



Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019

**Information paper on recent changes to local government legislation and
future amendments under consideration**

November 2019



Acronyms and glossary

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| BCC | Brisbane City Council |
| CEO | Chief Executive Officer |
| COI | Conflict of interest |
| DLGRMA | Department of Local Government, Racing and Multicultural Affairs |
| ECQ | Electoral Commission of Queensland |
| LGRC | Local Government Remuneration Commission |
| OIA | Office of the Independent Assessor |
| ROI | Register of interests |
| RTI | Right to Information |
| Third parties | Entities in an election that participate in the electoral process by publishing electoral material or making a donation |



Background: rolling local government reforms

The Queensland Government is delivering a rolling reform agenda in the local government sector. The reforms further strengthen the transparency, accountability and integrity measures that apply to the system of local government in Queensland.

Several inquiries including the Crime and Corruption Commission's Operation Belcarra have identified a range of opportunities to further enhance the quality of local government in Queensland through reform, including the way councillors are elected.

The Belcarra Report, finalised in October 2017, found that good government requires elections to be held on a level playing field, with equal participation available to all. It also stressed the need for complete transparency in elections.

This document begins with a high-level summary of the rolling reforms, for background and context, and then provides more detail on the proposed local government amendments within the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019.

Legislative reform principles

- **Integrity:** ensuring current and future councillors are fully informed about their obligations as candidates and councillors, and requiring councillors to uphold the highest levels of honesty and impartiality when making decisions in the public interest
- **Transparency:** clarifying and strengthening requirements before, during and after an election to enable voters to better know who they are voting for and to reduce corruption risks, and ensuring that the community can understand why councils make the decisions they do in the public interest
- **Diversity:** promoting councils being representative of their communities and making it easier for potential candidates to nominate and campaign
- **Consistency:** aligning local government election requirements with state and federal electoral processes and aligning requirements between Brisbane City Council (BCC) and other local governments

Belcarra stage 1

Following the Belcarra Report, the government assessed a number of changes as requiring priority, with a first stage of legislative changes under the *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018*.

Stage 1 changes:

- prohibition of donations from property developers
- new regime for dealing with conflicts of interest (COIs).

Belcarra stage 2

Following consultation with stakeholders and review by the Economics and Governance Parliamentary Committee, on 16 October 2019 the Queensland Parliament passed the Local Government Electoral (Implementing Stage 2 of Belcarra) and other Legislation Amendment Bill 2019, which received Governor's assent on 30 October 2019.

As a result of consultation with stakeholders, the government planned various provisions of the stage 2 reforms to come into effect at different scheduled dates to allow time for their successful implementation.



Changes in effect from the Governor's assent of the legislation on 30 October 2019:

- mandatory *So you want to be a councillor?* training for election candidates
- transparent dedicated candidate bank accounts and financial returns
- new restrictions on decisions during the election period (i.e. caretaker period).

In effect 18 November 2019:

- Right to Information laws to cover Brisbane City Council civic cabinet meetings
- expanded councillor rights to access council information
- clarified responsibilities for councillors in preparing council budgets
- changes to mayoral powers to direct CEOs and senior executive officers and the appointment of senior executive officers.

In effect 20 January 2020:

- improved real-time donation disclosures
- improved disclosures of real donation and gift sources
- real-time expenditure disclosures.

In effect 30 March 2020:

- the Office of the Independent Assessor (OIA) to investigate councillor complaints for Brisbane City Council.

Refer to the [Stage 2 local government reforms information paper](#) for more detailed information on each of the stage 2 changes.

Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019

The Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 has now been introduced into the Legislative Assembly and includes amendments relating to state elections, Ministerial conduct, and conduct in local government.

The Bill has been referred to the Economics and Governance Parliamentary Committee to conduct an inquiry. More information regarding the making of submissions, public hearings and the inquiry in general can be found on the Committee's website at www.parliament.qld.gov.au/work-of-committees/committees/EGC.

Changes in the Bill affecting local government include:

- new register of interests requirements
- new and clarified conflict of interest requirements
- new requirements for political advisors
- provisions relating to the dissolution of a local government and administrators
- changes for filling councillor and mayor vacancies.

