

## 1. Policy Intent

- 1.1 The intention of this policy is to establish and provide a guide for:
  - 1.1.1 Legal and ethical decision making;
  - 1.1.2 Councillor requests for information, advice or service;
  - 1.1.3 Handling of confidential information;
  - 1.1.4 Councillor contact with Lobbyist, Developers and Submitters; and
  - 1.1.5 Dealing with the media.
- 1.2 The policy will provide clear guidelines for the interaction between Councillors and staff for the communication of information, advice and providing assistance to enable Councillors to carry out their responsibilities in accordance with the principles prescribed under s4 of the *Local Government Act 2009* ("the Act").

## 2. Scope

The Interaction with the Organisation Policy (this 'Policy') and Acceptable Request Guidelines applies to the Mayor and Councillors of Tablelands Regional Council.

## 3. Background/Supporting Information

### 3.1 Legislative reference

- 3.1.1 *Crime and Corruption Act 2001*
- 3.1.2 *Information Privacy Act 2009*
- 3.1.3 *Right to Information Act 2009*
- 3.1.4 *Integrity Act 2009*
- 3.1.5 *Local Government Act 2009*
- 3.1.6 *Local Government Regulation 2012*
- 3.1.7 *Local Government Electoral Act 2011*
- 3.1.8 *Planning Act 2016*
- 3.1.9 *Public Interest Disclosure Act 2010*

## 4. Definitions

The following definitions apply to this policy:

**Acceptable Request Guidelines** has the same meaning as s 170A(6) Local Government Act.

**Assistance or Advice** means details of what Councillors and Council officers are doing, any administrative, legal, financial, technical, or statistical information held by Council and options available to achieve a particular outcome.

**CEO** means Chief Executive Officer a person who holds an appointment under section 194 of the Act. This includes a person acting in this position.

**Conflict of Interest** has the same meaning as defined in the Act.

**Council Business** means business which is the subject of a formal report to Council to be tabled at a General or Confidential Meeting of Council.

**Councillor Code of Conduct** means

- a. as adopted by Council; or
- b. the Model Code of Conduct for Councillors in Queensland published by the Minister and approved by regulation as amended from time to time.

**Complaint** means complaint under Council's Complaints Policy.

**Confidential Information** refer to Item 5.7 of the Policy.

**Customer Request Management (CRM)** is Council's management system for customer service request. Its purpose is to track workflow, record conversations with customers and the actions undertaken.

**Department** means the State Department responsible for the administration of Local Governments in Queensland.

**Developer** means an applicant for development approval. If the applicant is a body corporate, the term includes officer holders and employees of the applicant. If the applicant is a partnership, the term includes partners and employees of the applicant.

**Development Application** means an application for development that requires assessment against the provisions of Council's town planning scheme.

**Direction** means to direct, or otherwise influence another person to carry out, or instigate an action in a particular way.

**Emergency** means an imminent risk to community safety, an operational issue that immediately and significantly impacts residents' amenity or capacity to access services, or significant immediate risk to Council's reputation if not dealt with promptly.

**Information** includes all correspondence, letters, emails, electronic media, briefings and meeting minutes.

**LGA** means *Local Government Act 2009*.

**LGR** means *Local Government Regulation 2012*.

**Lobbyist** has the same meaning as defined in the *Integrity Act 2009*.

**Material Personal Interest** has the same meaning as defined in the *Local Government Act*.

**Release of Confidential Information** includes verbal or written disclosure to any person of:

- a. information or any part of the information;
- b. providing originals, copies or extracts of documents or any part of the documentation
- c. paraphrasing or summarising confidential information.

that is marked confidential or provided to Council in confidence

**Service Request** A request received by TRC to take some form of action to provide or improve a Council asset or service.

**Submitter** has the same meaning as defined in the *Planning Act 2016*.

## 5. Policy Statement

This policy is in eight parts:

- Part 1: Context relevant to this policy
- Part 2: Councillor Responsibilities
- Part 3: Councillor Code of Conduct
- Part 5: General information requests by Councillors
- Part 6: Councillor Strategy, Policy & Information Workshops
- Part 7: Councillor requests for service
- Part 8: Councillor contact with lobbyists, developers and submitters
- Part 9: Dealing with the media

### Part 1: Context relevant to this policy

#### 5.1 Local Government principles

This Policy demonstrates Council's commitment to the following local government principles contained in the LGA:

- 5.1.1 Transparent and effective processes, and decision-making in the public interest;
- 5.1.2 Sustainable development and management of assets and infrastructure, and delivery of effective services;
- 5.1.3 Democratic representation, social inclusion and meaningful community engagement;
- 5.1.4 Good governance of, and by, local government; and
- 5.1.5 Ethical and legal behaviour of Councillors and local government employees.

