



Fact sheet:

Standing down a Councillor

Prior to the 2024 amendments to the *Local Government Act 2020* (the Act), a councillor charged with certain offences was stood down by the Victorian Civil and Administrative Tribunal (VCAT) following an application from the Local Government Inspectorate (the Inspectorate).

The Act was amended in response to advice from the Inspectorate and now provides that councillors charged with these offences are automatically stood down.

What does standing down a Councillor mean?

A councillor may be stood down while their behaviour as a councillor is under investigation or if they have been charged with a serious offence.

While they are stood down, they are not able to perform their duties as a councillor and their allowance is suspended.

How is a councillor stood down in Victoria?

Under section 229 of the Act, a councillor charged with certain offences is stood down until the charge is withdrawn or all proceedings in respect of the charge (including any appeal) are finally determined.

The offences triggering section 229 of the Act are:

- **An offence against the Act for which the maximum penalty is at least 120 penalty units or a period of imprisonment of at least 12 months, or**

- **An offence against a law of Victoria, or a law of another State, a Territory or the Commonwealth, that is punishable by a period of at least 2 years for a first conviction.**

Councillor obligations

All councillors must ensure they comply with section 229 of the Act. If charged with an offence, a councillor should confirm whether the charge results in them being stood down. To support this, councillors should:

- Ensure they understand the relevant requirements of the Act in relation to charges against them and the consequences of any non-compliance
- Notify the CEO of any charge against them as soon as they become aware of the charge, and
- Assist and cooperate with any requests from the CEO in relation to advice about a charge against them (for example, by providing full disclosure of the details of the charge).

On becoming aware that they are stood down, a councillor must:

- Give written notice to the CEO that they are stood down, and
- Not perform the functions and duties or exercise the powers of a Councillor, and not attend any Council, delegated committee meetings or any Council premises

A councillor who is stood down will need to confirm whether the outcome or final determination of the relevant charges means they are no longer stood down or disqualified. To support this, councillors should:

- Notify the CEO of the outcome / final determination of the charge (for example, if the charge is dropped or dismissed; or they are convicted of the offence)
- Assist and cooperate with any requests from the CEO in relation to advice about the outcome of the charge (for example, by providing full disclosure of the details of any final determination of the charge)
- Either resume performing the role of a councillor (if the outcome of the charge means they are no longer stood down) or cease performing the role of councillor and notify the Inspectorate (if the outcome of the charge means they are disqualified under section 34(2)(l) of the Act)

whether the charge triggers the requirements of section 229 of the Act)

- Notify the Inspectorate of the standing down or disqualification of a councillor
- Withhold and repay councillor allowances
- Prevent (to the extent possible) breaches of the Act by councillors who are stood down or disqualified (for example, by removing councillor access to Council premises, facilities and resources)

Chief Executive Officer obligations

CEOs should assist councillors to comply with the stand down and disqualification requirements. To assist councillors, CEOs should ensure:

- Councillors are supported to understand their statutory obligations and the consequences for non-compliance (for example, through mandatory induction and/or professional development training)
- Arrangements are in place to support compliance with the stand down and disqualification provisions and any other related legislative requirements. This includes by establishing processes and practices to:
 - Seek legal advice about a charge against a councillor (for example,

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