



Councillor conduct complaint examples

for Queensland local governments

Purpose

This document is aimed at providing working examples of the types of conduct of local government councillors that are contrary to the Code of Conduct for Councillors in Queensland.

Complaints about councillor conduct

A complaint about the conduct of a councillor must be submitted to the Independent Assessor (IA), who will assess the complaint and determine the category of the allegation.

In order of least to most serious, the categories of complaint are *unsuitable meeting conduct*, *inappropriate conduct*, *misconduct*, and *corrupt conduct*.

Unsuitable meeting conduct

Under section 150H of the *Local Government Act 2009* (the LGA), any conduct by a councillor (including the councillor who is chairing the meeting) that is contrary to the standards of behavior in the Code of Conduct, but not inappropriate conduct, misconduct or corrupt conduct, and that occurs within a meeting of council, is dealt with as unsuitable meeting conduct.

Examples of unsuitable meeting conduct by a councillor may include:

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

Note: Chairpersons of meetings are carrying out a statutory responsibility under the LGA to manage and lead the meeting. As such, where a chairperson behaves inappropriately in a meeting this involves a serious breach of the trust placed in them as the chairperson of the meeting and may be dealt with as misconduct (see below).

Inappropriate conduct

Under section 150K of the LGA, any conduct by a councillor that is contrary to standards of behaviour in the Code of Conduct or a policy, procedure or resolution of a council and is not unsuitable meeting conduct, misconduct or corrupt conduct is dealt with as inappropriate conduct.

Examples of inappropriate conduct of a councillor may include:

- a councillor publicly makes derogatory comments about staff
- a councillor speaks to the media on behalf of council when not properly authorised under a council policy
- a councillor fails to comply with an order made by the chairperson of a meeting to leave and stay away from the place at which the meeting is being held
- a councillor has been reprimanded three times within 12 months for unsuitable meeting conduct.



Misconduct

Councillors are required to comply with all laws that apply to local governments. This includes refraining from engaging in misconduct.

Examples of misconduct of a councillor may include:

- a councillor knowingly provides false or misleading information during a meeting of the council in order to affect a decision (though could also be corrupt conduct)
- a councillor releases private information about a member of the community acquired as a councillor
- a councillor directs a council employee (other than the mayor directing the chief executive officer or, in the case of Brisbane City Council, senior contract employees) to perform a duty
- a councillor provides confidential information to the media that came from a closed meeting of council
- a councillor has a reasonable suspicion that another councillor has a material personal interest or conflict of interest in a matter and is participating in a decision on that matter in a meeting, but does not immediately inform the chairperson of the meeting of their suspicion
- a councillor fails to pay a fine ordered by the Councillor Conduct Tribunal
- a councillor sought assistance or advice from an officer that is not in accordance with council's acceptable request guidelines
- a councillor uses a council vehicle for private use that is not authorised by council's expenses policy (though could also be corrupt conduct).

Corrupt conduct

Corrupt conduct is defined by, and dealt with, under the *Crime and Corruption Act 2001*¹ and must be referred to the Crime and Corruption Commission (CCC).

Examples of corrupt conduct of a councillor may include:

- a councillor fails to immediately inform of a material personal interest in a council meeting
- a councillor engages in fraud against the council
- a councillor uses information acquired in their role as a councillor to gain a financial benefit for themselves or someone else
- a councillor directs a local government employee to gain a benefit or cause a detriment to the councillor or another person
- a councillor engages in the act of stealing from the local government.

The IA has entered into a section 40² arrangement with the CCC which allows the IA to commence investigation into some allegations of corrupt conduct and report the matters to the CCC on a monthly basis, to provide the CCC with the opportunity to take over an investigation; should the CCC consider that appropriate.

When the OIA deals with corrupt conduct which is a statutory offence under the LGA, the IA has the discretion to deal with the matter either as misconduct or as a criminal prosecution of the statutory offence. For an understanding of when the IA will deal with corrupt conduct as misconduct refer to the IA's prosecution policy at

www.oia.qld.gov.au/resources/oia/policy/guidelines-for-commencing-a-prosecution-under-lga.pdf.

For more information about the definition of 'corrupt conduct', please see the CCC's fact sheet at www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/Changes-to-the-CC-Act-2001-section-15-Factsheet-2019.pdf

¹ Section 15, *Crime and Corruption Act 2001*

² Section 40, *Crime and Corruption Act 2001*



More information

The Department of Local Government, Racing and Multicultural Affairs website provides further information and resources for councillors.

The department also provides and facilitates training for councillors and local government 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 the Local Government Division of the department.

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