

Operation Sandon — Council governance

Operation Sandon is an investigation by the Independent Broad-based Anti-corruption Commission into allegations of corrupt conduct involving councillors and property developers in the City of Casey (Casey Council) in Melbourne’s south-east. It also examined the effectiveness of Victoria’s systems and controls for safeguarding the integrity of the state’s planning processes.

Background

The investigation found several councillors within Casey Council accepted payments, gifts, or other benefits. These benefits included political donations in exchange for support on planning matters that favoured the interests of property developer, Mr John Woodman.

One planning matter investigated in Operation Sandon concerned an application to reduce open space requirements and road widths on an estate. The developer and his associates exploited improper relationships with some councillors to obtain council approval for this application, which allowed more housing to be built and boosted the developer’s profits. However, the approval meant that the community lost much-needed open space in a densely populated area. This is an example of where public officers failed to serve the public interest or manage a conflict of interest appropriately.

While Operation Sandon relates to Mr John Woodman’s conduct and that of certain councillors, the special report also focuses on weaknesses in the Casey Council’s governance and the processes and procedures that enabled private interests to improperly affect council decision-making.

Governance systems and processes must be clear, transparent and robust to ensure that authority in councils is exercised appropriately and the community’s trust is maintained.

Poor governance can lead to corruption, which is why without proper procedures and processes, there is a risk that council decisions might be improperly influenced.

Poor governance can also undermine a council’s effectiveness and allow decisions to be disputed. This can damage councillor reputations and the community’s trust in their local government.

Operation Sandon highlighted areas where council governance could be improved.

Operation Sandon showed that Casey Council lacked adequate governance and safeguards to:

- prevent improper conduct
- protect against implicit forms of improper influence
- ensure its councillors understood their obligations as public officials to maintain the integrity of council decision-making processes.

This summary focuses on the key findings related to council governance.

Responsibility for governance



Councillors are elected officials, and they are responsible for engaging with a wide variety of community stakeholders, council staff, and their fellow councillors in a respectful and constructive manner.

Governance rules and codes of conduct provide councillors with an important framework to guide their behaviour in this endeavour.

Operation Sandon found examples where councillors deliberately breached their obligations and failed to take responsibility for their conduct or that of other councillors. Their conduct indicated a poor understanding of good governance and integrity principles.

These issues are not unique to Casey Council. Reform is needed to promote good governance practices across Victorian councils. These reforms include:

- developing a councillor code of conduct to be adopted by all Victorian councils
- strengthening councillor training requirements on governance, leadership, and integrity.

Council meeting procedures



Operation Sandon showed that without clear council meeting procedures, and compliance with them, meeting agendas can be misappropriated, and misconduct concealed.

These issues are exacerbated when councillors are not prepared for meetings or when relationships between councillors and council officers are poor.

The following reforms are needed to ensure decisions in local government are made in an accountable and transparent manner:

- developing governance rules to be adopted by all Victorian councils
- providing enhanced guidance and training to councils on governance best practice
- listing expectations about the interactions between councillors and council officers in the councillor code of conduct.

Transparency in decision-making



Open and transparent council meetings are vital to council integrity.

When community members can clearly see how and why a council decision was made, they are able to understand decisions and hold their elected officials to account.

A lack of transparent decision-making can conceal corruption and diminish the community's trust that decisions are made in the public interest.

IBAC observed in Operation Sandon how poor practices at Casey Council restricted the community's view of how and why councillors made decisions.

To strengthen the transparency of council meetings, reform is needed in the following areas:

- develop transparency rules to be adopted by all Victorian councils
- tighten the regulation of pre-council meetings
- prohibit 'en-bloc' or collective voting, where multiple agenda items are voted on at the same time
- strengthen record-keeping of meetings.

Conflict of interest management



Conflict of interest provisions help councillors to demonstrate that they have properly considered whether their personal interests affect or could be perceived to affect the performance of their public duties. This reassures the public that decisions are made impartially and in the public interest.

When councillors disregard or fail to properly consider their conflict of interest obligations, there is a heightened risk of corruption.

In Operation Sandon, IBAC found several examples where councillors failed to declare or fully disclose their conflicts of interest, as well as instances of conflicted councillors attempting to influence other councillors.

Victoria needs stronger conflict of interest provisions for councillors. The required reforms include:

- ensuring that breaches of obligations are addressed in a timely and effective manner
- improving the transparency of, and level of detail required in, conflict of interest disclosures
- developing conflict of interest training to be completed by all Victorian councillors
- prohibiting conflicted councillors from attempting to influence other councillors.

Addressing poor councillor conduct



Mechanisms for addressing poor councillor conduct need to be clear, timely, and responsive. They must also be enforceable, ensuring that meaningful sanctions are applied to deter others from similar behaviour.

When poor behaviour is not called out and addressed, it can send the message that such conduct is tolerated and acceptable, which is a significant corruption risk.

