



Crime and Corruption Commission

QUEENSLAND

Probity in councillors' use of councillor discretionary funds: An audit of councils and the local government department

Summary audit report

October 2019



Acknowledgments

The Crime and Corruption Commission (CCC) would like to acknowledge the cooperation and assistance of the Department of Local Government, Racing and Multicultural Affairs, and councils during this audit.

© Crime and Corruption Commission 2019

You must keep intact the copyright notice and attribute the Crime and Corruption Commission as the source of the publication.

The Queensland Government supports and encourages the dissemination and exchange of its information. The copyright in this publication is licensed under a Creative Commons Attribution (BY) 4.0 Australia licence. To view this licence visit <http://creativecommons.org/licenses/by/4.0/>.



Under this licence you are free, without having to seek permission from the CCC, to use this publication in accordance with the licence terms. For permissions beyond the scope of this licence contact: mailbox@ccc.qld.gov.au

Disclaimer of Liability

While every effort is made to ensure that accurate information is disseminated through this medium, the Crime and Corruption Commission makes no representation about the content and suitability of this information for any purpose. The information provided is only intended to increase awareness and provide general information on the topic. It does not constitute legal advice. The Crime and Corruption Commission does not accept responsibility for any actions undertaken based on the information contained herein.

Crime and Corruption Commission

GPO Box 3123, Brisbane QLD 4001

Phone: 07 3360 6060

(toll-free outside Brisbane: 1800 061 611)

Level 2, North Tower Green Square

Fax: 07 3360 6333

515 St Pauls Terrace

Email: mailbox@ccc.qld.gov.au

Fortitude Valley QLD 4006

Note: This publication is accessible through the CCC website <www.ccc.qld.gov.au>.

Contents

Summary	4
Introduction	6
Relationship between community grants and discretionary funds	6
Community grants	6
Discretionary funds	6
Mechanisms for councillors to use discretionary funds	7
Notifying the community	7
Use of discretionary funds	7
Reporting to the community	8
Local government principles	8
Reasons for doing the audit	8
Audit focus	9
Objective 1: Examine the administration of discretionary funding	9
Objective 2: Examine agencies' dealings with allegations of corrupt conduct	10
Statistical results from the audit	10
Key observations from the audit	11
Council systems for administering councillor discretionary funds	11
Agencies' dealings with allegations of corrupt conduct	22
Conclusion	22
Note	23
Appendix A: Guidance note – policy, procedures and guidelines	24
Appendix B: Guidance note – risks and controls process map for councillor discretionary funds	26
Appendix C: Guidance note – prevention strategy for conflict of interest risk appetite	28

Summary

Background

In 2018–19, the CCC conducted an audit examining the conduct of councils and councillors in the use of discretionary funds, with a particular focus on the management of risk and probity. The audit had two objectives:

1. To examine five selected councils and determine if they were effectively administering councillor discretionary funds in an accountable and transparent manner.
2. To assess whether the Department of Local Government, Racing and Multicultural Affairs, and Redland City Council had dealt with allegations of corrupt conduct by councillors and council staff relating to grants and funding.

The audit conducted by the CCC found that the provision of public monies to community organisations increased corruption risks to both the councillor and council. The expenditure of funds at each councillor's discretion created obvious risks in relation to the potential for fraud, corruption and abuse.

The CCC decided to audit selected councillor discretionary funds due to public interest in the provision of discretionary funds, including compliance with legislative and policy obligations. The expenditure of discretionary funding has also been the subject of investigation in Operation Windage, an investigation into corruption in the Ipswich City Council.

Where a council has allocated money for "councillor discretionary funds", councillors may use their discretionary funds, subject to council's policies, in any of the following ways:

- to spend for a community purpose
- to allocate for capital works that are for a community purpose
- to allocate to a community organisation for a community purpose.

Each council's budget for discretionary funding varies annually. Not all councils adopt a budget for councillors' discretionary use. Those councils that do, had budgets between \$10,000 and \$2 million each year.

Objective 1: Examine the administration of discretionary funding

The first audit objective was to examine whether councils were effectively administering councillor discretionary funds to ensure that expenditure was accountable and transparent, and complied with the requirements of the laws and standards. Five councils – both urban and regionally based – participated in the CCC's audit. Those councils were:

1. Fraser Coast Regional Council
2. Ipswich City Council
3. Logan City Council
4. Moreton Bay Regional Council
5. Sunshine Coast Regional Council.

The CCC reviewed relevant policies and procedures, guidelines and processes relating to administering discretionary funds programs, and 157 randomly selected discretionary funding applications (totalling \$666,079).

Key observations from the audit

The CCC observed 11 areas for improvement across the five councils.

1. There was considerable variation in the adequacy of policies and procedures for discretionary funds across the five councils. One council had a comprehensive procedure for its councillor discretionary funding program. However, the policies that the procedure was supporting needed further improvements to cover the accountabilities for discretionary funding. A second council had policies

that were considered sufficient, but had no procedure documenting their business process. The remaining three councils needed to improve their policies and procedures to ensure they were responsive to priorities, risks and controls for administering discretionary funds.

2. Three councils had applications submitted by applicants that were either incomplete or not supported by appropriate financial quotes as required under their council's policies.
3. A council provided funds to an applicant who was not an eligible community organisation under council's councillor discretionary funds program operational guidelines.
4. Staff in three councils did not provide any explanation for discrepancies between bank account details of accounts into which discretionary funds were transferred and account details that were provided by the applicants on the initial applications.
5. Councillors in four councils did not provide conflicts of interest (COIs) declarations with applications. Further, in one council, a disclosure by an applicant raised a reasonable suspicion that the councillor may have had a private business and/or may have personally benefited from the discretionary funding.
6. In one council, three applications had councillors declare COIs, however the conflicts were not managed effectively to ensure their decisions were transparent.
7. In each of the five councils, grant officers and/or councillors did not adequately justify how some of the requested applications met the funding principles e.g. for community purposes.
8. Two councils did not conduct financial checks on the community organisations before funding them from the councillor discretionary funds programs.
9. A remittance advice issued by a council to a community organisation did not include a description of the payment into the organisation's bank account (e.g. what the payment was for).
10. In two councils, three applications had discretionary funds allocated for capital works that were not approved by the mayor (or deputy mayor if the relevant councillor was the mayor) in addition to the chief executive officer's approval.
11. Some recipients had not acquitted the discretionary funding they received from councillors, totalling \$277,414 (or 42 per cent of total samples audited). Further, in four councils, they had not undertaken funds monitoring effectively.

The CCC made recommendations to relevant councils to address the above key observations. The CCC did not investigate or otherwise deal with conduct liable to allow, encourage or cause corrupt conduct, but referred some suspicious transactions back to relevant councils for further examination.

The CCC also suggested overall that, instead of having the funds at the discretion of councillors, the funds could be moved into specific community grants programs that require more robust guidelines such as the use of a weighted criteria to assess the applications and the amounts to allocate.

Robust council policies and procedures with respect to councillor discretionary funds which promote transparency and accountability can be an effective tool to mitigate against many of the inherent risks associated with the administration of these funds.

Objective 2: Examine agencies' dealings with allegations of corrupt conduct

As a second audit objective, the CCC assessed how appropriately the Department of Local Government, Racing and Multicultural Affairs, and Redland City Council had dealt with allegations of corrupt conduct by councillors and council staff relating to grants and funding. The CCC examined seven investigation files.

Key observations from the audit

The CCC was satisfied that the Department of Local Government, Racing and Multicultural Affairs, and Redland City Council had dealt with allegations of corrupt conduct relating to grants and funding activities.

Introduction

Preventing corruption is fundamental to the CCC's vision for safe communities supported by fair and ethical public institutions.

The *Crime and Corruption Act 2001* (CC Act) sets out the functions and powers of the CCC. The CC Act also recognises the responsibility of an agency's public official¹ to set and maintain proper standards of conduct for their staff and, by so doing, maintain public confidence in their agency.

Each financial year the CCC conducts a program of audits to examine how agencies have responded to particular types of complaints, and how robust their complaints management and corruption prevention frameworks are. The CCC also undertakes audits aimed at controlling the risks of corruption.

In 2018–19, the CCC conducted an audit examining the conduct of councils and councillors in the use of discretionary funds, with a particular focus on the management of risk and probity.

Relationship between community grants and discretionary funds

Councils establish grants and funding programs to provide support to their local communities.

Community grants

Council may give a grant to a "community organisation"² only:

- (a) if the council is satisfied:
 - (i) the grant will be used for a purpose that is in the public interest
 - (ii) the community organisation meets the criteria stated in council's community grants policy
- (b) in a way that is consistent with council's community grants policy.³

A grant is provided to a community organisation for a specific purpose or project, generally as part of an approved council grant program, with the understanding that there will be a defined outcome that directly or indirectly benefits the community, but with no expectation of commercial return to council.

