

1. Policy Statement

This policy outlines Council's approach to managing complaints about the inappropriate conduct of Councillors, as required under section 150AE of the *Local Government Act 2009* (Qld) (the LGA).

Inappropriate conduct matters referred by the Independent Assessor under section 150W(1)(b) will be investigated in accordance with this policy and section 150AF of the LGA (Qld).

On receipt of a referral notice issued under section 150AC, Council will manage the matter in accordance with this policy, unless a decision is made under section 150AEA not to commence or to discontinue the investigation.

Grounds for discontinuation under section 150AEA include withdrawal of the complaint, failure to provide requested information, insufficient information, or vacancy of the Councillor's office.

If an investigation is not commenced or is discontinued, Council must notify the Councillor, the complainant (if known), and the Independent

Assessor, including reasons for the decision.

2. Commencement

This Councillor Conduct Investigation Policy was adopted by Council resolution on 15 December 2020 and is effective from that date.

3. Scope

This policy applies to the investigation and determination of complaints about the suspected inappropriate conduct of Councillors, including the Mayor, that have been referred to Council by the Office of the Independent Assessor under section 150AE of the LGA.

In accordance with the legislative requirements, this policy must:

- Include a procedure for investigating suspected inappropriate conduct;
- State the circumstances in which another entity may investigate the conduct;
- Be consistent with the principles of natural justice;
- Require the Council to prepare a report for each investigation (see Addendum 2 – Report Template and Summary Report Template);
- Require a notice of investigation outcomes to be provided to the Assessor, the Councillor, and the complainant; and
- Include a procedure for when the Council may decide not to start or to discontinue an investigation under section 150AEA.

Additionally, the policy requires Council to:

- Provide the Councillor with information about the suspected conduct, including supporting evidence;
- Issue a notice to the Councillor if an investigation is not started or is discontinued;
- Notify the complainant, if contact details are known, when an investigation is not started or is discontinued;
- Share preliminary findings with the Councillor before finalising the investigation report (see Addendum 4 – Statement of Preliminary Findings Template);
- Allow the Councillor to submit evidence or a written response regarding the suspected conduct and preliminary findings; and

- Consider any evidence or submission provided by the Councillor when preparing the investigation report.

Include in the final report:

- A summary of any evidence provided by the Councillor; and
- A full copy of any written submission made by the Councillor.

Out of Scope:

This policy does not apply to more serious forms of Councillor conduct, such as misconduct or corrupt conduct, which are managed under separate legislative frameworks. It also does not cover unsuitable meeting conduct or actions undertaken by a Councillor in a personal capacity, for example, campaigning for re-election or attending private social events.

4. Definitions

Assessor means the Independent Assessor appointed under section 150CV of the LGA.

Behavioural standard Means the standards of behaviour for Councillors as outlined in the Code of Conduct approved under section 150E of the LGA.

Conduct includes an act, omission, attempt or conspiracy to engage in conduct, or the directing or authorising of another person to engage in conduct.

Councillor Conduct Register means the register maintained by the Chief Executive Officer under section 150DX of the LGA.

Inappropriate Conduct Has the meaning given in section 150K of the LGA.

Investigation Policy, means this policy, as required by section 150AE of the LGA.

Investigator , Officer or entity designated by Council under this policy” rather than “entity responsible under this policy.

LGA means the *Local Government Act 2009 (Qld)*.

Local Government meeting means a meeting of local government or a committee of a local government, as defined under the Local Government Regulation 2012 (Qld)

Misconduct Has the meaning given in section 150L of the LGA (Qld).

Model Procedures means the Procedures approved under section 150F of the LGA.

Natural Justice means the principles of procedural fairness, including the right to a fair hearing, absence of bias, decisions based on evidence, and genuine consideration of all relevant matters

Redacted: A permanent, secure removal of sensitive content and data, ensuring that the document remains legally compliant, publicly safe, and privately secure.

Referral Notice means a notice issued by the Independent Assessor under section 150AC of the LGA.

Tribunal means the Councillor Conduct Tribunal as established under section 150DK of the LGA.

Unsuitable Meeting has the meaning given in section 150H of the LGA.

Code of Conduct means the Code of Conduct for Councillors in Queensland approved under section 150E of the LGA.

