

MEETING PROCEDURES, STANDING ORDERS & COUNCILLOR CONDUCT POLICY

SCOPE

This policy provides a framework for the management of business at all Council and Statutory Committee proceedings and appropriate conduct at those meetings.

In the event of any inconsistency between the Policy and the Act or the Regulation, the Act or the Regulation (as the case may be) shall prevail to the extent of the inconsistency.

LEGISLATION

Local Government Act 2009
Local Government Regulations 2012

OBJECTIVE

To -

- establish direction for the conduct of Council and Committee meetings, including the post-election meeting; and
- provide for the orderly and proper conduct of Council and Committee meetings

DEFINITIONS

Refer to *Local Government Act 2009* Schedule 4 – Dictionary

POLICY

Refer attached –

- Schedule 1 – Banana Shire Council Standing Orders
- Schedule 2 - Code of Conduct for Councillors in Queensland (approved 4 August 2020)

Banana Shire Council has adopted the Queensland Government's "Best Practice Example Standing Orders for Local Government and Standing Committee Meetings - November 2022" as the meeting procedures for Council.

The following standing orders reflect the above.

Council has also adopted the Queensland Government's Code of Conduct for Councillors and this code is attached to this policy.

PROCEDURE

Procedures as approved and issued by the Chief Executive Officer, and subject to further revision, amendment and issue under the authority of the Chief Executive Officer.

CERTIFICATION



.....
CHIEF EXECUTIVE OFFICER
BANANA SHIRE COUNCIL

7/3/23

.....
DATE

Banana Shire Council Standing Orders

1. Standing orders

- 1.1. These standing orders apply to local government meetings including standing committee meetings. These standing orders do not apply to meetings of the audit committee.
- 1.2. A provision of these standing orders may be suspended by resolution of any meeting of the local government except those sections that are mandatory under the model meeting procedures. A separate resolution is required for any suspension and must specify the application and duration of each suspension.
- 1.3. Where a matter arises at the local government meeting that is not provided for in these standing orders, the matters shall be determined by resolution of the local government upon a motion which may be put without notice but otherwise conforming with these standing orders.

Procedures for meetings

2. Presiding officer

- 2.1 The mayor will preside at a meeting of local government.
- 2.2 If the mayor is absent or unavailable to preside, the deputy mayor will preside.
- 2.3 If both the mayor and the deputy mayor, or the mayor's delegate, are absent or unavailable to preside a councillor chosen by the councillors present at the meeting will preside at the meeting.
- 2.4 The local government will choose the chairperson for a committee meeting. This chairperson will normally preside over meetings of the committee.
- 2.5 If the chairperson of a committee is absent or unavailable to preside, a councillor chosen by the councillors present will preside over the committee meeting.
- 2.6 Before proceeding with the business of the local government meeting, the person presiding at the meeting will undertake the acknowledgement and/or greetings deemed appropriate by the local government.

3. Order of business

- 3.1 The order of business will be determined by resolution of the local government from time to time. The order of business may be altered for a particular meeting where the councillors at that meeting pass a procedural motion to that effect. A motion to alter the order of business may be moved without notice.
- 3.2 Unless otherwise altered, the order of business will be as follows:

- attendances
- apologies and granting of leaves of absence
- confirmation of minutes
- business arising out of previous meetings
- officers' reports.

Note: *The minutes of a preceding meeting, whether an ordinary or a special meeting, not previously confirmed will be taken into consideration, at every ordinary meeting of the local government, in order that the minutes may be confirmed. No discussion will be permitted about these minutes except with respect to their accuracy as a record of the proceedings. Amendments to the minutes may be made prior to confirming the minutes. This must be done by moving a motion to amend the minutes that must be voted on and carried. Once the resolution is passed the minutes can be amended. All councillors present at the meeting can vote to confirm the minutes including those who were absent at the previous meeting and those who had a conflict of interest at the previous meeting.*

4. Agendas

4.1 The agenda may contain:

- notice of meeting
- minutes of the previous meetings
- business arising out of previous meetings
- business which the mayor wishes to have considered at that meeting without notice
- matters of which notice has been given
- committees' reports referred to the meeting by the chief executive officer (CEO)
- officers' reports referred to the meeting by the CEO
- deputations and delegations from the community that are approved to attend
- any other business the council determines by resolution be included in the agenda.

4.2 Business not on the agenda, or not fairly arising from the agenda, will not be considered at any council meeting unless permission for that purpose is given by the local government at the meeting. Business must be in accordance with the adopted terms of reference for each committee.

4.3 The notice of the meeting and the agenda must be given to each councillor at least 2 days before the meeting and in the case of indigenous regional councillors, at least four days prior to the meeting unless it is impracticable to give the notice before that time. The agenda for the local government must be made publicly available by 5pm on the business day after the notice of meeting is given to the councillors. Any related reports for the local government meeting must also be included and available to the public when the agenda for the meeting is made publicly available, excluding confidential reports. If the related report is made available to councillors or committee members during the period starting immediately after notice of the meeting is given and ending immediately before the meeting is held, then these reports must be made available to the public as soon as practicable after it is made available to the councillors or committee members.

4.4 Matters on the agenda that will require the meeting to be in a closed session consistent with the provisions under section 254J LGR, will be clearly identified on the agenda including the reasons why the session will be closed.

5. Quorum

- 5.1 A quorum at a local government meeting is a majority of its councillors. If the number of councillors is even then one half of the number is a quorum.
- 5.2 If a quorum is not present within 15 minutes after the time set for the meeting to begin, it may be adjourned to a later hour or a later day within 14 days after the day of the adjournment. The meeting may be adjourned by a majority of councillors present, or if only one councillor is present, then that councillor, or if no councillors are present then the chief executive officer.

6. Petitions

6.1 Any petition presented to a meeting of the local government will:

- be in legible writing or typewritten and contain a minimum of ten (10) signatures
- include the name and contact details of the principal petitioner (i.e., the key contact)
- include the postcode of all petitioners, and
- have the details of the specific request/matter appear on each page of the petition.

6.2 Where a councillor presents a petition to a meeting of the local government, no debate in relation to it will be allowed, and the only motion which may be moved is:

- that the petition be received
- received and referred to a committee or officer for consideration and a report to the council, or
- not be received because it is deemed invalid.

6.3 The local government will respond to the principal petitioner in relation to all petitions deemed valid.

7. Deputations

7.1 A deputation wishing to attend and address a meeting of the council shall apply in writing to the CEO not less than seven (7) business days before the meeting.

7.2 The CEO, on receiving an application for a deputation, shall notify the chairperson who will determine whether the deputation may be heard. The CEO will inform the deputation of the determination in writing. Where it has been determined the deputation will be heard, a convenient time will be arranged for that purpose, and an appropriate time period allowed (e.g., 15 minutes).

7.3 For deputations comprising three or more persons, only three persons shall be at liberty to address the council meeting unless the councillors at the meeting determine otherwise by resolution. A deputation shall be given adequate opportunity to explain the purpose of the deputation.

7.4 If a member of the deputation other than the appointed speakers interjects or attempts to address the council meeting, the chairperson may terminate the deputation.

7.5 The chairperson may terminate an address by a person in a deputation at any time where:

- the chairperson is satisfied that the purpose of the deputation has been sufficiently explained to the councillors at the meeting
- the time period allowed for a deputation has expired, or
- the person uses insulting or offensive language or is derogatory towards councillors or others.

7.6 The CEO is responsible for the deputation including that the appointed speaker/s are notified in writing of developments or future actions as appropriate.

8. Public participation at meetings

8.1 A member of the public may take part in the proceeding of a meeting only when invited to do so by the chairperson.

8.2 In each local government meeting, time may be required to permit members of the public to address the local government on matters of public interest related to local government. An appropriate time period shall be allowed (e.g. 15 minutes) and no more than three (3) speakers shall be permitted to speak at one meeting. The right of any individual to address the local government during this period shall be at the absolute discretion of the local government chairperson.

8.3 If any address or comment is irrelevant, offensive, or unduly long, the chairperson may require the person to cease making the submission or comment.

8.4 For any matter arising from such an address, the local government may take the following actions:

- refer the matter to a committee
- deal with the matter immediately
- place the matter on notice for discussion at a future meeting
- note the matter and take no further action.