The types of grants a council provides support the council's vision for their local government area and include, but is not limited to, arts and culture, history and heritage, community development and capacity building, environment and sustainability, and sport and recreation.

Funding decisions in the community grants program are endorsed by council, a chief executive officer or delegate, dependant on the funding program.

A grant includes all forms of funding to community organisations including "councillor discretionary funds". Therefore, discretionary funds to community organisations by councillors are part of community grants.

Discretionary funds

Discretionary funds are funds in the council's operating budget that are for use by a councillor at the councillor's discretion for the benefit of the community.

Councillor discretionary funds support community projects that build stronger communities and contribute to the life of the local government area and address community issues. Eligible applicants include community organisations and projects with a community purpose.

1 A public official is defined in Schedule 2, CC Act.

2 Under the Local Government Regulation 2012 (LG Regulation) and for Brisbane City Council, the City of Brisbane Regulation 2012 (CoBR), community organisation means an entity that carries on activities for a public purpose, or another entity whose primary object is not directed at making a profit.

3 Sections 194-195 of the LG Regulation and for Brisbane City Council, sections 186-187 of the CoBR.

Discretionary funding allocations and decisions are determined by the divisional councillor/s where the community organisation is located or where there will be the most benefit. If the community benefit can be demonstrated to exist across councillor divisions, the councillors involved can agree on a part or equal contribution funding arrangement.

Regional discretionary funding allocations and decisions can be determined by the mayor.

Where a councillor wants to allocate some of their discretionary funds to a “community organisation”, the councillor must do so only to community organisations that have applied for the funds in the way stated in the discretionary funds notice and in a way that is consistent with council's community grants policy.⁴

Mechanisms for councillors to use discretionary funds

The relevant Acts and Regulations – *Local Government Act 2009* (LG Act) and the LG Regulation and, for Brisbane City Council, the *City of Brisbane Act 2010* (CoBA) and the CoBR – stipulate transparency and accountability requirements for councillor discretionary funds.⁵

Notifying the community

A council must publish a notice on its website and in a visible place in its public office within 20 days after adopting the budget advising:

- the amount of discretionary funds allocated to each councillor for the year
- that community organisations may apply for allocation of the funds
- how to apply for funds.⁶

Use of discretionary funds

Councillors may use their discretionary funds in any of the following ways:

- to spend for a community purpose
- to allocate for capital works of the council that are for a community purpose
- to allocate to a community organisation for a community purpose.⁷

To spend for a community purpose

Councillors may allocate some of their discretionary funds for a purpose that is in the public interest to residents of the local government area (e.g. council's local government area sports awards).

To allocate for capital works of the council that are for a community purpose

Where a councillor intends to allocate some of their discretionary funds for capital works, the councillor must seek the approval of:

- the deputy mayor and the chief executive officer (if the councillor is the mayor)
- the mayor and the chief executive officer (councillors other than the mayor).⁸

When considering whether to approve a proposal to allocate discretionary funds for capital works, the mayor, deputy mayor and chief executive officer must consider how the proposal fits in with the council's five-year corporate plan, long-term asset management plan and annual budget.⁹

4 Section 202(6) of the LG Regulation and for Brisbane City Council, section 194(5) of the CoBR.

5 The Brisbane City Council has its own Act and Regulation. Compared to other local governments in Queensland, the Brisbane City Council is unique in its nature and the extent of its responsibilities and powers for a number of reasons.

6 Section 202(2) of the LG Regulation and for Brisbane City Council, section 194(2) of the CoBR.

7 Section 202(3) of the LG Regulation and for Brisbane City Council, section 194(3) of the CoBR.

8 Section 202(4) of the LG Regulation and for Brisbane City Council, only with the approval of the Establishment and Coordination Committee, section 194(3)(b), CoBR.

9 Section 202(5) of the LG Regulation and for Brisbane City Council, section 194(4) of the CoBR.

To allocate to a community organisation for a community purpose

Where a councillor wants to allocate some of their discretionary funds to a community organisation, the councillor must do so only to community organisations that have applied for the funds in the way stated in the discretionary funds notice and in a way that is consistent with council's community grants policy.¹⁰

Reporting to the community

After a councillor has spent money from their discretionary funds, a notice must be published as soon as practicable on council's website and in a noticeable place in council's public office stating the amount and purpose for which the money was spent and, if the money was given to a community organisation, the name of the organisation.¹¹

Council is also required to list all funding to community organisations made out of councillor discretionary funds and the purpose of the funding in its annual report for the year.¹²

Local government principles

All councils are required to ensure that their actions and expenditure, including the expenditure of discretionary funds, comply with the local government principles contained in section 4 of the LG Act and, for Brisbane City Council, the CoBA. These are:

- (a) transparent and effective processes, and decision-making in the public interest
- (b) sustainable development and management of assets and infrastructure, and delivery of effective services
- (c) democratic representation, social inclusion and meaningful community engagement
- (d) good governance of, and by, local government
- (e) ethical and legal behaviour of councillors and local government employees.

Reasons for doing the audit

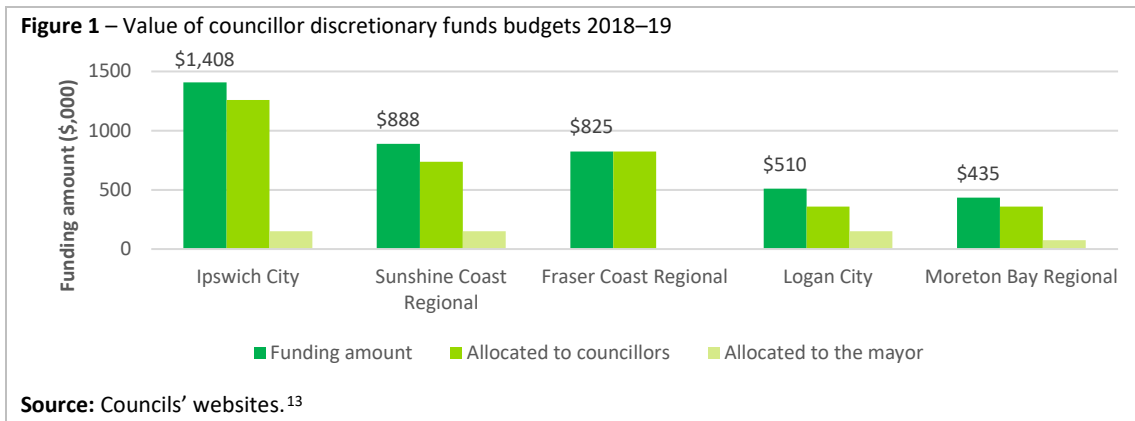
The CCC decided to audit selected councillor discretionary funds due to public interest in the provision of discretionary funds, including compliance with legislative and policy obligations. The councils were selected for audit based on the amount of funding made available to councillors (including the mayor). The CCC chose five councils which allocated significant benefits. Both urban and regionally based councils were chosen.

Each council's budget for funding at the councillor's discretion varies annually. Not all councils adopt a budget for councillors' discretionary use. Those councils that do, had councillor discretionary funds budgets between \$10,000 and \$2 million each year, as shown in figure 1 (only the five councils' councillor discretionary funds budgets for 2018–19 are shown).

10 Section 202(6) of the LG Regulation and for Brisbane City Council, section 194(5) of the CoBR.

11 Section 202(7) of the LG Regulation and for Brisbane City Council, section 194(6) of the CoBR.

12 Section 189(b) of the LG Regulation and for Brisbane City Council, section 181(b) of the CoBR.



Councils with large councillor discretionary funds programs need effective accountability measures in place, and must ensure that expenditure practices comply with relevant laws and standards. Those councils that do not require councillors to seek formal approval via a council resolution, or do not create and implement stringent approval guidelines, are exposed to unnecessary risks.

Some of the risks include potentially fraudulent or corrupt practices by individual councillors whereby funds may be committed to groups in which the councillors have an interest, and potential reputational risk if public funds are misspent. In particular, councillor discretionary funds programs which focus on donating a lump sum to “worthy causes”, rather than provision of specified funds for a particular purpose, may be less transparent and provide limited accountability.

Councillor discretionary funds must be used for a purpose that is in the public interest, and councils and councillors need to demonstrate to the communities that discretionary funds have and are being used efficiently and effectively.

Audit focus

The audit had two objectives:

1. To examine whether councils are effectively administering councillor discretionary funds to ensure that expenditure is accountable and transparent, and complies with the requirements of the laws and standards.
2. To assess how appropriately agencies have dealt with allegations of corrupt conduct by councillors and council staff relating to grants and funding.

Objective 1: Examine the administration of discretionary funding

The five councils whose administration of discretionary funding was chosen for audit were:

1. Fraser Coast Regional Council
2. Ipswich City Council
3. Logan City Council
4. Moreton Bay Regional Council
5. Sunshine Coast Regional Council.

