



Gladstone Regional Council

Council Policy

Title	COUNCILLOR CONDUCT CODE
Policy Number	P-2016-02
Responsible Directorate	OFFICE OF THE CHIEF EXECUTIVE OFFICER
Responsible Officer	CHIEF EXECUTIVE OFFICER
Date of Adoption	19 JULY 2016
Resolution Number	G/16/2850 (General Meeting) (Finance & Governance Committee 12/07/2016 - FCGC/16/0036)
Date Review Due	19 JULY 2020

1.0 PURPOSE:

This policy provides a framework for the standard of conduct and behaviour expected of Gladstone Regional Council Councillors whilst acting in their capacity as an elected member of Council.

Council is responsible for putting systems in place to educate and support Councillors in order to prevent poor conduct or poor performance¹. Council is also responsible for managing low level matters relating to *inappropriate conduct*².

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:

¹ See Department of Infrastructure, Local Government and Planning publication "*Councillor responsibilities under the Local Government Act 2009 - Version April 2015*".

² See Section 176(4) of the Local Government Act 2009) which defines inappropriate conduct as "*conduct by a councillor that is not appropriate for an elected representative of a local government, but is not misconduct including for example (a) a councillor failing to comply with the local government's procedures; or (b) a councillor behaving in an offensive or disorderly way in a meeting of the local government or any of its committees.*"

- 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*³ and *other Acts*.

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*⁴ 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 LEGISLATION⁵:

Crime & Corruption Act 2001
Integrity Act 2009
Local Government Act 2009
Public Sector Ethics Act 1994

³ This policy does not reiterate behaviours and potential consequences that may be construed as "misconduct" under *section 176(5)* of the *Local Government Act 2009* and other Acts nor does it set out to list all of the existing responsibilities of Councillors under that Act or other Acts.

⁴ 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.

⁵ This is an indicative and not an exhaustive list of Acts which apply to Councillors as individuals acting in their role as a Councillor.

Sustainable Planning Act 2009
Water Act 2000

4.0 RELATED DOCUMENTS:

Councillor Conduct Code Booklet

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
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 Councillor Conduct Code Booklet which forms part of this 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 Council⁶;
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 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*⁷ 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 procedures⁸;
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

⁶ A 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?"

⁷ 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*.

⁸ Refer to the Mayor & Councillor Record Management Policy Guidelines.

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 Council⁹.

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 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
2. 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/documents are amended or replaced.

⁹ 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.

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2. Other circumstances as determined from time to time by a resolution of Council.
3. Periodic Review – 4 years from date of adoption (Post Election Meeting of Council).

TABLE OF AMENDMENTS		
Originally Adopted	19 APRIL 2011	G/11/523
Amendment 1	19 JULY 2016	G/16/2850 (General Meeting) (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	20 March 2018	Updated Table 1 administratively to update Policy Reference (Development Interaction Protocol Policy – P-2018-06)
Amendment 5	19 June 2018	Updated Table 1 administratively to update Policy Reference (Work Health and Safety Policy – P-2018-24)



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**ROSLN BAKER
CHIEF EXECUTIVE OFFICER**

ATTACHMENT 1

TABLE 1

Council Policies and Corporate Standards applying to Councillors

POLICIES

Policy	Policy Name	Last Reviewed
P-2017-13	Aboriginal and Torres Strait Islander Cultural Protocol – Events Policy	23 January 2018
P-2017-22	Advertising Spending *1	4 July 2017
P-2015-08	Business Improvement Committee	07 April 2015
P-2014/20	Community Engagement	18 March 2014
P-2016-25	Administrative Action Complaint Management	1 November 2016
P-2018-23	Dealing with complaints involving the Chief Executive Officer	18 September 2018
P-2015/01	Compliance and Enforcement	17 February 2015
P-2014/35	Computer and Telecommunications	16 December 2014
P-2018-12	Procurement *1	17 July 2018
P-2016-02	Councillor Conduct Code (this policy)	As shown above
P-2016/01	Conduct of Council Meetings	19-07-2016
P-2017-27	Councillor Expenses Reimbursement and Provision of Facilities	4 July 2017
P-2014/9	Cultural Diversity	01 July 2014
P-2018-06	Development Interaction Protocol	20 March 2018
P-2017-33	Drug and Alcohol Policy	4 July 2017
P-2017-32	Electrical Safety Policy	4 July 2017
P-2017-21	Entertainment and Hospitality Expenditure *1	4 July 2017
P-2017-31	Fire Safety	4 July 2017
P-2015-41	Fraud	15 March 2016
P-2017-06	Information Privacy	7 March 2017
P-2017-08	Motor Vehicle Use	7 March 2017
P-2018-24	Work Health and Safety	19 June 2018
P-2014/21	Records Management	18 March 2014
P-2015/34	Social Media	17 November 2015
P2014-01	Anti-Discrimination	6 May 2014
P-2013/32	Anti-Harassment	6 May 2014
P-2014/43	Non Smoking	16 December 2014
P-2013/6	Recruitment and Selection	5 November 2013
P-2016-19	Related Party Disclosures	21 June 2016
P-2017-07	Vaccination	7 March 2017
P-2017-40	Unreasonable Customer Conduct	5 September 2017
*1 Denotes only applicable to use of Council Corporate Credit Card or other purchases where relevant Councillor has procurement authorities delegated by Council.		

