council’s responsibilities;
- carry out a specific project or task on behalf of the Council;
- manage or administer property, facilities or activities on behalf of the Council;
- oversee works on behalf of the Council; and
- exercise, perform or discharge delegated powers, functions or duties. These committees are sometimes referred to as ‘regulatory committees’ and may have delegated authority from Council.
Subsidiaries

There are two types of subsidiaries - those established by one Council and those established by two or more Councils.

Council subsidiaries are organisational structures that can be used to provide services, manage Council property or even undertake activities of a commercial nature on behalf of the Council or a group of Councils. See Schedule 2 of the Act for provisions applicable to subsidiaries.

Subsidiaries are corporate bodies with a board of management appointed by the Council/s. The board is responsible for the administration of the affairs of the subsidiary. Subsidiary boards may include members who are not Council Members.

Informal Gatherings

The Local Government Act 1999 also enables Councils to hold informal gatherings of Council or committee Members and staff for planning, briefings, training sessions, workshops or social gatherings to encourage informal communication amongst Council Members and with staff. These gatherings are not formal Council meetings and therefore no decisions can be made at these times.

Civic Duties

The civic activities of a Council are an important part of community leadership and the development of community identity. You will be invited to many community events and civic functions. At all times you must remember that you are present as a representative of the Council and the community.

Conduct of Members

You should behave in a way that generates community trust and enhances the role and image of Council and Local Government generally. You are expected to:

- act within the law at all times;
- act in good faith and not for improper or ulterior motives;
- act in a reasonable, just and non-discriminatory manner;
- undertake your role with reasonable care and diligence;
- conduct your ongoing relationship with other Council Members, Council staff and the public with respect, courtesy, equality and sensitivity; and
- use information, provided or obtained, in a careful and prudent manner.

For further information see Code of Conduct for Council Members in this Guide.
Time Commitment

*Careful time management is essential. Being a Council Member can be very demanding.*

The formal and informal duties of Council Members can be time consuming and onerous. In addition to Council and committee responsibilities the civic activities of a Council are an important part of community leadership and the development of community identity.

You will be expected to attend many community events and civic functions however the demands on your personal time must be managed carefully.

The first six months of your term will require significant time commitments to become a member of the Council team, understand your legal and community responsibilities and be conversant with Council processes and routines.

Conduct of Council Meetings

*Decisions made at Council meetings provide the direction and authority for action. At Council Meetings, Members decide the policy direction of the Council and make decisions on statutory and organisational matters.*

The Council is a corporate body and as such it can make decisions only by resolution, passed by the required majority of Members present.

It may only make decisions about matters falling within its jurisdiction; otherwise it will be deemed to be acting ‘ultra vires’; that is, acting beyond its powers.

Preparation for Meetings

You have the responsibility to be well informed in relation to any business that is before the Council. The staff, through the CEO, provides input into the decision making process by providing advice and information, normally in the form of Council reports and recommendations, based on specialist skills and knowledge.

Reading agendas and reports thoroughly is vital. If uncertain about information in an agenda or report you should discuss it with other Members and/or obtain information from the CEO or relevant Council officer before the meeting.

You will need to:

- set aside a specific time before each meeting in which to read the agenda;
- follow up any questions before the meeting;
- seek clarification and/or additional information from the CEO or relevant Council staff member;
- if appropriate, seek out local residents’ opinions on issues to be discussed at the meeting; and
- do your own research to supplement the information in reports before the Council meeting.
Personal Liability
You are not personally liable for the actions of Council where the Council is acting in
good faith and is exercising its powers and functions under the Act.
However, you do not have what is referred to as ‘absolute privilege’ protection afforded
to members of State and Commonwealth parliaments. You must be careful not to
make remarks that could result in an aggrieved person taking action against you
personally for defamation.

Meeting Procedures
The meeting procedures for Council meetings are different from those of other
organisations and have their own procedural rules. The Local Government Act 1999
provides that the procedure to be observed at a meeting of Council will be:

• as prescribed by regulation; and
• if not prescribed by regulation, as determined by the Council.

The Local Government (Procedures at Meetings) Regulations 2013 contains:
• interpretations and guiding principles that should be observed at a meeting;
• the provisions that apply to Council meetings; and
• the provisions that apply to Committee meetings performing regulatory
  activities.

Further information can be found on LGA’s Website: www.lga.sa.gov.au/legislation
The LGA has produced a Meeting Procedures Handbook for Council Members which is
available on LGA’s Website.
It is desirable that all Council Members have a copy that handbook, Chapter 6 of the
Local Government Act 1999 and the Regulations to refer to at Council and committee
meetings as required.

The meeting procedures contain requirements in relation to deputations, questions,
personal statements, petitions, notices of motion, rescission motions and voting
procedures of which you should be aware so that you can participate effectively in the
meeting and debate.
Voting at Meetings

_Council Members who understand the meeting procedures will be able to represent their electors more effectively at meetings._

**Council Member’s Vote**

Decisions at Council meetings are decided by a majority of the votes of the Council Members present at the meeting and entitled to vote. Voting is generally by a show of hands. Each Council Member present at the meeting must vote on any matter for decision, except for the Mayor elected at large or in cases where a Council Member is precluded from doing so by the Local Government Act 1999. See the Conflict of Interest section below for further information.