#### 5.2 Council's values

Council is committed to ensuring its practices and behaviours align with organisational values, namely:

- 5.2.1 Creativity;
- 5.2.2 Respect;
- 5.2.3 Customer Services; and
- 5.2.4 Integrity.

### Part 2: Councillor Responsibilities

The Councillor Code of Conduct sets out the standards of behaviour expected of Councillors of the Tablelands Regional Council in the performance of their duties. Councillors are required to comply with the Councillor Code of Conduct.

#### 5.3 Roles and responsibilities of elected members

##### 5.3.1 Councillors

- a. The responsibilities of a Councillor under s12(3) of the LGA are:
  - i. Ensuring the local government:
    - A. discharges its responsibilities under the Act;
    - B. achieves its corporate plan; and
    - C. complies with all laws that apply to local governments;
  - ii. Providing high quality leadership to the local government and the community;
  - iii. Participating in council meetings, policy development, and decision making, for the benefit of the local government area; and
  - iv. Being accountable to the community for the local government's performance.

- b. When performing a responsibility, a Councillor must serve the overall public interest of the whole local government area.

### 5.3.2 Mayor

- a. Over and above the responsibilities of a Councillor, the Mayor has additional responsibilities, as detailed under s12(4) of the LGA, which are:
  - i. Leading and managing meetings of the local government at which the mayor is the chairperson, including managing the conduct of the participants at the meetings;
  - ii. Preparing a budget to present to the local government;
  - iii. Leading, managing and providing strategic direction to the Chief Executive Officer in order to achieve the high quality administration of the local government;
  - iv. Directing the chief executive officer and senior executive employees, in accordance with the local government's policies;
  - v. Conducting a performance appraisal of the Chief Executive Officer, at least annually, in the way that is decided by the local government (including as a member of a committee for example);
  - vi. Ensuring that the local government promptly provides the Minister with the information about the local government area, or the local government, that is requested by the Minister;
  - vii. Being a member of each standing committee of the local government; and
  - viii. Representing the local government at ceremonial or civic functions.
- b. Furthermore, the Mayor must be a member of a panel to appoint senior executive employees and maintain a register of interests of the Chief Executive Officer and persons related to the Chief Executive Officer.

### 5.3.3 Deputy Mayor

- a. The Deputy Mayor will act for the Mayor during the absence or temporary incapacity of the Mayor, or if there is a vacancy in the office of the Mayor. During times the Deputy Mayor is acting Mayor, they must adhere to all the responsibilities and legislative requirements of the Mayor.
- b. Additionally, the Deputy Mayor must be a member of a panel to appoint senior executive employees. The Deputy Mayor may delegate the responsibility of being a panel member to another Councillor within Council.

### 5.3.4 Ethical and legal obligations

In exercising their powers and responsibilities Councillors must:

- a. Comply with their obligations under the *Local Government Act 2009*, *Local Government Regulation 2012*, *Integrity Act 2009*, *Information Privacy Act 2009* and any other applicable legislation, Council policy or procedure pertaining to the exercise of their duties, in particular Council's Meeting Procedure Policy and Caretaker Period Policy;
- b. Conduct themselves in a way that is impartial, promotes and maintains the public's trust and confidence in the Council and the good rule and government of the Tablelands Regional Council local government area;
- c. Ensure their personal conduct does not reflect adversely on the reputation of Council;
- d. Demonstrate respect for fellow Councillors, Council employees and other members of the public;
- e. Not engage in conduct or behaviour that is harassing, bullying, intimidating or discriminatory towards any fellow Councillors, Council employees or member of the public;
- f. Not provide any direction to any Council employee other than the Mayor exercising their power under section 170(1) of the Act;
- g. When communicating with the public or the media, make it clear when they are expressing a personal opinion, and when they are speaking on behalf of Council;

- h. When communicating with the public or the media to express a personal opinion about a Council resolution, respect the democratic process by first acknowledging that Council resolutions represent the majority view of Council;
- i. Exercise care to protect privacy of information gained in the course of carrying out their duties that is confidential to Council, and to not misuse this information in any way, including for personal gain;
- j. Contribute to the provision of a safe work environment including taking care for their own health and safety and the safety of others under the *Work Health and Safety Act 2011*;
- k. Disclose any gifts received in their capacity as a Councillor or prospective Councillor as required by the LGA, LGR, *Local Government Electoral Act 2011* or any Council policy;
- l. Disclose any material personal interest that may influence their voting at Council meetings for a particular matter, unless the matter is an ordinary business matter in accordance with Council's Meeting Procedure Policy and the Act;
- m. Declare conflicts of interest (whether real or perceived) as they arise and in accordance with Council's Meeting Procedure Policy and the Act; and
- n. Maintain an up-to-date register of the Councillor's interests.

