

1. Policy Statement

The Code of Conduct sets out the principles and standards of behaviour expected of the Mayor and Councillors of the Hinchinbrook Shire Council 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.

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

2. Scope

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 *Local Government Act 2009*. As part of that declaration, Councillors must declare that they will abide by this Code of Conduct.

Councillors must:

- Ensure their personal conduct does not reflect adversely on the reputation of the Council;
- Demonstrate respect for fellow Councillors, Council staff and other members of the public;
- Refrain from harassing, bullying or intimidating fellow Councillors, Council staff or other members of the public;
- Not communicate with the public or media on behalf of the Council, unless expressly authorised by the Council to make that communication;
- 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; and
- When communicating with the public or the media to express a personal opinion about a Council resolution, respect the democratic process by first acknowledging that Council resolutions represent the majority view of Council.

3. The Local Government Principles and Values

The *Local Government Act 2009* 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; and
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; and
 - 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; and
 - accept and value differences of opinion.
4. In exercising good governance, Councillors are committed to:
 - the development of open and transparent processes and procedures; and
 - 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; and
 - 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

4. Standards of Behaviour

This Code of Conduct sets out the standards of behaviour applying to all Hinchinbrook Shire Councillors. 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.

a. Carry out *RESPONSIBILITIES* conscientiously and in the best interests of the Council and the community

For example, Councillors will, at a minimum:

- i. 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 authorised by the Mayor;
- ii. Respect and comply with all policies, procedures and resolutions of Council;
- iii. Use only official Council electronic communication accounts (e.g. email accounts) when conducting Council business;
- iv. Report any suspected wrongdoing to the appropriate entity in a timely manner;
- v. 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);
- vi. Cooperate with any investigation being undertaken by the Local Government or other entity.

4.2. Treat People in a Reasonable, Just, *RESPECTFUL* and Non-Discriminatory Way

For example, Councillors will, at a minimum:

- 4.2.1 Show respect for fellow Councillors, Council employees and members of the public;
- 4.2.2. Not bully, harass, intimidate or act in a way that the public would reasonably perceive a Councillor's behaviour to be derogatory towards other Councillors, Council employees and members of the public;
- 4.2.3 Be respectful of other people's rights, views and opinions.

4.3 Ensure Conduct does not Reflect Adversely on the *REPUTATION* of Council

For example, Councillors will, at a minimum:

- i. 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;
- ii. When making public comment, clearly state whether they are speaking on behalf of Council or expressing their personal views;
- iii. Avoid making unnecessary or irrelevant comments or accusations about Councillors or Council employees in order to undermine them or their position;
- iv. Ensure behaviour and presentation is appropriate to maintain the dignity of the office of the Councillor.

5. Consequences of Failing to Comply with Code of Conduct

The following Sections of the *Local Government Act 2009* provides:-

150H What is unsuitable meeting conduct

The conduct of a councillor is ***unsuitable meeting conduct*** if the conduct—

- (a) happens during a local government meeting; and
- (b) contravenes a behavioural standard.

150I Chairperson may deal with unsuitable meeting conduct

- (1) This section applies if, at a local government meeting, the chairperson of the meeting reasonably believes the conduct of a councillor during the meeting is unsuitable meeting conduct.
- (2) The chairperson may make 1 or more of the following orders—
 - (a) an order reprimanding the councillor for the conduct;
 - (b) an order requiring the councillor to leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place for the rest of the meeting;
 - (c) if the councillor fails to comply with an order to leave and stay away from the place—an order that the councillor be removed from the place.
- (3) If the chairperson makes an order under subsection (2), the chairperson must ensure details of the order are recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation.

Note—

See also sections 150DX and 150DY about recording orders made by the chairperson of a local government meeting under this section in the councillor conduct register.

150J Unsuitable meeting conduct that becomes inappropriate conduct

If the conduct of a councillor at a local government meeting is inappropriate conduct under section 150K(2), the local government—

- (a) is not required to notify the assessor about the conduct; and
- (b) may deal with the conduct under section 150AG.

