

BARCALDINE REGIONAL COUNCIL POLICY

SYSTEM: Professional Governance

POLICY TITLE: Councillor Code of Conduct

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PURPOSE: The Councillor 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.

Local Government Principals 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.

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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 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

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For example, Councillors will, at a minimum:

- 1.1. Attend and participate meaningfully in all Council meetings, committee 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. Treat fellow Councillors, Council employees and members of the public with courtesy, honesty and fairness
 - 2.2. Not use abusive, obscene or threatening language (either oral or written) or behaviour towards other Councillors, Council employees or members of the public
 - 2.3. 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:

- 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. 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 Act.

A complaint about the conduct of a Councillor must be submitted to the Office of 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

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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 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 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 maybe dealt with as misconduct (see below).

Examples of unsuitable meeting conduct by a Councillor may include:

- a Councillor behaves in a Council meeting, in a way that intimidates, bullies or harasses a member of the community, another Councillor or a Council employee
- a Councillor continually interrupts or disrupts a speaker at a Council meeting
- a Councillor behaves in an offensive or disorderly way in a Council meeting.

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. Council is not required to notify the Office of the Independent Assessor and may deal with the conduct under section 150AG of the Act.

The Office of 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.

Examples of inappropriate conduct of a Councillor may include:

- a Councillor publicly makes derogatory comments about staff
- a Councillor purports to speak to the media on behalf of Council when not properly authorised 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 3 times in 12 months for interrupting other Councillors during meetings.

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Misconduct

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

The Office of the Independent Assessor is responsible for assessing and investigating instances of suspected misconduct. The Office of 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, 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 senior executive employees)
 - a release of confidential information outside of the Council
 - failure to declare a conflict of interest in a meeting
 - attempting to influence a decision maker about a matter in which the Councillor has a conflict of interest
 - failure by a Councillor to report a suspected prescribed conflict of interest of another Councillor
 - failure to submit, update or review your registers of interests, 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.

Examples of misconduct of a Councillor may include:

- a Councillor knowingly provides false or misleading information during a meeting of the Council in order 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 of Council
- 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

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- a Councillor sought assistance or advice from an officer that is not in accordance with Council's acceptable request guidelines
- 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 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.

Councillors are reminded of their obligations under section 38 of the *Crime and Corruption Act 2001* to report suspected corrupt conduct.

Examples of corrupt conduct of a Councillor may include:

- a Councillor fails to declare a prescribed 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.