In addition to the Bill there are also a number of future regulatory amendments required:

- improvements to transparency through changes to requirements for meeting agendas, minutes, informal meetings, and when matters can be considered in closed meetings.

See pages 6-12 below for more detailed information on each of the proposed changes contained in the Bill and additional future regulatory amendments.



Finance reforms

In April 2019, the Department of Local Government, Racing and Multicultural Affairs released a paper proposing changes for governance, budget and other financial matters for local government, available at www.dlgrma.qld.gov.au/resources/publication/reform/proposed-lg-regulatory-reforms.pdf.

The proposals in part reflect recommendations and suggestions from the Queensland Audit Office, Queensland Law Society, Ombudsman, and the Local Government Association of Queensland.

Finance proposals include:

- councils being required to consult with the community on their budgets (proposed to commence for the 2021-22 budget year)
- strengthening the requirements on the use of council-controlled entities
- clarification of the provisions for the sale of land for rate arrears.

Following initial consultation with stakeholders, the department expects to release an updated information paper soon for further public comment.

More information

The Queensland Government is committed to ensuring the community and stakeholders are aware of the legislated and proposed reforms and their impacts.

The Department of Local Government, Racing and Multicultural Affairs (DLGRMA) is available to answer questions on (07) 3452 6747 and by email to lgreforms@dlgrma.qld.gov.au.

You can also visit the department's website at www.dlgrma.qld.gov.au/lgreform for more information including resources and fact sheets.



Electoral and Other Legislation (Accountability, Integrity and Other Matters) Bill 2019

Below is the summary of the local government reforms within the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019, which is currently under consideration. This includes proposed changes to the *Local Government Act 2009*, *City of Brisbane Act 2010* and *Local Government Electoral Act 2011*.

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| <p>Conflicts of interests, ordinary business</p> | <ul style="list-style-type: none"> • Planning schemes – ordinary business exemption to apply only to the adoption of new schemes • In more localised planning amendments, councillors with COI to disclose COI and deal with them under existing requirements |
| <p>Clarification of Conflicts of interest (COI) requirements</p> | <p>COI provisions do not apply to ordinary business matters (e.g. rates and charges, planning schemes applying to whole local government area, budgets, remuneration of councilors) or where the COI arises due to a councillor being nominated by the council to a board of a corporation or association. However, a council may voluntarily comply with the provisions for a declarable conflict of interest.</p> <p><u>Prescribed COIs</u> Councillors with a prescribed COI in a matter are prohibited from participating in a decision on the matter. (Replaces material personal interest provisions).</p> <p>Prescribed COIs relate to:</p> <ul style="list-style-type: none"> • gifts or donations totalling more than \$2000 to a councillor, group or party (if the gift is an electoral donation) or to councillor or close associate (if other gift or sponsored hospitality benefit) during the councillor’s current or previous term from an entity with an interest in a matter before council • CEO employment matters (e.g. appointment, discipline, and remuneration) if the CEO or applicant is a close associate of a councillor • an application for a licence, permit, registration or other approval for the councillor or close associate or an entity which the councillor or close associate has a financial interest in or has made a submission about • a contract between the council and the councillor or close associate or an entity which the councillor or close associate has a financial interest in. <p>NOTE: A close associate includes a spouse, parent, child, sibling, partner or employer of the councillor, an entity for which the councillor is an executive officer or board member, or an entity in which the councillor or a close associate has a more than 5% interest. A councillor’s parent, child or sibling is a close associate only where the councillor knows or ought to reasonably know about their involvement in the matter.</p> |