150K What is inappropriate conduct

- (1) The conduct of a councillor is inappropriate conduct if the conduct contravenes—
 - (a) a behavioural standard; or
 - (b) a policy, procedure or resolution of the local government.
- (2) Also, the conduct of a councillor is inappropriate conduct if—
 - (a) the conduct contravenes an order of the chairperson of a local government meeting for the councillor to leave and stay away from the place at which the meeting is being held; or
 - (b) it is part of a course of conduct at local government meetings leading to orders for the councillor's unsuitable meeting conduct being made on 3 occasions within a period of 1 year.
- (3) For subsection (2)(b), the conduct that led to the orders being made, taken together, is the inappropriate conduct.
- (4) However, inappropriate conduct does not include conduct that is—
 - (a) unsuitable meeting conduct, to the extent the conduct is not conduct mentioned in subsection (2); or

- (b) misconduct; or
- (c) corrupt conduct.

150L What is misconduct

- (1) The conduct of a councillor is misconduct if the conduct—
 - (a) adversely affects, directly or indirectly, the honest and impartial performance of the councillor's functions, or the exercise of the councillor's powers; or
 - (b) is or involves—
 - (i) a breach of the trust placed in the councillor, either knowingly or recklessly; or
 - (ii) a misuse of information or material acquired in, or in connection with, the performance of the councillor's functions, whether the misuse is for the benefit of the councillor or for the benefit, or to the detriment, of another person; or
 - (c) contravenes any of the following—
 - (i) an order of the local government or the conduct tribunal;
 - (ii) the acceptable requests guidelines of the local government under section 170A or the City of Brisbane Act 2010;
 - (i) a policy of the local government about the reimbursement of expenses;
 - (iv) section 150R(2), 170(3), 171(3) or 175G;
 - (v) the City of Brisbane Act 2010, section 170(2) or 173(3).
- (2) Also, the conduct of a councillor is misconduct if the conduct—
 - (a) is part of a course of conduct leading to the local government deciding to take action under section 150AG to discipline the councillor for inappropriate conduct on 3 occasions within a period of 1 year; or
 - (b) is of the same type stated in an order of the local government that if the councillor engages in the same type of conduct again, it will be dealt with as misconduct.
- (3) For subsection (2)(a), the conduct that led to the 3 occasions of disciplinary action, taken together, is the misconduct.
- (4) It does not matter if the conduct happened outside the State.

150M Application to former councillors

- (1) This chapter applies in relation to a person who was, but is no longer, a councillor if the person was a councillor when conduct the subject of a complaint or investigation is alleged to have happened.
- (2) For subsection (1), a reference in this chapter to a councilor includes a reference to the person.

150N Duty to notify Crime and Corruption Commission about suspected corrupt conduct not affected

To remove any doubt, it is declared that nothing in this part limits the assessor's duty under section 38 of the Crime and Corruption Act 2001 to notify the Crime and Corruption Commission about suspected corrupt conduct.

1500 Complaints about councillor conduct

- (1) A person may make a complaint to the assessor about the conduct of a councillor.
- (2) The complaint may be made to the assessor orally or in writing.
- (3) Subsection (1) does not limit who a person can complain to about the conduct of a councillor.

Examples—

A person may complain to the Crime and Corruption Commission or the department's chief executive about a councillor's conduct.

150P Complaints about councillor conduct must be referred to assessor

- (1) This section applies if a government entity, other than the assessor, receives a complaint about the conduct of a councillor.
- (2) The government entity must—
 - (a) refer the complaint to the assessor; and
 - (b) give the assessor all information held by the entity that relates to the complaint.
- (3) However, subsection (2) does not apply if—
 - (a) the government entity has a duty to notify the Crime and Corruption Commission of the complaint under section 38 of the Crime and Corruption Act 2001; or

Note—

Sections 38 to 40 of the Crime and Corruption Act 2001 state the duties of a public official to notify the Crime and Corruption Commission about corrupt conduct, subject to a direction by the Crime and Corruption Commission.

- (b) the government entity has the power to investigate the complaint or the councillor's conduct under another law and decides to carry out the investigation under that law.

Example—

The police service receives and investigates a complaint alleging a councillor engaged in fraud.

- (4) As soon as practicable after receiving the complaint, the assessor must, if the assessor has the contact details of the person who made the complaint, give the person a notice that states—
 - (a) the assessor has received the complaint from the government entity; and
 - (b) the assessor will deal with the complaint under this chapter.
 - (5) In this section—

government entity includes the following—

 - (a) a local government;
 - (b) a councillor;
 - (c) the chief executive officer of a local government;
 - (d) the chief executive officer under the *City of Brisbane Act 2010*.