You are not allowed to abstain from voting – there is a duty to be present and a duty to vote on decisions before the Council.

**Mayor’s Vote**

The Mayor or a person acting as the Mayor does not have a deliberative vote. However, if the number of deliberative votes for and against an issue is even then she or he has a casting vote.

A deliberative vote means the vote that expresses an individual’s opinion on a matter being deliberated.

**Chairperson’s Vote**

If a Council has a Chairperson, he or she must exercise a deliberative vote on a question simultaneously with the other Council Members. A Chairperson has only a deliberative vote and no casting vote.
Calling Meetings

The Act states that a Council must hold an ordinary meeting at least once a month. The dates, times and places of meetings are chosen by Council Members.

Ordinary meetings of Councils cannot be held on Sundays or public holidays. Municipal (that is town, city or metropolitan) Council meetings may not be held before 5pm unless a unanimous resolution of the Council decides otherwise.

The CEO must give notice of a meeting and provide an agenda for the meeting to all Council Members at least three clear days (includes Saturday and Sunday) before the date of the meeting.

A notice of an ordinary meeting must:
- be in writing;
- state the date, time and place of meeting;
- be signed by the CEO; and
- contain, or be accompanied by, the agenda for the meeting.

The notice may be given to Council Members:
- personally; or
- by post or otherwise to the usual place of residence of the Council Member or to another place/s nominated by the Council Member in writing; or
- by leaving the notice in an appropriate place at the principal office of the Council if authorised by the Council Member to do so; or
- by a means authorised in writing by the Council Member as being an available means of giving notice, for example, email or fax.

The agenda is a list of items of business to be considered at the meeting.

The Act requires that the CEO ensures that items on an agenda given to Council Members are:
- described with reasonable particularity and accuracy; and
- are supplied to each Council Member at the time the notice of a meeting is given, along with a copy of any documents or reports that are to be considered at the meeting.

The CEO may, after consultation with the Principal Member, indicate on a document or report supplied to Council Members any information contained in or arising from a document or report that may, if the Council so determines, be considered in confidence under Part 3 of the Act. The CEO is to specify the basis on which an order could be made.

A copy of the notice of meeting and the agenda must be placed on public display at the principal office of the Council and on the Council’s website. Reports associated with the agenda will also be posted unless they have been deemed in confidence before to consideration by the Council.

Any person is entitled to inspect the notice of meeting and the agenda and, on payment of a fee, obtain a copy (Section 84).
Special Meetings of Council

The CEO must call a special meeting of the Council at the request of:

• the Principal Member; or
• at least three Council Members; or
• a Council committee meeting at which at least three Council Members vote in favour of the making of the request.

The CEO must be provided with an agenda for the special meeting at the time the request is made. If the agenda is not provided the request has no effect. The CEO must give each Council Member notice of the special meeting at least four hours before the scheduled start of the meeting.

In most cases, the requirement for notice of committee meetings is the same as those for Council meetings.

The CEO must call a special meeting of a committee at the request of:

• the Presiding Member; or
• at least two members of the committee.

Special meetings of committees may be held at any time. The CEO must ensure that committee members receive the notice of the meeting at least four hours before the start of the meeting.

Quorum

The quorum is the number of people who must be at the meeting to enable it to start and/or continue.

The quorum for a Council meeting is the number obtained by dividing the total number of Council Members (currently in office) by two, ignoring any fraction, and adding one.

Council meetings must start as soon as possible after the appointed time if a quorum is present. If after 30 minutes from the appointed time a quorum is not present the Presiding Member (or, in the absence of the Presiding Member, the CEO) must adjourn the meeting and set a specified day and time to reconvene.
Public Access to Council and Committee Meetings

Council and committee meetings are to be held in public except in special and limited circumstances. The Local Government Act 1999 sets out the special circumstances under which a Council or committee may order that the public be excluded from attendance at part of a meeting to receive, discuss or consider in confidence any information of a kind set out in the relevant provisions. All Council Members or committee members should be aware of these provisions.

The duty to hold a meeting of the Council or committee in a place open to the public does not make unlawful informal gatherings involving:

- Members of the Council or Council committee; or
- Members of the Council or committee and staff,

provided that a matter is not dealt with at these gatherings in a manner that would effectively result in a decision outside a formally constituted meeting of the Council or committee.

If a Council or committee directs the public to be excluded from the meeting but wishes certain Council staff or members of the public (such as expert witnesses) to be present, it must stipulate these persons in the order excluding the public.

If Council wishes to exclude the public from a meeting so that the Council may discuss a matter in confidence it must resolve to do so, indicating the grounds on which the order was made.

Minutes of the Meeting

Under the Act, the CEO is responsible for recording minutes of Council and committee meetings and has overall responsibility to see that accurate minutes of the business of meetings are recorded.

The minutes are not a verbatim record of everything said, they are a record of decisions reached.

*See Section 8 of the Local Government (Procedures at Meetings) Regulations 2013 for details*

Each Council Member must, within five days after a Council or committee meeting, be supplied with a copy of the minutes of the proceedings of the meeting.

