

Victorian Local Government Bill 2018

1. Behind closed doors – unwelcome conduct of a sexual nature in local governments

When there is bullying of women by men it often includes a sexual undertone which compounds uncertainty, doubt and fear created by the bullying. This submission specifically focuses on stopping serious misconduct of this nature by some male councillors towards some female colleagues. Their behavior breaks laws, breaches councillor codes of conduct, and seriously impedes good local governance. It reinforces attitudes and behaviours which underpin violence against women in our society. This submission is written in the context of the Victorian Government Gender Equality Strategy, which is based on the fact that attitudes to women are a key factor in preventing violence towards women by men.

As the former Women's Policy Officer with the Victorian Local Governance Association for over 15 years, now retired, this opportunity to express my personal views about some changes which will have a positive impact on the governance and culture of local governments is welcomed. The views expressed in this document are my own.

I submit some examples reported to me privately by women councillors over a number of years and recommend some changes to the Draft Bill and refer to aspects of the draft Bill which can be strengthened.

For women councillors, the Council and chamber are their workplace. They have the right to feel safe at work and supported if they make a complaint. It's time for our councils to have robust and zero tolerance policy and complaints handling processes that inspire confidence and lead to real culture change. Leadership from the top, in this case through a new Victorian Local Government Act, is critical to making the change we want to see in our councils and communities. See it, say it, stop it.

Examples

A male councillor observes that a female councillor colleague has a ladder in her stocking by saying "I see a stairway to heaven". This comment is made in a formal meeting of the Council.

A newly elected female councillor, the only woman present at a residential councillor induction attends the evening dinner session and is subjected to public comments and jokes from her all male colleague councillors and senior officers such as "and what room is Cr xx in tonight? Perhaps she'd like a visitor...". She is so terrified that she leaves the dinner early and locks herself in her room.

During an early evening internal council meeting a young woman councillor eats a piece of fruit - a banana - having just come straight from her place of paid employment. A male councillor sitting opposite says audibly and suggestively "I'd like to be in that skin" to the guffaws of other male colleagues.

After a Council meeting in the chamber, Council officers find a note in a male councillor's handwriting with specific sexual suggestions he would like to make to a woman in attendance at the meeting. The councillor is known to constantly make sexual innuendoes and inappropriate comments about female appearance to female councillors and officers. No one in council or administrative leadership has been prepared to deal with this behavior. Following this "last straw", a senior officer, a woman, initiates a full Council briefing session with a lawyer to explain the legal and ethical responsibilities of the Council in relation to sexual harassment.

A woman councillor is physically and verbally assaulted by a male councillor when she leaves a council briefing late at night. He uses his body to stop her from exiting through the door to the car park, moving sideways and forwards to obstruct her way and abuses her using the words “bitch” and “cow”. The male councillor’s bullying and intimidating behaviour towards her had been building over time so she decides to initiate a code of conduct hearing. However all processes cease when the offending councillor resigns before the code of conduct panel convenes. At the next election he is re-elected. There is no recourse, despite his bad behaviour being well known and recognized.

An experienced woman councillor is sexually touched (“groped” as she describes it) by a male councillor on several different occasions. She seeks mediation and eventually achieves an agreement that he never be in a room alone with her. While she feels personally relieved, she now fears for other women and children with whom he has contact, especially given that the grievance remained confidential and the person is now in a position where he has access to vulnerable members of the community.

Commonly when a women councillor registers a complaint or seeks support within Council for sexist, demeaning or threatening behaviour, she runs the risk of comments from her colleagues such as “if you can’t stand the heat, get out of the kitchen”, “cant you take a joke?”, “it was a compliment”, or “we all know he’s like that, it doesn’t mean anything.”

Kristen Hilton, Victoria’s Commissioner for Equal Opportunity and Human Rights tweeted on 9 Feb about her interview on ABC Radio - “It does not have to be a repeat offence to constitute sexual harassment.... Can be any unwelcome conduct of sexual nature which would lead a reasonable person to offence/humiliation/intimidation. Eg inappropriate pass at business meeting.”

Unfortunately the examples above are not “one off” events. They illustrate ongoing verbal and other behaviours which intimidate, harass or threaten women councillors performing their roles. In the same interview, Kristen Hilton said that women frequently feel that reporting such behaviour is risky and they are unlikely to be believed.

Reference:

Victorian EO&HRC

<https://www.humanrightscommission.vic.gov.au/home/news-and-events/commission-news/item/1663-sexual-harassment-complaints-on-the-rise>

Twitter Kristen Hilton

<https://twitter.com/VEOHRC/status/961726077163810816>

2. Victorian Local Government Bill - exposure draft

Part 1 – Preliminary - Definitions

Part 1.3 (1) p.14 – p. Definition of serious misconduct by a Councillor

Proposed change: (d) “bullying” – make specific reference to unreasonable behaviour/ bullying by adding “*including sexual and other harassment, and verbal and physical intimidation.*”.

Rationale: Comments and climates in Councils which encourage or tolerate “crossing the line” must be called for what they are – discriminatory, disrespectful and ultimately harmful to individuals and the good governance of a council.

Reference: The Line website describes 10 examples of crossing the sexism line <https://www.theline.org.au/ten-ways-to-cross-the-sexism-line>

Part 7 - Council Integrity

Proposed change: Councillor Code of Conduct Part 7.179 (7) - p.156 – support for the reference to the Charter of Human Rights and Responsibilities Act 2006, and add “....and the Equal Opportunity Act 2010 and the Victorian Gender Equity Strategy”

Rationale: The purposes of councillor codes of conduct are to support ethical and legal behaviour, and encourage professional, accountable and effective participation by each councillor.

Under the Equal Opportunity Act 2010 it is against the law for local governments to treat, or propose to treat, someone unfavourably because of a personal characteristic protected by law. It is also against the law to sexually harass someone. For example, when a councillor is performing their public duties they must not discriminate against another councillor or council committee member.

Reference: Victorian Equal Opportunity and Human Rights Commission re responsibilities of Local Government.
<https://www.humanrightscommission.vic.gov.au/discrimination/places-of-discrimination/local-government>

I support with reservations the draft **Internal Resolution Procedure Part 7.181 (3) and 7.182** re appointment of an independent arbiter. The role and powers of the arbiter need to be detailed in the Act. I accept that the council can decide whether or not to act on the recommendations of the arbiter, on the provision that the clause remains as is, requiring the findings to be made public. However, public disclosure of the findings alone will not change those who behave in sexist or discriminatory ways. The shame of being caught needs to be a stronger deterrent in the legislation.

Rationale: This clause, if strengthened, could go some way towards removing potential conflict of interest in internal procedures for acting on the councillor code of conduct. However, as it stands the clause will not necessarily ensure fair, just and open resolution of matters involving bullying, sexual harassment and intimidation of women councillors by men, nor deter that behavior from continuing.

Local government reflects attitudes in our society. Its role as the elected democratic leader of governance for the benefit and wellbeing of the community means that elected and administrative leaders personally have responsibility to lead change away from community attitudes which contribute to violence against women.

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