The CCC obtained records or documents from these councils, including:

- Policies and procedures, guidelines and processes relating to administering councillor discretionary funds programs. The CCC reviewed these to ensure they were adequate, and were reflective of legislative requirements and good practice.

¹³ The Sunshine Coast Regional Council's councillor discretionary funds budget include \$183,076 carryover from 2017–18 (\$50,047 to the mayor and \$133,029 to councillors) and \$1,543 return of funding from the same financial year.

- 157 randomly selected discretionary funding applications, totalling \$666,079. The CCC reviewed these against the following principles:
 - fairness and impartiality
 - accountability and transparency of decisions and process
 - COI management
 - managing probity relative to risk.

The CCC did not investigate or otherwise deal with conduct liable to allow, encourage or cause corrupt conduct, but referred some suspicious transactions back to relevant councils for further examination.

Objective 2: Examine agencies’ dealings with allegations of corrupt conduct

The CCC audit reviewed seven out of nine complaints¹⁴ of corrupt conduct in councils received by the CCC between 1 July 2016 and 31 December 2018.¹⁵ The CCC used its corruption allegations data as an indicator of prevalence and, therefore, measurement of risk. Potential areas of risk were identified based on the conduct by councillors and council staff in grants and funding activities.

The agencies that have dealt with the complaints concerning councillors or council staff¹⁶ were:

1. Department of Local Government, Racing and Multicultural Affairs¹⁷
2. Redland City Council.

These complaints of corrupt conduct were assessed by the CCC as appropriate for the agencies to deal with on a “no further advice” basis. That is, the agency was not required to update the CCC on how the matter was dealt with or any associated outcomes.

The CCC’s *Corruption in focus – A guide to dealing with corrupt conduct in the Queensland public sector* (October 2014) was the standard against which the CCC measured the agencies’ responses to complaints.¹⁸

The five councils in the first objective of the audit focus were asked if there were any complaints of corrupt conduct relating to grants and funding activities that under section 40 of the CC Act were dealt with by them without having to report them to the CCC. All five councils communicated a “Nil” response to the CCC.

Statistical results from the audit

Figure 2 shows the councillor discretionary funds budgets and expended value of funds by the five councils between July and December 2018.

14 Complaints are comprised of multiple allegations.

15 The remaining two complaints were, at the time of the audit, under consideration by the Office of the Independent Assessor. To avoid duplication of resources those complaints were not included in the CCC audit.

16 Complaints about councillors were dealt with by the Department of Local Government, Racing and Multicultural Affairs. Complaints about council officers were dealt with by the council where the officer was employed.

17 On 3 December 2018, the Office of the Independent Assessor (OIA) was established under the *Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018*. The OIA investigates and assesses complaints about councillor conduct (excluding councillors in Brisbane City Council). Previously, the CCC referred certain complaints about corrupt conduct against councillors to the Department of Local Government, Racing and Multicultural Affairs to deal with.

18 *Corruption in focus* was updated in [March 2019](#) to reflect changes to the CC Act.

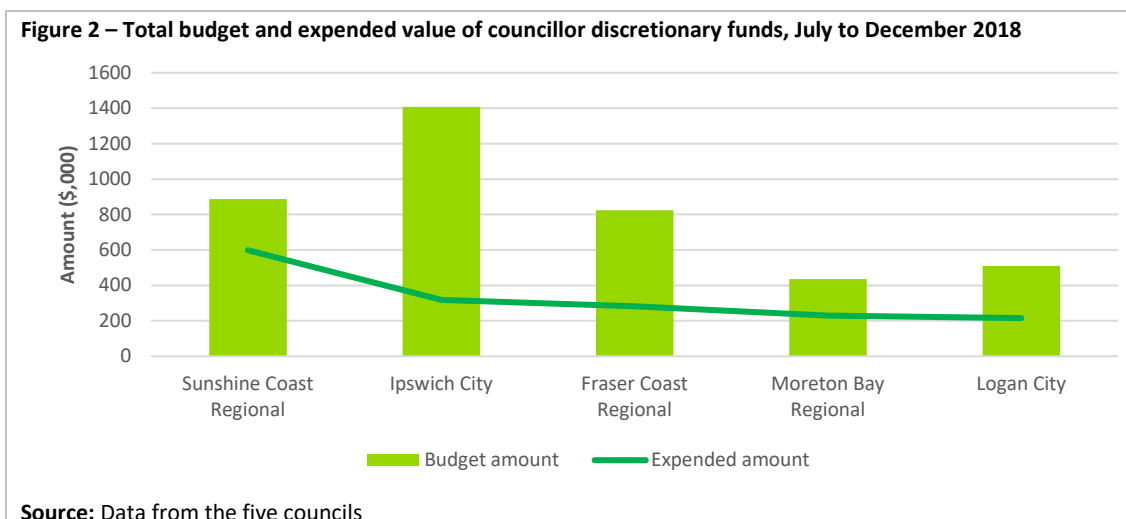


Table 1 (below) shows the top three combined discretionary funding by councillors to a community organisation for each of the five councils between July and December 2018 (e.g. more than one councillor is able to provide funding to the applicant). Table 2 (below) shows the reasons provided for the large councillor discretionary funds expenditure.

Table 1 – Top three value of aggregated councillors’ discretionary funding to an applicant, July to December 2018

Council	Top 1	Top 2	Top 3
Sunshine Coast Regional	\$69,921	\$64,000	\$52,500
Fraser Coast Regional	\$30,000	\$22,643	\$20,000
Moreton Bay Regional	\$21,000	\$10,850	\$9,000
Ipswich City	\$15,929	\$15,000	\$15,000
Logan City	\$11,963	\$6,560	\$4,500

Source: Data from the five councils

Table 2 – Reasons for the large councillor discretionary funds expenditure

Council	Reasons
Sunshine Coast Regional	Building extension; purchase of a mini bus; economic development plan for Nambour
Fraser Coast Regional	Install internal toilets; install CCTV; multisport weekend
Moreton Bay Regional	Australia Day event; install power to shed; construct footpath
Ipswich City	Adopt a room; Christmas carols; coffee machine and photocopier
Logan City	Defibrillators; hire of community rooms; uniforms for youth music tour

Source: Data from the five councils

Key observations from the audit

The CCC has communicated the observations of its audit to participating agencies, but for the purposes of this summary the CCC does not identify which councils were involved in each observation. The use of “Council One... Council Two...” is not referring to the same agency in each observation. The intent of this audit summary is to help all councils in Queensland improve their corruption prevention activities.

Council systems for administering councillor discretionary funds

This section relates to the five councils. The CCC focused on councils’ policies and processes relating to administering councillor discretionary funds, and the use of the funds by councillors. The audit identified 11 areas for improvement and an overall recommendation.

Policies, procedures and processes

All five councils had in place a community grants policy, and councillor discretionary funds policy and operational guidelines. The councillor discretionary funds policy is governed by the community grants policy. These documents were accessible on councils' websites.

Improvement 1 – Policy and procedure for councillor discretionary funds

The CCC audit showed considerable variation in the adequacy of policies and procedures for councillor discretionary funds across the five councils.

One of the five councils was commended by the CCC for having a comprehensive procedure for councillor discretionary funds program design, development and administration. However, the policies that the procedure was supporting needed further improvements to cover the accountabilities for discretionary funding.

A second council had policies that were considered sufficient to address the key risks and controls, as well as an accountable and transparent councillor discretionary funds program design and administration. The council did not have a procedure documenting their business process to support its policies.

The remaining three councils needed to improve their policies and procedures to ensure they were responsive to priorities, key risks and controls for administering councillor discretionary funds. In one of those councils, the council had not integrated COI provisions into its policies. Therefore, councillors were not prompted to consider their obligations in relation to COIs in relation to discretionary funding. The LG Act establishes a clear framework for the management of COIs, but including these concepts within the policies should make them "front of mind" for councillors deciding how to allocate discretionary funding.

Internal control activities must be developed, implemented and documented in policies and procedures. These actions, established through policies and procedures, help ensure that they are carried out effectively and consistently across the agency. Internal control activities may be preventive or detective in nature and may encompass a range of manual and automated activities such as decisions, approvals, verifications, reconciliations, and funding management performance reviews. COI provisions, for example, must be developed as internal control activities.

Further information (guidance note to assist councils)

The CCC has developed a guidance note for what to incorporate into a community grants policy, and councillor discretionary funds policy, operational guidelines and procedures (see Appendix A). The CCC has also developed a process map for councillor discretionary funds to highlight corruption risks and controls required around decision points to meet accountability and transparency (see Appendix B). Identification of these risks should promote the development and implementation of internal control activities required to mitigate the risks to an extent consistent with a council's risk appetite¹⁹.

