



Gladstone Regional Council

Council Policy

Title	COUNCILLOR CODE OF CONDUCT
Policy Number	P-2018-07
Business Unit/s	OFFICE OF THE CHIEF EXECUTIVE OFFICER
Date of Adoption	
Resolution Number	
Review Date	
Date Repealed	

1.0 PURPOSE:

This policy **outlines and endorses the State Government** provides a framework for the standard of conduct and behaviour expected of all Mayors and Gladstone Regional Council Councillors whilst acting in their capacity as an elected member. of Council.

Gladstone Regional Council supports the consistent adoption of a Councillor Code of Conduct and accordingly in adopting the policy, confirms its commitment to adhere to the standards of ethics and acceptable behaviour as outlined in the attached 'Code of Conduct for Councillors in Queensland'.

~~Council is responsible for putting systems in place to educate and support Councillors in order to prevent poor conduct or poor performance. Council is also responsible for managing low level matters relating to *inappropriate conduct*.~~

~~This policy is a key part of such a system. The setting of standards of ethics and acceptable behaviour for Councillors is foundational to establishing and maintaining respect for and by Councillors within the Council, the Council organisation and the community.~~

~~This policy sets out to:~~

- ~~a) Provide guidelines on acceptable standards of ethics and behaviour for Councillor conduct (whilst acting in their capacity as an elected member of Council) so that there may be some clarity as to the meaning of the term "*inappropriate conduct*" under *section 176(4) of the Local Government Act 2009*;~~
- ~~b) Set out "*acceptable requests guidelines*" under *section 170(A) of the Local Government Act 2009* and Councillor contact guidelines with applicants, lobbyists, developers and bidders; and~~
- ~~c) Provides Councillors with assistance in undertaking their roles and responsibilities as Councillors.~~

The requirements of this policy are in addition to the roles, responsibilities and obligations of Councillors, as set out in the *Local Government Act 2009*.

2.0 SCOPE:

This policy applies to all Councillors and also applies to all Council officers insofar as this policy sets out procedures to be followed by Council officers in their dealings with Councillors under this policy.

As this policy has been adopted by resolution of Council, Council accordingly considers this policy, and the policies and corporate standards set out in Table 1 of this policy, to be “procedures” as that term is used in section 176(4) of the *Local Government Act 2009*.

The relevant procedures (and prescribed penalties) for *misconduct* under the *Local Government Act 2009* or *corrupt conduct*¹ under the *Crime and Corruption Act 2001* and penalties under other Acts take precedence over the matters identified in this policy.

As a result this policy does not elaborate on *conflicts of interests* (whether material or perceived), *misconduct*, *corrupt conduct* or other offences.

3.0 RELATED LEGISLATION²:

Crime & Corruption Act 2001
Integrity Act 2009
Local Government Act 2009
Local Government Regulation 2012
Public Sector Ethics Act 1994
Sustainable Planning Act 2009
Water Act 2000

4.0 RELATED DOCUMENTS:

Queensland Government – Code of Conduct for Councillors in Queensland
Councillor Conduct Code Booklet
Councillor Acceptable Request Guidelines Policy
Council Meeting Procedures Policy
Councillor Complaint Investigation Policy
Councillor Expenses Reimbursement and Provision of Facilities Policy

5.0 DEFINITIONS:

To assist in interpretation of this policy the following definitions apply:

Acts	means all legislation including State legislation and Commonwealth legislation.
Chief Executive Officer	means the chief executive officer of Council

¹ Corrupt conduct is defined by, and dealt with, under the *Crime and Corruption Act 2001*. Corrupt conduct includes conduct that, if proved, could amount to a criminal offence (as defined under sections 13–19 of that Act). This includes conduct connected with the performance of a councillor’s official duties that is dishonest or lacks impartiality, involves a breach of the trust placed in the councillor by virtue of their position, or is a misuse of officially obtained information.

² This is an indicative and not an exhaustive list of Acts which apply to Councillors as individuals acting in their role as a Councillor.