### 5.3.5 Decision Making

In making decisions, Councillors are expected to:

- a. Attend all Council meetings (unless a leave of absence is obtained);
- b. Sufficiently prepare for meetings and workshops so as to enable effective engagement and contribution towards discussion;
- c. Act in a fair and transparent manner and ensure decision making is in the public interest;
- d. Ensure public confidence in the local government decision making process by taking steps to avoid, resolve or disclose external influences, material personal interests and/or conflicts of interest; and
- e. Maintain confidence of information obtained.

### 5.3.6 Model Meeting Procedures

The Department must develop Model Meeting Procedures to guide the conduct and standards of Council and committee meetings. Council must adopt the Model Meeting Procedures or prepare and adopt other procedures that are not inconsistent with the Model Meeting Procedures.

### 5.3.7 Appropriate Use of Resources

Councillors are obligated to ensure Council resources are used appropriately and only in the public interest. Councillors recognise and accept that they must:

- a. Comply with Council's requirements about entitlements provided for under the local government's policies; for example, all requirements relating to expense reimbursements and expense claims must be complied with;
- b. Not use Council resources for personal use, for example, election material;
- c. Not request information or assistance from Council employees unless authorised; and
- d. Take reasonable care in their use of Council equipment and resources.

## Part 3: Councillor Code of Conduct

The Department must develop a Model Code of Conduct for Councillors (Councillor Code of Conduct) in Queensland. Council must adopt the Model Code of Conduct or prepare and adopt a Councillor Code of Conduct that is not inconsistent with the Model. The Councillor Code is attached to this policy as Annexure 1.

## Part 4: Defining Confidential Information as it applies to Councillors

### 5.4 Purpose

- 5.4.1 This Policy provides guidance to Councillors in complying with s171(3) of the LGA regarding the proper handling of confidential information. This Policy aims to assist Councillors in determining what might be considered confidential information and how this information should be handled.
- 5.4.2 This Policy does not override an individual Councillor's statutory obligations in respect of the use of information, nor does it override Council's obligations under the Act or any other legislation or subordinate legislation to disclose or publish information where this is required by law.

### 5.5 Legislative Context

Section 171(3) of the LGA sets out provisions relating to the release of confidential information by Councillors. It states:

*"A councillor must not release information that the councillor knows, or should reasonably know, is information that is confidential to the local government."*

*Note— A contravention of subsection (3) is misconduct that is dealt with by the tribunal.*

### 5.6 Responsibilities of Councillors

- 5.6.1 It is expected that Councillors will be in receipt of confidential information in the course of undertaking their role. It is important that such information is treated in a manner so as not to harm, prejudice or compromise the interests of Council or any individual or organisation or enable any individual or organisation to gain a financial advantage.
- 5.6.2 Councillors are expected to:
- a. Exercise due care when handling or using information acquired in their role as a Councillor;
  - b. Accept that there will be information that must be treated as confidential because to release it would reduce public trust and confidence in the integrity of the Council;
  - c. Acknowledge that disclosure of confidential information constitutes a breach of the Act;
  - d. If uncertain, presume information is confidential, and seek advice from the CEO prior to any release of it;
  - e. Not disclose, and to use their best endeavours to prevent disclosure of, confidential information to any person or organisation, specifically:
    - i. avoiding discussing confidential Council information with family, friends and business associates; and
    - ii. ensuring documents containing confidential information are properly safeguarded at all times, including materials stored at private or business residences.