8.5 Any person addressing the local government shall stand, and act and speak with decorum and frame any remarks in respectful and courteous language.

8.6 Any person who is considered by the local government or the chairperson to be inappropriately presenting may be directed by the chairperson to immediately withdraw from the meeting. Failure to comply with such a request may be considered an act of disorder.

9. Prescribed conflict of interest

Councillors are ultimately responsible for informing of any prescribed conflict of interest on matters to be discussed at a council or committee meeting (other than ordinary business matters as prescribed under 150EF of the LGA). When dealing with a prescribed conflict of interest, councillors must abide by the following procedures:

- 9.1 A councillor who has notified the chief executive officer in writing, including all the particulars, of a prescribed conflict of interest in a matter to be discussed in a council meeting must also give notice during the meeting.
- 9.2 A councillor who first becomes aware of a prescribed conflict of interest in a matter during a council meeting must immediately inform the meeting of the conflict of interest and the particulars.
- 9.3 When notifying the meeting of a prescribed conflict of interest, the following particulars must be provided:
- for a gift, loan or contract—the value of the gift, loan or contract
 - for an application for which a submission has been made—the matters the subject of the application and submission:
 - the name of the entity, other than the councillor, that has an interest in the matter,
 - the nature of the councillor's relationship to the other entity
 - details of the councillor's, and any other entity's, interest in the matter.
- 9.4 The councillor must then leave the place of the meeting, including any area set aside for the public, and stay away while the matter is being discussed and voted on, unless the subject councillor has written notice of approval from the Minister to participate in deciding the matter in a meeting including participating in the discussion and the vote.

Note: Ministerial approval may be obtained when a quorum is lost due to the number of councillors with a conflict of interest in the matter, and the matter cannot be delegated. The councillor with the conflict of interest must apply to the Minister for approval to participate. The Minister may give the approval subject to the conditions stated in the notice of approval.

- 9.5 Once the councillor has either left the area where the meeting is being conducted or remains in the meeting under ministerial approval, the council can continue discussing and deciding on the matter at hand. However, if the prescribed conflict of interest was reported to the meeting by a councillor other than the subject councillor, then the councillor must disclose their belief or suspicion to the chairperson and the processes, duty to report another councillor's conflict of interest under section 150EW of the LGA, will apply. If the councillor with the suspected COI considers there is no conflict of interest then the eligible councillors must make a decision whether or not the subject councillor has a prescribed conflict of interest under 150EX(2) of the LGA.

10. Declarable conflict of interest

Councillors are ultimately responsible for informing of any declarable conflict of interest on matters to be discussed at council or committee meetings that might lead to a decision that is contrary to the public interest (other than the interests that are not declarable conflicts of interest prescribed under section 150EO of the LGA and ordinary business matters prescribed under 150EF of the LGA).

A councillor may raise their personal interests in a matter at the meeting to canvas the view of the other councillors prior to deciding to declare a conflict of interest. If the other councillors suspect the personal interest might be a conflict of interest, the councillor or councillors may disclose their belief or suspicion to the chairperson and the processes, duty to report another councillor's conflict of interest under section 150EW of the LGA, will apply. The eligible councillors must then make a decision under 150EX(2) of the

LGA. When dealing with a declarable conflict of interest, councillors must abide by the following procedures:

- 10.1 A councillor who has notified the chief executive officer of a declarable conflict of interest in a matter to be discussed at a council meeting must also give notice during the meeting.
- 10.2 A councillor who first becomes aware of a declarable conflict of interest in a matter during a council meeting must stop participating in the decision on the matter and must inform the meeting of the conflict of interest including the particulars.
- 10.3 When notifying the meeting of a declarable conflict of interest, councillors should provide sufficient detail to allow the other councillors to make an informed decision about how best to manage the declarable conflict of interest in the public interest. The following details must be provided:
 - the nature of the declarable conflict of interest;
 - if it arises because of the councillor's relationship with a related party:
 - I. the name of the related party to the councillor; and
 - II. the nature of the relationship of the related party to the councillor; and
 - III. the nature of the related party's interest in the matter;
 - if it arises because of a gift or loan from another person to the councillor or a related party:
 - I. the name of the other person; and
 - II. the nature of the relationship of the other person to the councillor or related party; and
 - III. the nature of the other person's interest in the matter; and
 - IV. the value of the gift or loan and the date the gift or loan was made.
- 10.4 After a councillor has declared a conflict of interest, the councillor should consider leaving the meeting while the matter is discussed unless they have ministerial approval to participate, or they have reasons why their participation would improve making the decision in the public interest.
- 10.5 If the councillor chooses not to leave the meeting, the councillor may advise the other councillors of their reasons for seeking permission to participate in making the decision as prescribed in section 150ES of the LGA. In deciding on a councillor's declarable conflict of interest in a matter, only councillors who do not themselves have a prescribed or declarable conflict of interest in the matter are eligible to participate in the decision making. The decision may be made even if the number of eligible councillors is less than a majority or do not form a quorum for the meeting or is a single eligible councillor consistent with section 150ET of the LGA. If there is a single eligible councillor deciding, then a seconder for the resolution is not required.

Note: *The ability to make a resolution without a seconder applies when making a resolution under 150ES of the LGA.*

- 10.6 The other eligible councillors or councillor at the meeting must then decide, by resolution, whether the councillor can participate in the decision making in relation to the matter, including voting on the matter, or whether they should not participate in the decision and leave the place of the meeting while the matter is decided by the eligible councillors. The eligible councillors may impose conditions on the councillor under a decision to either participate or leave the

meeting e.g. may stay for the debate but must leave for the vote. The councillor must comply with any decision or condition imposed by the eligible councillors.

- 10.7 The councillor who is the subject of the decision may remain in the meeting while the debate is occurring and can participate by answering questions from the chairperson to assist the eligible councillors in making their decision. The subject councillor must not vote or otherwise participate in making the decision but may remain in the meeting while the vote on the matter takes place and the decision is declared by the chairperson, on whether the councillor may remain in the meeting and participate in deciding the matter in which the councillor has a declarable conflict of interest.
- 10.8 When deciding whether a councillor may participate in the decision making on a matter in which they have a declarable conflict of interest, the eligible councillors should consider the particular circumstances of the matter including, but not limited to;
- how does the inclusion of the councillor in the deliberation affect public trust,
 - how close or remote is the councillor's relationship to the related party,
 - if the declarable conflict of interest relates to a gift or other benefit, how long ago was the gift or benefit received,
 - will the benefit or detriment the subject councillor or their related party stands to receive from the decision have major or minor impact on them,
 - how the benefit or detriment the subject councillor stands to receive compares to others in the community,
 - how this compares with similar matters that council has decided and have other councillors with the same or similar interests decided to leave the meeting,
 - whether the subject councillor has unique skills, knowledge or expertise that might help make the best decision in the public interest.
- 10.9 If the eligible councillors cannot decide about the declarable conflict of interest of a councillor, they are taken to have decided that the councillor must leave and stay away from the meeting while the eligible councillors discuss and vote on the matter as prescribed in 150ET(3) of the LGA .
- 10.10 A decision about a councillor who has a declarable conflict of interest in a matter will apply to participating in the decision and all subsequent decisions about the same matter as prescribed in 150ET(4) of the LGA, unless there is a change to the councillor's personal interests and/or the nature of the matter being discussed. If the eligible councillors decide the councillor can act in the public interest on the matter, then the councillor may participate in the meeting and be involved in processes occurring outside of a council meeting about the same matter e.g. briefing sessions or workshops.
- 10.11 In making the decision, it is irrelevant how the subject councillor intended to vote on the issue or any other issue (if known or suspected).
- 10.12 A councillor does not contravene the above procedures if the councillor participates in a decision under written approval from the Minister as prescribed in 150EV of the LGA.

11. Reporting a suspected conflict of interest

If a councillor at a meeting reasonably believes or suspects that another councillor has a personal interest in a matter that may be a prescribed or a declarable conflict of interest, and that councillor is participating in a decision on that matter, the informing councillor who believes that a conflict of interest exists must immediately inform the chairperson of the meeting of their belief or suspicion and the facts and circumstances that led to their belief or suspicion.

