

Local Government Advisory Committee

Terms of Reference

The Minister may establish advisory committees from time to time to inform and advise the Minister and the Head, Recycling Victoria on any matters relating to the operation in accordance with section 37 (1) of the *Circular Economy (Waste Reduction and Recycling) Act 2021*.

Purpose

1. The Local Government Advisory Committee has been established to inform and advise the Minister and Head, Recycling Victoria on Recycling Victoria's early functions and priorities in accordance with the *Circular Economy (Waste Reduction and Recycling) Act 2021* (the Act).¹

Definitions

2. In these Terms of Reference-

The Act means the *Circular Economy (Waste Reduction and Recycling) Act 2021*.

Code of Conduct means the *Directors' Code of Conduct and Guidance Notes* issued by the Victorian Public Sector Commission².

DEECA Relationship Manager means the Head RV.

Department means the Department of Energy, Environment and Climate Action (DEECA) or its successor.

The Guidelines means the Department of Premier and Cabinet's *Appointment and Remuneration Guidelines*, as updated from time to time.

Head RV means the person employed as the Head, Recycling Victoria under section 15 of the Act.

LG Committee means the Local Government Advisory Committee, established by the Minister by these Terms of Reference.

Member means a member of the LG Committee and includes a reference to the Chairperson unless the contrary intention is expressed.

Minister means the Minister for Environment.

PAA means the *Public Administration Act 2004*.

Public sector employee has the meaning given in section 4(1) of the PAA.

Recycling Victoria is a business unit within the Department.

Secretariat means Recycling Victoria.

¹ This Advisory Committee is established in addition to the Recycling Victoria Advisory Committee, a standing committee mandated by the Act, comprised of broad sector membership.

² Published at: <http://vpssc.vic.gov.au/resources/directors-code-of-conduct-and-guidance-notes/>

Establishment of Committee

3. In accordance with section 37 (1) of the Act, the Minister establishes the Local Government Advisory Committee (LG Committee) as a Ministerial Advisory Committee from the date of these Terms of Reference (ToR) to provide advice on the matters as described in **Functions**.
4. The Minister has classified the LG Committee as a Group C Band 3 advisory committee in accordance with the Guidelines.

Functions

5. The function of the LG Committee is to inform and provide advice to the Minister and Head RV in consideration of RV's plans and priorities in accordance with the Act, in particular how these plans and priorities support local government and ensure effective strategic relationships across the state.

Accountabilities

6. The LG Committee is subject to the general direction of the Minister in the performance of its functions.³
7. The LG Committee must provide its advice as directed by the Minister or required by these ToR to the Head RV within 10 working days following each meeting or following adoption of the minutes whichever is the earlier.
8. The Head RV may provide a response to the LG Committee's advice where required. The consolidated response will be provided to the Minister as soon as practicable (or within 15 working days whichever is the shortest time period) after each meeting by the Head RV.
9. Each member of the LG Committee is required to comply with these ToR, and each member's ongoing participation in the LG Committee represents their implied acceptance of these ToR.
10. Each member must at all times act in the best interests of the LG Committee and in a manner that is consistent with the public sector values set out in section 7(1) of the *Public Administration Act 2004*. These are: Responsiveness, Integrity, Impartiality, Accountability, Respect, Leadership, and Human Rights.
11. The [Code of Conduct for Directors of Victorian Public Entities](#) applies to the LG Committee and its members.

Timeframe

12. The LG Committee operates from the date of signature of this document until 18 October 2024.

Membership

13. The LG Committee consists of a Chairperson and a maximum of 14 other members, appointed by the Minister.
14. The LG Committee is to be constituted by:
 - a. Councillor representatives from each of the DEECA regions.
 - b. An employee of the Municipal Association Victoria, nominated by the MAV, appointed by the Minister.

³ Note section 85(1) of the PAA.