TABLE 1 - continued

CORPORATE STANDARDS

Corporate Standard	Policy Name	Last Reviewed
CS-14-2014	Community Engagement Strategy	18 March 2014
CS-07-2016	Administrative Action Complaints Management Process	1 November 2016
CS-20-2015	Public Interest Disclosure Procedure	08 October 2015
CS-07-2014	Reporting Corrupt Conduct	13 January 2015
CS-50/2013	Safe Driving Program	22 August 2013
CS-02-2016	Fraud Control Framework	15 March 2016
CS-16-2014	Computer and Telecommunications	16 December 2014
CS-23-2015	Social Media Guidelines	17 November 2015
CS-05-2018	Procurement	17 July 2018
CS-44/2013	Personal Safety	22 August 2013
CS-62-2013	Recruitment and Selection	14 January 2014
CS-52-2013	Security, Risk Management and Asset Protection	22 August 2013
CS-16-2015	Corporate Uniforms	18 August 2015
CS-16-2016	Councillor Email Protocol	16 September 2016
CS-03-2017	Petty Cash	27 February 2017
CS-11-2017	Motor Vehicle Use	07 March 2017
CS-07-2017	Immunisation	07 March 2017
CS-12-2017	Related Party Disclosures	30 March 2017
CS-17-2017	Motor Vehicle Use	20 July 2017
CS-14-2017	Unreasonable Customer Conduct	5 September 2017



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COUNCILLOR CONDUCT CODE BOOKLET — APRIL 2016



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PURPOSE

Council is responsible for managing low level matters (*inappropriate conduct*¹) and for putting systems in place to educate and support Councillors in order to prevent poor conduct or poor performance².

This code 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.

¹Section 176(4) of the Local Government Act 2009) which defines inappropriate conduct as "conduct by a councillor that is not appropriate for an elected representative of a local government, but is not misconduct including for example (a) a councillor failing to comply with the local government's procedures; or (b) a councillor behaving in an offensive or disorderly way in a meeting of the local government or any of its committees"

² See also the Department of Infrastructure, Local Government and Planning publication "Councillor responsibilities under the Local Government Act 2009 - Version April 2015".

This policy sets out to:

- a) Provide guidelines on acceptable standards of ethics and behaviour for Councillors 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*;
- a) 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
- a) Provide Councillors with assistance in undertaking their roles and responsibilities as Councillors.

The requirements of this policy are in addition³ to the roles, responsibilities and obligations of Councillors, as set out in the *Local Government Act 2009 and other Acts*.

³ This policy does not reiterate behaviours and potential consequences that may be construed as "misconduct" under section 176(5) of the Local Government Act 2009 and other Acts nor does it set out to list all of the existing responsibilities of Councillors under that Act or other Acts.



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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 to the 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*⁴ 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.

⁴ *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.*

RELATED LEGISLATION⁵

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

⁵ *This is an indicative and not an exhaustive list of Acts which apply to Councillors as individuals acting in their role as a Councillor.*

RELATED DOCUMENTS

See *Attachment 1* to the Policy - *Table 1 - List of Council Policies and Corporate Standards applying to Councillors*



COUNCILLOR CONDUCT CODE

DEFINITIONS

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

Acts	Means all legislation including State legislation and Commonwealth legislation.
Chief Executive	Means the Chief Executive of the Department of Infrastructure, Local Government and Planning
Chief Executive Officer	Means the Chief Executive Officer of Council
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 Finance Officer



COUNCILLOR CONDUCT CODE

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 as 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.

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*.



COUNCILLOR CONDUCT CODE

Behavioural Statements

Under this policy Council expects that Councillors will:

1. Ensure that their personal conduct does not reflect adversely on the reputation of the Council⁶;
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 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*⁷ 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 procedures⁸;
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 policy's '*Acceptable Requests Guidelines*' (Councillor requests of Council officers) as contained in this booklet;
9. Comply with this policy's '*Councillor contact guidelines with Applicants for Council approval (including Lobbyist, Developers & Submitters)* and Bidders' as contained in this booklet; 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 Council⁹.

⁶ A 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?"

⁷ 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.

⁸ Refer also to the Mayor & Councillor Record Management Policy Guidelines.

⁹ These Council policies and corporate standards are listed in Attachment 1 of this Policy. This attachment will be amended and updated by the Chief Executive Officer as such policies are amended and updated.



COUNCILLOR CONDUCT CODE

Reputation of Council

Council strives for excellence in serving the community and seeks to ensure that a professional image of Council is reflected at all times.

Integral to promoting this image, is the personal presentation and conduct of Councillors when representing Council and engaging with the community and Council officers as Councillors.

Personal presentation while on official duty must be clean, tidy, and inoffensive. It should have regard to the type of duty being performed, workplace health and safety factors, cultural diversity and consistency across Council with respect to a professional image and climatic conditions. Councillors must wear personal protective clothing and equipment when required for attendance at relevant worksites that require the wearing of such equipment.

Councillors attending meetings, training sessions, conferences, social functions or out of hours functions as a Council representative must ensure that personal behaviour in no way detracts from the image or reputation of Council or brings Council into disrepute.

Whilst Councillors are in a Council uniform they must be aware at all times that they may be perceived as representing Council and must act accordingly.

Examples of inappropriate conduct:

- Being at a public venue whilst dressed in Council's Corporate Uniform and being observed as being heavily under the influence of alcohol and abusing people.
- encouraging people to ignore or circumvent a Council decision.

Respect for Others

Council requires that Councillors treat others with trust, respect, honesty, fairness, sensitivity and dignity.

Council values diversity, and accommodates and respects different opinions and perspectives and expects Councillors to manage interpersonal disagreements by rational debate. Councillors must not behave towards any other person in a way that could be perceived as intimidating, overbearing or bullying, or that may constitute unwelcome conduct of a sexual nature.

Unwelcome conduct of a sexual nature is sexual behaviour that is not based on mutual attraction, friendship and respect and is not consensual, welcome or reciprocated. Such behaviour is sexual harassment which is inappropriate conduct and may also constitute *misconduct* or criminal behaviour.

Council is proactive in ensuring that its practices, and practices of Councillors whilst acting in their role as a Councillor, do not discriminate based on any attribute of a person relating to, or based on a person's association with another person who maintains an attribute relating to:-



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race/ethnicity;
gender;
national origin;
marital status;
sexual preference/lawful sexual activity;
age;
disability/impairment, including infectious disease;
industrial/employment activity;
physical features;
pregnancy;
family responsibilities;
religious beliefs;
political conviction;
breast feeding; or
gender identity.

Councillors have an individual and shared responsibility to ensure that discrimination does not occur in their dealings with each other, Council officers, ratepayers and the public generally.