## 5.7 Confidential Information

5.7.1 While not exhaustive, the following types of information are deemed to be confidential to Council unless or until Council resolves to the contrary:

- a. Commercial in confidence information including where the release of information would affect a third party's competitive advantage (ie this is particularly relevant in a competitive tender situation);
- b. Information derived from government departments or ministers that has been classified as confidential;
- c. Information of a personal nature or about personal affairs, for example the personal details of Councillors or Council staff;
- d. Information relating to a property disposal or acquisition process where release of the information may prejudice Council;
- e. Financial and legal analysis where the disclosure of that information may compromise Council or someone else;
- f. Information that could result in action being taken against Council for defamation;
- g. Information involving legal advice to Council or a legal issue or a matter before the courts;
- h. Information that is expressly given to Councillors in confidence;
- i. Information about:
  - i. the appointment, dismissal or discipline of employees;
  - ii. industrial matters affecting employees;
  - iii. Council's budget;
  - iv. rating concessions;
  - v. contracts proposed to be made by Council; and
  - vi. starting or defending legal proceedings involving Council;
- j. An item on a Council or committee meeting agenda including the information contained in the documentation or supporting material that is declared confidential by the CEO; and
- k. Information examined or discussed at Councillor briefing sessions, unless it has been clearly identified as not being confidential; All information in relation to any matters discussed during closed Council meetings under s275 of the LGR.

5.7.2 It is acknowledged that some of the above classes of information may need to be disclosed from time to time for legal proceedings or in accordance with the *Right to Information Act 2009*.

## Part 5: General information requests by Councillors

### 5.8 Introduction and Purpose

- 5.8.1 This Policy constitutes 'acceptable requests guidelines' for the purposes of s170A(6) of the LGA. The Policy prescribes the process for Councillors to request assistance from local government employees in order to carry out their responsibilities under the LGA and sets reasonable limits on such requests. These are dealt with as *General Information Requests* under this Policy.
- 5.8.2 In accordance with the provisions of s170A(4) of the LGA, Part 4 of this Policy does not apply to requests made by the Mayor or the Chairperson of a Committee if the request relates to the role of the Chairperson.

## 5.9 The Role of the CEO as the custodian of Council documents

- 5.9.1 The CEO has the statutory responsibility under s13(3)(e) of the LGA for the safe custody of:
- a. all records about the proceedings, accounts or transactions of the local government or its committee; and
  - b. all documents owned or held by the local government.
- 5.9.2 The CEO also has the statutory responsibility under s13(3)(f) of the LGA to comply with the following reasonable requests from Councillors:
- a. for advice, to assist the Councillor in carrying out their role as a Councillor; or
  - b. for information relating to the local government that the local government has access to.

## 5.10 Where general requests are to be directed

All general requests for information under this Policy should be made to:

- 5.10.1 CEO; or
- 5.10.2 General Manager; or
- 5.10.3 An officer delegated in writing by the CEO.

## 5.11 Information which cannot be sought under this Policy

- 5.11.1 Section 170A(3) of the LGA specifically provides that the following information cannot be provided to a Councillor:
- a. A record of the regional conduct review panel; or
  - b. If disclosure of the information to the Council would be contrary to an order of the court or tribunal; or
  - c. That which would be privileged from production in a legal proceeding on the ground of legal professional privilege.
- 5.11.2 This Policy acknowledges that the CEO has confidentiality obligations under a number of various Acts and must not disclose documents to Councillors in the circumstances provided by specific obligations under that other legislation.

## 5.12 Publicly Available Information

A Councillor should not make a request for information under this Policy if the information is able to be obtained from publicly available sources (including Council's website) or by other means.

## 5.13 How a Request is Made

Whilst informal requests for information may be made verbally, a request may only be considered formally under this Policy if it is made in writing (including email).

## 5.14 Deciding and Responding to Requests

- 5.14.1 The CEO will ensure that all reasonable endeavours are made to address all requests made under this Policy expeditiously. Requests made in writing will be responded to in writing. If the information is constrained or not provided then the advice shall state the reason for such constraint or non-provision.



- 5.14.2 If in the opinion of the CEO, the information request is such that significant resources of the organisation will be diverted to collate the information, the CEO will refer the matter to the next available meeting of the Council for direction. The direction given by Council will be final.
- 5.14.3 The CEO will ensure that the Mayor and all Councillors receive a copy of the response given to all requests made under the Policy.

## **Part 6: Councillor Strategy, Policy & Information Workshops**

### **5.15 Introduction and Purpose**

This Policy outlines the process by which the Mayor and Councillors gain the detailed knowledge required to make an informed decision on matters which may ultimately come before Council for determination. It is also the process by which elected members can discuss matters informally as a group.