Complaint means a complaint about the conduct of a Councillor made to the Independent Assessor under section 150A of the LGA.

Independent Assessor means the statutory officer appointed under section 150CV of the LGA to assess and investigate complaints about Councillor conduct.

Corrupt Conduct has the meaning given in section 15 of the *Crime and Corruption Act 2001* (Qld).

Early Resolution means an informal process to resolve a complaint prior to formal investigation, where all parties agree to participate.

Disciplinary Action means an order made by Council under section 150AH(1)(b) of the LGA in response to a finding of inappropriate conduct.

5. Confidentiality and Disclosure

Matters involving suspected inappropriate conduct of Councillors are confidential, except where disclosure is required under the LGA or this policy. Allegations are not findings of fact, and confidentiality helps protect the integrity of the process. Unauthorised disclosure by a Councillor may constitute misconduct under section 171(3) of the Act.

During an investigation, limited disclosure is permitted to:

- Inform the Councillor of the alleged conduct and evidence;
- Share preliminary findings; and
- Notify the Councillor, complainant, and Assessor if the investigation is not commenced or is discontinued.

Additionally, if an investigator issues a formal notice under s 150CK (e.g., a requirement for attendance or to give information), the fact and content of that notice are confidential, and the recipient is prohibited from disclosing it without lawful excuse.

Once the investigation report is received:

A non-identifying summary ((excluding names/identifying details other than the Councillor) must be published ahead of the Council meeting where the matter is discussed.

The full investigation report must be made publicly available within 10 business days of Council's decision, retaining the same privacy protections. (Note: publishing such a summary or full report is not specifically mandated by the Act but is considered best practice for transparency.)

Final decisions must be made in an open Council meeting. If Council's decision differs from the investigator's recommendation, reasons must be recorded in the meeting minutes. A notice of the outcome must be sent to the Assessor, including the decision, reasons, and any orders made.

6. Natural Justice

All investigations into suspected inappropriate conduct by a Councillor must be conducted in accordance with the principles of natural justice including

- **Fair hearing:** The Councillor must be given the opportunity to respond to allegations before any formal findings or actions are taken;
- **Absence of bias:** The investigation must be conducted impartially and without any actual or perceived bias; and
- **Evidence-based decision-making:** All findings and actions must be based on verified evidence, not assumptions or speculation.

To uphold these principles, Council will:



- Provide the Councillor with details of the alleged conduct and supporting evidence;
 - Share preliminary findings before finalising the investigation report;
 - Allow the Councillor to submit evidence or a written response;
 - Consider all submissions and include a summary of any evidence and a full copy of any written submission in the final report; and
- Notify the complainant (if their contact details are known) of the investigation outcome, including where a matter is not commenced or is discontinued.

Note: All referred matters are allegations only and not proven facts.

7. Standard of proof

The civil standard of proof is applied by the Investigator when making a recommendation as to whether a Councillor has engaged in a conduct breach. The civil standard of proof is 'on the balance of probabilities', which means the weighing up and comparison of the likelihood of the existence of competing facts or conclusions. An allegation is sustained 'on the balance of probabilities', if based on the evidence, the Council, is reasonably satisfied that its existence is more probable than not. (For serious allegations or where consequences are significant, Council will apply the civil standard with appropriate caution, requiring clear and cogent evidence before reaching reasonable satisfaction.)

8. Independent Assessor's Referral

Council will receive a referral notice from the Independent Assessor regarding a suspected inappropriate conduct breach by a Councillor. The referral notice will include details of the alleged conduct, any complaint received, the Assessor's reasons for reasonably suspecting a breach, and the facts and circumstances supporting that suspicion.

Independent Assessor must also notify the Councillor directly and attach the referral notice, as required under section 150AD of the Act.

Upon receipt of the referral, Council must deal with the matter in accordance with this investigation policy.

Note: The Independent Assessor must also provide the Councillor with a notice stating that their conduct has been referred to Council, along with a copy of the referral notice.

9. Receipt of Assessor's Referral

Upon receipt of a referral notice from the Independent Assessor regarding a suspected inappropriate conduct breach by a Councillor, the CEO of Council will distribute the referral notice as a confidential document to the Mayor and all Councillors, including the subject Councillor.