- 11.1 The chairperson then should ask the relevant councillor with the suspected personal interest whether they have any prescribed or declarable conflict of interest in the matter. If the relevant councillor agrees they have a conflict of interest, the councillor must follow the relevant meeting procedures above for prescribed and declarable conflicts of interest.
- 11.2 If the councillor believes they do not have a conflict of interest, they must inform the meeting of that belief and their reasons for that belief.
- 11.3 The eligible councillors must then decide whether the relevant councillor has a prescribed conflict of interest, a declarable conflict of interest or that the councillor does not have any conflict of interest in the matter. If the meeting decides the councillor has a conflict of interest, the councillor must follow the relevant meeting procedures above. If a councillor with a declarable conflict of interest wants to participate in the decision despite the declarable conflict of interest, then the eligible councillors must make a decision about the councillors participation.
- 11.4 If the eligible councillors at the meeting cannot make a decision about, whether a councillor has a declarable conflict of interest under 150ER of the LGA, or whether the councillor may or may not participate in the decision despite the subject councillor's declarable conflict of interest under 150ES of the LGA , then they are taken to have determined that the councillor must leave the meeting and stay away while the matter is being decided under 150ET(3) of the LGA. A decision under these provisions about a councillor participating in the meeting applies to the matter and subsequent decisions, about the same matter unless there is a change to the councillor's personal interests and/or the nature of the matter being discussed. If the eligible councillors decide that the subject councillor can act in the public interest on the matter, then the councillor may participate in the meeting and be involved in processes occurring outside of a council meeting about the same matter e.g. workshops.

12. Loss of quorum

- 12.1 In the event where one or more councillors leave a meeting due to a prescribed or declarable conflict of interest in a matter that results in a loss of a quorum for deciding the matter, the council must resolve to:
 - delegate the consideration and decision on the matter, as described in 257 of the LGA unless the matter cannot be delegated under this section
 - decide by resolution to defer the matter to a later meeting
 - decide by resolution not to decide the matter and take no further action in relation to the matter.
- 12.2 All councillors including the conflicted councillors, may participate in deciding to delegate or defer a matter.

- 12.3 The council must not delegate a decision to an entity if the entity, or a majority being at least half of its members, has a prescribed or declarable conflict of interest in the matter.
- 12.4 If the matter cannot be delegated under an Act, the councilors with a conflict of interest should seek ministerial approval to be able to consider and vote on the matter, subject to any conditions the Minister may impose.

Motions

13. Motion to be moved

- 13.1 A councillor is required to 'move' a motion and then another councillor is required to 'second' the motion.
- 13.2 When a motion has been moved and seconded, it will become subject to the control of the council and cannot be withdrawn without the consent of the council meeting.
- 13.3 Other councillors can propose amendments to the motion, which must be voted on before voting on the final motion:
- A motion brought before a meeting of the local government in accordance with the LGA or these standing orders will be received and put to the meeting by the chairperson.
 - The chairperson may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.
 - The chairperson may refuse to accept a motion if it is not within the meeting's jurisdiction and rule a motion out of order if necessary. Any motion that is vague, proposes an unlawful action, is outside the scope of the meeting, is defamatory, vexatious or is unnecessary, may be ruled out of order.
- 13.4 The chairperson may call the notices of motion in the order in which they appear on the agenda. Where no objection is raised to a motion being taken as a formal motion, and the motion is then seconded, the chairperson may put the motion to the vote without discussion and the vote can occur.
- 13.5 No more than one motion or one proposed amendment to a motion may be put before a meeting of a local government at any one time.

14. Absence of mover of motion

- 14.1 Where a councillor who has given notice of a motion is absent from the meeting of the local government at which the motion is to be considered, the motion may be:
- moved by another councillor at the meeting, or
 - deferred to the next meeting.

15. Motion to be seconded

- 15.1 A motion or an amendment to a motion shall not be debated at a meeting of the local government unless or until the motion or the amendment is seconded.

15.2 Procedural motions are an exception to this rule and do not need to be seconded.

16. Amendment of motion

- 16.1 An amendment to a motion should maintain or further clarify the intent of the original motion and does not contradict the motion.
- 16.2 Where an amendment to a motion is before a meeting of the local government, no other amendment to the motion will be considered until after the first amendment has been voted on.
- 16.3 Where a motion is amended, the original motion cannot be re-introduced as a subsequent amendment to the first amended motion.

17. Speaking to motions and amendments

- 17.1 The mover of a motion or amendment will read it and state that it is so moved but will not speak to it until it is seconded.
- 17.2 The chairperson will manage the debate by allowing the councillor who proposed the motion the option of speaking first on the motion. The chairperson will then call on any other councillors who wish to speak against the motion and then alternatively for and against the motion as available, until all councillors who wish to speak have had the opportunity.
- 17.3 A councillor may make a request to the chairperson for further information before or after the motion or amendment is seconded.
- 17.4 The mover of a motion or amendment has the right to reply. Each councillor will speak no more than once to the same motion or same amendment except as a right of reply. Once the right of reply has been delivered the debate ends.
- 17.5 Each speaker will be restricted to not more than five (5) minutes unless the chairperson rules otherwise.
- 17.6 Where two or more councillors indicate they may wish to speak at the same time, the chairperson will determine who is entitled to priority.
- 17.7 In accordance with section 254H of the LGR, if a decision made at the council meeting is inconsistent with a recommendation or advice given to the council by an advisor, the minutes of the meeting must include a statement of the reasons for not adopting the recommendation or advice.

Note: *If a report contains distinct recommendations, the decision of the council may be taken separately on each recommendation. If a decision by the meeting is contra to a recommendation in a report the minutes must give the reasons for the decision.*

18. Method of taking vote

- 18.1 The chairperson will call for all councillors in favour of the motion to indicate their support. The chairperson will then call for all councillors against the motion to indicate their objection.

- 18.2 A councillor may call for a 'division' to ensure their objection to the motion is recorded in the minutes. If a division is taken, the minutes of the meeting will record the names of councillors voting in the affirmative and of those voting in the negative. The chairperson will declare the result of a vote or a division as soon as it has been determined.
- 18.3 Councillors have the right to request that their names and how they voted be recorded in the minutes if they request it when voting other than by division.
- 18.4 Except upon a motion to repeal or amend it, the resolution will not be discussed after the vote has been declared.

19. Withdrawing a motion

- 19.1 A motion or amendment may be withdrawn by the mover with the consent of the council, which will be without debate, and a councillor will not speak to the motion or amendment after the mover has been granted permission by the council meeting for its withdrawal.

20. Repealing or amending resolutions

- 20.1 A resolution of the local government may not be amended or repealed unless notice of motion is given in accordance with the requirements of the legislation.
- 20.1 Councillors present at the meeting at which a motion to repeal or amend a resolution is put may defer consideration of that motion. The deferral may not be longer than three (3) months.

21. Procedural motions

- 21.1 A councillor at a meeting of the local government may, during the debate of a matter at the meeting, move the following motions, as a procedural motion without the need for a seconder:
- i. that the question/motion be now put before the meeting;
 - ii. that the motion or amendment now before the meeting be adjourned;
 - iii. that the meeting proceeds to the next item of business,
 - iv. that the question lie on the table;
 - v. a point of order;
 - vi. a motion of dissent against the chairperson's decision;
 - vii. that this report/document be tabled;
 - viii. to suspend the rule requiring that (insert requirement);
 - ix. that the meeting stands adjourned.
- 21.2 A procedural motion that 'the question be put' may be moved and, where the procedural motion is carried, the chairperson will immediately 'put the question to the motion' or amendment to that motion under consideration. Where the procedural motion is lost, debate on the motion or amendment to that motion will resume.
- 21.3 A procedural motion that the motion or amendment now before the meeting be adjourned, may specify a time or date to which the debate will be adjourned. Where no date or time is specified:

- a further motion may be moved to specify a time or date; or
 - the matter about which the debate is to be adjourned, will be included in the business paper for the next meeting.
- 21.4 Where a procedural motion that the meeting proceed to the next item is carried, debate on the matter that is the subject of the motion will cease and may be considered again by the local government on the giving of notice in accordance with the standing orders.
- 21.5 A procedural motion that the question lie on the table will only be moved where the chairperson or a councillor requires additional information on the matter before the meeting (or the result of some other action of the council or person is required) before the matter may be concluded at the meeting. Where such a procedural motion is passed, the council will proceed with the next matter on the business paper. A motion that the matter be taken from the table, may be moved at the meeting at which the procedural motion was carried or at any later meeting.
- 21.6 Any councillor may ask the chairperson to decide on a point of order where it is believed that another councillor:
- has failed to comply with proper procedures;
 - is in contravention of the legislation; or
 - is beyond the jurisdiction power of the council meeting.