Operation Sandon identified occasions where poor behaviour by councillors was not addressed effectively. This highlights vulnerabilities in existing processes for managing alleged councillor misconduct in Victoria and opportunities for reform, which include:

- sanctions for misconduct that are adequate and applied appropriately
- explicit provisions in the councillor code of conduct that allow council officers and members of the public to make complaints to the Chief Municipal Inspector
- the publication of data on arbitration and complaint processes.

CEO authority to address integrity issues



CEOs have the advantage of being able to observe integrity breaches involving councillors.

In Operation Sandon, the council CEO's ability to deal with integrity breaches was limited by legislation and the fact that councillors directly employed them. This hampers a council's ability to appropriately address misconduct and mitigate related corruption risks.

Reform is required to strengthen the independence of CEOs to ensure they can respond to poor behaviour by councillors. The reform required includes:

- mandating standard employment contracts for CEOs
- requiring that the recruitment, employment, and remuneration of a CEO be determined by independent council committees.

Recommendations

The *Operation Sandon* special report makes 34 recommendations to address the risk of corruption, improper influence, and the planning, policy settings that incentivise corruption in council decision-making processes.



The following recommendations are specific to council governance.

COUNCIL GOVERNANCE

Recommendation 17

IBAC recommends that the Minister for Local Government:

- (a) ensures that Local Government Victoria develops and maintains a Model Councillor Code of Conduct that includes better practice provisions that will apply to *all* councils, noting that councils can adopt additional provisions to the extent that they are consistent with the minimum standards specified in the Model Councillor Code of Conduct
- (b) develops and introduces to Parliament amendments to the *Local Government Act 2020* (Vic), or amends relevant regulations to specify that councils *must* adopt the Model Councillor Code of Conduct.

Recommendation 18

IBAC recommends that the Minister for Local Government uses an appropriate mechanism, such as amendments to the *Local Government Act 2020* or relevant regulations, to require that councillors undertake mid-term refresher training on governance, leadership, and integrity.

Recommendation 19

IBAC recommends that the Minister for Local Government:

- (a) ensures that Local Government Victoria develops and publishes Model Governance Rules to operate as the minimum standards for council meeting procedures
- (b) develops and introduces to Parliament amendments to the *Local Government Act 2020*, or amends relevant regulations to specify that councils must adopt the Model Governance Rules
- (c) ensures that Local Government Victoria maintains the Model Governance Rules in a way that promotes better practices that apply to all councils, noting that councils can adopt additional rules to the extent that they are consistent with the minimum standards specified in the Model Governance Rules.

Recommendation 20

IBAC recommends that the Minister for Local Government encourages diligent, considered councillor decision-making by providing guidance and training to councils on administrative and council meeting best practice.

Recommendation 21

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria includes in the Model Code of Conduct for Councillors a clear statement of expectations to guide councillors and staff in their interactions with each other.

Recommendation 22

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria:

- (a) develops and publishes a Model Transparency Policy to specify the minimum standards for council openness and transparency
- (b) ensures that the Model Governance Rules and Model Transparency Policy:
 - i) highlight the importance of open government and the related risks in holding pre-council meetings
 - ii) note the limited circumstances in which it may be appropriate to hold pre-council meetings immediately before a public council meeting, such as to discuss procedural arrangements for the meeting
 - iii) make clear that councillors must not discuss the substance of agenda items in detail, reach agreements on council agenda items in private, and that briefings should involve the presentation of information only
- (c) develops further guidance to explain to councillors *why* deliberation on an agenda item (not just voting) in public is important, particularly for planning matters.

Recommendation 23

IBAC recommends that the Minister for Local Government ensures that the Model Governance Rules expressly prohibit voting en bloc in council meetings.

Recommendation 24

IBAC recommends that the Minister for Local Government ensures that the Model Governance Rules require council meeting minutes to state:

- (a) the names of councillors who spoke on each motion
- (b) the names of councillors who voted for and against each motion (regardless of whether a division was called).

Recommendation 25

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria undertakes a review, and introduces related reforms, to ensure that councillor breaches of the conflict of interest provisions are addressed in a timely and effective manner.

Recommendation 26

IBAC recommends that the Minister for Local Government ensures that the Model Governance Rules stipulate that:

- (a) council officer reports on local government planning matters be accompanied by:
 - i) a schedule of reportable donations and other financial arrangements that parties have made or have with councillors (as discussed in Recommendation 7)
 - ii) a statement of the interested parties that includes details of the parties affected by the motion before council, such as the names of personnel, company names and registered addresses
 - (b) councillors must acknowledge that they have read the schedule of reportable donations and other financial arrangements and the statement of involved parties before declaring whether they have a conflict of interest in the relevant agenda item for any local government planning matters.
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Recommendation 27

IBAC recommends that the Minister for Local Government ensures that the Model Governance Rules (such as through an amendment to clause 18.3 of the draft rules):

