

PURPOSE

- 1) 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

- 2) 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.
- 3) 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

- 4) 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.
- 5) 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.
- 6) 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.
- 7) 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.
- 8) 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

- 9) 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

- 10) 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 behaviour 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

- 11) 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.
- 12) 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 least to most serious, the categories of complaint are ***unsuitable meeting conduct***, ***inappropriate conduct***, ***misconduct*** and then ***corrupt conduct***.

UNSUITABLE MEETING CONDUCT

- 13) Under section 150H of the Act, 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***.
- 14) 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

- 15) Under section 150K of the Act, any conduct by a Councillor that is contrary to the standards of behaviour 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***.
- 16) 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.
- 17) The Independent Assessor is responsible for assessing allegations of suspected inappropriate conduct.
- 18) 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

- 19) Councillors are required to comply with all laws that apply to Local Governments. This includes refraining from engaging in ***misconduct***.
- 20) 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.
- 21) 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 in accordance with section 170 of the Act)
 - 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.
- 22) 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

- 23) **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.
- 24) The OIA has entered into a section 402 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.
- 25) When the OIA deals with corrupt conduct which is a statutory offence under the Act, the OIA has the discretion to deal with the matter either as misconduct or as a criminal prosecution of the statutory offence. For an understanding of when the OIA will deal with corrupt conduct as misconduct refer to the OIA's prosecution policy at www.oia.qld.gov.au/resources/oia/policy/guidelines-for-commencing-a-prosecution-under-lga.pdf.

APPLICABLE LEGISLATION AND REGULATION

Local Government Act 2009 (Qld)

Local Government Regulation 2012 (Qld)

Crime and Corruption Act 2001 (Qld)

Criminal Code Act 1899 (Qld)

RELATED DOCUMENTS

Related documents are:

- a) Investigations Policy
- b) OIA Investigation Flowchart Doc ID 1019694
- c) OIA Referred Investigation Flowchart Doc ID 1019763

RESPONSIBLE OFFICER

Chief Executive Officer

APPROVAL DATE

16 December 2020

REVIEW

December 2024 (Standard two year term)

REVISION HISTORY

VERSION	MEETING APPROVED	MEETING	HISTORY
1	Policy & Strategy Meeting	05/10/2010	Adopted
2	General Meeting	20/03/2012	Revision
3	General Meeting	18/01/2017	Revision
4	General Meeting	16/12/2020	Revision
5	Administrative review December 2022	N/A	No changes required