Note: *Points of order cannot be used as a means of contradicting a statement made by the councillor speaking. Where a point of order is moved, consideration of the matter to which the motion was moved will be suspended. The chairperson will determine whether the point of order is upheld.*

- 21.7 Upon the question of order suddenly arising during the process of a debate, a councillor may raise a point of order, and then the councillor against whom the point of order is raised, will immediately cease speaking. Notwithstanding anything contained in these standing orders to the contrary, all questions or points of order at any time arising will, until decided, suspend the consideration and decision of every other question.
- 21.8 A councillor may move a motion of dissent in relation to a ruling of the chairperson on a point of order. Where such motion is moved, further consideration of any matter will be suspended until after a ruling is made. For example:
- 21.9 Where a motion of dissent is carried, the matter to which the ruling of the chairperson was made will proceed as though that ruling had not been made. Where the opposite ruling is made, that the matter was discharged as out of order, it will be restored to the business paper and be dealt with in the normal course of business.
- 21.10 The motion that a report/document be tabled may be used by a councillor to introduce a report or other document to the meeting only if the report or other document is not otherwise protected under confidentiality or information privacy laws. On tabling the document, it ceases to be a confidential document and is available for public scrutiny.
- 21.11 A procedural motion 'to suspend the rule requiring that.', may be made by any councillor in order to permit some action that otherwise would be prevented by a procedural rule. A motion to suspend a rule will specify the duration of the suspension.
- 21.12 A procedural motion that the meeting stands adjourned, may be moved by a councillor at the conclusion of debate on any matter on the business paper or at the conclusion of a councillor's

time for speaking to the matter, and will be put without debate. Such a procedural motion will specify a time for the resumption of the meeting and on resumption of the meeting, the council meeting will continue with the business before the meeting at the point where it was discontinued on the adjournment.

22. Questions

- 22.1 At a local government meeting, a councillor may ask a question for reply by another councillor or an officer regarding any matter under consideration at the meeting.
- 22.2 Questions will be asked categorically and without argument and no discussion will be permitted at the council meeting in relation to a reply or a refusal to reply to the question.
- 22.3 A councillor or officer to whom a question is asked without notice may request that the question be taken on notice for the next meeting.
- 22.4 A councillor who asks a question at a meeting, whether or not upon notice, will be deemed not to have spoken to the debate of the motion to which the question relates.
- 22.5 The chairperson may disallow a question which is considered inconsistent with an acceptable request or good order, provided that a councillor may move a motion that the chairperson's ruling be disagreed with, and if carried the chairperson will allow the question.

Meeting Conduct

23. Process for dealing with Unsuitable Meeting Conduct

The conduct of a councillor is unsuitable meeting conduct if the conduct happens during a council meeting and contravenes a behavioural standard of the code of conduct for councillors . When dealing with an instance of unsuitable conduct by a councillor in a meeting, the following process must be followed:

- 23.1 The chairperson must reasonably believe that unsuitable meeting conduct has been displayed by a councillor at a meeting.
- 23.2 If the chairperson decides the unsuitable meeting conduct has occurred, the chairperson may consider the severity of the conduct and whether the councillor has been issued with any previous warnings for unsuitable meeting conduct. If the chairperson decides the conduct is of a serious nature or another warning is unwarranted, proceed to step 23.7.
- 23.3 If the chairperson decides unsuitable meeting conduct has occurred but is of a less serious nature, the chairperson may request the councillor take remedial actions such as:
 - ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct;
 - apologising for their conduct; and/or
 - withdrawing their comments.
- 23.4 If the councillor complies with the chairperson's request for remedial action, no further action is required.

- 23.5 If the councillor fails to comply with the chairperson's request for remedial action, the chairperson may warn the councillor that failing to comply with the request could result in an order for unsuitable meeting conduct being issued.
- 23.6 If the councillor complies with the chairperson's warning and request for remedial action, no further action is required.
- 23.7 If the councillor still continues to fail to comply with the chairperson's request for remedial action or the chairperson decided a warning was not appropriate under 23.2 the chairperson may make one or more of the orders below:
- an order reprimanding the councillor for the conduct; and/or.
 - an order requiring the councillor to leave the meeting, including any area set aside for the public and stay out for the duration of the meeting.
- 23.8 If the councillor fails to comply with an order to leave and stay away from the meeting, the chairperson can issue an order that the councillor be removed from the meeting.
- 23.9 Following the completion of the meeting, the chairperson must ensure:
- details of any order issued is recorded in the minutes of the meeting
 - if it is the third or more order made within a 12-month period against a councillor, or the councillor has refused to comply with an order issued to leave the meeting, these matters are dealt with at the next meeting of the council and treated as inappropriate conduct
 - the council's chief executive officer (CEO) is advised to ensure details of any order made is updated in the council's councillor conduct register.
- 23.10 Any councillor aggrieved with an order issued by the chairperson can move a motion of dissent for parts 23.2, 23.3, 23.7 and 23.8 above.

Note: Chairpersons of a meeting are carrying out a statutory responsibility under the LGA to manage and lead the meeting. As such, where a chairperson behaves inappropriately in a meeting this involves a serious breach of the trust placed in them as the chairperson of the meeting and may be dealt with as misconduct. The breach can be referred to the Office of the Independent Assessor (OIA) to be dealt with. However, breaches of trust don't arise because councillors disagree with the chairperson's decision or ruling during the meeting.

24. General conduct during meetings

- 24.1 After a meeting of the council has been formally constituted and the business commenced, a councillor will not enter or leave from the meeting without first notifying the chairperson.
- 24.2 Councillors will speak to each other or about each other during the local government meeting by their respective titles ('mayor' or 'councillor'), and when speaking of or addressing officers will call them by their respective official or departmental title and will confine their remarks to the matter under consideration.
- 24.3 No councillor who is speaking will be interrupted except upon a point of order being raised either by the chairperson or by another councillor.

- 24.4 When the chairperson speaks during the process of a debate, the councillor speaking or offering to speak will immediately cease speaking, and each councillor present will observe strict silence so that the chairperson may be heard without interruption.

25. Meeting process for dealing with suspected inappropriate conduct which has been referred to a local government by the Independent Assessor (IA)

Pursuant to Chapter 5A, Division 5 of the LGA (Referral of conduct to a local government) a referral from the Independent Assessor (IA) of inappropriate conduct or an instance of suspected inappropriate conduct may arise from circumstances under paragraph 23.9 dot point two of this document.

- 25.1 When dealing with an instance of suspected inappropriate conduct which has been referred to a local government by the IA:
- 25.1.1 Consistent with the local government principle of transparent and accountable decision making in the public interest, a local government must deal with suspected inappropriate conduct in an open meeting of the council. However, where the matter may directly affect the health and safety of the complainant due to the nature of the complaint, the council may resolve to go into closed session under section 254J(f) of the LGR to discuss the allegation.
- 25.1.2 The subject councillor has a declarable conflict of interest in the matter but is permitted to remain in the meeting during the debate about whether the councillor engaged in the inappropriate conduct and answer questions from the chairperson to assist the other councillors in making a decision. This permission to remain in the meeting for the debate is conditional on the subject councillor leaving the place where the meeting is being held, including any area set aside for the public, during the vote on whether they have committed inappropriate conduct and what, if any, penalty to impose if the councillor is found to have committed inappropriate conduct.
- 25.1.3 If the complainant is a councillor, that councillor also has a declarable conflict of interest in the matter and must follow the declarable conflict of interest meeting procedures in section 10. If the complainant councillor wishes to remain in the meeting during the debate and vote on the matter, the other councillors must decide how to deal with the conflict of interest under section 10. The complainant councillor can be ordered to leave the meeting place or conditions may be applied to allow that councillor to participate in either the debate, the vote or the decision on any disciplinary action to be applied.
- 25.1.4 The council must debate the issue and decide whether the subject councillor engaged in inappropriate conduct. If the council has lost quorum due to the number of conflicted councillors or another reason, the matter must be delegated consistent with section 257 of the LGA or deferred to another date when a quorum will be present.
- 25.1.5 If a decision is reached that the subject councillor has engaged in inappropriate conduct, then the councillors must decide what penalty or penalties from the orders detailed below, if any, to impose on the councillor. In deciding what penalty to impose, the council may consider any previous inappropriate conduct of the councillor and any allegation made in the investigation that was admitted, or not challenged, and that the council is reasonably satisfied is true.