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| | <p><u>Offences</u></p> <p>The following are serious integrity offences with up to two years imprisonment applying:</p> <ul style="list-style-type: none"> • a councillor with a prescribed conflict of interest in a matter, with intent to dishonestly gain or benefit or cause a detriment for themselves or another person, who participates in a decision relating to the matter • a councillor, with intent to dishonestly gain a benefit for the councillor or another person, who fails to inform a meeting or notify the chief executive officer of the prescribed conflict of interest as required under those subsections. <p>A councillor with a prescribed conflict of interest who fails 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 while the matter is discussed and voted on, commits an integrity offence with a penalty of up to 200 penalty units or two years imprisonment (current offence).</p> <p>NOTE: where there is no intent to gain a benefit or no knowledge element, the conduct is prescribed as misconduct.</p> <p><u>Declarable COIs</u></p> <p>Declarable COIs are when a councillor has, or could be reasonably presumed to have, a conflict between their or a related party's interest in a matter and the public interest that could lead to a decision being made that is not in the public interest.</p> <p>NOTE: a related party of a councillor is a spouse of the councillor, a parent, child, sibling or partner of the councillor, an employer of the councillor, an entity for which the councillor is an executive officer or board member or a person who has a close personal relationship with the councillor. A parent, child or sibling of the councillor or their spouse is a related party only where the councillor knows or ought to reasonably know about their involvement in the matter.</p> <p>Exempt interests that do not give rise to a declarable COI include:</p> <ul style="list-style-type: none"> • non-board memberships in community or sporting associations • religious beliefs • membership in political party • having been a student, or being a parent of a student, at an educational facility • where the benefit or loss that a councillor or a related party might receive is no greater than the benefit or loss that a significant proportion of persons in the local government area might receive • the interest is gifts, loans or sponsored hospitality totalling less than \$500 in the councillor's current or previous term. |
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| | <p>If a councillor with a declarable COI in a matter does not voluntarily vacate the meeting, the other councillors will decide whether the councillor can participate in a decision on the matter and any conditions on their participation.</p> <p>If a councillor realises before a meeting that they have a COI, they must provide details as soon as practicable to the CEO and at the next meeting. If they first realise during a meeting, they must immediately inform the chair of the meeting. The COI details must be recorded in the meeting minutes.</p> <p><u>Offences</u> A councillor who may participate, or is participating, in a decision about a matter and becomes aware that they have a declarable conflict of interest and, with intent to dishonestly gain a benefit or cause a detriment for the councillor or another person, fails to stop participating in the decision and inform the meeting or the chief executive officer of the interest as required under those subsections commits a serious integrity offence and faces up to two years imprisonment.</p> <p>A councillor who fails to comply with a decision of eligible councillors that they must not participate in a decision or must leave a meeting, or any conditions on the participation imposed by the eligible councillors, commits an offence with a penalty up to 100 penalty units or a one-year imprisonment (current penalty).</p> <p>NOTE: where there is no intent to gain a benefit or no knowledge element, the conduct is prescribed as misconduct.</p> |
| Registers of interests | <ul style="list-style-type: none"> • Within 30 days of their election councillors must submit new register of interests for themselves and any specified related persons, or they will cease to be a councillor • Councillors must notify of any changes to their interests within 30 days • Councillors must provide an update to their register within 30 days of end of financial year <p>A councillor, with intent to dishonestly gain a benefit for the councillor or another person, commits a serious integrity offence and could face up to two years imprisonment (indictable offence under the Criminal Code) if they:</p> <ul style="list-style-type: none"> • knowingly fail to inform the chief executive officer, in the approved form, of the particulars of the new interest or change of interest within 30 days after the interest arises or the change happens, or • knowingly fail to inform the chief executive officer, in the approved form, whether a register of interests for the councillor or a person related to the councillor is correct or the particulars of an interest to be recorded in the register of interests or a change to an interest recorded in the register of interests, or |