Council is committed to ensuring that all are treated with integrity and respect, recognising all have the right to interact in an environment free from discrimination, harassment and bullying. Discrimination, harassment and bullying behaviour will not be tolerated under any circumstances. Council is committed to the prevention of any form of sexual harassment, victimisation or other forms of bullying in Council workplaces, or at any place where Council activities are performed, including at social functions and at venues where Councillors are interacting with others in their role as a Councillor.

This commitment applies to all Councillors in their relationships with each other, Council officers, applicants for employment at Council and all persons who have dealings with Council.

Discrimination, harassment and bullying must not be confused with legitimate comment, criticism and advice, including relevant negative comment or feedback or behaviour of an individual or group.

Examples of inappropriate conduct:

- Engaging in activities such as - joking that includes physical contact, playing around, racing, grabbing, foolish vehicle operation, social pressure to participate in unsafe acts, harassment, and unauthorised contests.
- Verbally abusing, swearing at, or intimidating others whilst engaged on Council business.
- Acting towards, or speaking to, a person in a manner which threatens or vilifies that person.
- Making jokes, suggestive comments or offensive gestures related to a person's race, appearance, colour, ethnic origin, disability, gender, sexual characteristics, or a personal appearance.
- Distribution or display of sexually explicit material (including through email) which may be offensive, including posters, pictures or MPEGs, racist or sexist jokes or cartoons.
- Persistent questions about a person's private life.
- Personal comments about appearance, size, clothing.
- Demands for sexual favours, either directly or by implication.



COUNCILLOR CONDUCT CODE

Interaction with Media

It is a given that Councillors, as part of the democratic process, may always, as Councillors, make statements or respond to media enquiries or social media statements on their own behalf. This is a cornerstone of the democratic process, acceptable community engagement, consultation, accountability and openness that form part of a vibrant healthy system of government.

When Councillors make such statements and respond to media enquiries or social media statements they do so as individuals who are elected members of Council. They may not do so as Council, or speak on behalf of Council, unless Council has specifically authorised them to make such statements or responses on Council's behalf¹⁰.

¹⁰ For Example - Councillors may receive Council authority to make statements on Council matters with respect to their allocated portfolios, where Council uses portfolios, as part of their allocation to a portfolio. Such authority would need to be explicit at the time of allocating portfolios to Councillors (i.e. in the resolution).

Council expects that Councillors making statements or responding to media enquiries or social media statements make it clear that the statement or response made by them is the expression of a personal opinion only and does not necessarily represent the views of Council particularly when:

- a) their statement or response has not been authorised by the Council as a Council statement or response; or
- b) the Councillor has not been authorised by the Council to issue a statement or response on behalf of Council for the subject matter of the statement or response.

Council recognises that the Mayor is Council's official spokesperson and has primary responsibility for communicating decisions of Council or its position on a particular issue. There will be times where Councillors other than the Mayor may be authorised to make a statement or response on Council's behalf.

Where statements and responses are made on Council's behalf by Councillors they are to fairly and accurately represent the outcomes of Council's decision-making process regardless of the individual Councillors viewpoint on the particular matter.

Full, frank and robust debate on issues in local government is an important aspect of open and effective governance and Councillors may rightly be involved in strongly advocating a position during a debate on an issue, disagreeing with the majority, asking for a division following a resolution and advising the media or the community of a personal opinion on a matter and giving the reasons for that opinion.

Whilst such behaviours are acceptable, continued destabilisation after a decision has been made using the democratic processes available is not.

Examples of inappropriate conduct:

- Providing a personal opinion to the media or the community without clarifying that it is a personal opinion.
- Failing to accept the majority decision of Council and destabilising the Council by continuing to debate the issue in the public arena.



COUNCILLOR CONDUCT CODE

Record Keeping Obligations

Council, including Councillors and Council officers, are bound by the *Public Records Act 2002* which sets out the ways that public records must be managed. The State Archivist under that Act has issued policies, procedures and guidelines on the making, keeping, preserving, managing and disposing of *public records*.

Council has adopted its own policy to set out how Council will comply with the State Archivist policy, procedures and guidelines¹¹. Council's policy also incorporates a specific guideline titled "*Mayor & Councillors Records Management Policy Guidelines*".

¹¹ Refer to Council's *Record Management Policy*

Good corporate decision making and good records of that decision making (that may be called upon in subsequent proceedings) require that interchanges between Council, Councillors, Council officers and the public are clear and are recorded in a records management system that facilitates recording, retrieval and archiving of such records.

When Councillors become the gateway for communications between the public and the Council for matters about which Council (including the Chief Executive Officer of Council and delegates of the Chief Executive Officer) is required to make a decision, those communications, whether they are verbal, noted in a diary (electronic or paper), written or in some other form capable of being stored and archived (emails, texts etc.) become *public records*.

Councillors must ensure that *public records* held by them are provided to the Council for storage and archival in the Council's records system¹². This applies not only to requests made via a Councillor seeking a decision of Council but also to information provided to a Councillor that informs the Councillor in the decision making process when Council is making a decision on the matter.

¹² Under the Local Government Act 2009 the chief executive officer of Council is tasked with ensuring the maintenance of Council's records

It makes practical sense that decision makers (Council, or delegates of Council) have access to as close as possible to the original request made of Council (directly or via a Councillor) to ensure clarity of the details of the request and the matters relied upon in making the Council decision.

Such records are also discoverable in Right to Information (*RTI*) requests made of Council. If the records are not in Council's records system the ability of Council to properly respond to *RTI* requests is impeded.

Councillors are expected to remain aware of and comply with the requirements to ensure that such *public records* are lodged with Council as required and in the manner set out in the "*Mayor & Councillors Records Management Policy Guidelines*" and to not destroy any such records.

Example of inappropriate conduct:

- Not providing a copy of a request made of Council via the Councillor by a third party for inclusion in Council's records.
- Destroying a diary containing notes relating to requests made of Council.