The minutes of a meeting are to be confirmed at the next meeting subject to amendment of a factual nature. Decisions to take action resolved at a meeting and recorded in the minutes are not delayed until the minutes are confirmed.

*See also Minute Takers Handbook 2014 on LGA website: www.lga.sa.gov.au/guidelines*
Public Access to Minutes of Meetings

Minutes of Council Meetings are to be made publicly available.

Within five days of a meeting of Council or a committee, the minutes must be placed on public display, for one month, at the Council’s principal office and on the Council’s website.

A person is entitled to inspect:

• the minutes of a Council or committee meeting;
• reports to the Council or committee meeting received at a meeting of the Council or committee;
• recommendations presented to Council in writing and adopted by resolution of the Council; and
• budgetary or other financial statements adopted by Council.

A person may obtain, on payment of a fee, a copy of any of the above documents.

The public access requirements of the Act do not apply to a document or part of a document if:

• the document or part relates to a matter dealt with by the Council or committee on a confidential basis under Part 3 of the Act; and
• the Council or committee orders that the document or part be kept confidential.

The Act provides that a Council must not make an order to prevent the disclosure of:

• the remuneration or conditions of service of staff of the Council after the remuneration or conditions have been set or determined;
• certain information about a successful tender for the supply of goods or services or of any reasons why a successful tender has been selected; or
• the identity of land that has been acquired or disposed of by the Council, or reasons why land has been acquired or disposed.

If an order is made to keep a document confidential the Council or committee must:

• specify the duration of the order or the circumstances in which the order will cease to apply, and review the order at least every 12 months; and
• ensure that a note is made in the minutes recording the making of the order, the grounds on which the order was made and the duration of the order.

The minutes or documents relating to such items are therefore not placed on public display.
Internal Review of Council Decisions

*Members of the Council are accountable to the community for the decisions they make.*

Councils make decisions that impact on the lives and livelihoods of individuals, organisations and businesses in the Council area and are accountable to the community for the decisions they make. The community has a right to know that the decisions have been made in an informed, responsible and just manner.

Any person is entitled to ask for a review of a decision made by Council, its employees or other persons acting on behalf of Council (Section 270). This process provides access by the community to a fair process for raising grievances and complaints, with confidence that these matters will be dealt with objectively, fairly and in a timely manner.

Councils must ensure that copies of its internal review procedure are available for inspection and purchase by the public.

The fact that a Council has an internal review procedure does not prevent a person from making a complaint to the Ombudsman.

A Council must develop and maintain policies, practices and procedures for dealing with any reasonable request for the provision of a service by the Council or for the improvement of a service provided by the Council; or complaints about the actions of the Council, employees of the Council, or other persons acting on behalf of the Council.

Policy Making and Strategic Management Planning

*Council Members have a key policy making and review and evaluation role.*

One of your most important roles as a Council Member is to participate in making policy decisions on behalf of the community. That is, you have a responsibility to establish and review the plans, policies and guidelines which govern your local community. An essential element of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing demands and allocating appropriate resources.

A policy is a position adopted by the Council that sets out agreed views and decisions concerning a particular area of responsibility. A policy statement is sometimes an action-oriented statement of the Council’s intention in relation to a specific area of its operations or a ‘rule’ to be applied whenever a particular circumstance arises.

The policy and strategic planning framework provides the direction for the ongoing management of Council activities. These plans and operational procedures, such as the development plan, strategic plans and the financial plan and budget, reflect the overall policy direction of the Council.
Policy Decisions

Policy decisions are required in many situations. When determining policy there is often a wide range of opinions, opposing viewpoints and competing priorities. Making policy decisions can be proactive and reactive responses.

Proactive policies are aimed at promoting community change. For example, this could relate to a decision to change refuse collection to reduce waste to landfill. Reactive policies are made in response to certain events, for example, needing to meet changed regulatory requirements invoked by the State.

It is important for you to be in touch with your community to ensure that Council policies continue to accurately reflect changing views and aspirations. You may be required to make decisions about matters with which you are unfamiliar, in which case it is important to understand:

- Rarely are policy-makers experts in the particular subject. The role of policy-maker is not as an expert but rather as a leader and an adjudicator.
- Policy-makers may not necessarily know all the answers. Rather, they actively seek information, ask questions, listen to the views of others and try to think laterally and innovatively in arriving at a decision. Specialist advice from staff, consultants or other specialists may assist the policy-making process.
- A policy-maker is constantly required to make value judgements.

If your decisions are based on a clear understanding of the subject and what you believe to be in the best interests of the community, then you are exercising your policy-making responsibility appropriately.

As community needs and aspirations change Councils have a responsibility to respond to those changes, and processes need to be in place to ensure ongoing evaluation of policies.

Strategic Management Planning

Planning for the development and well-being of communities is a critical role for Councils. The Local Government Act 1999 requires Councils to develop and adopt ‘plans’ for the management of the local area.

*Strategic Management Planning is in many ways the key interface between Council Members and Officers.*

‘Strategic management plans’ is the collective term used in the Act for various Council plans that:

- identify the principle activities and objectives of the Council;
- estimate the revenues and expenses for the period of the plan; and
- state the financial and non-financial measures to be used to monitor and assess Council performance against those plans.