150Q Further information about complaints

- (1) This section applies if—
 - (a) a complaint about the conduct of a councillor was made or referred to the assessor under this division; and

- (b) in the assessor's opinion, the complaint does not include sufficient information for the assessor to properly investigate the conduct; and
 - (c) the assessor has the contact details of the person who made the complaint.
- (2) The assessor may give a notice to the person who made the complaint asking the person to give the assessor further information about the complaint within a stated reasonable period.
- (3) The assessor may decide not to investigate the conduct if—
 - (a) the person does not comply with the notice; or
 - (b) the person complies with the notice but, in the assessor's opinion, there is still insufficient information to investigate the conduct.
- (4) If the assessor decides not to investigate the conduct under subsection (3), the assessor must give the person who made the complaint a notice that states the assessor has decided not to investigate the conduct because there is insufficient information to do so.

150AU Frivolous complaint

- (1) This section applies to a person who has been given a notice under section 150Z that advises the person that if the person makes the same or substantially the same complaint to the assessor again the person commits an offence.
- (2) The person must not make the same or substantially the same complaint to the assessor again, unless the person has a reasonable excuse.

Maximum penalty—85 penalty units.

- (3) In this section—

make, a complaint to the assessor, means—

 - (a) make a complaint to the assessor under section 150Q; or
 - (b) make a complaint to a government entity that is required, under section 150P, to refer the complaint to the assessor; or
 - (a) cause a complaint to be referred to the assessor.

150AV Other improper complaints

- (1) A person must not—
 - (a) make a complaint about the conduct of a councillor to the assessor—
 - (i) vexatiously; or
 - (ii) other than in good faith; or

Examples—

a complaint made for a mischievous purpose, recklessly or maliciously

 - (b) counsel or procure another person to make a complaint mentioned in paragraph (a) to the assessor.

Maximum penalty—85 penalty units.

- (2) In this section—

make, a complaint to the assessor, means—

 - (a) make a complaint to the assessor under section 150Q; or
 - (b) make a complaint to a government entity that is required, under section 150P, to refer the complaint to the assessor; or
 - (c) cause a complaint to be referred to the assessor.

150AW Protection from reprisal

- (1) A councillor must not take detrimental action against a protected person in reprisal for a complaint or notification about the councillor's conduct.
Maximum penalty—167 penalty units or 2 years imprisonment.
- (2) A councillor takes detrimental action in reprisal for a complaint or notification about the councillor's conduct if—
 - (a) the councillor takes, threatens to take, or attempts to take the action because—
 - (i) a protected person has made, or intends to make, a complaint or notification about the councillor's conduct; or
 - (ii) the councillor believes a protected person has made, or intends to make, a complaint or notification about the councillor's conduct; or
 - (b) the councillor incites, permits or conspires with another person to take or threaten to take the action for either of those reasons.
- (3) In determining whether a councillor takes detrimental action in reprisal, it does not matter whether a reason stated in subsection (2)(a)(i) or (ii) is the only or main reason for taking the action, as long as it is a substantial reason.
- (4) An offence against subsection (1) is an indictable offence that is a misdemeanour.
- (5) In this section—

notification, about a councillor's conduct, means a notice about the conduct given under section 150R.

protected person means—

- (a) a councillor; or
- (b) a local government employee.

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 *Local Government Act 2009*.

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*.

5.1 Unsuitable Meeting Conduct

Under section 150H of the Act, any conduct by a Councillor that is contrary to the standards of behaviour in the Code of Conduct that occurs within a meeting of Council (including standing committee meetings), is dealt with as **unsuitable meeting conduct**.

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).

5.2 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.

5.3 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; or
 - 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 *Local Government Act 2009*; or
 - 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.



5.4 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.

6. 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

7. Legal Parameters

Local Government Act 2009

8. Associated Documents

Nil

DOCUMENT HISTORY AND STATUS					
Action	Name			Position	Signed
Approved by Council	Alan Rayment			CEO	
Policy Version	04	Initial Version Adopted	17/04/2012	Current Version Adopted	28/04/2020
Maintained By	Office of Mayor and CEO			Next Review Date	01/03/2024
File Location	J:\Policies and Procedures\Policies\Policy 06 - Councillor Code of Conduct Policy\Policy 06 - Councillor Code of Conduct Policy - Adopted 28 April 2020.docx				