- (a) provide a clear process for disclosing all conflicts of interest, including those that involve privacy matters. This process must set out:
 - i) precisely what matters will be included in the declaration and public register
 - ii) how declarations involving privacy matters will be recorded
 - iii) how long records will be retained
 - (b) require councillors to disclose, in sufficient detail, the circumstances that give rise to a conflict of interest, including, but not limited to, the names of the people or entities associated with the conflict and their relationship to the councillor.
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Recommendation 28

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria develops model conflict of interest training, and an associated strategy to ensure that its completion is enforceable, to consistently reinforce conflict of interest obligations across councils. The training should:

- (a) explain why a councillor cannot or should not participate in the decision-making process for a matter in which they have a conflict, during or outside council meetings
 - (b) ensure that councillors understand their obligation to:
 - i) familiarise themselves with the parties who donate to any political, charitable or community interests with which the councillor has an involvement
 - ii) assess whether those donations give rise to a conflict of interest for particular council matters
 - iii) provide precise details of the nature of the conflict when declaring a conflict of interest.
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Recommendation 29

IBAC recommends that the Minister for Local Government develops and introduces to Parliament amendments to the *Local Government Act 2020 (Vic)* to:

- (a) expressly prohibit councillors with a conflict of interest from attempting to influence other councillors (with reference to the Queensland provisions)
 - (b) specify an appropriate penalty for councillors who contravene this provision.
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Recommendation 30

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria reviews the available sanctions for misconduct to ensure that the options provided are adequate and applied in an appropriate way. This includes, but is not limited to, ensuring that the option to direct that a councillor be ineligible to hold the position of mayor after a finding of misconduct can be applied in a way that is both proportional to the conduct and timebound.

Recommendation 31

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria includes in the Model Councillor Code of Conduct a clear statement that:

- (a) council officers and members of the public may make a complaint to the Chief Municipal Inspector
 - (b) a CEO must notify IBAC under section 57 of the *Independent Broad-based Anti-corruption Commission Act 2011 (Vic)* if they suspect on reasonable grounds that a breach of the Model Councillor Code of Conduct involves corrupt conduct.
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Recommendation 32

IBAC recommends that the Minister for Local Government develops and introduces to Parliament amendments to the *Local Government Act 2020 (Vic)* to require that the Principal Councillor Conduct Registrar collate and publish data annually on:

- (a) the internal arbitration process, including:
 - i) the number of applications received
 - ii) the number of applications withdrawn
 - iii) the nature of the issues raised
 - iv) the outcome of completed arbitration processes
 - v) the cost to the council of dealing with arbitrated matters, including staff costs
 - (b) councillor conduct panels, including:
 - i) the number of applications received
 - ii) the number of applications withdrawn
 - iii) the nature of the issues raised
 - iv) the outcome of completed panel processes
 - v) the cost to the council of dealing with panel matters, including staff costs.
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Recommendation 33

IBAC recommends that the Premier ensures that the Implementation Inter-departmental Taskforce identifies the most appropriate mechanism to support a council CEO in making a mandatory notification about serious misconduct. This includes suspected breaches of the conflict of interest provisions by councillors – in particular, breaches involving material conflicts of interest – noting that the Chief Municipal Inspector has the authority to apply to a councillor conduct panel or prosecute a councillor for misuse of position due to a conflict of interest, but is not currently authorised to receive a mandatory notification concerning a councillor from a CEO, under the *Public Interest Disclosure Act 2012 (Vic)*.

Recommendation 34

IBAC recommends that the Minister for Local Government develops and introduces to Parliament amendments to the *Local Government Act 2020 (Vic)*, or amends relevant regulations, and institutes related enabling processes, to promote greater consistency and independent oversight of recruitment and employment of council CEOs by:

- (a) mandating that councils use a standard employment contract for CEOs that:
 - i) covers, among other things, the role of the CEO, performance review and management, and termination payment (including limits on such payments)
 - ii) bans non-disclosure agreements between councils and CEOs or former CEOs
 - (b) amending section 45 to require each council to establish a committee to determine matters relevant to the recruitment, employment, and remuneration of the CEO. The committee must be chaired by an independent professional with executive experience in local or state government, and most of its members must be external to the council.
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IBAC's proposed recommendations are designed to be implemented by a cross section of local and state government to minimise the significant risks of the conduct identified in Operation Sandon from recurring.

IBAC has recommended that the Premier report publicly on the action taken in response to the relevant recommendations by 27 January 2025. IBAC has also requested the Minister for Local Government and the relevant departments report to IBAC on the implementation of their relevant recommendations within 12 months.

IBAC is committed to working with local and state government and other bodies in Victoria's integrity framework to implement these reforms, safeguard Victoria's planning process, and restore community trust that elected officials make decisions in the public interest.

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IBAC is Victoria's anti-corruption agency responsible for preventing and exposing public sector corruption and police misconduct. We do this by:

- investigating serious corruption and police misconduct
- informing the public sector, police and the community about the risks and impacts of corruption and police misconduct, and ways in which it can be prevented.

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