Recommendations

Enhance policies and procedures, and guidelines to cover the key processes, risks and controls as communicated to councils by the CCC (see Appendixes A and B).

Responses: All five councils acknowledged the need to improve policies and procedures, and supporting frameworks – specifically, in relation to administering councillor discretionary funds.

Councils One, Two and Three have started a review of their policies and procedures. One of those councils will complete its review prior to the local government elections in March 2020, including undertaking stakeholder engagement across the organisation and benchmarking against comparable councils to assess the necessity of current grant and funding categories offered by council and identify any gaps.

¹⁹ Risk appetite is the amount of risk that an agency is prepared to accept or be exposed to at any point in time.

Council Four will correlate the CCC's recommendations with its policies and procedures to identify any areas where controls can be improved.

Council Five had reviewed the CCC's observations and advised that its updated councillor discretionary funds policy addressed some of those control gaps identified by the CCC. The council will also review its policy further to address outstanding matters identified by the CCC audit.

All councils will further review their policies and procedures once the local government reforms proposed by the Department of Local Government, Racing and Multicultural Affairs to strengthen the requirements for councils' management and reporting of councillor discretionary funds have been legislated.

Funding applications and expenditure

The CCC's review of the processes and practices associated with 157 councillor discretionary funding applications across the five councils found a number of areas for improvement relating to:

- fairness and impartiality
- accountability and transparency of decisions and processes
- COI management
- management of probity relative to risk.

Improvement 2 – Only completed applications are to be considered

In three of the five councils audited, applications submitted by the applicants were either incomplete or not supported by appropriate financial quotes as required under their council's policies.

In each case, the applicant who requested funds from the council should have been required to include some type of justification for the requested amount, such as a financial quote. This is a risk management strategy to allow council to obtain some assurance that the requested amount is reasonable and proper, and that the discretionary funds will be used by the recipient for the intended purpose.

The CCC also identified one other council that had incomplete applications and ambiguous applications, however, supporting quotations were not required under its policy.

Case study

Councillors allocated two payments of \$7,000 and \$2,000 respectively from discretionary funding to an applicant who sought financial support towards their New Year Eve's fireworks.

The CCC reviewed the two applications and found that these were exactly the same. The applicant requested an amount of \$2,000 in each application (dated 27 August 2018).

The applicant did not complete the councillor discretionary funding application for the \$7,000 and should have been required to. The council should also have been required to conduct eligibility checks.

Incomplete applications should not be considered by councillors and council staff. This includes applications which have failed to provide relevant documentation.

Recommendations

Remind support officers and grant officers to:

- (a) Check that applications have been fully completed by the applicants, and supported by appropriate financial quotations or project/works costs estimations.
- (b) Advise the relevant councillor(s) and the applicant where an incomplete application is submitted that the application will not be considered further.
- (c) Update procedures to reflect the business processes mentioned above.

The CCC also recommended a specific council update their policy and guidelines to require applicants to provide appropriate quotations with the applications for funding from the councillor discretionary funds.

Responses: The four councils to which these recommendations applied responded as follows.

- One council had started a review of its procedures to include actions that will meet the recommendations mentioned above.
- The second council noted the CCC’s observation as an area where improvements can be made.
- The third council had updated policy and guidelines in December 2018 and intended to ensure these require applicants to provide quotations or project/works cost estimations in support of their councillor discretionary funding applications.
- The fourth council intended to review its councillor discretionary funds program.

Improvement 3 – Only eligible community organisations can apply for discretionary funding

The CCC noted that one of the five councils provided discretionary funding to an applicant who was not an eligible community organisation (i.e. a sole trader).

Under schedule 8 – Dictionary – of the LG Regulation, a community organisation means:

- an entity that carries on activities for a public purpose
- another entity whose primary object is not directed at making a profit.

The CCC also identified instances where another council provided discretionary funding to state schools, however the operational guidelines for that council’s councillor discretionary funds program were unclear as to whether state schools were eligible to apply for funding.

Example

Council’s operational guidelines clearly stated that departments of state government are not eligible for funding from the councillor discretionary funds program. Council’s operational guidelines also stated that applications from primary and secondary schools where the funding request relates to initiatives that are considered to be “core” curriculum projects are ineligible for funding. Therefore, state schools can apply for discretionary funds where the funding request relates to initiatives that are considered to be “non-core” activities. The guidelines were unclear and inconsistent.

While state schools are community organisations under the LG Regulation, and as defined in schedule 4 Dictionary and section 13 of the *Education (General Provisions) Act 2006*, some councils’ councillor discretionary funds program operational guidelines clearly stated that departments of state government are not eligible for discretionary funding from councillors.

The definition of a community organisation in the LG Regulation is very broad. Without further guidance from council’s policies, this could lead to:

- some members of the community being unsure whether they are eligible for discretionary funding
- inconsistent decision-making
- allegations of corrupt conduct if residents within the council area perceive that funds are being made to ineligible organisations.

Councils must ensure they are complying with the policy requirements, and are not giving preferential treatments to applicants. There is the potential for a perception of preferential treatment when similar organisations in the community who have read the council’s guidelines may have determined that they are ineligible to apply and would therefore not be afforded the same opportunity to obtain funding.

Recommendations

- (a) Remind grant officers and councillors that they have a responsibility to provide discretionary funding only to eligible community organisations under section 109 of the LG Act and council’s policy.
- (b) Update policies and procedures to be more explicit in relation to the eligibility of primary and secondary schools to apply for funding from the councillor discretionary funds program.

Responses: Council One acknowledged the recommendations and is dedicated to ensuring that its practices are ethical, impartial, accountable and transparent. Council intended to ensure its councillor discretionary funds program meets the highest standards to give comfort to the residents of its local government area.

Council Two stated that primary and secondary schools are not eligible to apply for funding from the councillor discretionary funds program unless their application relates to non-core curriculum activities. The instances identified in the CCC audit all related to applications from schools concerning non-core curriculum activities and were, therefore, compliant with council's community grants and councillor discretionary funds policies. However, Council two acknowledged that the wording of related policies and procedures could be more explicit about the eligibility of primary and secondary schools. It will, as part of its review of councillor discretionary funds program, give due consideration to the CCC's recommendations.

Improvement 4 – Ensure bank account details are correct

In three of the five councils, the CCC identified that staff did not provide any explanation for discrepancies between bank account details of accounts into which funding was transferred and account details that were provided by the applicants on the initial applications. For example, an applicant gave bank details of 454 xxx-014 and a council transferred funds into 454 xxx-777.

The failure to maintain records or evidence of checks by a validation officer demonstrates that internal controls may not be operating effectively. This increases the opportunity for fraud.

Councils should ensure they have fraud prevention capabilities.

Recommendations

Investigate the discrepancies and take appropriate actions to update the accounting systems if required. Councils are to make notations on the relevant applications as to why the bank account details differ and the actions they have taken to maintain effective recordkeeping.

Responses: In responding to this audit, the three councils also intended to update their procedures for administering councillor discretionary funds and will ensure their controls in relation to bank account details are robust and complete.

Improvement 5 – Councillors to declare whether they have conflicts of interest

Councillors in four of the five councils did not provide COI declarations with applications for discretionary funding. Such declarations would enhance transparency in the funding process.

Case study

Council One

- Councillors did not complete the COI declaration for 12 applications, totalling \$42,482.
- The CCC analysed the councillors' Registers of Interests and identified that two councillors had memberships with the community organisations in two of those applications, totalling \$11,650.

Council Two

- Councillors did complete the COI declarations in all of the applications audited. However, there were eight applications where councillors should have declared a COI. Some councillors were honorary members or patrons of the community organisations, totalling \$8,071.

Council Three

- Councillors were not declaring whether they had any COI with an application at all. This was because council failed to integrate COI provisions into related policies, guidelines and business processes. (Council immediately corrected this deficiency as a result of this audit.)

Council Four

- In 14 applications, councillors did not complete COI declarations, totalling \$145,703.
- The CCC identified six of those applications where the relevant councillors had a COI. For example, some councillors were members, patrons and office bearers of the community organisations, totalling \$30,082.

The CCC does not know why some councillors were not declaring COIs with applications. It may have been “custom and practice” in some councils when the applications were approved by a final decision-maker such as the chief executive officer or the council itself if the funding amount was greater than a specific limit.

The LG Act establishes a clear framework for the management of COIs. Chief executive officers, grant officers and other councillors would not have complete knowledge of every councillor’s personal interests. This would be an unrealistic expectation to place on council staff. However, councillors were to declare whether or not they have COIs with an application through the grants and funding management system. Grant officers were to return the forms to the relevant councillors as incomplete.

Further, in one council, the CCC noted a disclosure by an applicant which raised a reasonable suspicion that the councillor may have had a private business and/or may have personally benefited from the funding.