Development of strategic management plans provides an opportunity for a Council, together with its community, to set the goals and objectives appropriate for the local area and to determine the services and activities to be undertaken to meet these goals and objectives.

Council’s plans are required to reflect the consideration it has given to the co-ordination of effort between Local, State and Commonwealth governments in policy development and planning and delivery of services.
The framework for strategic management planning is prescribed in the Act. It is the responsibility of individual Councils to determine the contents of their plans and the strategies they will use to develop, promote, measure and report on the success of their plans.

The strategic management plan framework neither constrains nor dictates to Councils and communities how they approach planning activities. Rather, it provides scope for Councils and their communities to determine:

- the specific strategies or outcomes;
- the approach to be used to deliver the outcomes;
- the scope of services the Council will provide, facilitate or advocate;
- the consultation approach the Council will adopt to formulate or review its plan/s;
- how the outcomes of plans will be monitored; and
- under what circumstances and timeframe a review of plans will take place.

Councils are required to review their strategic plans at least once in their term of office within two years of the periodic election. However, best practice would suggest that the new Council should review its plans during the first six months after its election, before the first budget.

**Regional Public Health Planning**

The Public Health Act 2011 clearly identifies Councils as the local public health authority for its area. This means that Councils are best placed to identify the public health and wellbeing needs of their community. It does not mean, however, that Councils are solely responsible for delivering public health services and outcomes as there are many potential partners in the public health effort. The Public Health Act 2011 also requires a Council (or if the Minister so determines or approves, a group of Councils) to prepare and maintain a Regional Public Health Plan for the purposes of the operations of the Council. This plan must be reported on biannually.

*For more information, please visit www.lga.sa.gov.au/goto/publichealth or phone the Public Health Program Manager on 8224 2000.*
Communication between the Community and the Council

*Communication between the community and the Council improves decision making.* A key theme underpinning the Local Government Act 1999 is increased participation by local communities in the management of the affairs of their area. The focus of the legislation places responsibility on Councils to involve communities in their decision making processes.

Communication, consultation and participation are important strategies that involve people contributing to decisions that affect their lives, recognising the right of citizens to have access to information and the right to respond. This process increases public confidence in Council and its management of community resources.

**Public Consultation Policy**

The principles of the Act recognise the representative and decision-making role of Councils and require them to conduct their business in a manner that is open, accountable and responsive to the needs and aspirations of communities. Councils are also required to prepare and adopt a public consultation policy and must consult in accordance with that policy.

Public consultation strategies should:

- provide a reasonable opportunity for community members to access information and make submissions in relevant circumstances;
- provide adequate information to enable community members to consider and contribute to the decision making process; and
- contain opportunities for involvement that are flexible enough to suit the particular.

**Media**

You may find yourself being asked by the media to comment on topical issues. Check your Council protocol because it may have a policy that the Mayor/Chairperson and CEO are the official spokespersons and that they alone have been authorised to deal with the media on behalf of the Council.

However, you do have the right to be heard as an individual and this is different from making official comment on behalf of the Council. You may have different views from other Council Members and you are free to express them. In these circumstances, you should make it clear it is your personal view and not that of the Council (Clause 2.5 of the Council Members Code of Conduct). Care should be taken not to engage in personal attacks on other Council Members, Council staff or constituents.

**Use of Information**

*Information should be used carefully and prudently.*

In the course of your duties as a Council Member you will obtain information from various sources, which must be used carefully and prudently. You must not use information gained from your position for private advantage and at all times you must respect confidentiality requirements.

Qualified privilege enjoyed by Council Members does not extend beyond the discussion of Council matters in meetings, nor does it allow Council Members to make malicious or reckless statements about others during those meetings.

*See www.lawhandbook.sa.gov.au for an explanation of qualified privilege.*
**Representation and Communication**

A formal part of your role as a Council Member is to represent the Council on local community committees, regional organisations such as school councils, committees of management of council facilities, and committees and boards of external organisations such as the LGA. If you represent the Council on external bodies you must recognise:

- the relationship between the Council and the external body;
- the basis of the Council-nominated appointment and the legal and ethical responsibilities of the appointment; and
- the nature of the organisation and where the prime duty and responsibility lie.

**The Legal Responsibilities of a Council Member**

As a Council Member you are part of the system of government in Australia and a leader in your local community.

You should at all times behave in a way that generates community trust and confidence, which will reflect positively on the Council and the image of Local Government in general.

In the course of your duties you will interact with Council staff:

- individuals and groups in the community with a broad range of interest;
- State and Commonwealth politicians; and
- staff in government agencies.

When representing the Council in the wider community you should be fair and honest and behave in a manner that facilitates constructive communication between Council and other parties.

The Act sets out requirements of Council Members and it is your responsibility to be aware of these requirements particularly in relation to conflict of interest, the register of interests and the duties of public office.