COUNCILLOR CONDUCT CODE

Occupational Health and Safety & Site Security

Councillors undertake a significant part of their Councillor duties at Council controlled workplaces but, as Councillors are not employees of Council, they are not directly covered by the requirements of the *Work Health and Safety Act 2011* as it applies to employees of Council. To meet Council's obligations under that Act there is a policy¹³ with associated corporate standards and other procedures and site safety plans in place for these areas.

¹³ See Council's Occupation Health and Safety Policy

It is expected that Councillors will actively participate in any required site based safety inductions and comply with site safety requirements for Council controlled workplaces and any other site's workplace health and safety requirements that the Councillor visits as part of their Councillor activities.

Councillors are also expected to comply with Council's non-smoking policy at Council controlled worksites or in Council owned or supplied vehicles and to not attend Council worksites whilst they are under the influence of a substance or alcohol that could impair their ability to safely perform their duties as a Councillor whilst on that site or could endanger others at that site.

Council officers will assist Councillors who are not familiar with a Council worksite by accompanying them whilst they access the site and/or briefing them of any site specific safety requirements.

Council has access controls (keys, fobs and security codes) into many of its work sites and Councillors will be provided with access to some of these sites (meeting rooms, offices etc.). Councillors are to ensure that any keys, fobs or security codes provided by Council are securely maintained and not provided to other persons without appropriate authorisation and to only use those keys, fobs and codes in accordance with the instructions provided to the Councillor for their use.

Councillors are expected to ensure that they only access areas made accessible to them and only enter other areas of Council in accord with the protocols for those areas.

(For example - an invite by an officer into the other area).

Councillors are to ensure that any members of the public invited by them to Council worksites are also appropriately briefed on safety matters relevant to that site and that entry to Council work sites¹⁴ by those people is undertaken under supervision, with appropriate approvals of Council and in accord with the site specific work health and safety requirements. *(For example - other than for public space areas, there is a requirement for visitors to be logged in on arrival, display a "Visitor" badge whilst in that area and to be logged out on departure.)*

¹⁴ Note that this additional requirement does not extend to areas that are publically accessible areas where all persons in these areas must apply with generally applicable site safety requirements.

Examples of inappropriate conduct:

- Attending a Council controlled work site and entering the site without the required Personal Protective Equipment required for that worksite (some sites require safety vests, enclosed steel capped footwear, hard hat etc.).
- Entering a Council worksite or part of a worksite that is not generally accessible other than to select Council officers without specific approvals.
- Bringing visitors into a non-public part of a Council worksite without registration and badging of that visitor.



COUNCILLOR CONDUCT CODE

Use of Council Owned or Supplied Vehicles and Equipment

Under the *Councillor Expenses Reimbursement and Provision of Facilities Policy* Councillors are generally provided with access to a vehicle, a uniform jacket, equipment and access to other Council resources as well as expense reimbursements and travel allowances.

Use of the supplied vehicles, equipment, uniform and resources is provided on the basis that such use is in accord with the standard corporate requirements insofar as the requirements apply to Councillor use of those items.

Use is also restricted to use on Council business only (except for vehicles where the policy allows for a private use component).

There are a number of Council policies and corporate standards applying to use of Council supplied vehicles, equipment, uniform and resources by Council officers and these policies also apply to Councillors.

A failure to comply with the requirements of these policies and corporate standards as they relate to Councillor use of Council supplied vehicles, equipment, uniform and resources constitutes *inappropriate conduct* and may also constitute misconduct or corrupt behaviour.

The applicable policies and corporate standards as set out below:

Type	Applicable Council Policy, Corporate Standard or Guideline
Vehicles	Motor Vehicle Policy with particular reference to vehicle usage restrictions, authorised users/ drivers licence requirements, non-smoking and penalty notices and convictions sections.
Computers (Whether laptop, desktop or tablet) and ancillary equipment (printers etc.) Mobile Phones and ancillary equipment	Computer and Telecommunications Policy and Corporate Standard
Uniforms and name badges	Corporate Uniform Policy and Corporate Standard
Personnel Protective Equipment (Helmet, safety boots, fluoro vest, etc.)	Occupational Health and Safety Policy
Access to office space, meeting rooms, landlines, facsimile machines, photocopiers and internet access (home and Council worksite), stationery, publications and secretarial support.	Non Smoking Policy Drug and Alcohol Policy and Corporate Standard Officers Corporate Uniform Policy and Corporate Standard Occupational Health & Safety Policy Computer and Telecommunications Policy and Corporate Standard



COUNCILLOR CONDUCT CODE

Use of Council Corporate Credit Cards

Under the *Councillor Expenses Reimbursement and Provision of Facilities Policy* Councillors are provided with a corporate credit card. Such corporate credit cards are provided on the basis that the Councillor will only use that corporate credit card to pay for:

Expenses not already covered by the direct remuneration to Councillors which would otherwise be recoverable from Council by the Councillor under that policy (**For example** - a taxi fare whilst away at a Council approved conference attendance from the conference venue to the airport); or

Expenditure that the Mayor, or a Councillor who is a chairperson of a standing committee, has been specifically delegated power to incur by Council. (**For example** - the Mayor is provided with a specific budget allocation for use on Community Donations and may utilise the credit card to purchase goods and services budgeted for in that budget allocation in accord with the requirements of the Community Donations Policy and Council's Procurement Policy).

There is no legal capacity for Council to delegate a procurement power to a Councillor other than to the Mayor or the chairperson of a standing committee therefore Councillors are not able to use corporate credit cards for any other purchases on Council's behalf.

A Councillor's use of the corporate credit card must be in accord with Council procurement policy and, as applicable, the *Councillor Expenses Reimbursement and Provision of Facilities Policy*. The corporate credit card provided must not be used for any other purpose or used in any other way.

Councillors must ensure that they retain security over their credit card and related PIN and not allow others to use the corporate credit card. If the card is lost and/or the PIN compromised Council must be advised as soon as practicable so that action can be taken to cancel and replace the card.

Corporate Credit Cards are not to be used for establishing ongoing direct payments.

