



Blackall-Tambo

Regional Council

Councillor Code of Conduct Policy

Policy Number: Stat 4	Effective Date: 19/06/2024
Version Number: Eight	Review Date: 18/06/2026
Policy Compiled by: Chief Executive Officer	
Policy Approved by: Chief Executive Officer	

PURPOSE

This Code of Conduct sets out the standards of behaviour expected of Councillors and Mayor of the Blackall-Tambo Regional 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.

BACKGROUND

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

THE LOCAL GOVERNMENT PRINCIPLES AND VALUES

The Act 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.
5. Ethical and legal behaviour of Councillors and Local Government employees.

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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
 - 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
 - Accept and value differences of opinion.
4. In exercising good governance, Councillors are committed to:
 - The development of open and transparent processes and procedures
 - 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
 - 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.

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STANDARDS OF BEHAVIOUR

This Code of Conduct sets out the standards of behaviour applying to all Councillors in Queensland. 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.

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

For example, Councillors will, at a minimum:

- 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 given.
- Respect and comply with all policies, procedures and resolutions of Council.
- Use only official Council electronic communication accounts (e.g. email accounts) when conducting Council business.
- Report any suspected wrongdoing to the appropriate entity in a timely manner.
- 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).
- Cooperate with any investigation being undertaken by the Local Government or other entity.
- Awareness of responsibilities imposed on Councillors by the *Local Government Act 2009*, and the relevant regulations.

Treat people in a reasonable, just, **RESPECTFUL** and non-discriminatory way

For example, Councillors will, at a minimum:

- Treat fellow Councillors, Council employees and members of the public with courtesy, honesty and fairness



- Not use abusive, obscene or threatening language (either oral or written) or behaviour towards other Councillors, local government employees or members of the public.
- Have proper regard for other people's rights, obligations, cultural differences, safety, health and welfare.

Ensure conduct does not reflect adversely on the **REPUTATION** of Council

For example, Councillors will, at a minimum conduct themselves in the following manner:

- 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
- When making public comment, clearly state whether they are speaking on behalf of Council or expressing their personal views
- At all times strive to maintain and strengthen the public's trust and confidence in the integrity of the local government and avoid any action which may diminish its standing, authority or dignity.

CONSEQUENCES OF FAILING TO COMPLY WITH THE CODE OF CONDUCT

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 investigation and disciplinary act under the Act if found to have engaged in a conduct breach, misconduct, or corrupt conduct.

A complaint about the conduct of a Councillor must be submitted to the Office of the Independent Assessor (OIA) within one year from when the conduct occurred, or within six months after the conduct come to the knowledge of the complainant but within two years after the conduct occurred.

These time limitations do not reflect the fact that the OIA can look at a matter received late due to exceptional circumstances.

There is no time limit for reporting of corrupt conduct.

A preliminary assessment process must be undertaken by the Independent Assessor before progressing conduct matter. After the preliminary assessment the Independent Assessor must decide:

- To dismiss a complaint, notice or information; or
- Take no further action to certain circumstances; or
- Refer a suspected conduct breach to a local government for investigation; or
- Investigate the conduct of the councillor; or
- Not deal with the complaint and give the councillor counselling or recommend training or mediation.



If, after the preliminary assessment the Independent Assessor refers the complaint to the appropriate entity to deal with, the entity to which they refer the matter will depend on the category of the conduct complaint (conduct breach, misconduct, and corrupt conduct).

The Independent Assessor may take no further action about the conduct of a councillor, following an investigation, if satisfied that taking further action would not be in the public interest.

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 with by the Chairperson of the meeting. It is important that the Chairperson deal with matters of unsuitable meeting conduct immediately, and as efficiently and effectively as possible so that Council can continue with their business or making effective decisions in the public interest.

Unsuitable meeting conduct by the chairperson will be dealt with by the councillors present at the meeting who will decide by resolution if the chairperson has engaged in unsuitable meeting conduct and if so how to deal with the matter. The councillors may make an order to reprimand the chairperson.

CONDUCT BREACH

Under the Act, any conduct by a Councillor that is contrary to the 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 a conduct breach. The code of conduct applies to conduct directly relevant to a councillors official duties.