Part 4 of the Act deals with the conduct of Council Members and the requirements for disclosure of interests. Council Members should familiarise themselves with the conflict of interest provisions in the Act.
The general duties and public office requirements are set out in Section 62 and are as follows:

- You must at all times act honestly in the performance and discharge of official functions and duties;
- You must at all times act with reasonable care and diligence in the performance and discharge of official functions and duties;
- You as a current or former Council Member must not, whether within or outside the State, make improper use of information acquired by virtue of your position as a Council Member to gain, directly or indirectly, an advantage for you or for another person or to cause detriment to the Council; and
- You as a current or former Council Member must not, whether within or outside the State, make improper use of your position as a Council Member to gain, directly or indirectly, an advantage for yourself or for another person or to cause detriment to the Council.

The provisions of Section 62 also extend to:

- committees and to members of committees; and
- subsidiaries and to board members of subsidiaries.

There are severe penalties for breaches of these provisions.

**Code of Conduct for Council Members**

_The Code of Conduct is a tool to assist Council Members to carry out their duties._

A Code of Conduct for Council Members has been prescribed in regulation (Local Government (General) Variation Regulations 2013). It applies to all Council Members across Local Government.


No civil liability attaches to you as an individual for an honest act or omission arising from the discharge of your powers and duties. Any liability, which might arise, lies with the Council as the corporate body.

It is unlawful for you to subject an officer or employee of the Council to sexual harassment or to engage in behaviour that constitutes ‘bullying’. Refer to the Equal Opportunity Act 1984, the Work Health & Safety Act 2012 and (Commonwealth) Sex Discrimination Act 1984.
Local Government Governance Panel

The Local Government Governance Panel is an independent panel established by the LGA to assist Councils to address complaints about the conduct of Council Members, under Part 2 of the Code of Conduct.

Referrals to the Panel must be made by Councils, under the Council’s complaints handling procedure. The Panel will not act on complaints directly from the public. Each Council must have a complaints handling procedure in place, setting out how complaints against Council Members will be handled.

The Panel does not look into allegations of misconduct under the code or fraud or corruption, as those complaints are to be referred on to the most appropriate authority, the Ombudsman or the Office of Public Integrity. The Governance Panel has an advisory role only and will prepare a report and recommendations on the appropriate action the Council should take in response to the complaint, for the Council’s consideration.

You can view the Governance Panel Rules of Engagement at:

Independent Commissioner against Corruption

All Council Members are ‘public officers’ for the purpose of the ICAC Act and have mandatory reporting requirements in certain circumstances.

For further information visit www.icac.sa.gov.au

Conflict of Interest

Council Members must make sure there is no conflict between their private interests and their public role as a decision maker.

It is imperative that Council Members understand the conflict of interest provisions in the Local Government Act 1999. It is your responsibility to make sure you are aware of, understand and comply with the provisions of Sections 73, 74 and 75 of the Local Government Act 1999 relating to conflict of interest.

A Council Member who has an interest in a matter before the Council must not:

• propose or second a motion relating to the matter;
• take part in discussion by the Council, relating to the matter;
• while such discussion is taking place be in, or in close vicinity of, the room in which or other place at which the matter is being discussed; or
• vote in relation to the matter.

Failure to comply with the requirements of the conflict of interest provisions can be subject to action in the District Court. You are encouraged to familiarise yourself with the legislation and interpretations provided on the LGA website and to talk to the Council CEO if you believe you may have a conflict on any matter.
Register of Interests (Schedule 3 of the Act)

The CEO must compile and maintain a register of interests from the information supplied by Council Members.

Within six weeks of election to Council for the first time, you must submit to the CEO a ‘primary return’. Each subsequent year you must lodge an ‘ordinary return’ within 60 days of 30 June.

Councils have a standard prescribed form for Council Members to fill in for both the primary and ordinary returns. If a Council Member submits a return that, to her or his knowledge, is false or misleading, the Council Member is guilty of an offence and liable to a penalty.

If a Council Member fails to submit either a primary or ordinary return by the due date, the CEO must notify the Member. If after one month from the due date the Member has failed to submit the return, her or his office becomes vacant. The Member may, within one month of the office becoming vacant, appeal on the grounds that the failure to submit the return was unavoidable.

The register of interests may be inspected by a member of the public at the principal office of the Council.

LGA Guidelines for Primary and Ordinary Returns – Council Members is found on the LGA’s website: www.lga.sa.gov.au/guidelines

Allowances and Expenses

Council Members are entitled to receive an annual allowance plus reimbursement of expenses incurred in attending Council and committee meetings for travel within the Council area and for the care of a dependant. Allowances are not a salary but are taxable income for the purpose of the Taxation Administration Act 1953.

Allowances are determined by the independent Remuneration Tribunal and set every four years, with the amounts indexed by CPI in the intervening years.

Councils may also resolve, on a discretionary basis, to reimburse Council Members for a range of additional expenses: for travel outside the Council area; attendance at conferences; or telecommunications and IT support.

The General Management of the Council

_Council determines the policy direction and through the CEO the policy is implemented._

Ratepayers on your Council’s electoral role elect the Council. Councils are required to appoint a CEO, the most senior member of the staff, who is responsible for ensuring that the policies of the Council are implemented (Section 96 and 99 of the Act).

The CEO also has a responsibility to act as an adviser to the Council to ensure that the Council acts within the law.