- 25.2 The council may order that no action be taken against the councillor or make one or more of the following:
- an order that the councillor make a public admission that the councillor has engaged in inappropriate conduct;
 - an order reprimanding the councillor for the conduct;
 - an order that the councillor attend training or counselling to address the councillor's conduct, including at the councillor's expense;
 - an order that the councillor be excluded from a stated council meeting;
 - an order that the councillor is removed, or must resign, from a position representing the local government, other than the office of councillor, (e.g. that the councillor is ordered to resign from an appointment representing the local government on a state board or committee);
 - an order that if the councillor engages in the same type of conduct again, it will be treated as misconduct;
 - an order that the councillor reimburse the council for all or some of the costs arising from the councillor's inappropriate conduct.
- 25.3 In relation to a person who is no longer a councillor, a local government may not make an order that the former councillor attend training/counselling, be suspended from a meeting, be removed or resign from a position or that the same conduct will be treated as misconduct in future.
- 25.4 The subject councillor, and where relevant, the complainant councillor, must be invited back into the place where the meeting is being held once a decision has been made, and the chairperson must advise them of the details of the decision.
- 25.5 The chairperson must ensure the meeting minutes reflect the resolution made.

26. Disorder

- 26.1 The chairperson may adjourn the meeting of the local government, where disorder arises at a meeting other than by a councillor.
- 26.2 On resumption of the meeting, the chairperson will move a motion, to be put without debate, to determine whether the meeting will proceed. Where the motion is lost, the chairperson shall declare the meeting closed, and any outstanding matters referred to a future meeting.

Attendance and non-attendance

27. Attendance of public and the media at meeting

- 27.1 An area shall be made available at the place where any meeting of the local government is to take place for members of the public and representatives of the media to attend the meeting and as many members of the public as reasonably can be accommodated in that area will be permitted to attend the meeting.

- 27.2 When the local government is sitting in closed session, the public and representatives of the media will be excluded from the meeting.

28. Closed session

- 28.1 Council and standing committee meetings may resolve that a meeting be closed to the public if its councillors consider it necessary to discuss any of the following matters:

- appointment, dismissal or discipline of the CEO;
- industrial matters affecting employees;
- the council's budget which does not include the monthly financial statements;
- rating concessions;
- legal advice obtained by the council, including legal proceedings that may be taken by or against the council;
- matters that may directly affect the health and safety of an individual or a group of individuals;
- negotiations relating to a commercial matter involving the council for which a public discussion could prejudice the interests of the council;
- negotiations relating to the taking of land by the council under the Acquisition of Land Act 1967;
- a matter that the council is required to keep confidential under a law of, or a formal agreement with, the Commonwealth or State.

- 28.2 A council or committee meeting cannot resolve that a meeting be closed where the meeting is informed of a councillor's personal interest in the matter by another person and the eligible councillors at the meeting must decide whether the councillor has a declarable conflict of interest in the matter.

- 28.3 Further, the meeting must not be closed if a quorum is lost due to the number of conflicted councillors who leave the meeting and the council must;

- delegate the matter,
- decide by resolution to defer to a later meeting,
- decide by resolution to take no further action on the matter.

Note: *None of the above will be voted on during a closed session. If a closed session includes attendance by teleconference, the councillor/s attending by teleconference must maintain confidentiality by ensuring no other person can hear their conversation while in the closed meeting.*

- 28.4 To take a matter into a closed session the council must abide by the following process:

- pass a resolution to close the meeting;
- the resolution must state the matter to be discussed, an overview of what is to be discussed and why the meeting should be closed while the matter is considered;
- if the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session, and an explanation of why it is deemed necessary to take the issue into closed session must be stated;
- no resolution can be made while in a closed meeting (other than a procedural resolution).

29. Teleconferencing of meetings

- 29.1 If a councillor wishes to be absent from a council meeting place during a meeting, the councillor must apply to the local government to participate by teleconference, at least three (3) business days prior to the meeting or as soon as practicable once the councillor becomes aware of their intended absence. The local government may allow a councillor to participate in a council or committee meeting by teleconference of the LGR.

Note: *There is no legislative requirement for a resolution by council to allow a councillor to participate by audio link or audio visual link. This means the council may delegate the matter. For example, council may delegate to the chairperson of the council or a committee meeting the ability to decide whether a councillor can attend a meeting by audio link or audio visual link.*

- 29.2 The councillor taking part by teleconference is taken to be present at the meeting if the councillor was simultaneously in audio contact with each other person at the meeting. The attendance of the councillor must be recorded in the minutes as present at the meeting.

Note: *Teleconferencing includes the use of a telephone, video conferencing equipment or other means of instant communication that allows a person to take part in a discussion as it happens.*

Schedule 2 -

Code of Conduct for Councillors in Queensland

Approved on 4 August 2020

Contents

Purpose of the Code of Conduct	3
Background.....	3
The Local Government Principles and Values.....	4
Standards of Behaviour.....	5
Consequences of Failing to Comply with the Code of Conduct	7
Unsuitable Meeting Conduct.....	7
Inappropriate Conduct	7
Misconduct	7
Corrupt Conduct	8
More Information	9

Purpose of the Code of Conduct

The Code of Conduct sets out the principles and standards of behaviour expected of Councillors and Mayors when carrying out their roles, responsibilities and obligations as elected representatives for their communities. By adhering to the behaviours set out below, Councillors will increase public confidence in local government and Council decisions.

Background

Under section 150D of the *Local Government Act 2009* (the LGA), the Minister for Local Government (the Minister) must make a Code of Conduct stating the standards of behaviour for Councillors in the performance of their responsibilities as Councillors. In addition to this, the Code of Conduct may contain anything the Minister considers necessary for, or incidental to, the standards of behaviour.

Before assuming public office, Councillors must understand and commit to complying with the local government principles and obligations of Councillors in accordance with section 169 of the LGA and 169 of the *City of Brisbane Act 2010* (CoBA), as well as the standards of behaviour set out in this Code of Conduct.

All Councillors are required to make a declaration of office under the applicable legislation. As part of that declaration, Councillors must declare that they will abide by this Code of Conduct.

The Local Government Principles and Values

The legislation is founded on five local government principles with which Councillors must comply while performing their roles as elected representatives. These principles are listed below:

1. Transparent and effective processes, and decision- making in the public interest
2. Sustainable development and management of assets and infrastructure, and delivery of effective services
3. Democratic representation, social inclusion and meaningful community engagement.
4. Good governance of, and by, local government
5. Ethical and legal behaviour of Councillors and local government employees.

This Code of Conduct provides a set of values that describe the types of conduct Councillors should demonstrate to ensure their compliance with the local government principles. These values are listed below:

1. In making decisions in the public interest, Councillors will:
 - make decisions in open council meetings
 - properly inform relevant personnel of all relevant information
 - make decisions in accordance with law and policy
 - commit to exercising proper diligence, care and attention.
2. To ensure the effective and economical delivery of services, Councillors will:
 - manage council resources effectively, efficiently and economically

- foster a culture of excellence in service delivery.
3. In representing and meaningfully engaging with the community, Councillors will:
 - show respect to all persons
 - clearly and accurately explain Council's decisions
 - accept and value differences of opinion.
 4. In exercising good governance, Councillors are committed to:
 - the development of open and transparent processes and procedures
 - keeping clear, concise and accessible records of decisions.
 5. To meet the community's expectations for high level leadership, Councillors will:
 - be committed to the highest ethical standards
 - uphold the system of local government and relevant laws applicable.

This Code of Conduct also sets out standards of behaviour aimed at helping Councillors understand how the principles and values are put into practice while performing their official duties as elected representatives.

Each standard of behaviour is not intended to cover every possible scenario. However, they provide general guidance about the manner in which Councillors are expected to conduct themselves.

It is important to note that the principles, values and standards set out in the Code of Conduct are of equal importance.