Councillors must ensure that they retain full accountability and transparency in their use of the corporate credit card and fully comply with the corporate standards issued by the Chief Executive Officer for their use. This also includes the acquittal of the Councillors use of the corporate credit card including the obtaining of, and providing Council with, itemised tax invoice/receipts for all use of the card by the Councillor within the time set out in the policies and corporate standards.

Examples of inappropriate conduct:

- Not providing the supportive details (itemised tax invoices/receipts etc.) for use of the corporate credit card within the times stipulated.
- Failure to maintain adequate security over the corporate credit card and/or its PIN.
- Inadvertently using the corporate credit card to pay for goods or services not recoverable from Council under the *Councillor Expenses Reimbursement and Provision of Facilities Policy*.



COUNCILLOR CONDUCT CODE

Acceptable Requests Guidelines (Councillor Requests of Council officers for advice or access to information)

Background

Section 13(3)(f) of the *Local Government Act 2009* provides that the Chief Executive Officer has, amongst the other responsibilities of the role of Chief Executive Officer the responsibility of:-

- (f) complying with requests from councillors under section 170A—
 - (i) for advice to assist the councillor carry out his or her role as a councillor; or
 - (ii) for information, that the local government has access to, relating to the local government.

Section 170A of the *Local Government Act 2009* further provides as follows:—

- (1) A councillor may ask a local government employee to provide advice to assist the councillor carry out his or her responsibilities under this Act.
- (2) A councillor may, subject to any limits prescribed under a regulation¹⁵, ask the Chief Executive Officer to provide information, that the local government has access to, relating to the local government.

and goes on to set out when a Councillor may not ask a local government employees for advice or assistance i.e.:-

- (3) Subsection (2) does not apply to information—
 - (a) that is a record of the regional conduct review panel or the tribunal; or
 - (b) if disclosure of the information to the councillor would be contrary to an order of a court or tribunal; or
 - (c) that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

The section goes on to set out that:-

- (4) A request of a councillor under subsection (1) or (2) is of no effect if the request does not comply with the acceptable requests guidelines.

but further clarifies that:-

- (5) Subsection (4) does not apply to—
 - (a) the mayor; or
 - (b) the chairperson of a committee of the council if the request relates to the role of the chairperson.

Under the Act:

- (6) The acceptable requests guidelines are guidelines, adopted by resolution of the local government, about—
 - (a) the way in which a councillor may ask a local government employee for advice to help the councillor carry out his or her responsibilities under this Act; and
 - (b) reasonable limits on requests that a councillor may make.
- (7) In this section a local government employee includes a person prescribed under a regulation¹⁵.
- (8) The Chief Executive Officer must make all reasonable endeavours to comply with a request under subsection (2).

As advised in the Department of Infrastructure, Local Government and Planning publication "*Councillor responsibilities under the Local Government Act 2009 - Version April 2015*":

"It is important to note that a request has no effect if it does not comply with the council's acceptable request guidelines. Section 170A (6) requires that acceptable request guidelines are to be adopted by the resolution of the local government (i.e. not by the CEO).

Acceptable request guidelines establish the rules about how a councillor asks a local government employee for advice to assist the councillor carry out their responsibilities under the LGA09 and the reasonable limits on requests that a councillor may make. Local governments have broad discretion and a high level of autonomy in determining the content of their guidelines."

¹⁵ Note: No limits have been set by regulation at the time of adoption of this policy and no regulation has been made on this under the Act.



COUNCILLOR CONDUCT CODE

Who requests should go to

Council is of the view that requiring all councillor requests for advice or information to be submitted through the Chief Executive Officer is impractical. Council is also of the view that such requests need to be made of relatively senior Council officers.

Council guidelines as to the way that a Councillor may request advice or request information are provided below¹⁶.

For clarity these guidelines do not apply when:

a Councillor:

seeks advice from any Council officer where that matter is a minor matter that requires the Council officer no more than a few minutes of time to address or is advice that is normally provided by that Council officer to any member of the public making a similar query; or

seeks clarification from the Council officer who has authored a briefing paper or report to Council on an aspect of that briefing paper or report;

or

the Mayor gives a direction to the Chief Executive Officer or a senior executive employee¹⁷.

The Commentary to the Act as prepared by King and Company on behalf of the Local Government Association of Queensland provides a useful insight into the practical application of these provisions.

"One aspect of that concept is that the CEO and the senior executive officers should have full power and authority to organise the work schedules and work priorities of the officers under their control, and that it should not be possible for a councillor to disrupt those schedules or priorities by asking an employee to devote time to something which the councillor wants done (or wants done sooner rather than later).

Despite the concerns expressed by councillors when the corresponding provision in the 1993 Act was introduced, the regime established by this section has not caused major problems in practice, and will not do so as long as the councillors and the CEO have a proper respect for each other's' role and responsibilities and are all genuinely committed to achieving effective local government."

¹⁶ Such requests are beyond requests that may be sought by any member of the community of Council officers. For example - Asking how an animal can be registered is a general request that can be answered by many officers in Council without having to be a Councillor request.

¹⁷ Under section 196 (6) of the Local Government Act 2009 "A senior executive employee, of a local government, is an employee of the local government—
(a) who reports directly to the chief executive officer; and
(b) whose position ordinarily would be considered to be a senior position in the local government's corporate structure."