**Staff Matters**

The CEO is responsible for ensuring an organisational structure and that appropriately skilled staff are employed to implement the Council’s policy objectives. The CEO is responsible for appointing, managing and dismissing the staff of the Council.

Staff of the Council must at all times act honestly and with reasonable care and diligence in the performance of official duties.

As with Council Members, a Code of Conduct for employees is set by regulation and applies to all council staff.

An effective working relationship between Council Members and staff in which all contributions are valued will foster a team approach and achievement of Council objectives.

This separation of roles is important because it:

- obviates the need for Council Members to be involved in operational issues and administrative matters; and
- results in essential but routine matters being dealt with efficiently and promptly.

Council Members have no authority over staff with respect to the way in which they perform their duties.
The Role of the Chief Executive Officer

The role of the CEO are set out in Act and include:

- ensuring that the policies and lawful decisions of the Council are implemented in a timely and efficient manner;
- being responsible for the day-to-day operations and affairs of the Council;
- providing advice and reports to the Council on the exercise and performance of its powers and functions;
- co-ordinating proposals for consideration by the Council for developing objectives, policies and programs for the area;
- providing information to the Council to assess performance against its strategic management plans;
- ensuring that timely and accurate information about Council policies and programs is regularly provided to the community and appropriate and prompt responses are given to requests for information from the Council;
- ensuring the assets and resources of the Council are properly managed and maintained;
- ensuring records are properly kept and maintained; and
- giving effect to the principles of human resource management as prescribed and to apply proper management practices.

The CEO is responsible for the management of all staff and administration matters, including the implementation of all Council policies and decisions.

The CEO must adopt the general principles of human resource management set out in the Act. Specifically, selection of staff must be based on merit and fair and equitable practices.

Delegations

The Act provides that a Council may delegate a power, function or duty to:

- the CEO;
- a Council committee;
- a subsidiary of the Council; and
- an authorised person.

Delegation may involve the Council setting limits to the delegation, monitoring how the delegation is exercised and intervening if the standards are not being maintained.

A Council-delegated authority does not mean Council can no longer exercise its right to make decisions in relation to those matters. Council may revoke a delegation at will and can choose to act itself in relation to any matter which would normally be acted upon under delegation.
The Act prohibits Councils from delegating certain powers. If a delegation is made to an employee of the Council, the employee is responsible to the CEO for the efficient and effective exercise of that delegation.

The CEO may also delegate, or sub-delegate, powers or functions vested to the CEO to:

- an employee or an employee for the time being occupying a particular office or position; or
- to a committee comprising employees of the Council; or
- to an authorised person.

A separate record is to be kept of all delegations and a review of all delegations at least once in each financial year.

Financial Governance

_Council Members are responsible for overseeing the effective financial governance of the Council._

Financial governance describes the way a Council manages its financial affairs in pursuing its strategic and corporate objectives and ensuring appropriate levels of accountability. It comprises the policies and practices by which Council meets its responsibility to the community to achieve long-term financial sustainability.

It is critical that financial governance policies and practices are efficient, effective and transparent. Good financial governance enhances public confidence in Local Government and helps to ensure that a Council is in a position to make decisions that are properly responsive to the interests of its community.

The CEO is responsible for providing financial management to deliver outcomes in line with Council’s financial governance policies, financial delegations and authorisations from the Council.

A Council’s long-term financial performance and position is defined as sustainable where planned service and infrastructure levels and standards are met without unplanned increases in rates or disruptive cuts to services.

The Act and the Local Government (Financial Management) Regulations 1999 impose a range of requirements on Councils intended to support good financial governance. They can be found on LGA’s Website: www.lga.sa.gov.au/legislation

The aims of the legislative framework are to ensure that Councils establish adequate procedures in respect to all areas of financial governance, financial management, accounting, asset management, reporting and internal control.
The CEO is responsible for ensuring that Council Members are provided with advice and reports to support the development of appropriate financial governance policies and to monitor the performance and resources of the Council, particularly in relation to achieving strategic goals.

The legislation points to two distinct roles for Council Members:

- represent and advocate for individuals and groups within their community; and
- as members of a governing body (with law making and taxing powers) serving to protect the organisation’s long-term sustainability so that it can best serve the whole community and future generations.

To meet your responsibilities as a Council Member you should participate in the deliberations (consideration, discussion, debate and decision making) relevant to financial governance.

**Characteristics of Best Practice Financial Governance**

Good financial governance is essential in order for Councils to serve their communities well. The better a Council’s standards of financial governance are the more likely it is that:

- it efficiently and effectively provides an appropriate range and level of services to residents and ratepayers;
- it fairly generates appropriate levels of revenue from different classes of ratepayers and users of services both currently and over longer periods; and
- financial related risks from undertaking its responsibilities and activities will be managed effectively.

**In order to carry out their financial governance responsibilities Council Members as a governing body must:**

- establish sound financial policies and targets;
- keep expenditure and efficiency and effectiveness of service delivery under review;
- monitor ongoing financial results;
- ensure ongoing financial sustainability; and
- ensure proper management of assets and resources.

