

## Advice on the correct wording and process for the taking of the oath or affirmation of office under the Local Government Act 2020

by Rhys Thomas, Head of Local Government Programs and Policy

### Introduction

From 26 October 2024, changes to the Local Government (Governance and Integrity) Regulations 2020 took effect, resulting in a change to the wording of the oath and affirmation of office that incoming councillors need to take in order to assume office.

### The process

Under section 30 of the Local Government Act 2020, a person elected to be a councillor is not capable of acting as a councillor until they have taken the oath or affirmation of office.

The oath of affirmation can be taken at any time after the official declaration of the election result by the Victorian Electoral Commission.

Incoming councillors should be asked whether they wish to recite the oath (which contains a reference to God) or the affirmation (which does not). They must then recite the statement aloud in front of the Chief Executive Officer. The councillor may read from a written statement, or may be prompted and asked to repeat the wording after the person administering the statement.

The oath or affirmation does not need to be taken at a council meeting, but if it is, it must occur before the first order of business, as councillors are not capable of acting until that time.

Taking the oath or affirmation does not require raising of a hand or placing a hand on a bible or other religious text (although Councillors are not prevented from doing so).



*With a career spanning 30 years in local government, Rhys Thomas has held roles in corporate planning, economic development, social research, media, communications and community development. Rhys has held senior management roles in governance at three different Councils.*

*Holding a planning degree from RMIT and a law degree from Monash University, Rhys is recognised as a leading thinker and problem solver in local government circles. He is often called upon to provide advice and to act as a sounding board for governance practitioners across the sector, and enjoys sharing and applying what he has learned to support councils and elected representatives - councillors - to deliver positive outcomes for their local communities through high performance leadership and effective governance.*

*Rhys is a trusted voice on all things governance, whether it is technical interpretation of rules, policy and legislation or the strategic long-term direction of the sector itself.*

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### The paperwork

The councillor must then sign and date the written statement in the presence of the CEO, who must then also sign.

If the oath or affirmation was taken at a council meeting, a copy of the signed statement should be included in the minutes of that meeting. If it was taken at another time, a copy of the signed statement should be included in the minutes of the next council meeting.

### The wording

While the wording of the Councillor oath or affirmation is set out in the Regulations, this is not the complete wording that incoming Councillors are required to recite. The Regulations require that persons make their statement “in accordance with the requirements of Part 2 of the Oaths and Affirmations Act 2018.” What this means is that the wording in the regulations must be preceded by the wording in that Act, which reads:

#### *Form of oath*

*I swear (or promise) by Almighty God (or the person may name a god recognised by the person's religion) that [words of the oath prescribed or allowed by law].*

#### *Form of affirmation*

*I solemnly and sincerely declare and affirm that [words of the affirmation prescribed or allowed by law].*

The complete wording can be found attached.

### Permitted variations

While it is essential that all Councillors take the oath lawfully in order to assume office, certain variations are possible depending on the circumstances. Common variations are:

- A person taking the oath may omit the words “Almighty God” and instead may name a god recognised by the person's religion.  
see Schedule 1, Oaths and Affirmations Act 2018
- A person taking the oath may omit the words “Almighty God” and instead may refer to the basis of the person's beliefs.  
see s10(4), Oaths and Affirmations Act 2018
- Some Councils like to insert the name of the Councillor in the statement, so it begins “I, Rhys Thomas, swear...” or “I, Rhys Thomas, solemnly and sincerely declare and affirm...” This is permitted.  
see s8(1), Oaths and Affirmations Act 2018
- If the oath or affirmation cannot be made in the physical presence of the Chief Executive Officer, it can be administered by audio visual link or audio link.  
see s9(2), Oaths and Affirmations Act 2018
- The oath or affirmation may be administered to all Councillors simultaneously.  
see s11(1), Oaths and Affirmations Act 2018
- Adjustments to the process may be made to accommodate special needs.  
see s15, Oaths and Affirmations Act 2018

## ATTACHMENT ONE

## Oath of office

I swear by Almighty God that I will undertake the duties of the office of Councillor in the best interests of the municipal community.

I will abide by the Model Councillor Code of Conduct and uphold the standards of conduct set out in the Model Councillor Code of Conduct.

I will faithfully and impartially carry out and exercise the functions, powers, authorities and discretions vested in me under the Local Government Act 2020 and any other Act to the best of my skill and judgement.

Signed before the Chief Executive Officer

Signature \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

Witnessed by the Chief Executive Officer

Signature \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

## ATTACHMENT TWO

**Affirmation of office**

I solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the municipal community.

I will abide by the Model Councillor Code of Conduct and uphold the standards of conduct set out in the Model Councillor Code of Conduct.

I will faithfully and impartially carry out and exercise the functions, powers, authorities and discretions vested in me under the Local Government Act 2020 and any other Act to the best of my skill and judgement.

Signed before the Chief Executive Officer

Signature \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

Witnessed by the Chief Executive Officer

Signature \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

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