Any Councillor who is the subject of the complaint, and any complainant who is also a Councillor, must manage their declarable conflict of interest in accordance with section 5 of the Model Meeting Procedures. This includes notifying the CEO in writing prior to the relevant Council meeting, declaring the conflict during the meeting, and refraining from participating in discussions or influencing decision-makers.

Council must adhere to its Investigation Policy throughout the investigation process.

The Mayor is responsible for managing the investigation and may either conduct the investigation personally or appoint an external investigator. The investigator must prepare a report with recommendations on whether the Councillor engaged in a conduct breach and how the matter should be addressed.

If the Mayor has a conflict of interest, Council must delegate the investigation management role by resolution to the Deputy Mayor. If the Deputy Mayor is also conflicted, another unconflicted Councillor must be appointed by resolution to oversee the investigation.



If Council loses quorum due to conflicts of interest or absences, the matter must be delegated to the Mayor or a standing committee. If the referral concerns the Mayor's conduct, the matter must be delegated to a standing committee.

Council may establish a standing committee under section 264 of the Local Government Regulation 2012 to manage decisions about conduct breach matters delegated by Council resolution. This committee will be responsible for determining matters involving the Mayor's conduct when quorum is lost and may also handle other Councillor conduct matters.

Although section 12(4)(f) of the LGA provides that the Mayor is a member of all standing committees, the Mayor cannot participate in decision-making on matters involving their own conduct due to the conflict of interest. In such cases, the remaining unconflicted committee members will determine the outcome.

The standing committee must be established prior to receiving a referral notice from the Assessor in any situation where Council lacks quorum to decide a matter under sections 150AEA or 150AG of the Act due to conflicts of interest.

10. Investigation

Unless otherwise resolved by Council, the Mayor of Council is responsible for managing investigations into suspected inappropriate conduct by other Councillors. The Mayor may either undertake the investigation personally or engage a suitably qualified external investigator, in accordance with this Investigation Policy. The Mayor is authorised by Council to allocate funds as reasonably required to engage contractors, in line with Council's procurement policy.

If the Mayor determines that an external investigation would better support integrity or impartiality, the CEO must engage a suitably qualified external investigator in accordance with Council's procurement policy.

Where the suspected inappropriate conduct involves the Mayor—either as the subject of the complaint or the complainant—Council must ensure an independent and unbiased process. The matter must be managed by an unconflicted decision-maker, for example by delegating, by resolution, the investigation management to the Deputy Mayor or, if the Deputy Mayor is conflicted, to another unconflicted Councillor or a standing committee established for this purpose.

Investigations must cease and be referred to another agency in the following circumstances:

- If the investigator obtains information suggesting a Councillor may have engaged in misconduct, the investigation must stop. The investigator must notify the Mayor or delegate (if the matter involves the Mayor), and the CEO must refer the information to the Independent Assessor for preliminary assessment.
- If the investigator obtains information suggesting corrupt conduct, the investigation must stop. The investigator must notify the Mayor or delegate (if the matter involves the Mayor), and the CEO must refer the matter to the Crime and Corruption Commission.

11. When the local government may decide not to start, or to discontinue, an investigation.

Upon receipt of a referral notice from the Independent Assessor, the Mayor of Council will manage the investigation process unless delegated by Council resolution. If there are grounds to consider not commencing or discontinuing the investigation, the matter will be listed on the agenda for the next Council meeting.

Council may, by resolution, decide not to start or to discontinue a suspected inappropriate conduct matter. Any such resolution must clearly state the decision and the reasons for it.

The only circumstances in which Council may formally not commence or discontinue an investigation are those outlined in section 150AEA of the LGA.

Note: All matters that are not started or are discontinued must be recorded in the Councillor Conduct Register and reported in the Council's annual report, including the reasons for the decision.



12. Early Resolution

Prior to commencing an investigation, the investigator must assess whether the matter is suitable for early resolution. This assessment should take into account any recommendations provided by the Independent Assessor.

A matter is only appropriate for early resolution if the parties to the matter agree to explore early resolution.

The Investigator may engage an independent person with suitable qualifications or experience to facilitate this process.

If the matter cannot be resolved, the matter will then be investigated as outlined in this investigation policy.