- c. An employee of the Victorian Local Governance Association, nominated by the VLGA, appointed by the Minister.
 - d. An employee of the Australian Services Union, nominated by the ASU, appointed by the Minister.
15. To fulfil the requirements of the committee's purpose, and scope, members are expected to:
- a. Represent local government with interests in the efficient operation and regulation of the waste and resource recovery sector.
 - b. Provide sound advice, insights and leadership.
 - c. Proactively share information relevant to the scope of the committee's remit.
 - d. Commit to providing honest, constructive and timely feedback.
16. Each member is responsible for:
- a. attending meetings and contributing to the work of the LG Committee by preparing for meetings
 - b. notifying the Chair and the Secretariat before the meeting if the Member is unable to attend a meeting
 - c. consulting with, and representing, their stakeholders regarding issues raised at LG Committee
 - d. providing feedback on the work of the LG Committee to their stakeholders in accordance with the confidentiality provisions outlined in clause 51, and
 - e. adhering to principles of good governance and Code of Conduct.

Chairperson

17. The role of the Chairperson includes provision of leadership and oversight of the performance of the LG Committee's functions and delivery of its accountabilities.
- b. approval of the agenda and minutes of meeting prior to circulation to members, and otherwise complying with paragraph 31;
 - c. chairing LG Committee meetings in accordance with paragraphs 26, 28 and 29;
 - d. comply with any obligations that the Chairperson has in these ToR or otherwise.

Term of appointment

18. A member is appointed for the term of office specified in his or her instrument of appointment.

Remuneration and expenses

19. All members of the LG Committee are either employees nominated by their employer organisation or elected councillors nominated by the mayor. The position of a member (including Chairperson) of the LG Committee is not remunerated. A member is entitled to the reimbursement of reasonable travelling and personal expenses directly related to their service on the LG Committee at the rates, and on the terms, that apply to employees of the Department.
20. To claim for expenses, a member must:
- a. complete the Department's Commencement Form and other required forms, on appointment.
 - b. submit Claim Forms to the Secretariat as required, together with supporting evidence.

Removal from office and resignation

21. The Minister, without cause or notice, may remove a member from office at any time.
22. The office of a member becomes vacant if:
- a. a member resigns in writing addressed to the Minister.

- b. a member is removed from office.
 - c. a member dies or in the opinion of the Minister, becomes incapable of performing his/her duties.
 - d. a member becomes a bankrupt or a person disqualified from acting.
 - e. a nominee organisation or council notifies the Minister in writing that a member who is their nominee has ceased to be:
 - a Councillor
 - employed by that organisation, or
 - employed in a relevant position at that organisation.
23. Upon a vacancy occurring in the office of a member, the vacancy may be filled by the Minister in accordance with these ToR.

Meeting procedure

24. Meetings of the LG Committee may be conducted in a manner determined by the Chairperson subject to these ToR and any direction given by the Minister.
25. If the Chairperson is absent, or the office of Chairperson is vacant, the members present at a meeting may elect from the members present a member to preside at that meeting.
26. The Chairperson, or presiding member, must ensure, as far as practicable, that every member has adequate opportunity to participate in discussions.
27. The Committee will aim for consensus in its decision making. In absence of agreement, the decision will be made by vote. In the event of a deadlock, the Chairperson has a casting vote.

Quorum

28. The quorum of a meeting consists of a majority of members presently appointed to the Committee.

Minutes

29. The Chairperson must:
- a. ensure that minutes of each meeting are kept.
 - b. circulate the minutes for comment by members before being formally adopted at the next meeting.
 - c. through the Head RV, keep the Minister informed of any significant matters resulting from the meeting. Or alternatively, provide the adopted minutes to the Minister within 14 days of being adopted.

Conflicts of Interest⁴

30. In these ToR:
- a. a '**conflict of interest**' is a conflict between a member's public duty to act in the best interests of the LG Committee and their private interests. It includes a **conflict of duty**, which is a conflict between a member's public duty to act in the best interests of the LG Committee and their duty to another organisation (e.g., due to their role as a board member or employee of that organisation).
 - b. A private interest:
 - may be **direct** or **indirect**; and

⁴ Refer to the Guidance on these ToR for alternative Conflict of Interest clauses.