Case study

In an email from the applicant to a council staff member he stated, “In discussion with Councillor X he has advised that he has a company available that can provide the service for \$2,000. If we are to engage the contractor for the event we will need full funding of the amount as we do not have any alternative capacity to meet this fee”.

The CCC was concerned that the councillor may have personally benefited from the funding they approved as discretionary spending, which can constitute improper conduct. The name of the business that was providing the service for the event for the applicant was not included in the application. The applicant also had not acquitted the funding.

The CCC conducted various searches, such as ASIC searches, and could not identify any business of the councillor operating during 2018. It may have been a business in which the councillor had an interest or it may have been someone the councillor knew who was able to provide the services. The councillor may have been required to declare a COI with this application.

It was also not clear to the CCC if council staff noticed the ambiguous disclosures by the applicant and, if so, what actions they took to satisfy themselves that the councillor was acting in an accountable and transparent manner. The CCC recommended the council should further investigate this matter and report back to the CCC. Council is addressing this matter.

Overall, it is essential that councillors involved in decision-making processes of applications be required to make declarations as to whether they have an actual, perceived, potential, or no COI in the application being considered. Councils should be aware that this includes staff who perform the role of assessing the applications against the eligibility criteria. See guidance note in Appendix C for managing COI risk appetite.

Recommendations

Remind councillors, chief executive officers and grant officers of the importance of the COI provisions: (Note: not all of the recommendations below apply to all four councils)

- (a) Update current policy and supporting frameworks to include actual or perceived COIs and not just potential COIs.
- (b) Develop an Assessment and Approval Form to enable a councillor to declare whether or not they have COIs with an application. A declared COI is to be appropriately managed to achieve an accountable and transparent discretionary funding approval process. Council resolution would be an appropriate mechanism to manage councillors’ COIs with applications.
- (c) Remind councillors that, under the LG Act, the responsibility for declaring COIs is that of the councillors. An application with a declared COI is to be referred to council for resolution.
- (d) Continue with developing and implementing controls concerning COI declarations with applications.
- (e) Assess the fraud and corruption risks of past applications and take appropriate actions to review those applications for possible fraudulent activities or improper conduct by councillors.

- (f) Send incomplete Assessment and Approval Forms to councillors to declare whether or not they have COIs with applications. This process is to be incorporated into a developed procedure.

In relation to the suspicious application described in the case study above:

- Obtain the acquittal for the suspicious application from the recipient.
- Investigate the suspicious transaction, including determining who the “company” is that provided the services to the community organisation.
- Take appropriate actions to recoup the funding from the community organisation if required. This should include referring the matter to the police if fraud is suspected.

Responses: Council One was committed to ensuring that its policies, procedures and practices are ethical, impartial, accountable and transparent. Council also intended to continuously improve its policies and procedures to give comfort to the residents of its local government area.

Council Two had started a review of its relevant forms and procedures to require councillors to complete a declaration of any real, perceived or potential COIs and will include a requirement for the councillors to certify that they have personally considered their Registers of Interests²⁰. Should councillors not complete this updated requirement, council’s grant officers will return the form to the councillors as incomplete.

Council Three intended to review its policy, guidelines and processes taking into account the audit outcomes as they relate to other councils that participated in the audit. Council also intended to action the CCC’s overall recommendation to discontinue the councillor discretionary funds program. See page 22.

“The CCC recommends that, instead of having the funds at the discretion of councillors, the funds could be moved into specific community grants programs that require more robust guidelines such as the use of a weighted criteria to assess the applications and the amounts to allocate.”

Council Four intended to review its councillor discretionary funds program and practices to implement the management of COIs by councillors. This review will be completed prior to the local government elections in March 2020.

Improvement 6 – Manage conflicts of interest appropriately

In one council, the CCC identified three applications where councillors declared COIs with applications. The declared COIs were not managed as required under council’s policy.

Council’s policy stated that the chief executive officer will provide direction, and where required, approval for a discretionary funding application where a councillor has declared a potential COI to ensure organisational transparency. The CCC did not note any direction provided by the chief executive officer in the three applications.

Each of the three councillors declared COIs with applications that related to either:

- membership of the community organisation
- honorary member of the community organisation
- hospitality received from the community organisation in their capacity as councillor.

The five councils had different approaches to the approval of applications where councillors declared COIs.

20 Councillors must declare all financial and non-financial interests, including the interests of persons related to the councillor (including spouses, dependent children or anyone whose affairs are so closely connected with the councillor that they could share any benefits received). All councillors must ensure that their Registers of Interests and those of all related persons are accurate and up-to-date at all times.

Case study

Council One

- All applications, irrespective of councillors' declared COIs with applications, were approved by the chief executive officer as the final decision-maker.

Council Two

- Applications where councillors have declared COIs with applications were referred to the chief executive officer as the final decision-maker.

Council Three

- Applications where councillors have declared COIs with applications were referred to council for resolution regardless of the funding amount.

Council Four

- None. Council did not implement COI provisions in their community grants policy, councillor discretionary funds policy and related processes.

Council Five

- The mayor or deputy mayor, and the chief executive officer were to approve applications where councillors have declared COIs with applications.

Recommendations

Ensure business processes for decision-making and approval are documented in procedures, and grant officers are appropriately forwarding the applications with declared COIs to the chief executive officer for consideration and approval of the applications.

Response: In responding to this audit, the relevant council intended to review its councillor discretionary funding programs and practices for the management of COIs of councillors prior to the local government elections in March 2020.

Improvement 7 – Document how eligibility is met under the discretionary funding policy

In four of the five councils, grant officers and/or councillors were not adequately justifying how some of the requested applications met the funding principles (e.g. for community purposes²¹).

Councils were providing a simple "Yes" or "No" response that the eligibility criteria for discretionary funding was met. The CCC was unable to determine the logical reasons for how the funds contributed to community purposes. Councils were not demonstrating transparency in their evaluation of applications.

Some approvals, without further explanation, appeared to not comply with council policies which do not allow certain expenditure for funding from the councillor discretionary funds. For example, events run for a commercial purpose that have ongoing operational or recurrent costs (e.g. insurance, security).

Case study

The following are examples of when councillors provided discretionary funds to community organisations that may not have been for community purposes under the relevant council's policies and guidelines.

- To be used for the Bay Break Multisport Festival. While the funding encouraged sporting pursuit, the applicant mentioned that any extra profits made from the event would be given to charities. This meant that the event may have been for a commercial purpose, and not for a community purpose.
- To be used towards office supplies and running costs of the community organisation. Such costs were ordinary operational costs.
- To be used for public liability, volunteer insurance premium and organisation insurance. Those costs were operational.

Justification for support of discretionary funding should be documented sufficiently to provide an understanding of why the grant meets the eligibility criteria, and any relevant decisions made and the basis of those decisions. If a process to justify a decision is well documented, it will reduce the likelihood of challenges or, if there are challenges, enable the council to provide an explanation for its decisions.

21 A community purpose means a purpose that is in the public interest of residents in the council's region.

Councils should avoid broad statements of purpose, such as “health or community well-being”, as justification for the allocation of a discretionary funding to a community organisation.

Recommendations

Enhance the eligibility assessment to document the reasons as to why eligibility criteria are met, and remind grant officers to check that expenditure will be used for a community purpose. Ineligible applications are not considered further, and this should be reflected in the procedures.

Responses: Council One agreed with the CCC’s observations and had started a review of its procedures to include actions that will satisfy the improvements noted in the CCC audit.

Council Two intended to implement the CCC’s recommendations into its procedures and practices to ensure they meet the highest standards in their councillor discretionary funds management processes.

Council Three had updated its councillor discretionary funds policy, guidelines and processes. A grant officer now undertakes, and documents, a check for completeness and eligibility that involves assessing the key steps and completion of an eligibility check form. This will be implemented for 2019–20 funding.

Council Four had implemented the grants and funding management system, which requires grant officers to complete the eligibility checklist before applications proceed to assessment. Council intended to review its processes and practices to incorporate the CCC’s recommendations prior to the local government elections in March 2020.

Improvement 8 – Conduct financial checks on community organisations

The CCC audit identified that two of the five councils did not conduct financial checks of community organisations before providing funds to them from the councillor discretionary funds programs.

Financial checks are important risk management strategies for compliance with legislation and council policies. For example, financial checks can help determine whether:

- the organisation is a community organisation
- the organisation is able to demonstrate financial viability
- the organisation has met any acquittal conditions from previous grants or funding from the council.

Recommendations

Ensure financial checks of community organisations are documented through the discretionary funding processes and include these checks in the relevant policies. All relevant staff and councillors should be advised of the requirements to conduct financial checks of community organisations.

Responses: In responding to this audit, two councils intended to review their policies, procedures and processes to address the need to conduct financial checks on community organisations. One of the councils expected to complete this review before the local government elections in March 2020. The other council conducted Australian Business Numbers (ABN) searches as part of its eligibility check on the applicant. However, council intended to also include a search of the Queensland Government’s Charity or Association Register and request applicants to submit their most recent financial statements in their applications for discretionary funding.