### **5.16 What is a Councillor Strategy, Policy & Information Workshop?**

- 5.16.1 A Councillor Strategy, Policy & Information Workshop (“Workshop”) is an opportunity for the Mayor and Councillors to obtain detailed information from employees on an issue which will assist them in undertaking their respective roles.
- 5.16.2 It is also the forum for Councillors to ‘float ideas’ with their fellow elected members in an informal environment. It is not a formal Council meeting nor is it a platform to debate issues.
- 5.16.3 A Workshop is chaired by the Mayor. Ordinarily the Workshop is attended by the Mayor, Councillors, the CEO, General Managers, and senior managers (as required).
- 5.16.4 The CEO in liaison with the Mayor can invite other employees and external parties to attend the Workshop if they consider that to be appropriate.
- 5.16.5 No decisions can be made at a Workshop.
- 5.16.6 The Workshop is:
- a. An open and transparent environment for the Mayor and Councillors to ask local government employees for information on any issue which will assist them to undertake their duties and responsibilities as an elected member;
  - b. An opportunity for the CEO and relevant employees to brief the Mayor and Councillors on issues which will appear on an ensuing formal agenda and for them to ask questions to assist them in their understanding of the issue so that they can make an informed decision when the time comes; and
  - c. An opportunity for Mayor and Councillors to identify issues raised by constituents or matters that they wish to be discussed with their fellow elected members in an informal environment. Raising the issue during a Workshop does not alleviate the need for a request for service to be formally lodged as per the separate process as identified in this Policy.
- 5.16.7 Workshops will be scheduled on a regular basis as determined by Council from time to time. However, the CEO in liaison with the Mayor may schedule additional sessions a needs basis.

## 5.17 Councillor strategy, policy & information workshops are not open to the public

- 5.17.1 A Workshop is not open to the public and no minutes are taken of proceedings as no decisions are made at the sessions.
- 5.17.2 The contents of sessions are confidential and must not be disclosed by any persons in attendance.
- 5.17.3 Any Councillor who has a material personal interest or a conflict (or perceived conflict) of interest on any item raised at an information session must immediately make the appropriate declaration at the workshop and take no part in any discussion unless specifically asked a question. The Councillor should seriously consider whether they should remain in the room whilst the subject matter is discussed. Employees must not participate in the matter in any way if they have a conflict of interest pursuant to the Employee Code of Conduct.

## 5.18 Agenda for Councillor strategy, policy & information workshops

- 5.18.1 The CEO will provide the Mayor and Councillors with a list of briefing topics officers wish to place before the Council at the ensuing session. The Mayor or a Councillor may request the CEO to place an item on the agenda.
- 5.18.2 Generally, the session will proceed on an informal basis as an open forum for discussion coordinated by the Chair.

## Part 7: Councillor requests for service

### 5.19 Residents have a request for service capability

Council has an efficient system in place for ratepayers, residents and members of the public to lodge requests for service directly with Council. Councillors are encouraged to ask constituents to register their request directly with Council and to escalate their concerns to Councillors only in the event they do not receive a satisfactory response.

### 5.20 Where a request for service is to be directed

- 5.20.1 All requests for service under this Policy should be made to a nominated Councillor Support Officer. Urgent requests should be directed to the CEO or the relevant General Manager who will ensure that the request is logged in the Customer Request System.
- 5.20.2 All requests for service lodged by the Mayor or Councillors will be registered in the customer service system under the name of the Mayor or Councillor making the request. The Mayor or Councillors may request that a third party receive a response in addition to the Mayor or Councillors making the request.
- 5.20.3 A register will be kept of all requests made by the Mayor or Councillors under their name and the status of each request shall be compiled into a list on a monthly basis and be made available to all elected members.

## 5.21 Requests requiring a budget allocation or emergent expenditure

When a request from the Mayor or a Councillor has been assessed as requiring an allocation of funds beyond what has been provided for in Council's adopted budget, the issue will be referred to the CEO or relevant General Manager to prepare a report to Council for determination, unless the CEO elects to use any relevant delegation to approve the request.

## Part 8: Councillor contact with lobbyists, developers and submitters

### 5.22 Introduction

- 5.22.1 Free and open access to Councillors, and Council itself, is vital to efficient and effective local government.
- 5.22.2 Contact with Councillors is undertaken by many people in the community in relation to a broad range of matters. Lobbyists, developers and submitters seek access to Councillors to discuss potential and existing development applications. The public has a clear expectation that such contact is carried out ethically and transparently.
- 5.22.3 This Policy is in addition to the requirements and processes imposed upon Councillors and lobbyists by the Integrity Act 2009 (e.g. the requirement for lobbyists to be registered before undertaking lobbying activities).