Standards of Behaviour

This Code of Conduct sets out the standards of behaviour applying to all Councillors in Queensland. The behavioural standards relate to, and are consistent with, the local government principles and their associated values.

The standards of behaviour are summarised as the three Rs, being:

1. **RESPONSIBILITIES**
2. **RESPECT**
3. **REPUTATION.**

Each standard of behaviour includes, but is not limited to, several examples to guide Councillors in complying with the Code of Conduct when carrying out their role as elected officials. Councillors are to understand and comply with the following standards of behaviour as set out in the Code of Conduct listed below.

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

For example, Councillors will, at a minimum, have the following responsibilities:

- 1.1 Attend and participate meaningfully in all Council meetings, committee meetings, informal meetings, briefings, relevant workshops and training opportunities to assist them in fulfilling their roles other than in exceptional circumstances and/or where prior leave is given
- 1.2 Respect and comply with all policies, procedures and resolutions of Council
- 1.3 Use only official Council electronic communication accounts (e.g. email

accounts) when conducting Council business

- 1.4 Report any suspected wrongdoing to the appropriate entity in a timely manner
- 1.5 Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/non-prescribed and/or restricted substances)
- 1.6 Cooperate with any investigation being undertaken by the local government or other entity
- 1.7 Ensure that the Councillor's Advisor is aware of their obligations to comply with the standards of behaviour in the Code of Conduct for Councillor Advisors in Queensland.

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

For example, Councillors will, at a minimum, act in the following ways:

- 2.1 Treat fellow Councillors, Council employees and members of the public with courtesy, honesty and fairness
- 2.2 Not use abusive, obscene or threatening language (either oral or written) or behaviour towards other Councillors, Council employees or members of the public
- 2.3 Have proper regard for other people's rights, obligations, cultural differences, safety, health and welfare.

3. Ensure conduct does not reflect adversely on the REPUTATION of Council

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

- 3.1 When expressing an opinion dissenting with the majority decision of Council, respect the democratic process by acknowledging that the Council decision represents the majority view of the Council
- 3.2 When making public comment, clearly state whether they are speaking on behalf of Council or expressing their personal views
- 3.3 At all times strive to maintain and strengthen the public's trust and confidence in the integrity of Council and avoid any action which may diminish its standing, authority or dignity.

Consequences of Failing to Comply with the Code of Conduct

Failure to comply with the standards of behaviour in this Code of Conduct, or other conduct prescribed in this code of conduct may give rise to a complaint against a Councillor's conduct and subsequent disciplinary action under the legislation.

A complaint about the conduct of a Councillor must be submitted to the Office of the Independent Assessor (OIA), who will assess the complaint and determine the category of the allegation. In order of least to most serious, the categories of complaint are **unsuitable meeting conduct**, **inappropriate conduct**, **misconduct**, and then **corrupt conduct**.

Unsuitable Meeting Conduct

Under the legislation, any conduct by a Councillor that is contrary to the standards of behaviour in the Code of Conduct that occurs within a meeting of Council (including standing committee meetings), is dealt with as **unsuitable meeting conduct**.

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

NOTE

Chairpersons of meetings are carrying out a statutory responsibility under the legislation to manage and lead the meeting. As such, where a Chairperson behaves inappropriately in a meeting this involves a serious breach of the

trust placed in them as the Chairperson of the meeting and may be dealt with as misconduct.

Inappropriate Conduct

Under the legislation, any conduct by a Councillor that is contrary to the standards of behaviour in the Code of Conduct or a policy, procedure or resolution of a Council, and is not unsuitable meeting conduct, misconduct or corrupt conduct is dealt with as **inappropriate conduct**.

The conduct of a Councillor is also inappropriate conduct if the conduct contravenes an order by the Chairperson of a meeting of Council for the Councillor to leave the meeting or is a series of conduct at Council meetings that leads to orders for the Councillor's unsuitable meeting conduct being made on three occasions within a period of one year. The local government is not required to notify the OIA and may deal with the conduct under section 150AG of the LGA (including Brisbane City Council).

The OIA is responsible for assessing allegations of suspected inappropriate conduct other than those arising from unsuitable meeting conduct. If the OIA chooses to refer the matter to the Council to deal with, the Council must deal with the matter as quickly and effectively as possible.

Misconduct

Councillors are required to comply with all laws that apply to local governments, this includes refraining from engaging in **misconduct**.

The OIA is responsible for assessing and investigating instances of suspected

misconduct. The OIA may make an application to the Councillor Conduct Tribunal to be heard and determined.

The conduct of a Councillor is misconduct if the conduct:

- adversely affects, directly or indirectly, the honest and impartial performance of the Councillor's functions or exercise of the Councillor's powers, or
- is, or involves:
 - a breach of trust placed in the Councillor, either knowingly or recklessly
 - misuse of information or material acquired by the Councillor, whether the misuse is for the benefit of the Councillor or for the benefit or to the detriment of another person
 - a Councillor giving a direction to any Council employee (other than the Mayor giving direction to the Chief Executive Officer, or for Brisbane City Council, the Lord Mayor giving direction to the Chief Executive Officer and senior contract officers)
 - a release of confidential information outside of the Council
 - failure to declare a conflict of interest or appropriately deal with a conflict of interest in a meeting
 - attempting to influence a decision maker about a matter in which the Councillor has a conflict of interest
 - failure by a Councillor to report a suspected prescribed conflict of interest of another Councillor
 - failure to submit, update or review your registers of interests, or

- is a failure by the Councillor to comply with:
 - an order made by the Council or the Councillor Conduct Tribunal
 - any acceptable request guidelines of the Council made under the legislation
 - the reimbursement of expenses policy of the Council.

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

The conduct of a Councillor may also be misconduct if a Councillor purports to direct the Chief Executive Officer in relation to disciplinary action regarding the conduct of a Councillor Advisor.

Corrupt Conduct

Corrupt conduct is defined by, and dealt with, under the *Crime and Corruption Act 2001*¹ and must be referred to the Crime and Corruption Commission (CCC). For a Councillor, corrupt conduct involves behaviour that:

- adversely affects or could adversely affect the performance of the Councillor's responsibilities, and
- involves the performance of the Councillor's responsibilities in a way that:
 - is not honest or impartial, or
 - involves a breach of the trust placed in the Councillor, or
 - involves the misuse of information acquired by the Councillor, and

¹ Section 15, Crime and Corruption Act 2001

- is engaged in for the purpose of providing a benefit or a detriment to a person, and
- if proven would be a criminal offence.

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

The OIA has entered into a section 40² arrangement with the CCC which allows the OIA to commence investigation into some allegations of corrupt conduct and report the matters to the CCC on a monthly basis, to provide the CCC with the opportunity to assume responsibility for or monitor an

investigation, should the CCC consider that appropriate.

Further information about the CCC's jurisdiction and other topics in relation to local government is available at

<https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/Corruption-in-focus-Guide-2020.pdf> (Chapter 4).

More Information

For any further enquiries on this matter please contact the department.

² Section 40, Crime and Corruption Act 2001

Schedule 4 Dictionary

section 6

1936 Act means the repealed *Local Government Act 1936*.

1993 Act means the repealed *Local Government Act 1993*.

2020 quadrennial election means the quadrennial election for 2020.

adopt, by a local government, means adopt by resolution of the local government.

advisor see section 117.

ancillary works and encroachments means—

- (a) cellars; or
- (b) gates; or
- (c) temporary rock anchors for building support; or
- (d) ancillary works and encroachments under the Transport Infrastructure Act.

anti-competitive provision means a provision that a regulation identifies as creating barriers to—

- (a) entry to a market; or
- (b) competition within a market.

appropriately qualified, in relation to a delegated power, includes having the qualifications, experience or standing to exercise the power.

Example of standing—

a person's classification level in the public service

approved form means—

- (a) for chapter 5A, a form approved by the assessor under section 150EC; or
- (b) otherwise, a form approved by the department's chief executive under section 266.

approved inspection program see section 133(2).

assessor see section 150C.

auditor-general means the Queensland Auditor-General under the *Auditor-General Act 2009*.

authorised officer means a person who holds office under section 204D.

authorised person means a person who holds office under section 202.

beginning of the local government's term see section 161(3).

behavioural standard, for chapter 5A, see section 150C.

beneficial enterprise see section 39.