Improvement 9 – Suspicion transactions be investigated

The CCC identified one council where a remittance advice issued by the council to a community organisation did not include a description of the payment into the organisation’s bank account (e.g. what the payment was for).

A remittance advice serves to inform or confirm to the community organisation the amount that has been paid in respect of the community organisation’s application. It is a mistake to assume that an application will always be approved, or the requested amount was fully funded.

Example

In the remittance advice to the community organisation, there were two descriptions for a total payment of \$16,375. One of the descriptions was for discretionary funding (\$15,000). However, the other payment (\$1,375) had no description. It was, therefore, not clear to the CCC, council and the community organisation what the \$1,375 payment was for.

Transactions should have appropriate descriptions of the payments to support accountability and transparency, and prevent fraud and corruption. Finance teams have a responsibility to conduct due diligence on all transactions requiring processing and payment (e.g. validation control).

The CCC has an obligation to report suspicious transactions to council so they can investigate further and take appropriate actions, including updating their accounting records.

Recommendations

Investigate the suspicious transaction and take appropriate actions in relation to the accounting system and officer(s) involved.

Response: The relevant council explained to the CCC what the unrelated payment (\$1,375) was for. Council advised that there was an error in the articulation of a description for this payment, and had now instructed finance staff to ensure appropriate descriptions are provided to ensure the reasons of the payment are explicit. Council's work instructions for payment processing are currently being updated.

Improvement 10 – Approve capital works appropriately

The CCC identified three applications in two councils where councillors' discretionary funds were inappropriately approved for capital works of the council.

Section 202(4)(b) of the LG Act states that a councillor may allocate councillor discretionary funds for capital works of the council that are for a community purpose, but only with the approval of:

- the mayor and the chief executive officer
- the deputy mayor and the chief executive officer (if the relevant councillor is the mayor).

The two councils had documented the approval mechanisms for capital works of the council in their policies. However, the approval mechanisms for funds for capital works were not integrated into the application form (e.g. "Council's use only" section). This weakness may have contributed to an administration oversight by chief executive officers, grant officers and councillors.

Recommendations

- (a) Ensure risk management and financial management are appropriately applied in the approval processes of capital works of the council that are for community purposes.
- (b) Implement a new "Council's use only" section within the application form to reinforce the requirement for the mayor/deputy mayor and chief executive officer to approve capital works.
- (c) Communicate to councillors (including mayors and deputy mayors), chief executive officers, grant officers and finance staff the importance of ensuring appropriate approvals for capital works are adhered to and obtained prior to the payment of discretionary funds.

Responses: Council One had started a review of its procedures to include the recommendations.

Council Two advised the CCC that the acting mayor approved the capital works of the local government, as well as the chief executive officer. However, the acting mayor was the councillor and the deputy mayor approving the fund. Council intended to review its processes and practices to ensure discretionary funds for capital works of the local government are appropriately approved and segregated.

Improvement 11 – Councillor discretionary funds - monitoring and acquittals

The CCC audit identified that some recipients had not acquitted the discretionary funding they received from councils / councillors, totalling \$277,414 (or 42 per cent of total samples audited). The audit also identified that four of the five councils had not undertaken effective monitoring of discretionary funds.

In one council, they did not require recipients to submit an acquittal form or report under their former councillor discretionary funds policy. This council's current councillor discretionary funds policy (December 2018) now requires recipients to comply with any conditions associated with council's financial support.

The second council had one application that was not acquitted, and received one acquittal that did not have all required tax invoices/receipts supporting the amounts expended by the recipient. The council did not conduct due diligence on those acquittals.

Further, in two acquittals, the tax invoices provided by the recipients did not match the items they requested for discretionary funding. The CCC believed there were potential refunds owed to council. An example is demonstrated in the case study below.

Case study

The applicant requested discretionary funding from council for the purpose of contracting traffic control for a Christmas Street Carnival organised for the community on 7 December 2018.

The following table shows the amounts the recipient requested and acquitted from council's councillor discretionary funds program, including the tax invoices supporting the acquittal. Council provided funding of \$2,838.

Amount requested	Amount acquitted	Tax invoices attached
\$2,838 (per quote and includes \$1,694 of backup items if required)	\$2,822	1. Traffic on 25.07.18 \$198 2. Traffic on 05.11.18 \$198 3. Traffic on 07.12.18 \$566 4. Traffic on 07.12.18 \$566 5. Traffic on 19.12.18 \$1,293 Total \$2,822

The expenses (items 1, 2 and 5, as shown in the right column of the table above) totalling \$1,689 were not for the purpose for which the funding was provided to the recipient. These items occurred outside the time period of 7.12.2018 (e.g. the Carnival event). Only the expenses on 7.12.2018, totalling \$1,133, were within the scope of the councillor discretionary funds program. Therefore, the recipient should have refunded \$1,704 to council.

For the third council, the CCC was aware that council had monitoring arrangements in place. Council followed up on outstanding acquittals twice a year. Applicants were ineligible for further funding until acquittals were provided by the recipient. The CCC did not identify discretionary funding to recipients who had outstanding acquittals from previous applications.

In the remaining two councils, there were outstanding acquittals from recipients. One of those councils became aware as a result of this audit that acquittals were not being completed by the relevant recipients. This council has now clarified the responsibilities required with grant officers and requested them to obtain the relevant acquittals from the recipients.

Overall, grant officers were not ensuring discretionary funds acquitted by recipients moved beyond simple compliance to proactively demonstrating public monies were used in the public interest (e.g. value for money and for community purposes). Councils were also not ensuring that their governance, procedures and processes were robust and that risk management is properly integrated into processes.

Recommendations

Improve accountability of councillors' discretionary funding by implementing risk-based monitoring arrangements to:

- manage overdue acquittal reports
- recover unspent funds
- achieve timely receipt, review and analysis of recipients' progress and acquittal reports.

The above is to be documented in procedures, and communicated to grant officers.

The CCC also recommended certain councils to:

- (a) Follow up on outstanding acquittal reports from the relevant community organisations. Councils are to update the application form to include terms and conditions of discretionary funding, especially in regards to acquittals.
- (b) Investigate and take action to recover unspent funds or inappropriate use of the funds.
- (c) Remind grant officers to conduct due diligence on acquittals and to make notations on the acquittal where discrepancies or variances occur between the approved application and the acquittal report or supporting invoices/receipts.

Responses: Council One acknowledged the CCC's assessment and had commenced a review of its procedures and processes to improve the accountability of councillors' discretionary funding.

Council Two acknowledged the CCC's recommendations to conduct due diligence on acquittals, and to take action to recover unspent funds or inappropriate use of the funds.

Council Three acknowledged the CCC's observations and commenced a review of its process to obtain the required acquittals. Council also intended to investigate means to recover the small amount of unspent funds and funds that had been used for purposes other than for which they were intended. At the conclusion of these reviews, grant officers will continue to work with community organisations to ensure adequate acquittals are completed in the future and ensure clarity around what grant funds may be used for in accordance with the councillor discretionary funds policy.

Council Four had recently implemented the requirement for community organisations to complete an outcomes report (including financial acquittal) for projects over \$500 in value that are funded at councillors' discretion. Council Four also intended to document an acquittal procedure that incorporates the CCC's recommendations.

Council Five responded to the CCC about recipients who did not complete acquittal reports, or the acquittals were incomplete or ambiguous. In some of the acquittals identified by the CCC, Council Five acknowledged that there was no supporting documentation provided in the recipient's acquittal, and intended to investigate the acquittals noted by the CCC that were incomplete or ambiguous. They intend to take action to recover unspent funds or funds used inappropriately.

Overall recommendation

The CCC made a recommendation to the five councils that, instead of having the funds at the discretion of councillors, the funds could be moved into specific community grants programs. These programs could include more robust guidelines such as the use of a weighted criteria to assess the applications and the amounts to allocate. One of the five councils intended to action this recommendation and discontinue its councillor discretionary funds program. Another council intended to consider whether to discontinue the program at a later date.

Agencies' dealings with allegations of corrupt conduct

The CCC was satisfied that the Department of Local Government, Racing and Multicultural Affairs, and the Redland City Council had dealt effectively with the seven complaints of corrupt conduct relating to grants and funding activities. The public can have confidence in the integrity of these agencies.

Conclusion

The CCC did not identify any problematic issues in the way the Department of Local Government, Racing and Multicultural Affairs, and Redland City Council, had dealt with complaints of corrupt conduct relating to grants and funding activities.

However, the CCC audit identified a number of areas for improvement in the administration of councillor discretionary funds.

Councils should be aware that a divergence in projects between items for which funds were sought, and the actual items on which funds were spent, may give rise to the perception that councillor discretionary funds are regarded by the recipients as a “bucket of money” which can be drawn upon for any purpose.