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To achieve practicality Councillors may request advice or assistance to assist them in carrying out their roles from the following Council officers:-

Department	Subject Matter
Officer Position	
Office of the CEO	
Chief Executive Officer	Any matter.
Manager Executive Services	Community relations (media, communications and marketing), economic development, disaster and emergency management.
Executive Support Officers	Minutes, agenda, general assistance, travel & accommodation.
Corporate and Community Services	
Director Corporate and Community Services	Any matter
Chief Information Officer	Customer service systems, ITC (computers and telephones), records
Manager Fleet & Property	Fleet vehicles, property transactions (non-sporting).
ICT Coordinator	Computers and telephones.
Manager Arts & Culture	Arts and cultural activities and initiatives, libraries and community events.
Manager Community Wellbeing	Social infrastructure/services/planning, housing support, multicultural affairs, community development, grants/ funding, legal aid, emergency relief, family counselling, youth development, Healthy Active Gladstone, sport and recreation, public swimming pools.
Engineering Services	
Director Engineering Services	Any matter.
Manager Roads Services	Road (and stormwater) infrastructure maintenance and current capital projects.
Manager Water Services	Water (and wastewater) infrastructure maintenance and current capital projects.
Manager Waste Services	Waste (and recycling) services.
Manager Technical Services	Infrastructure planning (i.e. developer charges and studies etc.), traffic issues, operational works assessments.
Planning & Environment Services	
Director Planning & Environment Services	Any matter.
Manager Development Services	Regulatory functions of planning, building and plumbing assessments, planning scheme development, major project coordination, trade waste assessment.
Manager Parks and Environment	Parks maintenance and development, conservation, environmental sustainability, cemeteries and crematorium operations.
Manager Regulatory Services	Environmental health, local laws enforcement, animal management, and rural land management.
Finance	
Chief Financial Officer	Any relevant financial matter, purchasing, tendering and disposal processes, Council stores.
Coordinator Rates and Revenue	Rating matters.



COUNCILLOR CONDUCT CODE

Procedure to be used for requests for advice or information

Councillor requests from Council officers to assist them carry out their roles, must be made, and will be dealt with, as follows:-

1. Councillors' requests should be made in writing¹⁸ (e.g. letter, memo, facsimile or email) to a Council officer listed in the table above on matters which directly relate to that officers duties and responsibilities as set out in the Table.
2. In making a request the Councillor will need to indicate the information or advice required and the reason for seeking access to that information or seeking that advice.
3. Where a Councillor is unsure as to what information or advice to request, he or she may contact the Council officer of whom the request is to be made for assistance in clarifying the request.
4. Councillors' requests for advice or access to information must not take the form of an attempt to direct or pressure any Council officer to prepare a response in a certain manner¹⁹.
5. Preference is that the request be made of the Council officer by email or in writing. If verbal the Council officer may reduce the verbal request in writing and seek confirmation from the Councillor that the written request is a fair representation of the request made by the Councillor.
6. If Councillors have made a similar request of another Council officer they must advise the Council officer of that other request, the name of the Council officer of whom the other request was made and the time when it was made.
7. A copy of the request is to be sent to the Chief Executive Officer and the Director of the relevant Council officer or, where sent to a Director, by the Director to the Chief Executive Officer. The Director or the Chief Executive Officer may elect to handle the request or to allocate another Council officer to handle the request at which time the Councillor will be advised of the Council officer handling the request.
8. Requests made will be lodged into the customer request system of Council under a special category of Councillor requests and allocated in that system to the Council officer who has received the request or has been allocated the task of responding to the request.

¹⁸ A template for such a request will be available for Councillors to utilise which will assist with the framing of the request

¹⁹ Such action could constitute misconduct and be dealt with under the misconduct provisions of the Local Government Act 2009.



COUNCILLOR CONDUCT CODE

9. Council officers receiving the request, or being tasked with the request, will respond to the request made in writing or email to the Councillor only if they:
 - a. are of the view that they are appropriately qualified and adequately informed to be able to respond in a competent manner; and
 - b. have adequate resources to handle the request in a timely manner; and
 - c. are satisfied that the handling of the request will not interfere with existing work priorities that have been assigned to them.

10. If the Council officer is of the view that they:
 - a. are not appropriately qualified and adequately informed to be able to respond in a competent manner; or
 - b. do not have adequate resources to handle the request in a timely manner; or
 - c. are not satisfied that the handling of the request will not interfere with existing work priorities that have been assigned to them,they will refer the request to their immediate supervisor, Director or the Chief Executive Officer with a request for allocation of the request to another Council officer.

11. In providing a response the Council officer will:
 - a. provide a copy of the response provided by them to the Councillor, their Director and the Chief Executive Officer as well as lodging the details of the response in Council's customer request system; and
 - b. ensure, where a request is for access to information, that the requesting Councillor is provided with access to all relevant information; and
 - c. explain any issues in the information or advice which relate to confidential or other sensitive matters; and
 - d. if appropriate, provide any other information necessary to place the information or advice being provided in context; and
 - e. record the outcome of the request in the Council customer request system.

12. The Chief Executive Officer or Director may, if in his or her view the advice provided or information provided is incomplete or inaccurate, provide the Councillor with updated advice or access to any required further information.

13. In accessing any information provided to a Councillor as a result of a Councillor request, Councillors are specifically made aware of their obligations under *Section 171 of the Local Government Act 2009 (Use of information by Councillors)* and *Section 171A of the Local Government Act 2009 (Prohibited conduct by councillor in possession of inside information)*.

14. Councillors must inform the Chief Executive Officer if they believe a Council officer of whom a request has been made by them has not appropriately responded to a request.



COUNCILLOR CONDUCT CODE

Reasonable limit guidelines

Council recognises that it has provided finite resources to the Chief Executive Officer for the undertaking of Council's endeavours as set out in Council's budget and policy documents.

The diversion of resources towards the provision of advices or access to information requests from Councillors may, at times, jeopardise the provision of services by Council as the Council officers' time is taken away from their ordinary duties of implementing Council priorities to address requests from individual Councillors.

The extent of the diversion of resources required may be extenuated by either the nature of the request made, the frequency of requests made, the timing of the request or a combination of these factors.

Where responding to a request made by a Councillor for advice or access to information raises concerns with the Council officer that the time involved in responding may create an issue with having to divert resources from existing priorities of Council at the detriment of implementing those priorities the Council officer will, in the first instance, seek to negotiate an alternate timing for responding to the Councillor that may allow the request to be responded to without jeopardising the meeting of existing priorities by that Council officer.

In the event that a mutually acceptable timing cannot be found the Council officer will refer the resourcing issue to their Director or the Chief Executive Officer for resolution.