### 5.23 Exchanges with Potential Developers, Lobbyists or Submitters in the Pre-Application Phase

- 5.23.1 It is expected that Councillors will encourage responsible and appropriate development in Council's local government area. Councillors should not feel inhibited in any communications with potential developers and lobbyists (for a potential development), in promoting the benefits of developing in Council's local government area.
- 5.23.2 In dealings with developers, lobbyists or submitters for a particular development, Councillors should:
  - a. Clarify that any opinion they give is personal and does not in any way represent the Council's attitude (positive or negative) to the proposal;
  - b. Encourage them to seek independent professional advice; and
  - c. Encourage them to seek preliminary advice on their proposal by arranging a pre-lodgement meeting with Council staff.
- 5.23.3 It is recommended that Councillors keep appropriate diary notes of the date, time and details of such dealings.

### 5.24 Exchanges with Developers, Lobbyists or Submitters in the Post Application Phase

In dealings with developers, lobbyists or submitters for a particular development, Councillors should:

- 5.24.1 clarify that any opinion they give is personal and does not in any way represent the Council's attitude (positive or negative) to the proposal.

- 5.24.2 Councillors must not have individual contact with a developer, lobbyist or submitter from the time Councillors receive the agenda for the Council meeting in which the application is to be decided unless the Councillor(s) receive formal delegation from Council in relation to the matter.
- 5.24.3 Once an appeal is lodged with the Court in respect of a development application, all parties to the appeal should lodge requests through their legal representative who will co-ordinate discussions through Council's legal advisors if necessary.
- 5.24.4 This protocol does not apply to applications for development approval where Council is not the decision maker in respect of the matter e.g. applications for development where the relevant State Minister is the decision maker.

## Part 9: Dealing with the media

Council's Media Policy aims to ensure appropriate representation of Council, its decisions, actions and services to media outlets and on corporate communication tools. It provides a structured approval and distribution mechanism for dealing with media enquiries.

Council's Social Media Policy establishes the standard of behaviour expected of employees and Councillors when using social media platforms. In accordance with the Councillor Code of Conduct Councillors are required to observe Council's policies.

## 6. Councillor Conduct Complaints

A person may make a complaint about a councillor's conduct under Council's Complaints Policy.

## 7. Responsibility

Council is responsible for the adoption, amendment and repeal of the Policy and the Chief Executive Officer is responsible for the development and amendment of any associated procedures and guidelines relevant to the Policy.

## 8. Review

It is the responsibility of the Coordinator Legal and Governance to monitor the adequacy of this policy and recommend appropriate changes. This policy will be formally reviewed every three years or as required by Council. This Policy is to remain in force until otherwise amended/repealed by resolution of Council.

This Policy repeals the former Tablelands Regional Council Policy titled "Councillor Staff Interaction Policy and Acceptable Request Guideline" adopted on 9 June 2016.

**JUSTIN COMMONS**  
**CHIEF EXECUTIVE OFFICER**

# Annexure 1 - Model Code of Conduct for Councillors in Queensland

Department of Local Government, Racing and Multicultural Affairs



## Code of Conduct for Councillors in Queensland

September 2018

Working towards White Ribbon accreditation





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Any references to legislation are not an interpretation of the law. They are to be used as a guide only. The information in this publication is general and does not take into account individual circumstances or situations. Where appropriate, independent legal advice should be sought.

An electronic copy of this report is available on the Department of Local Government, Racing and Multicultural Affairs' website at [www.dlgrma.qld.gov.au](http://www.dlgrma.qld.gov.au).



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## Purpose of the Code of Conduct

The Code of Conduct sets out the principles and standards of behaviour expected of Councillors and Mayors when carrying out their roles, responsibilities and obligations as elected representatives for their communities. By adhering to the behaviours set out below, Councillors will increase public confidence in Local Government and Council decisions.

## Background

Under section 150D of the *Local Government Act 2009* (the Act), the Minister for Local Government must make a Code of Conduct stating the standards of behaviour for Councillors in the performance of their responsibilities as Councillors. In addition to this, the Code of Conduct may contain anything the Minister considers necessary for, or incidental to, the standards of behaviour.

Before assuming public office, Councillors must understand and commit to complying with the Local Government principles and obligations of Councillors in accordance with section 169 of the Act, as well as the standards of behaviour set out in this Code of Conduct. All Councillors are required to make a declaration of office under section 169 of the Act. As part of that declaration, Councillors must declare that they will abide by this Code of Conduct.