There is a particular concern some community organisations may make an ambit claim for funding, and then spend up to the funded amount. Such an approach is not transparent, and inconsistent with good governance expected during the expenditure of public monies. Moreover, community organisations which receive discretionary funding should bear in mind that every dollar which they spend is a dollar which is not available for another community purpose.

Overall, the CCC recommended that, instead of having the funds at the discretion of councillors, the funds could be moved into specific community grants programs that have more robust guidelines such as the use of a weighted criteria to assess the applications and the amounts to allocate.

One of the five councils intends to action this recommendation and discontinued the councillor discretionary funding program. A second council will consider this recommendation when the local government reforms relating to councils’ management and reporting of councillor discretionary funds have been legislated.

Note

The Queensland Government’s ongoing local government reform program includes proposed amendments to the LG Act and the LG Regulation designed to strengthen the requirement for councils to manage and report on councillor discretionary funds.

The proposed amendments will require the disclosure of allocations of funds within seven business days and prohibit allocation of community grants or funding from 1 January in the year of a local government quadrennial election. This is to restrict the potential for funds to be used by sitting councillors to seek an electoral advantage over other candidates. In addition, the amendments propose the introduction of a cap on the amount of money that can be allocated to councillor discretionary funds at 0.25 per cent of total general rate revenue, and prohibit unused funds being rolled over into subsequent financial years.

Appendix A: Guidance note – policy, procedures and guidelines

This guidance note sets out the controls for clear and effective frameworks for administering councillor discretionary funds. It ensures that council has accountable and transparent processes that incorporate risk management and probity principles, and responsibilities for council staff and councillors. They are general guides and are not exhaustive.

Note: when developing the community grants policy and councillor discretionary funds policy, as well as allocating funds under the policies, the council and councillors must comply with the local government principles contained in section 4 of the LG Act and CoBA.

Community grants policy

Where a council has allocated money for councillor discretionary funds, councillors may also grant some or all of their discretionary funds to “community organisations”. In this situation, the councillor must do so in accordance with the requirements of the discretionary funds notice and the council’s “community grants policy” (grant includes discretionary funding). An overarching policy for community grants must be in place (sections 194-195, LG Regulation²²), which:

1. Clearly defines grant, which includes all forms of funding to community organisations such as councillor discretionary funds.
2. Clearly states the purpose of the policy, which is aligned and linked to legislation.
3. Clearly states the objectives of the policy, which is aligned and linked to council’s corporate plan.
4. Clearly states that grants or funding given to community organisations will be equitable, open and transparent.
5. Clearly states the eligibility criteria: who can apply and for what purpose, and who cannot apply.
6. Clearly defines community organisation.
7. Clearly states the policy for how to apply for community grants or discretionary funding.
8. Clearly states the policy for the assessment processes.
9. Clearly states the accountability mechanisms.
10. Clearly states the processes for declaring and managing COI to avoid bias.
11. Clearly states the policy for acquittal requirements, which is aligned to risk management and probity principles.
12. Clearly defines roles and responsibilities of council staff and councillors.

Councillor discretionary funds policy

The councillor discretionary funds policy should be governed by the community grants policy. It should:

13. Clearly state the purpose of the councillor discretionary funds policy, which is aligned and linked to legislation and the council’s community grants policy.
14. Clearly state the policy for budget discussion and allocations of funds at each councillor’s discretion.
15. Set out mechanisms for publishing a notice (availability notice) of councillors’ discretionary funding.
16. Set out mechanisms for the use of discretionary funds.
17. Set out mechanisms for the decision-making process for discretionary funding.
18. Set out mechanisms for reporting to the community where a councillor has spent money from their discretionary funds.
19. Set out mechanisms for councillor discretionary funds monitoring.

22 For Brisbane City Council, sections 186-187 of the CoBR.

Councillor discretionary funds program operational guidelines

These operational guidelines should be developed and published to be read in conjunction with the council's community grants policy and councillor discretionary funds policy, which guide eligibility criteria and administration of the councillor discretionary funds program. These guidelines target prospective and current applicants. The guidelines should:

20. Document the aims and objectives for councillor's discretionary funding.
21. Attach an application form for community organisations to apply for discretionary funding.
22. Clearly state who can apply and who cannot apply.
23. Clearly state what the fund can be used for i.e. eligible expenditure.
24. Set out procedures council staff and councillors must undertake when assessing, recommending and approving discretionary funding.
25. Clearly state what supporting documents must be provided with an application.
26. Clearly state the acquittal requirements and process, including refunding unused funds.
27. Clearly state how council will monitor compliance with terms and conditions.

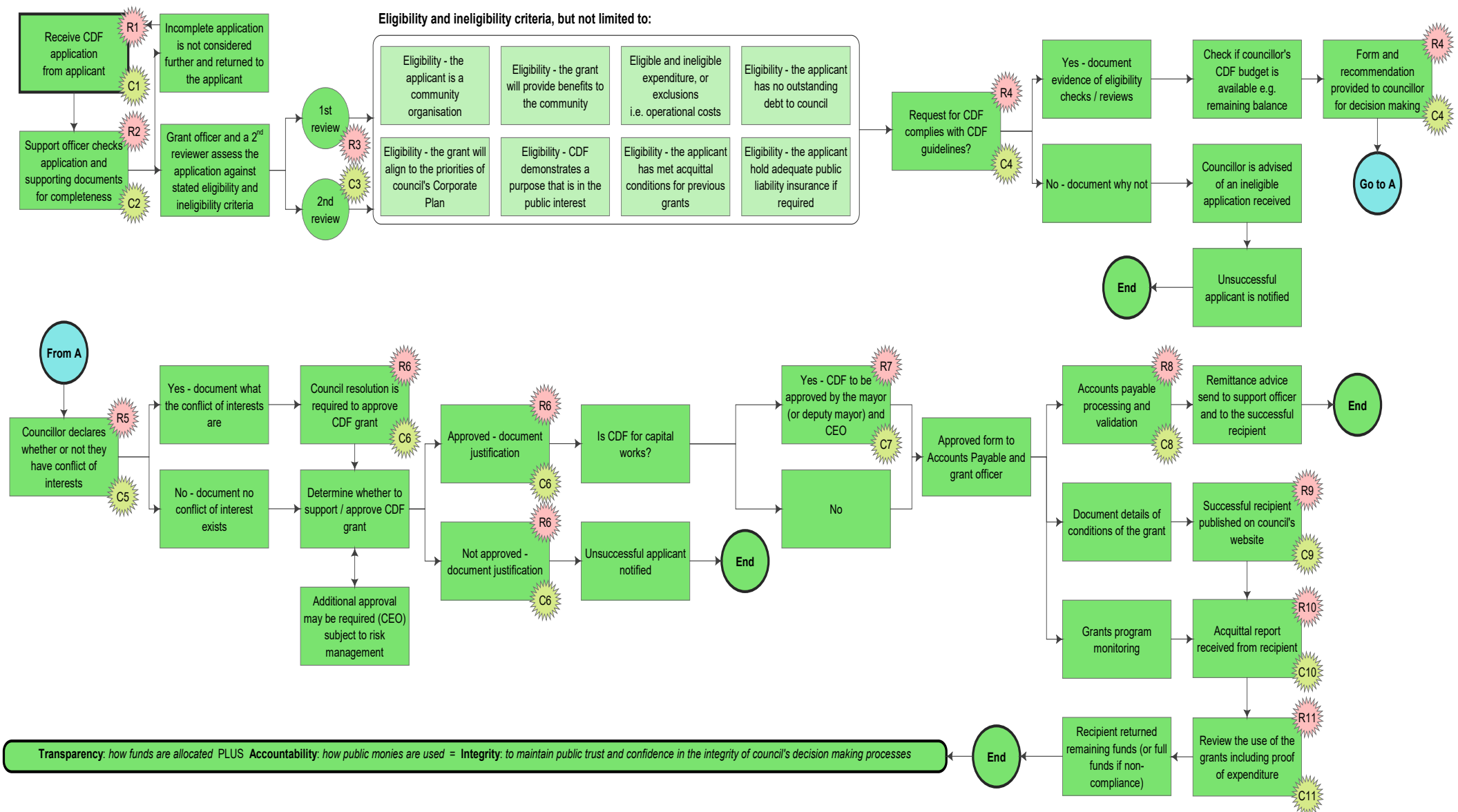
Councillor discretionary funding program procedure

This detailed procedure should be developed for internal use to guide council staff and councillors in the effective management of councillor discretionary funds. It should:

28. Describe the business processes in detail and highlight key controls.

Appendix B: Guidance note – risks and controls process map for councillor discretionary funds

Creating a risks and controls process map is a good way to understand the processes expected to assess, award and manage councillor discretionary funding (CDF) applications. The CCC developed this process map to highlight corruption risks and controls required around decision points to meet accountability and transparency.