Building Act means the *Building Act 1975*.

building certifying activity see section 47(4).

building unit means a lot under—

- (a) the *Body Corporate and Community Management Act 1997*; or
- (b) the *Building Units and Group Titles Act 1980*; or
- (c) the *Integrated Resort Development Act 1987*; or
- (d) the *Mixed Use Development Act 1993*; or
- (e) another Act prescribed under a regulation.

business activity, of a local government, means trading in goods and services by the local government.

business unit, of a local government, is a part of the local government that conducts a business activity of the local government.

caretaker period, for a local government, see section 90A(1).

casual commissioner means—

- (a) in relation to the change commission—a person appointed as a casual commissioner of the change commission under section 23(2); or

- (b) in relation to the remuneration commission—a person appointed as a casual commissioner of the remuneration commission under section 180(2).

casual member, in relation to the conduct tribunal, means a person appointed to be a casual member of the conduct tribunal under section 150DN(2).

cause detriment to a local government—

- 1 To *cause detriment to a local government* includes—
 - (a) to sabotage a lawful process of the council (including adopting a budget or conducting a tender process, for example); or
 - (b) to cause the council to suffer a loss in its lawful performance of a function or commercial activity (including the loss of a future contractual arrangement, for example).
- 2 To *cause detriment to a local government* does not include—
 - (a) merely embarrassing the council; or
 - (b) merely causing disagreement between councillors.

chairperson means—

- (a) in relation to the grants commission—the person appointed to be the chairperson of the grants commission under section 231; or
- (b) in relation to the remuneration commission—the person appointed to be the chairperson of the remuneration commission under section 180(1).

change commission see section 22.

charges includes any interest accrued, or premium owing, on the charges.

chief executive officer means a person who holds an appointment under section 194.

chosen fund, for chapter 7, part 2, see section 216A.

close associate, of a councillor, see section 150EJ.

code of competitive conduct see section 47.

commercialisation, of a significant business activity, see section 44(2).

commissioner, in relation to the remuneration commission, means—

- (a) the chairperson of the remuneration commission; or
- (b) a casual commissioner of the remuneration commission.

Commonwealth Super Act means the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

community forum see section 87(2).

component local government see section 25A(4).

conclusion, of the election of a councillor, see the Local Government Electoral Act, section 7.

conduct, for chapter 5A, see section 150C.

conduct provision, for chapter 5A, see section 150AY.

conduct tribunal see section 150DK.

consolidated version, of a local law, see section 32.

contractor, of a local government, means—

- (a) a person who provides services under a contract with the local government; or
- (b) a person prescribed under a regulation.

conviction includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

corrupt conduct see the *Crime and Corruption Act 2001*, section 15.

cost-recovery fee see section 97(2).

councillor, of a local government, includes the mayor.

councillor advisor see section 197A(1).

councillor conduct register see section 150DX(1).

court means a court of competent jurisdiction.

criminal history, of a person, means all convictions, other than spent convictions, recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this Act.

decision-maker see section 212(2).

declarable conflict of interest see sections 150EN and 150EO.

defined benefit category, for chapter 7, part 2, see section 216A.

defined benefit member, for chapter 7, part 2, see section 216A.

department's chief executive means the chief executive of the department.

deputy chairperson, in relation to the grants commission, means the person appointed as the deputy chairperson of the grants commission under section 231.

deputy electoral commissioner means the deputy electoral commissioner under the Electoral Act.

discretionary funds see section 109(2).

disqualifying offence see section 153(6).

distribute a how-to-vote card—

- (a) includes make the card available to other persons; but
- (b) does not include merely display the card.

Examples—

- 1 A person distributes how-to-vote cards if the person hands the cards to other persons or leaves them at a place for other persons to take away.
- 2 A person does not distribute how-to-vote cards if the person attaches the cards to walls and other structures, merely for display.

division, of a local government area, see section 8(3).

elect includes re-elect.

elector means a person entitled to vote in an election of councillors.

Electoral Act means the *Electoral Act 1992*.

electoral commission means the Electoral Commission of Queensland under the Electoral Act.

electoral commissioner means the electoral commissioner under the Electoral Act.

electronic document, for chapter 5A, means a document of a type mentioned in the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

eligible councillor, for a matter at a local government meeting, means a councillor at the meeting who does not have a prescribed conflict of interest or declarable conflict of interest in the matter.

encumbrance includes any of the following that affects land—

- (a) a mortgage, lien or charge;
- (b) a caveat;
- (c) an agreement;
- (d) a judgment, writ or process;
- (e) an interest adverse to the interest of the land's owner;

but does not include an easement.

establish, a superannuation scheme, includes join in establishing a superannuation scheme.

executive officer, of an entity, means—

- (a) if the entity has a board or management committee—each member of the board or committee; or
- (b) each person, by whatever name called, who is concerned, or takes part, in the management of the entity.

expired conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired; and

(b) that is not revived as prescribed by section 11 of that Act.

final part of the local government's term see section 161(5).

financial controller see section 118.

Forestry Act means the *Forestry Act 1959*.

fresh election means an election of all the councillors of a local government that is not a quadrennial election.

full cost pricing, of a significant business activity, see section 44(3).

full-time government job see section 168(3).

fund, for chapter 7, part 2, see section 216A.

general power, for chapter 5A, see section 150BU.

gift includes—

- (a) a gift under the Local Government Electoral Act, section 107; and
- (b) a gift that is required, under a regulation, to be recorded in a register of interests.

government entity has the same meaning as in the *Government Owned Corporations Act 1993*.

grants commission see section 228(1).

group of candidates see the Local Government Electoral Act, schedule 2.

help requirement, for chapter 5A, see section 150BV(1).

home includes—

- (a) a room in a boarding house; and
- (b) a caravan; and
- (c) a manufactured home within the meaning of the *Manufactured Homes (Residential Parks) Act 2003*, section 10.

Housing Act contract means a contract of sale—

- (a) that was entered into under—

-
- (i) the *State Housing Act 1945*, section 24, before the repeal of that Act; or
 - (ii) the *Housing Act 2003*, section 113; or
 - (b) under which—
 - (i) the purchase price, other than the deposit, is payable in 2 or more instalments; or
 - (ii) the sale is of a share in a house and land.

how-to-vote card see the Local Government Electoral Act, schedule.

identity card of a person means a card that—

- (a) identifies the person as an investigator, authorised person, local government worker or authorised officer; and
- (b) contains a recent photo of the person; and
- (c) contains a copy of the person's signature; and
- (d) states the expiry date for the identity card.

inappropriate conduct, for chapter 5A, see section 150K.

indigenous local government means—

- (a) the local government for the following local government areas—
 - Cherbourg
 - Doomadgee
 - Hope Vale
 - Kowanyama
 - Lockhart River
 - Mapoon
 - Napranum
 - Palm Island
 - Pormpuraaw
 - Woorabinda

- Wujal Wujal
- Yarrabah; or

(b) an indigenous regional council.

indigenous regional council means—

- (a) the Northern Peninsula Area Regional Council; or
- (b) the Torres Strait Island Regional Council; or
- (c) an indigenous regional council prescribed under a regulation.

industrial instrument means an industrial instrument under the Industrial Relations Act.

Industrial Relations Act means the *Industrial Relations Act 2016*.

information notice, for a decision, means a notice that states the following information—

- (a) the decision;
- (b) the reasons for the decision;
- (c) the rights of review under this Act for the decision;
- (d) how, and the period within which, a review under this Act for the decision may be started;
- (e) how a stay of the operation of the decision may be applied for under this Act.

insolvent under administration see the Corporations Act, section 9.

interest means a financial or other interest.

interim administrator means a person appointed by the Governor in Council under section 123 to act in place of the councillors of a local government.

interim local law see section 26(4).

investigation policy, of a local government, for chapter 5A, see section 150AE(1).

investigator means a person who holds office under chapter 5A as an investigator.

joint government activity see section 10(2).

joint local government see section 25A(2).

joint local government area see section 25A(3).

judicial review is a review under the Judicial Review Act.

Judicial Review Act is the *Judicial Review Act 1991*.

land includes—

- (a) freehold land; and
- (b) land held from the State for a leasehold interest; and
- (c) a mining claim.

Land Act means the *Land Act 1994*.

Land Title Act means the *Land Title Act 1994*.

LGIAsuper means the superannuation scheme continued in existence under section 217.