Council	means Gladstone Regional Council
Councillor	means a councillor of Council as defined under the <i>Local Government Act 2009</i> and includes the Mayor of Council.
Council Officer	means a local government employee as defined under the <i>Local Government Act 2009</i> .
Director	includes the Chief Financial Officer

6.0 POLICY STATEMENT:

This policy, which voluntarily sets out standards of ethics and acceptable behaviour of Councillors, seeks to demonstrate Council's commitment to the following local government principles contained in the *Local Government Act 2009*:

- transparent and effective processes, and decision-making in the public interest;
- sustainable development and management of assets and infrastructure, and delivery of effective services;
- democratic representation, social inclusion and meaningful community engagement;
- good governance of, and by, local government; and
- ethical and legal behaviour of councillors and local government employees.

The standards of ethics and acceptable behaviour of Councillors is set out in the '*Code of Conduct for Councillors in Queensland*' Councillor Conduct Code Booklet which forms part of this policy. In addition, the following additional policies contain acceptable standards for Councillor interactions with employees and particular constituents:

- Council Meeting Procedures Policy;
- Council's Acceptable Request Guidelines Policy; and
- Councillor Interaction Guidelines with Applicants (including Lobbyists, Developers & Submitters) for Council Approval Policy.

~~As stated in the Department of Infrastructure, Local Government and Planning publication *Councillor responsibilities under the Local Government Act 2009 – Version April 2015*, "These principles apply to anyone including mayors, councillors, CEOs and all council employees performing a responsibility under the Local Government Act 2009".~~

6.1 Behavioural Statements

~~Under this policy Council expects that Councillors will:~~

- ~~1. Ensure that their personal conduct does not reflect adversely on the reputation of Council³;~~
- ~~2. Demonstrate respect for fellow Councillors, Council officers and members of the public and refrain from harassing, bullying or intimidating fellow Councillors, Council officers or other members of the public;~~
- ~~3. Not communicate with the public or media on behalf of the Council, unless expressly authorised by the Council to make that communication, and, when communicating~~

³A test of this aspect, as with many of the behavioural statements, is the "newspaper test": - i.e. "What would be the community perception of this behaviour if it was reported on the front page of a newspaper and how would it reflect on Council?"

- ~~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 under that Council authorisation;~~
- ~~4. Ensure that any *public record*⁴ received or created by them is captured in Council's approved record management system in accord with the relevant Council records management policy and related procedures⁵;~~
 - ~~5. Comply with the Council workplace health and safety requirements applicable to Council controlled workplaces whilst within Council controlled workplaces as well as other site security requirements;~~
 - ~~6. When utilising Council owned or supplied vehicles or equipment comply with Council policies with respect to the use, operation and maintenance of such vehicles and equipment;~~
 - ~~7. When using Council supplied corporate credit cards comply with Council's policy on corporate credit card use and the related Council procurement policy;~~
 - ~~8. Comply with this policies '*Acceptable Requests Guidelines*' (Councillor requests of Council officers) contained in the Councillor Conduct Code Booklet attached to this Policy;~~
 - ~~9. Comply with this policies '*Councillor contact guidelines with Applicants for Council approval (including Lobbyist, Developers & Submitters)*' and Bidders' contained in the Councillor Conduct Code Booklet attached to this Policy; and~~
 - ~~10. Comply with all other Council policies and corporate standards which have been adopted by Council or instigated by the chief executive officer where such policies and corporate standards specifically state that they apply to Councillors, whether in whole or in part, or apply to information, workplaces, vehicles, plant and equipment owned or controlled by Council⁶.~~

6.2 The Councillor Conduct Code Booklet and all Council Policies and Corporate Standards are 'procedures'

~~This policy seeks to set out Councillor ethical and acceptable behavioural standards in order to assist Councillors in understanding when a Councillor's behaviours may be seen to be *inappropriate conduct* and be dealt with accordingly under the *Local Government Act 2009*.~~

~~The Councillor Conduct Code Booklet attached to this policy set outs Councillor ethical and acceptable behavioural standards which may not be encapsulated in other Council Policies and Corporate Standards.~~

~~Non-compliance with the procedures of Council, whether contained within this policy, in the Councillor Conduct Code Booklet or in other Council policies or corporate standards, constitute *inappropriate conduct* as this policy is deemed to be a procedure by Council.~~

~~For clarity all Council policies which have been adopted by Council constitute procedures in so far as those policies relate to Councillors and corporate standards authorised by Council~~

⁴ Records that are received or created by the Mayor or a Councillor that relate to the local government's executive activities, including diaries, are considered a public record under the *Public Records Act 2002*.

