



Councillor conduct and complaints

Mayors and councillors must act with integrity and comply with legislation and the standards of behaviour set out in the *Code of Conduct for Councillors in Queensland*. Legislation also establishes requirements about matters including registers of interests, dealing with conflicts of interest, and how councillors use information obtained as part of their role.

In order of least to most serious, the categories of a conduct not complying with a councillor’s responsibilities are *unsuitable meeting conduct*, *inappropriate conduct*, *misconduct*, and *corrupt conduct*:

Unsuitable meeting conduct

Behaviour contrary to the Code of Conduct that occurs within a meeting of council, including committee meetings.

Examples:

A councillor behaves in a council meeting in a way that intimidates, bullies or harasses a member of the community, another councillor or a local government 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.

Inappropriate conduct

Other behaviour contrary to the Code of Conduct or a policy, procedure or resolution of the council.

Examples:

A councillor makes derogatory comments about staff publicly

A councillor speaks to the media on behalf of council when not properly authorised under a council policy

Contravening an order from a meeting chairperson to leave the meeting and stay away from the place at which the meeting is being held

Repeated unsuitable meeting conduct that has led to orders from a meeting chairperson on three occasions within a year

Misconduct

A number of more serious breaches of requirements under local government legislation are classed as misconduct.

- Conduct affecting the honest and impartial performance of the councillor's functions
- A breach of trust placed in the councillor, either knowingly or recklessly
- Misuse of information or material acquired
- A release of information confidential to the council
- Giving a direction to a council employee (other than from the mayor directing the chief executive officer, or in the case of Brisbane City Council senior executive employees)
- Failure to comply with a council's acceptable requests guidelines regarding requests of council employees
- Failure to report a suspected conflict of interest of another councillor
- Failure to comply with an order (including paying a fine) made by the council or the Councillor Conduct Tribunal
- Failure to comply with the council's reimbursement of expenses policy
- Use of a council vehicle for private purposes that is not authorised by council's expenses policy (can also be corrupt conduct)
- Repeated inappropriate conduct that has led to the councillor being disciplined on three occasions within a year, or if a councillor re-engages in conduct following a previous order of council
- Inappropriate conduct by a chairperson while managing or leading a meeting (including a committee meeting)

Examples:

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 provides confidential information to the media that came from a closed meeting of council

Corrupt conduct

Very serious breaches of requirements, defined under section 15 of the *Crime and Corruption Act 2001* as conduct that:

- adversely affects (or could adversely affect) the performance of the councillor's responsibilities or the performance of the council **AND**
- involves the performance of responsibilities in a way that is not honest or impartial, or
- involves a breach of the trust placed in the councillor either knowingly or recklessly, or
- involves the misuse of information acquired in connection with the councillor's responsibilities **AND**
- if proven would be a criminal offence.

The following matters can be corrupt conduct, depending on the circumstances:

Failure to declare or properly manage a material personal interest

Failure to update register of interests within 30 days of interest arising

Taking retaliatory action or reprisal against another councillor or a council employee

Attempting to influence another council decision maker if the councillor has a material personal interest or conflict of interest

Making a frivolous or other improper complaint against another councillor

Providing false or misleading information to the OIA or the Councillor Conduct Tribunal

Using council information to gain a benefit or cause a detriment

Directing a council employee in order to gain a benefit or cause a detriment

Prohibited conduct by a councillor in possession of inside information

Engaging in fraud against the council or steals from council

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.

How to raise a complaint

The best way of raising a complaint depends on the type of conduct that you suspect may have been committed.

Unsuitable meeting conduct	Raise with the meeting chairperson, who will deal with the matter in the meeting
Inappropriate conduct	Report to the Office of the Independent Assessor
Misconduct	Report to the Office of the Independent Assessor
Corrupt conduct	Report to the Crime and Corruption Commission, or to the Office of the Independent Assessor in the first instance for assessment

You can make or refer a complaint to the OIA via an online form, in person if you make an appointment, or by phone, email or post. The OIA aims to conduct an assessment of complaints within 21 working days.

You can report suspected corruption to the CCC via an online form, phone, email or post.

Complaints can be made to the OIA or the CCC anonymously. Visit www.oia.qld.gov.au or www.ccc.qld.gov.au/complainants for more information.

If the OIA receives a complaint against you

If the OIA receives a complaint about you as a mayor or councillor, it will conduct an initial assessment and then advise you in writing. The OIA will also advise the complainant.

The identity of a complainant will be protected unless disclosure is required for an investigation or prosecution. In this case, the OIA will discuss the matter with the complainant.

If OIA decides that further action is required, it will manage the complaint as follows:

Inappropriate conduct	The OIA will refer the matter to the council to investigate and decide, and may make a recommendation about how to do this.
Misconduct	The OIA will investigate the matter, and will give subject councillors the opportunity to respond to any allegations. If the OIA then suspects misconduct, it will make an application for the matter to be heard by the Councillor Conduct Tribunal.
Corrupt conduct	The OIA can start an investigation into some allegations of corrupt conduct and report the matters to the CCC on a monthly basis. The CCC can take over an investigation should it consider that appropriate. The OIA has discretion to deal with corrupt conduct either by following the process for misconduct above or through a criminal prosecution.

Reprisal action

A mayor or councillor who is found to have threatened or taken actual action against a complainant can be fined or imprisoned for up to two years.

Frivolous and vexatious complaints

Complaints that are vexatious or not made in good faith may be dismissed, and the making of the complaint may also be an offence. If a complaint is dismissed as being frivolous, it is an offence for the same person to make the same or a similar complaint again. It is also an offence to make or ask someone else to make a vexatious, mischievous, reckless or malicious complaint.

More information

- Visit www.dlgrma.qld.gov.au/accountability
- Contact the department's southern regional office on 3452 6762 or northern regional office on 4758 3472
- Visit the Office of the Independent Assessor website at www.oia.qld.gov.au or phone 1300 620 722