

Ethics, integrity and elected officials — local government

Legal and ethical obligations of councillors and election candidates

This advisory details the major legal and ethical obligations of local government councillors and election candidates. Fulfilling these obligations is essential to maintaining public confidence and acting in the public interest, and failure to do so may constitute misconduct, official misconduct or a criminal offence.

1 During an election

Funding your campaign

☒ DO:

- record and declare all gifts, donations or loans given to you for electoral purposes. (Consult the *Local Government Electoral Act 2011* for details, as it is an offence to make false or misleading returns)
- process all election receipts and expenditure through a dedicated bank account
- remind anyone who donates or incurs electoral expenditure of \$200 or more on behalf of you or your party that they must submit returns to the Electoral Commission after each election
- refuse any anonymous election donations equal to or greater than \$200.

☒ DO NOT:

- make any anonymous election donations equal to or greater than \$200.

Conducting your campaign

☒ DO:

- include proper attribution and authorisation on all published election materials whether printed, broadcast or electronic

☒ DO NOT:

- threaten, use any force or deception or offer a bribe or inducement to:
 - a candidate or potential candidate — to influence their decision to stand or the way they conduct their campaign
 - a voter — to influence the exercising of their vote
 - an ineligible person — to encourage them vote at an election.

Continued next page.

- encourage or incite any person to, or yourself:
 - vandalise, destroy, steal or otherwise interfere with any election material or ballot paper in use
 - knowingly make any false or misleading statements about another candidate.
 - make any false or misleading statements or imply (e.g. by the use of logos, symbols or images) that a candidate has the support of a person or organisation
 - print, publish, distribute or broadcast anything intended or likely to mislead an elector about how to vote at an election
 - breach any Act or Regulation in relation to the conduct of elections or voting in an election.
- accept any inducement from any other candidate or interested party to encourage you to stand or not to stand as a candidate, or to use less than your best endeavours in promoting your election
- attempt to harm an opponent's reputation by making a false or frivolous allegation of misconduct to the CMC. If you do so, you may face investigation as such allegations can compromise the election process, unfairly damage reputations and waste public money. We urge you to inform us confidentially if you have a genuine concern, and we will treat your complaint seriously and with discretion.

2

While in office

As a local government councillor, you are bound at all times by the *Local Government Act 2009*, which sets out the following principles:

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

These principles have priority over any election platform or policy, and you are elected to enact and realise them to the best of your ability. Your primary function is to serve the best interests of the community as a whole, rather than those of any particular section or interest group.

If your council has a code of conduct, you must also adhere to its provisions.

You must not misrepresent your personal position on an issue as being that of the council. You cannot publically express your disagreement with a council decision until that decision has been made public, and must not use confidential information to explain your disagreement.

You will automatically stop being a councillor if you are convicted of an offence relating to treason, electoral practices, bribery or lack of integrity.

Commencement of your term

If you are elected, your term starts the day after the conclusion of the election. If you are appointed, it starts on the day you are appointed. You must make a formal Declaration of Office before you perform any official duties.

Your obligations

Conflicts of interest

 DO:

- make a formal written declaration of your financial and personal interests, and of those of your closest relatives and associates, and update this within 30 days of any significant change
- declare your interest and disqualify yourself from proceedings where there is a matter under discussion in which you or any close connection has a material personal (i.e. financial) interest
- declare any other possible conflict of interest you may have as soon as a matter comes up for discussion, and indicate whether you believe this is likely to influence you when debating and voting on the matter. You must then inform the meeting of how you intend to deal transparently and accountably with the real or perceived conflict of interest (e.g. by excusing yourself from the meeting).

Secondary employment

You are taken to have resigned as a local government employee the day before you become a councillor.

 DO:

- report any paid secondary employment when making a formal written declaration of your financial and personal interests
- conform with the requirements regarding conflicts of interest when responding to matters in which you have a financial interest or any other conflict of interest relating to your secondary employment.

As a senior councillor you:

- cannot concurrently have a full-time government job unless you irrevocably waive any entitlement to the reward associated with that job before you accept the position, and give a signed copy of the waiver to the mayor or the chief executive officer
- can have a part-time government job, or can convert a previously held full-time government job to a part-time one.

Allowances

DO:

- ensure you use discretionary funds available to you from the local government's operating fund in accordance with the requirements detailed in the Local Government Regulation (Finance, Plans and Reporting) 2010.

DO NOT:

- knowingly agree to or provide a disbursement that is not provided for in the local government's budget for the financial year, or make a disbursement without the approval of the local government by resolution
- directly or indirectly make or guarantee a loan of council funds to an individual
- knowingly agree to the local government's borrowing money in contravention of the *Local Government Act 2009* or other relevant legislation. (You may be held personally liable for any council funds that are used inappropriately.)

Records management

DO:

- adequately make, record, store and keep all public records within the council, including emails, letters, audio recordings, photos and other forms of records relating to the local government's executive activities
- exercise due care when handling or using confidential information and records, and ensure they are not left where they can be accessed by anyone not involved in the matter.

DO NOT:

- destroy, damage, abandon, transfer, donate, give away or sell any public record without authority to do so.

Further information

See *The Councillor Conduct Guide* on the CMC website at www.cmc.qld.gov.au/councillor-conduct-guide for further information on topics including:

- gifts and benefits
- dealing with council staff
- dealing with lobbyists
- use of council information and resources.

3

On leaving office

Your obligations

Records

When you cease employment as a councillor, it is an offence to:

- shred, delete, destroy or amend any council records
- dispose of any related emails unless a hard or electronic copy of the latter has been recorded in relevant files
- keep any public records in your possession.

Council property

DO:

- return all council property.

DO NOT:

- keep, unlawfully destroy or damage any property deemed to belong to the local government.

Subsequent employment

DO:

- maintain confidentiality of information not available to the public.

DO NOT:

- take personal advantage of information not generally available to the public, to which you have access as a councillor to gain or engage in future employment
- carry out a lobbying activity relating to official dealings you had in the two years before you left office, for two years after you leave.

4

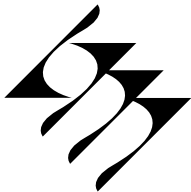
Resource list

For further information and advice, see:

- *City of Brisbane Act 2010*
- *Crime and Misconduct Act 2001*
- *Integrity Act 2009*
- *Local Government Act 2009*
- *Local Government Electoral Act 2011*
- *Public Records Act 2002*
- *Public Sector Ethics Act 1994*
- *Right to Information Act 2009*
- Department of Local Government and Planning <www.dip.qld.gov.au>
- Electoral Commission Queensland <www.ecq.qld.gov.au>
- Local Government Association of Queensland <www.lgaq.asn.au>
- Local Government Association of Queensland 2010, *Councillor Handbook*, LGAQ, Brisbane.
- Public Service Commission <www.psc.qld.gov.au>.

All Queensland legislation is available at <www.legislation.qld.gov.au>

CRIME AND MISCONDUCT COMMISSION



QUEENSLAND

For further information about misconduct prevention please email <mailbox@cmc.qld.gov.au> or contact a misconduct prevention adviser on 3360 6060.

Crime and Misconduct Commission
Level 2, North Tower Green Square
515 St Pauls Terrace, Fortitude Valley, Australia 4006

GPO Box 3123
Brisbane Qld 4001

Tel: (07) 3360 6060
Fax: (07) 3360 6333
Email: mailbox@cmc.qld.gov.au

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