Application risk:
Without a written application for discretionary funding there is no explanation or record of why applicant wants funding, what they are going to do, and how the funding will benefit the community. Funding supported must be for a community purpose.

R1

Application control:
The applicant must apply for discretionary fund in writing, indicating the need for the grant, how the grant will be used, and how the grant will benefit the community. The application must also include some type of justification for the requested amount, such as a quote or supported cost estimation of a project. Terms and conditions must be signed.

C1

Application risk 2:
Incomplete applications may not sufficiently provide an explanation of why an applicant wants funding, and achieve a fair and transparent assessment of the funding.

R2

Application checking control:
Council staff must check that the application received is fully completed. Council staff and councillor may not act on behalf of applicants in verifying or certifying application information, or by submitting the application on behalf of the applicant. Incomplete applications, including the failure to provide relevant documentation, must not be considered by council.

C2

Policy and eligibility criteria risk:
Decision-makers, and the public, need to be guided by policies, procedures and guidelines to mitigate the risk of public's money from misuse. The absence of a policy and clear guidelines may expose a council to potential corruption, reputational risks and financial losses.

R3

Criteria for eligibility control:
A policy and guidelines outlining who is eligible to apply for discretionary funds, eligible expenditure, and how eligibility is assessed must be made publicly available. These documents need to include processes regarding the type of recipients, what the funding can be used for, the amount of funding that can be awarded, and the method by which payments are authorised.

C3

Assessment risk:
Council should not make ad hoc decisions about who to give money to, and what amounts to award, without some justification. A broad theme, like "promotes environmental sustainability" or "supports community well being", for example, is insufficient justification for the allocation of public money.

R4

Transparent assessment control:
Council must be able to provide evidence that applications have been properly assessed against stated eligibility criteria. Councillors must outline why they support the funding, clear and convincing, and justification for the amount recommended. Council must also justify their decisions why they do not support an application.

C4

Conflict of interest (COI) risk:
Councillors are required to act in an accountable and transparent way that meets community expectations. Where councillors determine matters on their own initiative or discretion and there is no policy in place to ensure COIs are declared and appropriately managed, a councillor's involvement in matters where COIs exist may be improper and corrupt.

R5

Conflict of interest (COI) control:
Councillors involved in the decision making processes of discretionary funding program must declare as to whether they have actual, perceived, potential or no COI in the matter being determined. Councillors to document whether or not they have COIs with an application. All approval mechanisms should also comply with the LG Act.

C5

Decision making risk:
Council staff, decision-makers and councillors having a determined COI are not involved in any discussions and approvals on funding relating to the applicant. Councils do not have provisions for COI in policy, opening up for possible fraud and corruption activities. The public expects funding applications to be assessed ethically and protect the public money from misuse.

R6

Decision making control:
Anyone having a determined COI should not debate or be involved in any discussions on any matter relating to the specific applicant. The affected application should be put through council resolution, including councillors declaring COIs and absents from voting (if required, to ensure organisational transparency.

C6

Capital works risk:
Funding that falls under capital works is not appropriately approved by the mayor or deputy mayor, and the chief executive under the LG Act. Council staff may not be assessing applications that may fall under capital works to ensure appropriate approvals are obtained prior to payments of the funding.

R7

Capital works approval control:
It is a requirement under the LG Act and its subordinate regulation for capital works to be approved by the mayor or deputy mayor, and the chief executive. This requirement should be documented in policy and procedures. Assessment form should include a criteria whether the funding is for capital works so that appropriate processes can be followed.

C7

Payments risk:
Payments of the funding to the recipients via Electronic Funds Transfer (EFT) may not be to the bank account as specified on the application. Suspicious transactions may give rise to reasonable grounds to suspect that fraud or corruption activities have occurred. Explanation for the different in bank account details are not recorded by council staff.

R8

Payments control:
Validation control should be implemented to verify that the bank account details processed by a finance officer is accurate to what was stated on application. Any discrepancies are to be recorded information should be documented and followed up. Authorised vendor master data changes must be supported by applicant's request.

C8

Information regarding applicants risk:
The public is entitled to know where public money is being awarded. In the absence of publicly available information, including the applicant, amount and purpose of funding, the public can lose confidence in a council's ability to act impartially and transparently. Such practices may also be contrary to the LG Act.

R9

Information regarding applicants control:
Information such as who received councillors' discretionary funds, the amounts of the funding, and for what purpose the funding will be used for by the community organisations, must be made publicly available.

C9

Acquittal risk:
No requirement on recipients to demonstrate how funds have been expended or whether the funding has been in accordance with the original request for funding and the conditions under which the grant was paid. The amount threshold for acquittals to be completed may not be commensurate to the risks arising from discretionary funding.

R10

Acquittals control:
Once the project or purpose of the funding has been completed, recipients are required to submit an acquittal, to ensure that grants were used for the purpose that council has allocated the funds for. Recipients should be required to provide copies of invoices or receipts to substantiate the expenditure, and return any remaining funds unused. Council must establish a risk management acquittal process.

C10

Monitoring risk:
Councils do not have a policy for monitoring the efficiency and effectiveness of discretionary funding. The purpose of the funding may not have been achieved, or improvements to the grants program may be ineffective. Councils also are not following up on outstanding acquittals in a timely manner, which may demonstrate a disregard for how public monies were used by the recipients.

R11

Monitoring control:
Councils need to establish the policy to monitor the discretionary funding program to ensure it continues to deliver efficient and effective processes, and the conditions of the approval and any specific requirements which are prerequisite to the payment of the funding are met.

C11

Appendix C: Guidance note – prevention strategy for conflict of interest risk appetite

Councils and councillors are required to act in an open and transparent manner for the benefit of their communities. Those involved in decision-making processes of discretionary funding applications should be required to make declarations as to whether they have real, perceived, potential or no COIs in the matters being determined.

Risk identification is a fundamental element of councillor discretionary funding processes in councils. A risk management strategy should be developed, documented and adopted by councils. A COI is an example of a risk that may arise in council's discretionary funding processes. COIs, whether actual or perceived, have the potential to damage a council and its councillor discretionary funding programs. Chief executive officers, grant officers and councillors are bound by the requirements of the LG Act and Regulation, the *Public Sector Ethics Act 1994*, and underlying codes of conduct and policies, and are required to disclose affiliations or interests accordingly.

Councils must have documented procedures that outline the actions to be taken to address a councillor's declared COI with an application.

The following two guidance notes illustrate the importance of the concept of risk appetite.

The first guidance note shows how every councillor should determine if they have a COI with an application. In determining whether the councillor has a COI, they should consider certain questions.

Guidance note 1

Ask yourself these questions:

- Could someone from outside the council or outside your family perceive that you have a COI?
- What would you think if you saw someone else doing this – would you be suspicious?
- How would you feel if your actions were printed on the front page of the newspaper?
- Who could be hurt and who could benefit?
- Might people think you are unfair or the council is unfair?

Your answers to these questions will start to give you an idea of whether you have a COI. A "Yes" answer to any of these questions should prompt you to declare the conflict and disclose it on the application.

The second guidance note is an example of the types of COIs councillors should be considering in relation their involvement in an application.

Guidance note 2

There are four types of COIs that a councillor must declare for an application under consideration. They are:

- (1) Actual – an actual COI involves a conflict between a councillor's duties and responsibilities in serving the public interest, and the councillor's personal interests.
- (2) Perceived – a perceived COI exists where it appears that a councillor's personal interests could improperly influence the performance of their duties – whether or not this is in fact the case.
- (3) Potential – a potential COI arises where a councillor has personal interests that could conflict with their official duties in the future.
- (4) None – no COI exists.

It is good governance to restrict a councillor's involvement in the consideration of an application if that involvement could give rise to a COI. Do not underestimate the consequences of an actual, perceived, or potential COI – if in doubt, seek advice and declare it on the assessment form.

A councillor may be a member of a community organisation, such as a sporting club or similar organisation, or be invited to act as patron. They should be cognisant of situations or matters that may arise which raise a perceived COI and ensure they manage them accordingly. This allows for better decision-making by the councillor and the council.



Crime and Corruption Commission

QUEENSLAND

Contact details

- ✉ Crime and Corruption Commission
GPO Box 3123, Brisbane QLD 4001
Level 2, North Tower Green Square
515 St Pauls Terrace,
Fortitude Valley QLD 4006
- ☎ 07 3360 6060 or
Toll-free 1800 061 611
(in Queensland outside Brisbane)
- 📠 07 3360 6333

More information

- 🌐 www.ccc.qld.gov.au
- @ mailbox@ccc.qld.gov.au
- 🐦 @CCC_QLD
- f CrimeandCorruptionCommission
- 📢 CCC email updates
www.ccc.qld.gov.au/subscribe