- can be **pecuniary** (financial) or **non-pecuniary** (non-financial), or a mixture of both. A non-pecuniary interest may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc.
 - c. A conflict of interest exists whether it is:
 - **real** (ie. it currently exists)
 - **potential** (ie. it may arise, given the circumstances), or
 - **perceived** (ie. members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the member's performance of his/her duty to the LG Committee, now or in the future).
31. At the commencement of each meeting, the Chairperson must enquire of all members whether there is any potential for a conflict of interest to arise in respect to any item on the meeting agenda or any matter to be discussed and an interest held by a member.
32. A member who has a conflict of interest in a matter being discussed at a meeting of the LG Committee must declare the nature of the interest:
- a. at the commencement of a meeting; or
 - b. if they become aware of an interest during discussions, as soon as possible after becoming aware of the interest.

A declaration must be made even if the interest is already recorded in the LG Committee's Register of Interests.

33. A member who has made a declaration of a conflict of interest:
- a. must leave the room during the agenda item.
 - b. must not take part in any discussion of the issue with other members, either during or outside of the meeting.
 - c. must not vote on the matter to which the declaration relates.

The only exception is if the LG Committee agrees that it would be in the **public interest** for the member to take part in some or all of the discussion and/or voting on the issue. If the conflict is material it will not usually be in the public interest for the LG Committee to make an exception. If an exception is made, the minutes must record clear reasons why it is in the public interest to do so and what lesser measures will be put in place to manage the conflict. Careful monitoring must occur to ensure that the lesser measures remain in the public interest.

34. The Chairperson or member presiding at a meeting at which a declaration of an interest is made must cause the declaration and how the conflict of interest will be managed to be recorded in the minutes of the meeting.
35. The Chairperson must keep a record of declared interests (the Register of Interests). Any member may request and be granted access to this Register of Interests.
36. If a LG Committee member has breached their conflict-of-interest obligations in these ToR, the Chairperson must notify in writing the Minister as soon as practicable after becoming aware of such a breach, including whether the breach is material.⁵

Gifts Benefits and Hospitality

37. A member must never make or accept offers of gifts, benefits and hospitality in their role as a member unless it is in the public interest to do so.
38. As part of this requirement, members:

⁵ For further information, please refer to the Conflict of Interest support module on DELWP's OnBoard website.

- a. must never solicit gifts for themselves or anyone else.
 - b. must refuse and report any attempt to bribe them.
 - c. must refuse prohibited gifts (e.g. money or similar, gifts that raise a conflict of interest, inconsistent with community expectations, bring the LG Committee into disrepute, etc.).
39. Members must disclose to the Chairperson any offers of gifts, benefits and hospitality. The Chairperson must keep a register of declared offers, which any member may access.

Dispute Resolution

40. For the purposes of this dispute resolution procedure, a **'dispute'** exists if:
- a. two or more LG Committee members have difficulty working together (e.g., due to a conflict of personalities or ideological differences); and
 - b. the situation is unduly affecting the ability of a member, or the LG Committee collectively, to perform their duties in an effective and efficient manner.⁶
41. All LG Committee members will avoid disputes, where possible. If a dispute arises:
- a. the LG Committee members in dispute (the **parties**) will, **acting in good faith, make a reasonable, thorough and conscientious effort** to resolve the dispute on an **informal** basis, as soon as possible, and in the public interest (the **best interests of the LG Committee**); and
 - b. the Chairperson will actively guide the parties towards resolution of the dispute.
42. It is preferable for disputes to be resolved on an **informal** basis. If a dispute cannot be resolved on an informal basis, then the Chairperson will place the matter on the agenda of the next Committee meeting.
43. At that meeting, if the Committee is satisfied that:
- (i) a dispute exists which cannot be resolved on an informal basis; and
 - (ii) it is in the public interest to do so, then the Committee will notify the DEECA Relationship Manager in writing of the dispute, the parties and steps taken to resolve the dispute informally.
44. The DEECA Relationship Manager will notify the Chairperson within 21 business days of the options available to resolve the dispute.