⁵ Refer to the Mayor & Councillor Record Management Policy Guidelines.

⁶ These Council policies and corporate standards are listed in Table 1 of this Policy. This Table will be amended and updated by the Chief Executive Officer as such policies are amended and updated.

~~or the Chief Executive Officer also constitute procedures in so far as those corporate standards relate to Councillors conduct of their role as a Councillor.~~

~~A list of the Council policies and corporate standards is provided in Table 1 attached to this Policy. This schedule will be maintained by the Chief Executive Officer and updated lists provided to Councillors as the list is changed.~~

7.0 ATTACHMENTS:

- ~~1. Table 1 – Council Policies and Corporate Standards applying to Councillors
Queensland Government – ‘Code of Conduct for Councillors in Queensland’
Councillor Conduct Code Booklet – April 2016~~

8.0 REVIEW TRIGGER:

This policy will be reviewed when any of the following occur:

1. The related legislation or governing documents are amended or replaced; or
2. Other circumstances as determined by resolution of Council or the CEO; or
3. Three years from date of adoption.

TABLE OF AMENDMENTS			
Document History	Date	Council Resolution No.	Notes (including the prior Policy No, precise of change/s, etc)
Originally Approved	19 April 2011	G/11/523	
Amendment 1	19 July 2016	G/16/2850	Finance & Governance Committee 12/07/2016 - FCGC/16/0036
Amendment 2	6 January 2017		Updated Table 1 Administratively
Amendment 3	23 January 2018		Updated Table 1 Administratively to add Policy adopted (Aboriginal and Torres Strait Islander Cultural Protocol – Events Policy)
Amendment 4	4 December 2018		Updated to reference State Government mandated Code of Conduct for Councillors and remove other material to separate policies.

.....
LEISA DOWLING
CHIEF EXECUTIVE OFFICER



Code of Conduct for Councillors in Queensland

September 2018

Working towards White Ribbon accreditation





© State of Queensland, September 2018. Published by the Department of Local Government, Racing and Multicultural Affairs, 1 William Street, Brisbane Qld 4000, Australia.



Licence: This work is licensed under the Creative Commons CC BY 4.0 Australia Licence. In essence, you are free to copy and distribute this material in any format, as long as you attribute the work to the State of Queensland (Department of Local Government, Racing and Multicultural Affairs) and indicate if any changes have been made. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>.

Attribution: The State of Queensland, Department of Local Government, Racing and Multicultural Affairs.

The Queensland Government supports and encourages the dissemination and exchange of information. However, copyright protects this publication. The State of Queensland has no objection to this material being reproduced, made available online or electronically but only if it is recognised as the owner of the copyright and this material remains unaltered.



The Queensland Government is committed to providing accessible services to Queenslanders of all cultural and linguistic backgrounds. If you have difficulty understanding this publication and need a translator, please call the Translating and Interpreting Service (TIS National) on 131 450 and ask them to telephone the Queensland Department of Local Government, Racing and Multicultural Affairs on 13 QGOV (13 74 68).

Disclaimer: While every care has been taken in preparing this publication, the State of Queensland accepts no responsibility for decisions or actions taken as a result of any data, information, statement or advice, expressed or implied, contained within. To the best of our knowledge, the content was correct at the time of publishing.

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.



Contents

Purpose of the Code of Conduct	4
Background	4
The Local Government Principles and Values	5
Standards of behaviour	6
Consequences of failing to comply with the Code of Conduct	7
Unsuitable meeting conduct	7
Inappropriate conduct	8
Misconduct.....	8
Corrupt conduct.....	9
More information	9



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.dlgrma.qld.gov.au