## The Local Government Principles and Values

The Act is founded on five Local Government principles with which Councillors must comply while performing their roles as elected representatives. These principles are listed below:

1. Transparent and effective processes, and decision-making in the public interest
2. Sustainable development and management of assets and infrastructure, and delivery of effective services
3. Democratic representation, social inclusion and meaningful community engagement
4. Good governance of, and by, Local Government
5. Ethical and legal behaviour of Councillors and Local Government employees.

This Code of Conduct provides a set of values that describe the types of conduct Councillors should demonstrate under each principle. These values are listed below:

1. In making decisions in the public interest, Councillors will:
  - make decisions in open council meetings
  - properly inform relevant personnel of all relevant information
  - make decisions in accordance with law and policy
  - commit to exercising proper diligence, care and attention.
2. To ensure the effective and economical delivery of services, Councillors will:
  - manage Council resources effectively, efficiently and economically
  - foster a culture of excellence in service delivery.
3. In representing and meaningfully engaging with the community, Councillors will:
  - show respect to all persons
  - clearly and accurately explain Council's decisions
  - accept and value differences of opinion.
4. In exercising good governance, Councillors are committed to:
  - the development of open and transparent processes and procedures
  - keeping clear, concise and accessible records of decisions.
5. To meet the community's expectations for high level leadership, Councillors will:
  - be committed to the highest ethical standards
  - uphold the system of Local Government and relevant laws applicable.

This Code of Conduct also sets out standards of behaviour aimed at helping Councillors understand how the principles and values are put into practice while performing their official duties as elected representatives.

Each standard of behaviour is not intended to cover every possible scenario. However, they provide general guidance about the manner in which Councillors are expected to conduct themselves.

It is important to note that the principles, values and standards set out in the Code of Conduct are of equal importance.



## Standards of behaviour

This Code of Conduct sets out the standards of behaviour applying to all Councillors (excluding Councillors who are governed under the *City of Brisbane Act 2010*) in Queensland. The behavioural standards relate to, and are consistent with, the Local Government principles and their associated values.

The standards of behaviour are summarised as the three R's, being:

1. RESPONSIBILITIES
2. RESPECT
3. REPUTATION

Each standard of behaviour includes, but is not limited to, several examples to guide Councillors in complying with the Code of Conduct when carrying out their role as elected officials. Councillors are to understand and comply with the following standards of behaviour as set out in the Code of Conduct listed below.

1. Carry out **RESPONSIBILITIES** conscientiously and in the best interests of the Council and the community

For example, Councillors will, at a minimum:

- 1.1 Attend and participate meaningfully in all Council meetings, briefings, relevant workshops and training opportunities to assist Councillors in fulfilling their roles other than in exceptional circumstances and/or where prior leave is given
- 1.2 Respect and comply with all policies, procedures and resolutions of Council
- 1.3 Use only official Council electronic communication accounts (e.g. email accounts) when conducting Council business
- 1.4 Report any suspected wrongdoing to the appropriate entity in a timely manner
- 1.5 Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/non-prescribed and/or restricted substances)
- 1.6 Cooperate with any investigation being undertaken by the Local Government or other entity.

2. Treat people in a reasonable, just, **RESPECTFUL** and non-discriminatory way

For example, Councillors will, at a minimum:

- 2.1 Show respect for fellow Councillors, Council employees and members of the public
- 2.2 Not bully, harass, intimidate or act in a way that the public would reasonably perceive a Councillor's behavior to be derogatory towards other Councillors, Council employees and members of the public
- 2.3 Be respectful of other people's rights, views and opinions.



### 3. Ensure conduct does not reflect adversely on the *REPUTATION* of Council

For example, Councillors will, at a minimum:

- 3.1 When expressing an opinion dissenting with the majority decision of Council, respect the democratic process by acknowledging that the Council decision represents the majority view of the Council
- 3.2 When making public comment, clearly state whether they are speaking on behalf of Council or expressing their personal views
- 3.3 Avoid making unnecessary or irrelevant comments or accusations about Councillors or Council employees in order to undermine them or their position
- 3.4 Ensure behaviour and presentation is appropriate to maintain the dignity of the office of the Councillor.

## Consequences of failing to comply with the Code of Conduct

Failure to comply with the standards of behaviour in this Code of Conduct, or other conduct prescribed in this Code of Conduct may give rise to a complaint against a Councillor's conduct and subsequent disciplinary action under the Act.