The conduct of a Councillor is also a conduct breach if the conduct contravenes an order by the Chairperson of a meeting of Council for the Councillor to leave the meeting, or is a series of 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 local government is not required to notify the

OIA of these matter and may deal with the conduct under section 150AG of the *Local Government Act 2009*.

The Independent Assessor is responsible for conducting a preliminary assessment of the complaint about the conduct of a councillor including allegations of suspected conduct breach, excluding those arising from unsuitable meeting conduct, referred to the Independent Assessor.

Following the preliminary assessment, if the Independent Assessor has decided not to dismiss, the Independent Assessor must refer a suspected conduct breach to the local government to deal with.

The local government may decide not to start, or to continue investigation if:

- The complainant withdraws the complaint or consents to the investigation not being started or being discontinued; or
- The complainant does not comply with a request by the local government for further information; or



- There is insufficient information to investigate the conduct; or
- The councillor has vacated office (if re-elected within a 12 month period, the investigation must be recommenced).

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 (CCT) for the matter to be heard and determined. If the councillor is found to have engaged in misconduct the CCT may decide to take disciplinary action it considers appropriate against the councillor. The Independent Assessor may, at any time before the application is decided by the CCT, withdraw an application in whole or in part if satisfied the withdrawal is in the public interest.

If the office of a councillor is vacated before an application is decided, the Independent Assessor must withdraw the application.

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:
 - non-compliance with an Act by a councillor
 - misuse of information or material acquired by the Councillor, in 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
- Is:
 - a contravention of an order of the local government or CCT
 - a contravention of a policy of the local government about the reimbursement of expenses
 - Failure to notify particular conduct to the OIA
 - A failure to declare a conflict of interest or appropriately deal with a prescribed conflict of interest or a declarable conflict of interest in a meeting
 - Participation in a decision when a prescribed or declarable conflict of interest exist without approval of the other councillors in the matter
 - A failure to report another councillor's potential conflict of interest in a matter in a meeting if the councillor reasonably believes or suspects the other councillor has a conflict of interest
 - A release of confidential information that the councillor knows is confidential
 - An attempt to influence a decision maker about a matter in which the councillor has a prescribed conflict of interest or a declarable conflict of interest
 - Failure to declare particulars of interest at the start of the term or appointment, update or annually review.



The conduct of a councillor is also misconduct if the conduct leads to the councillor being disciplined for a conduct breach on three occasions within a period of one year or is conduct that is identified in an order of local government that will be dealt with as misconduct if the councillor engages in the same conduct breach again.

The conduct of if a councillor is misconduct if a councillor purports to direct the Chief Executive Officer (CEO) in relation to disciplinary action regarding the conduct of a local government employee.

The conduct of a mayor is misconduct if an unlawful direction is given by the mayor to the CEO under the *Local Government Act 2009*.

Councillors / mayor may only give directions to local government employees that are in accordance with the guidelines made about the provision of administrative support.

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.

Corrupt Conduct means conduct of a person, regardless of whether the person holds or held an appointment 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 through the performance of the councillor’s responsibilities, and
- would if proved, be -
- a criminal offence; or
 - A disciplinary breach providing reasonable grounds for terminating the person’s services if the person is or were the holder of an appointment.

Corrupt Conduct also means conduct of a person, regardless of whether person holds or held and appointment that:

- Impairs or could impair, public confidence in public administration; and
- Involves, or could involve, any of the following-
 - Collusive tendering;
 - Fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)
 - Protecting health or safety of persons;
 - Protecting the environment;
 - Protecting or managing the use of the State natural, cultural, mining or energy resources;
 - Dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;



- Evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;
- Fraudulently obtaining or retaining an appointment; and
- Would, if proved, be-
 - A criminal offence; or
 - A disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

Councillors are reminded of their obligations under section 38 of the *Crime and Corruption Act 2001* to report suspected corrupt conduct.

The OIA has entered into a section 40 arrangement with the CC which allows the OIA 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 assume responsibility for or monitor an investigation, should the CCC consider that appropriate.

CHANGES SINCE LAST REVISION

Updated procedure as of to reflect current procedures.

RECORDS

When completed and approved the original, signed hard copy of the procedure is filed in the Master File.

Electronic copies are saved in the appropriately labelled folder in Magiq.