

SUBJECT: COUNCILLOR COMPLAINT INVESTIGATION OUTCOME

MEETING: Ordinary

MEETING DATE: 28 September 2023

REPORT DETAIL

Report Author: Coordinator Legal & Governance

Department: Chief Executive Officer

EXECUTIVE SUMMARY

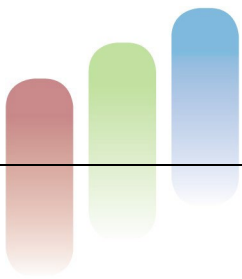
In response to a referral of information indicating suspected inappropriate conduct, in accordance with s150R *Local Government Act 2009*, Council received a referral from the office of the Independent Assessor to investigate a complaint against Cr David Clifton. The matter was subsequently referred to the President of the Councillor Conduct Tribunal (“the Tribunal”) for investigation and recommendations in accordance with Council’s Investigation policy. Council is now in receipt of the investigation report and recommendations from the Tribunal.

The Tribunal formed the opinion that the evidence is insufficient for the Council to reach a determination that the allegation of inappropriate conduct is sustained on the balance of probabilities.

OFFICER’S RECOMMENDATION

"That Council resolve:

- (a) the allegation of inappropriate conduct against the subject Councillor is not sustained;
- (b) the Council take no further action, except to advise the Councillor and update the Councillor Conduct Register as required by sections 150DX(1)(b) and 150DY of the Act."



BACKGROUND

Where a local government official becomes aware of information indicating that a Councillor may have engaged in suspected misconduct or inappropriate conduct, s 150R *Local Government Act 2009* places a positive obligation on a local government official (which includes a councillor or the Chief Executive Officer) to notify the assessor about the suspected inappropriate conduct or misconduct.

In accordance with the obligation under s 150R, the Mayor referred a number of emails from Cr David Clifton to the Office of the Independent Assessor for assessment. The matter was subsequently referred back to the Council for investigation under s 150W *Local Government Act 2009*.

Under Council's investigation policy, the Mayor, generally, has the responsibility for overseeing investigations in respect to councillor conduct matters. However, where the Mayor is the subject of the complaint, or has a conflict of interest (for example is the referrer under s 150R), then the matter is to be referred to the President of the Council Conduct Tribunal for investigation and recommendation.

Council has now received the investigation and recommendation response from the Councillor Conduct Tribunal. The recommendations from the Tribunal include:

"...The Council consider this report particularly paragraphs 16 to 39 in making its decision as to whether the Councillor has engaged in inappropriate conduct."


On 23 May 2023, Council received a referral for the Office of the Independent Assessor under s150W (1)(b) Local government Act. Under Council's Investigation policy the matter was referred to the President of the Councillor Conduct Tribunal.

On 11 September 2023, Council received the investigation report with recommendation from the Councillor Conduct Tribunal..

Summary of Allegation

A summary of the allegations, as per the investigation report was as follows:

It is alleged that on various dates, Councillor Clifton sent emails to Tablelands Regional Council staff, in which Councillor Clifton used language and tone that could constitute inappropriate conduct contrary to section 150K(1)(a) of the Local Government Act 2009



(Qld) (the Act), in that the conduct was contrary to behavioural standard 2 and/or 2.1 in the Code of Conduct for Councillors in Queensland approved on 4 August 2020 namely:

2. Treat people in a reasonable, just, RESPECTFUL and non-discriminatory way 2.1 Treat fellow Councillors, Council employees and members of the public with courtesy, honesty and fairness

Outcome of Investigation

The Tribunal has investigated the suspected inappropriate conduct of the Councillor referred by the Independent Assessor to the local government, and has provided recommendations to the local government pursuant to section 150DL(1)(a)(i) & (ii) of the Act. The Tribunal has formed the opinion that the evidence is insufficient for the Council to reach a determination that the allegation of inappropriate conduct is sustained on the balance of probabilities.

PROJECT OBJECTIVE AND SCOPE

N/A

LINK TO CORPORATE PLAN

Our Organisation

- Model leadership and good governance

LINK TO STRATEGIES, POLICIES AND PLANS

Tablelands Regional Council Investigation Procedure.

CONSULTATION

Internal

N/A

External

Office of the Independent Assessor

Councillor Conduct Tribunal

LEGAL IMPLICATIONS

N/A



POLICY IMPLICATIONS

N/A

FINANCIAL & RESOURCE IMPLICATIONS

Capital

N/A

Operating

N/A

Is the expenditure included in the current annual budget?

N/A

COST BENEFIT ANALYSIS

N/A

RISK/SUSTAINABILITY ASSESSMENT

N/A

IMPLEMENTATION/COMMUNICATION

As provided in the recommendation, Council to advise the Councillor and update the Councillor Conduct Register as required by sections 150DX(1)(b) and 150DY of the Act.

CHANGE MANAGEMENT

N/A

ATTACHMENTS

N/A

Date Prepared: *27 September 2023*