Observers

45. A person who is not a member of the LG Committee, such as a presenter or an observer ('Observer'), may attend all or part of a LG Committee meeting on the Chairperson's written invitation.
46. An Observer may, at the invitation of the Chairperson, make a presentation to the LG Committee or participate in discussions in a LG Committee meeting and is required to step out of a meeting on the Chairperson's request.
47. An Observer who is not a public sector employee will be required to sign a Deed of Confidentiality.
48. An Observer must either destroy or return all copies of documents provided to them for the purposes of that meeting at the end of that meeting.

⁶ A difference of opinion between Committee members in relation to a proposed decision (e.g. strategic, business, policy, etc.) is not a 'dispute'. It is the normal difference of views that the Committee talks through together in a considered, courteous and constructive manner before voting to make its decision, in accordance with the Committee's meetings and decisions procedures.

Confidentiality

49. Members of the LG Committee must not give to any other person, whether directly or indirectly, any information acquired by reason of being a LG Committee member, except to the extent necessary to exercise the LG Committee's functions or provide information in accordance with these ToR.
50. Members of the LG Committee must not improperly use their position or any information acquired by reason of their position to gain an advantage to themselves or other people or cause detriment to the LG Committee.
51. The Minister may authorise the LG Committee to release specified information to third parties
52. On the termination or expiry of a member's appointment, the member must return all documents relating to the LG Committee to the Chairperson.

Privacy

53. The LG Committee must have processes in place to ensure that its members, in the course of their duties on the Committee, comply with the requirements imposed by or under the *Privacy and Data Protection Act 2014* as if the LG Committee is a public sector agency for the purposes of that Act.

Freedom of Information

54. Members of the LG Committee should be aware that all documents of the LG Committee (such as meeting agendas, board papers, minutes) will be held by the Department and will be subject to the *Freedom of Information Act 1982*.

Intellectual Property

55. The rights to intellectual property created by the members of the LG Committee in the course of their duties on the committee, including any reports required under these ToR, is the property of the State of Victoria. However, the Minister on behalf of the State grants the LG Committee a licence to use this property as authorised under these ToR.
56. In this clause, Intellectual property includes legal rights that protect the results of creative efforts including copyright, proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, but does not include moral rights.

Time commitment

57. The LG Committee is expected to meet at least 3 times, during its life including once with the Minister and the Head RV.
58. The location of meetings will be held either in the Melbourne CBD, by remote video conferencing, or another location as advised.
59. Members are expected to attend a minimum of 75 per cent of meetings.

Secretariat support to the LG Committee

60. Administrative support to the LG Committee will be provided by Recycling Victoria.
61. Day to day liaison for the LG Committee will be through Recycling Victoria.
62. Support provided by the Secretariat includes:
 - a. organising meeting rooms/video conferencing arrangements
 - b. taking minutes

- c. preparing and distributing agendas for LG Committee meetings, in consultation with the Chair, including any meeting papers
 - d. other administrative support (e.g. processing claims for reimbursement of remuneration and expenses), and
 - e. assisting in drafting reports.
63. The Secretariat will disseminate information and papers to members in an efficient and effective manner.
64. The costs of the LG Committee will be met by Recycling Victoria.

Entity review, sunset date and amendments

65. The LG Committee operates from the date of signature of this document to 18 October 2024, to align with the expiration of local government terms.
66. The Minister may amend these ToR in writing at any time.
67. The Minister may revoke these ToR in writing at any time and upon revocation of these ToR the LG Committee ceases to exist.
68. In accordance with section 37(3) of the Act, Recycling Victoria will make these ToR available on their website.