Councils are encouraged to adopt financial governance processes that will ensure that they rate highly against the following characteristics of best practice financial governance

**Supporting Sound Financial Decision Making**

- Ongoing education and training such that all Council Members understand and fulfil their financial governance responsibilities.
- Council’s accounting policies and practices support decision making and assessment of performance.
- Budget and financial information presented for Council deliberation is at a strategic level, succinct and easy to follow.
- The annual budget is based on a sound long-term financial plan.
Ensuring Affordable Services to the Community

- The range and level of services provided is based on affordability and community needs and preferences and appropriate Local Government roles.
- Considerable effort is made to help the community understand Council’s financial circumstances and performance.
- The Infrastructure and Asset Management Plan is based on affordable service levels and maintenance programs that minimise whole-of-life asset costs.

Guiding Funding and Financing

- The rating strategy is equitable and generates sufficient revenue to meet financial sustainability needs.
- Debt is used responsibly and treasury management activities are undertaken in accordance with a policy that minimises net interest costs relative to acceptable risk.

Facilitating Performance Monitoring and Review

- Financial performance is managed using suitable financial indicators and targets.
- The efficiency and effectiveness of means of service delivery is regularly reviewed.
- There is a process in place that helps ensure compliance with finance related legislative obligations.
- Council’s audit committee’s activities and work program supports and promotes effective financial governance by the Council.

For specific information on rating see the LGA website.

The Annual Business Plan

The Council is required to adopt, following public consultation, an annual business plan which must include a summary of the Council’s strategic management plan objectives that it intends to undertake in the relevant financial year.

The Budget

Monitoring the expenditure of public money is one of the most important roles of the Council. Every financial year the Council is required to prepare and adopt a budget which must be considered in conjunction with the Council’s annual business plan.
Audit Committees

An audit committee plays a critical role in the financial reporting framework of Council, by overseeing and monitoring the participation of management and external auditors in the financial reporting process. It also addresses issues such as the approach being adopted by Council and management to address business risks, corporate and financial governance responsibilities and legal compliance.

The Act requires each Council to have an Audit Committee. Audit Committees have no authority to act independently of Councils and can only act in areas covered by their terms of reference.

The Act and the Local Government (Financial Management) Regulations 2011 together require that an Audit Committee:

- must have between three and five members (inclusive); and
- must include at least one person who is not a Council Member and who is determined by the Council to have financial experience relevant to the functions of an Audit Committee.

For further information see the LGAs Information Paper 3, Audit Committees at: www.lga.sa.gov.au/lepauditcommittee

Efficient and Effective Service Provision

Councils must ensure that services are delivered in the most efficient and effective manner. The Act provides autonomy to Councils to determine policies, with their communities, about the nature and level of services provided but Councils are accountable for how community resources are deployed.

The challenge for Councils is to achieve a range and level of services that meets community needs at an acceptable cost to the community.

Contracts and Tenders Policies

Council is required to adopt policies on contracting and tendering.

Councils are required to adopt policies on contracting and tendering which ensure accountability, transparency and value for money decision-making.
Planning and Development

The South Australian Planning and Development system is predominately managed through the provisions of:

- the Development Act 1993, which establishes relevant authorities for decision making (Minister for Planning, Development Assessment Commission, Council Development Assessment Panels, Regional Development Assessment Panels, local government staff), and provides for the assessment of development applications through the development assessment processes: and

- the Development Regulations 2008 which support the operation of the Act and contain much of the procedural detail that impacts on the development of land.

The Development Act also establishes the key strategic planning and development assessment documents being the regional volumes of the ‘Planning Strategy for South Australia’ (such as the 30 Year Plan for Greater Adelaide) and a ‘Development Plan’ (zoning) for each local Council area.

Planning and development of the local area are key responsibilities of Local Government. Section 7 of the Local Government Act 1999 requires Councils to plan at the local and regional level for the development and future requirements of the area.

The Act & Regulations can be found on LGA’s Website: www.lga.sa.gov.au/legislation

You, as a Council Member, have two principal roles in the planning and development of the area, namely:

- reviewing and initiating changes to the Council’s Development Plan (which must be approved by the Minister); and


You may also serve as members of the Council’s DAP. See Development Assessment Panels below.

What is ‘Development’?

The range of activities that constitute ‘development’ is defined in the Development Act 1993 and, in the main, includes building work, a change in the use of land and the division of land. There are also special controls over heritage places and mining operations.

Development may not commence until it is approved. Approval is made up of one or more ‘consents’, that is, development plan (planning) consent, building rules consent and consent for land division, where relevant.

‘Building work’ means work or activity including:

- the construction, demolition or removal of a building;

- excavation or filling associated with building work; and

- any other prescribed activity.

For more detail visit: www.lga.sa.gov.au/developmentguide
The Statutory Framework

The 'Planning Strategy for South Australia', which comprises several regional volumes, sets out the State Government’s vision for development in the State and for the regions within it. Regional strategies are reviewed regularly to ensure that its social, economic and environmental directions are relevant to a changing society.

The State, through the Minister for Planning, has a number of advisory and decision making bodies including:

- The Development Policy Advisory Committee (DPAC), and Building Advisory Committee, a specialist committee that reports to DPAC.
- The Development Assessment Commission (DAC) which assesses certain applications (such as Council developments and major projects).
- The Environment, Resources and Development Court (ERD Court). See Appeals in this Guide.

