

2.1. NOM - 22/07/2024 - Councillor A Bryce - Police and Working with Children Checks

Report by Councillor Almudena Bryce

Commentary

I am proposing the following Notion of Motion.

That all councillors provide an up-to date Police Check and Working with Children Check, to council on commencement of new council terms.

This will be in line with council staff and board members across Australia.

With the rise of Domestic Violence and violence against children, our community needs to be assured that councillors are safe to attend community and school events.

Next year's National Conference in Canberra, all attendees require a Police Check prior to attending. Let's be progressive about these issues, rather than reactive.

Attachments

Nil

Recommendation

THAT all councillors provide an up-to date Police Check and Working with Children Check, to council on commencement of new council terms.

Management Comment

The June 2024 OLG Councillor Candidate Guide states that anyone who is entitled to vote at council elections in NSW is also eligible to stand for election as a councillor. People disqualified from standing for office include people who are:

- currently serving a prison sentence,
- convicted of certain election-related or criminal offences (involving imprisonment),
- prohibited from managing companies,
- suspended on three or more occasions for misconduct as a councillor (results in automatic disqualification for 5 years), and/or
- current state members, if elected, may only hold office as a councillor if they resign from Parliament before the first council meeting.

It would not be possible for Council to enforce a requirement for Councillors provide an up-to date Police Check and Working with Children Check. There is no legal pathway for Council to take action against a Councillor who either has a negative result for a check or refuses to undertake a check. For example, Section 440G of the Local Government Act 1993 (the Act) states that Council may pass a formal censure resolution only if it is satisfied that the councillor has engaged in misconduct on one or more occasions.

In the Act, misconduct of a Councillor means any of the following—

- (a) a contravention by the Councillor of this Act or the regulations,
- (b) a failure by the Councillor to comply with an applicable requirement of a code of conduct,

- (c) a failure by a Councillor to comply with an order issued by the Departmental Chief Executive under this Division,
- (d) an act of disorder committed by the Councillor at a meeting of the Council or a committee of the Council,
- (e) an act or omission of the Councillor intended by the Councillor to prevent the proper or effective functioning of the Council or a committee of the Council.

Employees may be required to complete a Police Check and/or Working with Children Check as part of their employment conditions, where relevant. There is no relevant section of the Model Code of Conduct where a requirement for a Police Check and Working with Children Check can be added for Councillors.