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| | <ul style="list-style-type: none"> • give the chief executive officer a register of interests or information relating to a register of interests that the councillor knew to be false or misleading in a material particular. <p>NOTE: where there is no intent to gain a benefit or no knowledge element, the conduct is prescribed as misconduct.</p> |
| Political and support staff for councillors | <ul style="list-style-type: none"> • New code of conduct for political and support staff to be made by the Minister for Local Government • Councillors can direct administrative assistants consistent with guidelines about administrative assistance • Councils must make a resolution to create political staffer positions • Political staff are appointed by contract for the councillor's term, and cease if councillor ceases to be a councillor, unless re-appointed by new councillor • Political staff required to submit registers of interests • Political staff subject to offences about dishonesty matters and about the use of information obtained in their role • Costs of political staffers to be reported (e.g. in annual report) |
| BCC senior contract employees | <ul style="list-style-type: none"> • BCC councillors cannot be involved in the appointment of contract employees except only for CEO and senior executive employees who report directly to the CEO |
| Dissolution of a local government | <ul style="list-style-type: none"> • The term of an administrator may expire at the conclusion of a quadrennial local government election (rather than require an 'election') • Provision for short-term absences of an administrator • State government can recover the costs of an Interim Management Committee from the local government |
| Councillor vacancies | <ul style="list-style-type: none"> • Mayors: <ul style="list-style-type: none"> - in first 36 months: by-election - last 12 months: councillors appoint a mayor • Councillors: <ul style="list-style-type: none"> - in first 36 months: <ul style="list-style-type: none"> ○ for single-councillor division: by-election ○ for multi-member or undivided council: appoint next candidate - last 12 months: appointment by council - last 3 months: may leave vacant |
| Technical amendments | Technical amendments to assist ECQ run elections |



Additional proposed regulation changes

Below is a summary of future changes to local government regulations also being considered for implementation, as required to support the above changes to legislation.

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| Registers of interests | <ul style="list-style-type: none"> • Any donations made of \$500 or greater must be recorded • Gifts between \$500 and \$2000 need only to be recorded for two terms • Electoral gifts do not need to be recorded • Clarification that being a member of a board of a community organisation needs to be declared but not memberships • Clarification of when interests arising from official duties are not included in register • Only councillors' current interests to be published on the local government website • Councils to keep ROIs for 10 years after councillor's office or officer employment ends |
| Agendas | <ul style="list-style-type: none"> • Agenda and associated reports and other documents to be published on council website by 5pm on the day following the day it is made available to councillors • Reports to be considered at the meeting provided after the after the agenda is sent are to be published on council website as soon as practicable after they are made available to councillors • Confidential reports or papers exempt from publication on the website |
| Minutes | <ul style="list-style-type: none"> • Committee meetings must have minutes • Unless previously made available with the agenda, minutes must include reports and other associated information used in the meeting • Unconfirmed minutes to be published five business days after the end of the meeting • Confirmed minutes to be published immediately after the meeting at which they are confirmed • Clarification that a councillor can confirm the meeting minutes despite having a conflict of interest in a matter discussed or decided in the meeting and regardless of whether they participated in that matter • Confidential reports or papers to be exempt from publication on the council website |
| Closed meetings | <p>Tightening of topics that can be discussed in closed session as follows:</p> <ul style="list-style-type: none"> • REMOVE: <ul style="list-style-type: none"> - appointment, dismissal or discipline of employees other than the CEO - contracts proposed to be made - actions or decisions under the Planning Act 2016 - other business where public discussion may prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage • ADD: <ul style="list-style-type: none"> - a council's position in a negotiation • RETAIN: <ul style="list-style-type: none"> - legal advice obtained by a council - matters that directly affect the health and safety of an individual or group |



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| <p>Informal meetings</p> | <ul style="list-style-type: none"> • Define informal meetings as meetings of councillors, regardless of whether other persons may attend: <ul style="list-style-type: none"> - that are organised by decision of the local government, a committee of the local government, the mayor or the chairperson of a committee of the local government - at which matters that may result in a decision of the local government are discussed, and - that is not a local government meeting. • Examples of informal meetings include: <ul style="list-style-type: none"> - a site visit for a development application under the Planning Act - a workshop to develop the local government’s budget - a briefing session on issues to be discussed at a local government meeting • Local Governments must prepare and adopt a policy about informal meetings that provides for: <ul style="list-style-type: none"> - a notice of each informal meeting to be made publicly available before the meeting is held - the circumstances in which a councillor is expected to attend an informal meeting, and - monthly reports to be presented at a meeting of the local government about informal meetings held during the previous month • A councillor who has a prescribed COI cannot attend an informal meeting for the agenda item which discusses the matter in question. • A councillor who has a declarable COI in a matter to be addressed in an informal meeting cannot attend the informal meeting for that agenda item unless the local government has previously approved their participation in that matter under the provisions of the legislation. |
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