Where the Council officer is the Chief Executive Officer or where the Chief Executive Officer concurs with the Council officers concerns, the Chief Executive Officer will either:

- a. nominate another Council officer to deal with the request; or
- b. refer the request to the Mayor for discussion with the Councillor for potential withdrawal of the request; or
- c. refer the matter to the Council for resolution of the resource allocation issue²⁰.

Examples of inappropriate conduct:

- A Councillor not making available to the Chief Executive Officer a copy of a request made for advice from a Council Officer.
- A Councillor making a request for advice or information from a Council officer outside of the Council officers identified in the Table of officers in this part.
- A Councillor insisting that their request be dealt with without providing it in writing (request for assistance) or on the required Councillor Access to Information Form (requests for information).

²⁰ Note that under Section 170A(8) of the Local Government Act 2009 the chief executive officer must "make all reasonable endeavours to comply with a request" (for information).



COUNCILLOR CONDUCT CODE

Councillor Contact Guidelines with Applicants for Council approval (including Lobbyist, Developers & Submitters) and Bidders for Council quotations or tenders

Part Specific definitions

In this part the following definitions apply:

Applicant	Means any applicant, or potential applicant, for an approval that is to be obtained from Council, whether or not that approval will be or is being dealt with by Council direct (via a report to Council requiring a Council resolution) or will be or is being dealt with by a Council officer under a delegation by Council or the Chief Executive Officer. 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.
Bidder	Means any entity making a bid for a Council tender or quotation for the supply of goods or services to Council or purchase of goods, materials or land from Council.
Developer	Means an actual Applicant for a development approval under the <i>Sustainable Planning Act 2009</i> .
Lobbyist	Has the same meaning as defined in the <i>Integrity Act 2009</i> .
Submitter	For applications made under the <i>Sustainable Planning Act 2009</i> has the same meaning as defined in that Act otherwise a submitter is any entity (including, if the entity is a body corporate, officer holders and employees of the entity or, if the entity is a partnership, partners and employees of the partnership).

Background

Free and open access to Councillors by their members of the community is vital to accountable and effective local government.

Contact with Councillors is undertaken by many people in the community in relation to a broad range of matters and is often sought when people:

- a) as Applicants, are required to obtain an approval from Council for a development or activity; or,
- b) as Bidders, are seeking to secure a contract with Council for the supply of goods or services to Council or the purchase of goods, materials or land (including leasing or licencing of) from Council; or
- c) as Developers, Lobbyist or Submitters are seeking to influence Councillors, and thereby Council, and/or Council officers acting on behalf of Council under delegation with respect to existing or proposed applications to Council for approvals.

Council and the public have clear expectations that such contacts are carried out ethically and transparently.

This guideline is in addition to the requirements and processes imposed upon Councillors and Lobbyists by the *Integrity Act 2009* and other relevant Council policies, corporate standards and procedures.



COUNCILLOR CONDUCT CODE

Councillor exchanges with potential Applicants, Bidders, Developers, Lobbyists or Submitters in the pre application/tender/quotation phases

It is expected that in dealings with potential Applicants, Bidders, Developers, Lobbyists and Submitters in the pre application/tender/quotation or pre calling for submissions phases that Councillors will: -

- clarify that any opinion they give is personal and does not in any way represent Council's position;
- encourage the potential Applicant, Bidder, Developer, Lobbyist or Submitter to seek independent professional advice;
- encourage the potential Applicant, Bidder, Developer, Lobbyist or Submitter to seek preliminary advice on their proposal or submission by arranging a meeting with the relevant Council officers (at pre-lodgement meetings or Council tender briefing sessions etc.);
- keep appropriate diary notes of the date, time, place, attendees and detail of such dealings; and
- ensure that such diary notes are provided to Council for inclusion in Councils' records system.

Until such time that a Submitter formally lodges a submission the above guideline for the pre- application/tender/quotation phases shall apply to Submitters.

If Submitters wish to meet with a Councillor or Councillors after they have lodged a submission with Council then the guidelines applicable to the post application/tender/quotation phase below will apply to such requests.

Exchanges with Applicants, Bidders, Developers, Lobbyists or Submitters in the post application/tender/quotation phase before a decision is made by Council (the assessment stage)

Once an application is formally lodged with Council, or Council has formally sought tenders or quotations for the supply of goods or services or tenders for the disposal of Council assets and the time for lodgement of tenders or offers has closed, Councillors:

- will decline all invitations to meet with or discuss the application, tender or quotation with Applicants, Bidders, Developers, Lobbyists or Submitters on a one-on-one basis.
- will, if requested to have a meeting on a one-on-one basis to make representations to the Councillor, refer the requestor to the relevant Council department for the arranging of a meeting at a date, time and venue where Council officers and the Councillor may meet with the requestor to discuss the application, tender or quotation. **Note:** A minimum of 7 days' notice is required for such a meeting.
- Council officers present at the meeting will document the date, time, place, attendees and detail of such dealings and ensure that these meeting notes are provided for recording in Council's records system.



COUNCILLOR CONDUCT CODE

Exchanges with Applicants, Bidders, Developers, Lobbyists or Submitters where a Council decision is being appealed or reviewed in a Court of Law, Ombudsman or Tribunal²¹.

Once an appeal or a request for review is lodged with a Court of Law, Ombudsman or Tribunal in respect to an application decided or to be decided by Council, Councillors will:

- not accept any requests for meetings with Applicants, Bidders, Developers, Lobbyists or Submitters unless such a meeting has been sanctioned by Council resolution in advance;
- advise Applicants, Bidders, Developers, Lobbyists or Submitters making any such request that they need to submit such requests either through their legal representative to Council or to Council direct, or Council's legal advisors so that Council can co-ordinate any resultant meeting or discussions.

Examples of inappropriate conduct:

- A Councillor not making appropriate diary or other notes.
- A Councillor not providing such notes to Council for recording in Council's Records System.
- A Councillor holding a meeting with an Applicant, Bidder, Developer, Lobbyist or Submitters contrary to these guidelines.