If the matter is resolved prior to investigation, the Investigator will advise the CEO of this outcome. In turn, the CEO will advise the Mayor (if the Mayor is not the investigator) and all Councillors that the matter has been resolved. The CEO will also update the Councillor Conduct Register to reflect this.

13. Timelines

Council is committed to ensuring its Councillor conduct framework is both effective and efficient. Investigators must make all reasonable efforts to complete investigations into suspected inappropriate conduct and provide a report for inclusion on the Council meeting agenda within eight (8) weeks of commencing the investigation, following receipt of the referral from the Independent Assessor.

If the Investigator anticipates that the investigation may exceed the eight (8) week timeframe, the matter must be raised with the Mayor or their delegate (if the Mayor is managing the investigation) to seek an extension. The Council must avoid delays in appointing an investigator to ensure timely resolution of complaints.

14. Assistance for Investigator

If the Mayor, or another Councillor appointed by Council resolution, is acting as the Investigator they may request assistance from Council officers in accordance with section 170A of the Local Government Act 2009 (requests for advice or information), and may engage external contractors or advisors as authorised by Council under its procurement policy and financial delegations.

15. Possible Misconduct or Corrupt Conduct

If during the course of an investigation the Investigator obtains information indicating that a Councillor may have engaged in:

- **Misconduct** – the investigator must immediately cease the investigation and notify the CEO, who must refer the matter to the **Independent Assessor** in accordance with the LGA.
- **Corrupt Conduct** – the investigator must immediately cease the investigation and notify the Chief Executive Officer, who must refer the matter to the **Crime and Corruption Commission (CCC)** in accordance with the *Crime and Corruption Act 2001*.

Where the Independent Assessor or CCC subsequently determines that the matter constitutes inappropriate conduct, it may be referred back to Council for investigation under this policy.

16 Completion of Investigation

Upon completion of an investigation into suspected inappropriate conduct, the investigator must prepare a Preliminary Statement of Findings and provide it to the subject Councillor. The Councillor must be given the opportunity to respond to the preliminary findings, either by providing evidence or a written submission. The investigator must consider any response received and include:

- A summary of the Councillor's evidence (if provided verbally); and



- A full copy of any written submission in the final Investigation Report.

Before Council makes its decision under s 150AG, Council must prepare and publish a *Summary of the Investigation Report* in accordance with **s 150AFA** of the LGA (with required redactions). The *Investigation Report* itself must contain sufficient detail to assist Council's decision. The summary must include items prescribed in s 150AFA(4).

- A summary of the investigation process;
- Details of any witnesses interviewed;
- A summary of documents or other evidence obtained;
- A statement of the relevant facts established;
- Confirmation that the subject Councillor was given the opportunity to respond to the complaint and evidence;
- The investigator's findings;
- A summary of any relevant previous disciplinary history;
- Recommendations regarding how the conduct should be dealt with; AND
- A record of investigation costs incurred.

The report must be presented to a Council meeting for consideration. Council may resolve to close the meeting to discuss the investigation report under s 254J(3)(j) LGR (investigation report under Ch 5A), or s 254J(3)(f) LGR (matters directly affecting health/safety), as applicable. No resolutions may be made while the meeting is closed (s 254J(6)). All resolutions must occur in open session.

After Council's decision under s 150AG, Council must make the *full Investigation Report* publicly available in accordance with **s 150AGA** of the LGA (with the redactions mandated by s 150AGA (2))

Council (excluding the subject Councillor and the complainant, if also a Councillor) must consider the investigator's findings and recommendations and determine whether inappropriate conduct has occurred. If so, Council must decide what action to take under section 150AH of the LGA.

Any resolution regarding disciplinary action must be made in open session and recorded in the minute, nothing that no resolutions may be made while the meeting is closed (See s 254J (6) LGR

Public Summary Requirements

A Summary Investigation Report, including the Preliminary Statement of Findings and a summary of the investigation outcome, must be made publicly available before the Council meeting at which the matter is to be considered. This must occur:

- By 5:00 PM on the next business day after notice of the meeting is issued to Councillors; or
- At the time the meeting agenda is made publicly available, whichever is earlier.

