



# COUNCILLOR CODE OF CONDUCT

May 2020

## Document Control

This page will be re-issued every time amendments are made to controlled documents. Amended documents will have their revision status and issue date updated accordingly.

Version	Clause(s)	Changes	Author	Issue Date
1.0		Initial Draft	Corrin Bischoff	09/06/2012
1.1		Revisions based on initial feedback Adopted 22/08/2012 resolution number 2649	Corrin Bischoff	22/08/2013
2.0		Revised version of the document submitted for adoption (resolution number 5077) to update and refresh Councillor understanding.	Corrin Bischoff	18/12/2013
2.1		Additional two dots points under the Key Ethical and Behavioural Obligations section as per resolution number 3548.	Corrin Bischoff	09/07/2014
3.0		Full review of document for 2016 Council term - Adopted 12/07/2016; Resolution 16-20/0106	Corrin Bischoff	21/04/2016
4.0		Addition of two dot points relating to use of private emails and record keeping Adopted 11/04/2018 Resolution 1620/086	Corrin Bischoff	21/03/2018
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7.0		Full Review of document for 2020- 2024 council term.	Business Performance	20/05/2020

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## Introduction

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 LGA), the Minister for Local Government (the Minister) 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 LGA, 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 LGA. As part of that declaration, Councillors must declare that they will abide by this Code of Conduct.

## The local government principles and values

The LGA 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 to ensure their compliance with the local government principles. 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.

## Key Ethical and Behavioural Obligations

Councillors must:

- ensure their personal conduct at all times does not reflect adversely on the reputation of the Council;
- demonstrate respect for fellow Councillors, council staff and other members of the public;
- refrain from harassing, bullying or intimidating fellow Councillors, council staff or other members of the public;
- 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
- 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;
- when communicating with state and federal members of parliament not represent the views of council unless authorised to do so by Council or the Mayor;
- when representing Council at public meetings or events, ensure the meeting or event is recorded in Council's corporate calendar, in advance of that attendance.
- refrain from using private email accounts for conducting council business;
- make reasonable efforts to record in Council's record keeping system all forms of Council business related communication including, but not limited to emails, social media, instant messaging.

## Standards of behaviour

This Code of Conduct sets out the standards of behaviour applying to all Councillors 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 Rs,

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, have the following responsibilities:

- Attend and participate meaningfully in all Council meetings, committee meetings, informal meetings, briefings, relevant workshops and training opportunities to assist them in fulfilling their roles other than in exceptional circumstances and/or where prior leave is given
- Respect and comply with all policies, procedures and resolutions of Council
- Use only official Council electronic communication accounts (e.g. email accounts) when conducting Council business
- Report any suspected wrongdoing to the appropriate entity in a timely manner
- 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)
- 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, act in the following ways:

- Treat fellow Councillors, Council employees and members of the public with courtesy, honesty and fairness
- Not use abusive, obscene or threatening language (either oral or written) or behaviour towards other Councillors, Council employees and members of the public
- Have proper regard for other people's rights, obligations, cultural differences, safety, health and welfare

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

For example, Councillors will, at a minimum, conduct themselves in the following manner:

- 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
- When making public comment, clearly state whether they are speaking on behalf of Council or expressing their personal views
- At all times strive to maintain and strengthen the public's trust and confidence in the integrity of Council and avoid any action which may diminish its standing, authority or dignity

## 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 LGA.

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

The categories of complaint are:

- Corrupt conduct
- Misconduct
- Inappropriate conduct
- Unsuitable meeting conduct.

### Unsuitable Meeting Conduct

Under section 150H of the LGA, any conduct by a Councillor that is contrary to the standards of behaviour 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 with 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 LGA 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)

Unsuitable meeting conduct may include:

- a Councillor intimidating, bullying or harassing a member of the community, another Councillor or Council employee.
- A Councillor continually interrupting or disrupting a speaker at a meeting of Council.
- A Councillor behaving in an offensive or disorderly conduct in a meeting of council.

### Inappropriate Conduct

Under section 150K of the *Local Government Act 2009*, any conduct, by a Councillor that is contrary to standards of behaviour set out in the Code on Conduct and is not unsuitable meeting conduct, misconduct or corrupt conduct is dealt with an 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 a series of 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 local government is not required to notify the OIA and may deal with the conduct under section 150AG of the LGA.

The OIA is responsible for assessing allegations of suspected inappropriate conduct other than that arising from unsuitable meeting conduct. If the OIA chooses to refer the matter to the Council to deal with, the Council must deal with the matter as quickly and effectively as possible.

Inappropriate conduct may include:

- A Councillor publicly making derogatory comments about staff
- A Councillor purports to speak to the media on behalf of Council when not properly authorized under a Council policy
- A Councillor fails to comply with an order made by the Chairperson of a meeting to leave and stay away from the place at which the meeting is being held.
- A Councillor has been reprimanded three (3) times in 12 months for interrupting other Councillors during meetings.

### Misconduct

Councillors are required to comply with all laws that apply to local governments. This includes refraining from engaging in misconduct.

The OIA is responsible for assessing and investigating instances of suspected misconduct. The OIA 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, either knowingly or recklessly
  - 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 for Brisbane City Council, the Lord Mayor giving direction to the Chief Executive Officer and senior contract officers) – a release of confidential information outside of the Council
  - failure by a Councillor to report a suspected material personal interest or conflict of interest of another Councillor, or
- is a failure by the Councillor to comply with:
  - an order made by the Council or the Councillor Conduct Tribunal
  - any acceptable request guidelines of the Council made under section 170A of the LGA
  - 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.

Examples of misconduct of a Councillor may include:

- A Councillor knowingly provides false or misleading information during a meeting to affect a decision
- A Mayor fails to carry out the performance evaluation of the Chief Executive Officer in the manner determined by Council.
- A Councillor releases private information about a member of the community acquired as a Councillor
- A Councillor directs a council employee (other than the Mayor directing the Chief Executive Officer or other senior executive employees) to perform a duty
- A Councillor provides confidential information to the media that came from a closed meeting
- A Councillor has a reasonable suspicion that another Councillor has a material personal interest or conflict of interest but did not disclose it to the presiding officer when the other Councillor failed to disclose it
- A Councillor fails to pay a fine ordered by the Tribunal
- A Councillor uses a Council vehicle for private use that is not authorised by Council's expenses policy.

### 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 Councillor's responsibilities, and
- involves the performance of the Councillor's 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.

Examples of corrupt conduct of a Councillor may include:

- A Councillor fails to declare a material personal interest in a Council Meeting
- A Councillor intentionally fails to update a register of interests in order to hide an interest that could gain a benefit or a loss to the person
- A Councillor engages in fraud against the Council
- A Councillor uses information acquired by a Councillor to gain a financial benefit for the Councillor or someone else
- A Councillor directs a local government employee to gain a benefit or cause a detriment to the Councillor or another person
- A Councillor engages in the act of stealing against the Local Government

The OIA has entered into a section 40 arrangement with the Crime and Corruption Commission (CCC) which allows the OIA to commence investigation into some allegations of corrupt conduct and report the matters to the CCC on a monthly basis, to provide the CCC with the opportunity to take over an investigation, should the CCC consider that appropriate.

When the OIA deals with corrupt conduct which is a statutory offence under the LGA, the OIA has the discretion to deal with the matter either as misconduct or as a criminal prosecution of the statutory offence.

## Related Documents

Councillor Confidentiality Guideline