²¹ e.g. - the Queensland Civil and Administrative Tribunal, Land Court or Queensland Ombudsman.

For clarity these guidelines do not apply to applications for development approval where Council is not the decision maker in respect of the matter. (For example: applications for development within the Gladstone State Development Area where the relevant State Minister is the decision maker).

Other Council Policies, Corporate Standards & Procedures

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

Non-compliance with the procedures of Council, whether contained within this policy 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 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 Attachment 1 to this policy (Table 1). This list will be maintained by the Chief Executive Officer and updated lists provided to Councillors as the list is changed.



Consequences of inappropriate conduct by Councillors

A failure to comply with the expected conduct set out in this policy is *inappropriate conduct* and may render a Councillor liable to disciplinary action prescribed by *section 181* of the *Local Government Act 2009*.

Under *section 181(2)* of the Act, the mayor or the department's chief executive may reprimand the councillor and/or order that any repeat of the conduct be referred to a regional conduct review panel as *misconduct*.

Further, the chairperson of a council or committee meeting in which *inappropriate conduct* occurs is empowered to order that the Councillor's conduct be noted in the minutes or that the Councillor leave the meeting and, if he or she refuses to do so, to order that they be removed from the place.

If a mayor or the department's chief executive makes three orders in relation to *inappropriate conduct* for the same councillor within one year they must, under *section 181*, refer the repeated inappropriate conduct to a regional conduct review panel or the tribunal where it must be treated as a complaint about *misconduct*.



COUNCILLOR CONDUCT CODE

Additional Matters to assist Councillors

When is information considered to be confidential?

Section 171(3) of the *Local Government Act 2009* 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."

A breach of confidentiality by a Councillor is dealt with under the *misconduct* provisions of the *Local Government Act 2009*.

Whilst this policy does not seek to set out the details of *misconduct* under the *Local Government Act 2009* or *corrupt conduct* under the *Crime and Corruption Act 2001* the inclusion of this section on confidentiality is to assist Councillors with their dealings with information that they may access under the guidelines set out in this policy or through their other duties as Councillors.

Councillors are expected to:

- exercise due care when handling or using information acquired in their role as a Councillor;
- 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;
- acknowledge that disclosure of confidential information constitutes a serious breach of the *Local Government Act 2009*;
- if uncertain, presume that information is confidential and seek advice from the Chief Executive Officer prior to any release of it by them;
- not disclose, and to use their best endeavours to prevent disclosure of, confidential information to any person or organisation, and to specifically:
- avoid discussing confidential Council information with family, friends and business associates; and
- ensure documents containing confidential information are properly safeguarded at all times, including materials stored at private or business residences.



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To assist in avoiding doubt the following types of information are deemed to be confidential to Council unless or until Council resolves to the contrary in a particular instance:

- Commercial in confidence information including where the release of information would affect a third party's competitive advantage (this is particularly relevant in a competitive tender situation);
- Information derived from government departments or ministers that has been classified by them or Council as confidential;
- Information of a personal nature or about personal affairs of councillors or council officers;
- Information relating to a property disposal or acquisition process being undertaken by Council where release of the information may prejudice Council;
- Financial or legal analysis or advice provided to Council where the disclosure of that analysis or advice may compromise Council or someone else;
- Information that could result in action being taken against Council for defamation;
- Information involving legal advice to Council on a legal issue or a matter before the courts;
- Information that is expressly given to Councillors in confidence;
- 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 Chief Executive Officer until Council or a committee of Council resolves to the contrary;
- Information examined or discussed at Councillor briefing sessions, unless it has been clearly identified as not being confidential;
- If Council exercises its powers under section 275 of the Local Government Regulation 2012 to close its meeting to members of the public, all information in relation to the matters discussed during that closed meeting or the closed portion of the meeting is confidential, unless and until the Council resolves to the contrary. Such matters include:

Information provided or disclosed to Councillors in a closed session of a Council Meeting about:

- * the appointment, dismissal or discipline of a Council employee;
- * industrial matters affecting employees;
- * the Council's budget;
- * rating concessions;
- * contracts proposed to be made by Council;
- * starting or defending legal proceedings involving Council.



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Guide to ethical decision making

The following guide is designed to help Councillors reach an ethical decision based on the relevant facts and circumstances of a situation.

Step 1: Assess the situation

- What is your aim?
- What are the facts and circumstances?
- Does it break the law or go against Council policy?
- Is it in line with this policy's requirements?
- What principles does it relate to? Why?
- Who is affected? What rights do they have?
- What are your obligations or responsibilities?

Step 2: Look at the situation from Council's viewpoint

- As a Councillor what should you do?
- What are the relevant laws, rules and guidelines?
- Who else should you consult?

Step 3: How would others see your actions?

- Would a reasonable person think you used your position improperly?
- Would the public see your actions as honest and impartial?
- Do you face a *conflict of interest*?
- Will your decision or action stand up to public scrutiny?

Step 4: Consider the options

- Ask your Councillor colleagues or any person who is able to give sound, relevant advice.
- What options and consequences are consistent with Council's values, the five local government principles, the four ethics principles fundamental to good public administration and your obligations?
- What are the costs and long-term consequences of each option?
- How would the public view each option?
- What will be the outcome for Council, your colleagues, others and you?

Step 5: Choose your course of action

Make sure your actions are:

- within your power to take, legal and in line with relevant policies and procedures;
- fair and able to be justified to the public;
- documented so a statement of reasons can be supplied if required;
- consistent with Council's mission, goals and values; and
- backed by advice from Council specialists, if this is appropriate.



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Access to advice on ethical and integrity issues

The Department of Infrastructure, Local Government and Planning and the Local Government Association of Queensland (LGAQ) provide a number of resources to assist Councillors which may be accessed by Councillors through the Queensland government website the LGAQ intranet available to all Queensland Councillors via the web.

In addition the Local Government Association of Queensland provides access to the services of an ethical advisor to assist Councillors with advice on ethical and integrity issues.



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