The summary must include:

- The name of the Councillor whose conduct was investigated.
- A description of the alleged conduct;
- A statement of the facts established by the investigation;
- A description of how natural justice was afforded to the Councillor;
- A summary of the investigation findings;
- Any recommendations made by the investigator;



The following information must **not** be made publicly available:

- The name or identifying details of the complainant or any other person (other than the Councillor), unless the complainant is a Councillor or the CEO and their identity was disclosed at the meeting;
- Information that could reasonably identify any person who provided information during the investigation (e.g. interviews, statements, affidavits); and
- Any other information that Council is entitled or required to keep confidential under law.

17 Making a decision about the investigation

Council must make a decision by resolution as to whether the subject Councillor has engaged in a conduct breach.

During debate, the subject Councillor—who holds a declarable conflict of interest—must declare that conflict. Eligible Councillors (those without a conflict) may, by resolution, permit the subject Councillor to remain in the meeting to assist with the decision-making process by answering questions through the Chairperson. The resolution may include conditions, such as requiring the subject Councillor to leave the meeting room, including any public areas, during the vote on whether a breach occurred and any penalty to be imposed.

If the complainant is also a Councillor, they must follow the declarable conflict of interest procedures outlined in section 5 of the Model Meeting Procedures.

If Council loses quorum due to conflicts of interest or other reasons, the matter must be delegated in accordance with section 257 of the LGA or deferred to a future meeting when quorum is restored.

If Council resolves that the Councillor has engaged in a conduct breach, Council—excluding the subject Councillor and the complainant (if also a Councillor)—must consider the findings and recommendations of the investigation report and determine what action to take under section 150AH of the LGA.

Following the decision, the investigation report must be made publicly available:

On or before the time prescribed by regulation, or by 5:00 PM on the tenth business day after the meeting, or

At the time the meeting minutes are made publicly available.

The publicly released report must not include:

The name or identifying details of the complainant or any other person (except the subject Councillor), even if they have a declarable conflict of interest

Information that could reasonably identify any individual involved in the investigation

Any submission, affidavit, or transcript of oral evidence from individuals other than the Councillor

Any information that Council is legally entitled or required to keep confidential, such as material protected by legal professional privilege or public interest disclosures under the *Public Interest Disclosure Act 2010*

The name of the complainant may only be included in the public report if:

The complainant is a Councillor or the Chief Executive Officer of Council, and

Their identity was disclosed during the Council meeting at which the investigation report was considered.

18 Disciplinary Action Against Councillors

If the Council determines that a Councillor has engaged in inappropriate conduct, it may:

- order that no action be taken against the Councillor; or
- make an order outlining action the Councillor must undertake in accordance with section 150AH(1)(b) of the LGA.



19 Notice of Investigation outcome

Following the conclusion of the investigation and Council's decision, the CEO must provide written notice of the outcome to the complainant, in accordance with the requirements of the LGA.

20 Councillor Conduct Register

The CEO must ensure all decision relating suspected inappropriate conduct of a Councillor/s are required to be entered into the Councillor Conduct Register.

Where a complaint has been resolved through early resolution (outlined under section 10 of this policy), the register must be updated to reflect that the matter has been resolved without formal investigation.

21 Expenses

Local Governments must pay the expenses associated with the investigation of suspected conduct breach of a Councillor including any costs of:

- an independent investigator engaged on behalf of Council;
- travel where the investigator needed to travel to undertake the investigation, or to interview witnesses; and
- obtaining legal or expert advice.

Note: Council may order the subject Councillor to reimburse them for all or some of the costs arising from a sustained conduct breach. These costs would usually only relate to obtaining legal or expert advice and reasonable costs for the investigator engaged to undertake the investigation. Any costs incurred by complainants, or the subject Councillor will not be met by council. Where possible, costs should be kept to a reasonable rate taking into consideration the costs for more serious matters dealt with by, for example, the Councillor Conduct Tribunal or other jurisdictions who deal with conduct matters.

22 Legal Parameters

- Local Government Act 2009 (QLD)
- Local Government Regulations 2012 (QLD)
- Crime and Corruption Act 2001
- Public Interest Disclosure Act 2010 (QLD)
- Information Privacy Act 2009 (QLD)
- Right to information 2009 (QLD)
- Human Rights Act 2019 (QLD)

23 Associated Documents

- Queensland Councillor Code of Conduct.
- Model Meeting Procedures (Queensland Government)
- Privacy Act Policy
- Administrative Complaints and Conduct Breach Policies

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