A complaint about the conduct of a Councillor must be submitted to the Independent Assessor who will assess the complaint and determine the category of the allegation. In order of most to least serious, the categories of complaint are *corrupt conduct*, *misconduct*, *inappropriate conduct* and then *unsuitable meeting conduct*.

### Unsuitable meeting conduct

Under section 150H of the Act, any conduct by a Councillor that is contrary to the standards of behavior in the Code of Conduct that occurs within a meeting of Council (including standing committee meetings), is dealt with as *unsuitable meeting conduct*.

Unsuitable meeting conduct by a Councillor is dealt by the Chairperson of the meeting. It is important that the Chairperson deal with matters of unsuitable meeting conduct locally, and as efficiently and effectively as possible so that Council can continue with their business of making effective decisions in the public interest.

*Note: Chairpersons of meetings are carrying out a statutory responsibility under the Act to manage and lead the meeting. As such, where a Chairperson behaves inappropriately in a meeting this involves a serious breach of the trust placed in them as the Chairperson of the meeting and may be dealt with as misconduct (see below).*



## Inappropriate conduct

Under section 150K of the Act, any conduct by a Councillor that is contrary to the standards of behavior in the Code of Conduct or a policy, procedure or resolution of a Council, and is not unsuitable meeting conduct, misconduct or corrupt conduct (i.e. occurs outside of a meeting of Council) is dealt with as *inappropriate conduct*.

The conduct of a Councillor is also inappropriate conduct if the conduct contravenes an order by the Chairperson of a meeting of Council for the Councillor to leave the meeting, or is conduct at Council meetings that leads to orders for the Councillor's unsuitable meeting conduct being made on three occasions within a period of one year.

The Independent Assessor is responsible for assessing allegations of suspected inappropriate conduct. If the Independent Assessor chooses to refer the matter to the Council to deal with, the Council must deal with the matter as quickly and effectively as possible.

## Misconduct

Councillors are required to comply with all laws that apply to Local Governments. This includes refraining from engaging in *misconduct*.

The Independent Assessor is responsible for assessing and investigating instances of suspected misconduct. The Independent Assessor may then refer the matter to the Councillor Conduct Tribunal to be heard and determined.

The conduct of a Councillor is misconduct if the conduct:

- adversely affects, directly or indirectly, the honest and impartial performance of the Councillor's functions or exercise of powers, or
- is, or involves:
  - a breach of trust placed in the Councillor
  - misuse of information or material acquired by the Councillor, whether the misuse is for the benefit of the Councillor or for the benefit or to the detriment of another person
  - a Councillor giving a direction to any Council employee (other than the Mayor giving direction to the Chief Executive Officer and senior executive employees)
  - a release of confidential information outside of the Council
  - failure by a Councillor to report a suspected material personal interest, conflict of interest or perceived conflict of interest of another Councillor, or
- is a failure by the Councillor to comply with:
  - an order made by the Council or Tribunal
  - any acceptable request guidelines of the Council made under section 170A of the Act
  - the reimbursement of expenses policy of the Council.

The conduct of a Councillor is also misconduct if the conduct leads to the Councillor being disciplined for inappropriate conduct on three occasions within a period of one year, or is conduct that is identified in an order of Council that will be dealt with as misconduct if the Councillor engages in the conduct again.



## Corrupt conduct

**Corrupt conduct** is defined by, and dealt with, under the *Crime and Corruption Act 2001* and must be referred to the Crime and Corruption Commission. For a Councillor, corrupt conduct involves behaviour that:

- adversely affects or could adversely affect the performance of the Councillors responsibilities, and
- involves the performance of the Councillors responsibilities in a way that:
  - is not honest or impartial, or
  - involves a breach of the trust placed in the Councillor, or
  - involves the misuse of information acquired by the Councillor, and
- is engaged in for the purpose of providing a benefit or a detriment to a person, and
- if proven would be a criminal offence.

## More information

The Department's website provides further information and resources for Councillors.

The Department also provides and facilitates training for Councillors and Council employees to assist them to develop the knowledge, skills and understanding necessary to undertake their roles and responsibilities effectively and in the best interests of their communities.

For more information, please contact your regional office within Local Government and Regional Services in the Department on:

**Telephone:** 13 QGOV (13 74 68)

**Post:** PO Box 15009, City East, Queensland 4002

**Website:** [www.dlgma.qld.gov.au](http://www.dlgma.qld.gov.au)

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