The Development Act 1993 and Regulations

In addition to the creation of Development Plans the Development Act 1993 provides overriding power for the following:

- establishment of criteria for development;
- public participation in the planning process;
- ensuring the amenity of buildings and the safety and health of people using buildings;
- promotion of a uniform development assessment system; and
- establishment of a Development Assessment Panel by each Council.

Development Plans

Council’s most important role in planning and development is the formulation of policies against which development proposals are assessed. Such policies are contained within the Development Plan and must be approved by the Minister for Planning.

The Development Plan is a statutory document that contains objectives and principles of development control against which development proposals are assessed. A decision maker must have regard to the Development Plan and must not approve an application if it is seriously at variance with the provisions of the Development Plan. In essence the decision maker must weigh up what is best for the community as a whole, in the long term, against individual desires and expectations and make a decision solely on the basis of the planning policies contained in the Development Plan.

Amending a Development Plan

The Development Plan review process will highlight any changes that are required to ensure that individual Development Plans are consistent with the State’s Planning Strategy and changing circumstances in local communities.

Community consultation is an important part of this process and a Development Plan Amendment must generally be on public display for a period of at least two months during which time a public hearing is held and submissions are received on any proposed amendment.
Assessing Applications for Development

The Development Act 1993 sets out the definition of development, which guides whether a development application must be submitted to Council’s Development Department prior to commencing development.

No decisions on planning applications are made by the Council. The authority for planning decisions resides with the DAP or delegated administrative officers of Council. In order to commence development an applicant is required to obtain three (3) separate approvals being:

1. Development Plan Consent (Planning Approval);
2. Building Rules Consent (Building Approval); and
3. Development Approval (granted when the planning approval and building approval have been reviewed for consistency).

An application for Development Plan Consent is assessed against the Development Plan and zoning provisions. Upon receipt of the Development Plan Consent then an application must be made for Building Rules Consent (BRC).

Applications for BRC are assessed for the structural and engineering components of the building against the provisions of the Building Code of Australia (BCA), the provisions of the Development Act 1993 and any other relevant codes or Australian Standards. The basic objective of the BCA is to ensure that acceptable standards of structural sufficiency, fire safety, health and amenity are maintained for the benefit of the community now and in the future.

Upon receipt of both Development Plan Consent and Building Rules Consent the relevant authority will issue a Development Approval.

Development Assessment Panels

The Development Act 1993 requires all Councils to establish a Development Assessment Panel to act as the relevant planning authority for the Council area. Decisions on development applications are made under the Development Act 1993, not the Local Government Act 1999. Council’s DAP is quite distinct from other functions of a Council as its power is generated solely by the Development Act 1993.

The composition of Development Assessment Panels is outlined in the Development Act 1993 and comprises:

- An independent/specialist Presiding Member (who is not a member of Council or Council staff);
- 3 independent/specialists (that is not a member of Council or Council staff); and
- 3 elected members of Council or Council staff.

A Council Development Assessment Panel’s function is to act as a planning authority to assess and decide upon development applications, having regard solely to the Development Plan and any other referral advice to determine the merits of the proposals. The Panel does not act as a policy making body, but many provide advice back to the Council about the Development Plan.
A group of adjoining Councils may also establish a Regional Development Assessment Panel under the provisions of the Development Act 1993.

The Development Act 1993 prescribes procedures for the Panel; public access to agendas, minutes and meetings; review of Panel delegations; conflict of interest; and extent of liability of Panel members. It also sets the Code of Conduct for Panel Members, which can be found at www.dac.sa.gov.au/code_of_conduct.

**Appeals**

The ERD Court comprises Judges, Magistrates and Commissioners who have practical knowledge in areas including Local Government, planning, architecture, engineering and the environment. In applicant may lodge an appeal with the ERD court:

- against a refusal (unless the proposal was non-complying);
- against conditions imposed on an approval;
- if a decision has not been made within the appointed time; and
- in the case of a dispute over interpretation of the Building Rules.

A third party (community member) may lodge an appeal with the ERD court against an approval, if the application was publicly notified as a Category 3 development and the third party made a valid submission.

**Local Government Elections**

The Local Government (Elections) Act 1999 and Regulations set out the requirements for Local Government Elections in South Australia, including how elections are to be conducted, who can nominate, who can vote and how the votes are counted.

The Returning Officer is the person in charge of running elections and in South Australia the Electoral Commissioner is the Returning Officer for all Council elections. All Local Government elections are conducted by postal voting. There are two forms of elections held in Local Government periodic elections and supplementary elections.

Periodic elections are held at four year intervals. Periodic elections determine the membership of a Council for the next four years.

Supplementary elections are held if:

- a periodic election fails for reasons such as insufficient nominations received to fill the number of vacant positions; or
- a casual vacancy occurs in the office of a Council Member or Mayor for reasons such as resignation or death.

Provision is made for the deferral of an election to fill a casual vacancy under certain circumstances but this does not extend to Mayoral positions. Councils not divided into wards may adopt a policy not to fill a single casual vacancy until the next general election.

The Electoral Commission of SA publication, Candidate Handbook, sets out in detail the process for nomination and voting procedures.