LGIAsuper Trustee means the board continued in existence under section 208.

loan includes—

- (a) a loan under the Local Government Electoral Act, section 106; and
- (b) a loan that is required, under a regulation, to be recorded in a register of interests.

local government—

- (a) for chapter 5, part 1—see section 113A(1); or
- (b) for chapter 5A—see section 150C; or
- (c) for chapter 6, part 7—see section 204G; or
- (d) for chapter 7, part 2—see section 216A; or
- (e) generally—see section 8(1).

Local Government Act means a law under which a local government performs the local government's responsibilities, including for example—

- (a) this Act; and
- (b) a local law; and
- (c) the Building Act; and
- (d) the Planning Act; and
- (e) a planning scheme; and
- (f) the Plumbing and Drainage Act; and
- (g) the *Water Act 2000*; and
- (h) the *Water Supply (Safety and Reliability) Act 2008*.

local government area see section 8(2).

local government change see section 17(2).

Local Government Electoral Act means the *Local Government Electoral Act 2011*.

local government employee means—

- (a) the chief executive officer; or
- (b) a person holding an appointment under section 196.

local government entity, for chapter 7, part 2, see section 216A.

Local Government (Financial Assistance) Act means the *Local Government (Financial Assistance) Act 1995* (Cwlth).

local government meeting means a meeting of—

- (a) a local government; or
- (b) a committee of a local government.

local government principles means the principles expressed in the form of outcomes set out in section 4(2).

local government worker see section 138(4).

local law see section 26(2).

major policy decision, for a local government, means a decision—

- (a) about the appointment of a chief executive officer of the local government; or
- (b) about the remuneration of the chief executive officer of the local government; or
- (c) to terminate the employment of the chief executive officer of the local government; or
- (d) to enter into a contract the total value of which is more than the greater of the following—
 - (i) \$200,000;
 - (ii) 1% of the local government's net rate and utility charges as stated in the local government's audited financial statements included in the local government's most recently adopted annual report; or
- (e) relating to making or preparing an arrangement, list, plan or register in the way provided under a regulation made under this Act that can be used to establish an exception to obtaining quotes or tenders when entering into a contract; or
- (f) to make, amend or repeal a local law; or
- (g) to make, amend or repeal a local planning instrument under the Planning Act; or
- (h) under the Planning Act, chapter 3, part 3, division 2 on a development application that includes a variation request under that Act if the application proposes to—
 - (i) vary the category of development or category of assessment of development; or
 - (ii) vary the assessment benchmarks or criteria for accepted development that would apply to development; or
 - (iii) facilitate development that would result in a greater demand on infrastructure than the demand

anticipated in the local government's local government infrastructure plan; or

- (i) under the Planning Act, chapter 3, part 5, division 2, subdivision 2 on a change application under that Act that includes a change to a variation approval if the application is being assessed under section 82 of that Act and the application proposes to—
 - (i) further vary the category of development or category of assessment of development; or
 - (ii) further vary the assessment benchmarks or criteria for accepted development that would apply to development; or
 - (iii) facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government's local government infrastructure plan.

Note—

Change application assessments for minor changes under the Planning Act, section 81 are not subject to paragraph (i).

member means—

- (a) in relation to the grants commission—the chairperson, deputy chairperson or another person appointed as a member of the grants commission under section 231; or
- (b) in relation to the conduct tribunal—the president or a casual member of the conduct tribunal.

middle of the local government's term see section 161(4).

mining claim means a mining claim to which the *Mineral Resources Act 1989* applies.

misconduct, for chapter 5A, see section 150L.

model local law see section 26(8).

model procedures, for chapter 5A, see section 150F.

National Competition Policy Agreements means the following agreements (made between the Commonwealth and the States on 11 April 1995), as in force for the time being—

- (a) the Conduct Code Agreement;
- (b) the Competition Principles Agreement;
- (c) the Agreement to Implement National Competition Policy and Related Reforms.

notice means a written notice.

notice of intention to acquire land see section 61(2).

occupier—

- (a) of a place, for chapter 5A, includes—
 - (i) if there is more than 1 person who apparently occupies the place—any of the persons; and
 - (ii) a person at the place who is apparently acting with the authority of a person who apparently occupies the place; and
 - (iii) if no person apparently occupies the place—a person who is an owner of the place; or
- (b) of property, other than for chapter 5A, see section 125(6).

of, a place, for chapter 5A, includes at or on the place.

offence warning, for a direction or requirement by an investigator under chapter 5A, means a warning that, without a reasonable excuse, it is an offence for the person to whom the direction is given, or of whom the requirement is made, not to comply with it.

overall State interest is—

- (a) an interest that the Minister considers affects the economic, environmental or social interest of all or part of the State; or
- (b) an interest that the Minister considers affects the interest of ensuring there is an accountable, effective, and efficient system of local government; or
- (c) an interest prescribed under a regulation.

owner, of a thing that has been seized under chapter 5A, includes a person who would be entitled to possession of the thing had it not been seized.

owner of land—

(a) means—

- (i) a registered proprietor of freehold land; or
- (ii) a purchaser of freehold land from the State under an Act; or
- (iii) a purchaser of land under a Housing Act contract; or
- (iv) a person who has a share in land that the person bought under a Housing Act contract; or
- (v) a lessee of land held from the State, and a manager, overseer or superintendent of the lessee who lives on the land; or
- (vi) the holder of a mining claim or lease; or
- (vii) the holder of land mentioned in the *Mineral Resources Act 1989*, schedule 2, definition *owner*; or
- (viii) a lessee of land under any of the following Acts—
 - the *Geothermal Energy Act 2010*
 - the *Greenhouse Gas Storage Act 2009*
 - the *Petroleum Act 1923*
 - the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (ix) a lessee of land held from a government entity or local government; or
- (x) the holder of an occupation permit or stock grazing permit under the Forestry Act or of a permit prescribed under a regulation; or
- (xi) the holder of a permission to occupy from the chief executive of the department responsible for the administration of the Forestry Act; or

- (xii) the holder of a permit to occupy under the Land Act; or
 - (xiii) a licensee under the Land Act; or
 - (xiv) for land on which there is a structure subject to a time share scheme—the person notified to the local government concerned as the person responsible for the administration of the scheme as between the participants in the scheme; or
 - (xv) another person who is entitled to receive rent for the land; or
 - (xvi) another person who would be entitled to receive rent for the land if it were leased at a full commercial rent; but
- (b) does not include the State, or a government entity, except as far as the State or government entity is liable under an Act to pay rates.

permanent employee, for chapter 7, part 2, see—

- (a) for a local government (other than the Brisbane City Council) or a local government entity—section 216B; or
- (b) for the Brisbane City Council—section 216C.

place, for chapter 5A, includes—

- (a) premises; and
- (b) vacant land; and
- (c) a place in Queensland waters; and
- (d) a place held under more than 1 title or by more than 1 owner; and
- (e) the land or water on which a building or other structure, or a group of buildings or other structures, is situated.

Planning Act means the *Planning Act 2016*.

planning scheme means a planning scheme under the Planning Act.

Plumbing and Drainage Act means the *Plumbing and Drainage Act 2018*.

police commissioner means the commissioner of the police service under the *Police Service Administration Act 1990*.

political party means an organisation registered as a political party under the Electoral Act.

premises, for chapter 5A, includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) a caravan or vehicle; and
- (d) a cave or tent; and
- (e) premises held under more than 1 title or by more than 1 owner.

prescribed conflict of interest see section 150EG, 150EH or 150EI.

president, of the conduct tribunal, means the person appointed as the president of the conduct tribunal under section 150DN(1).

private property see section 125(4).

private sector means an entity that is not—

- (a) the Commonwealth or a State; or
- (b) a State authority; or
- (c) a local government.

property means land, any structure on the land, and a vehicle.

public office, of a local government, see section 261.

public place, for chapter 5, part 2, division 1, see section 125(5).

public thoroughfare easement is an easement created under—

- (a) the Land Act, chapter 6, part 4, division 8; or
- (b) the Land Title Act, part 6, division 4.

public utilities means—

- (a) works for the supply of drainage, electricity, gas, sewerage, telecommunications or water; or
- (b) works for an infrastructure corridor under the *State Development and Public Works Organisation Act 1971*, section 82; or
- (c) works for a purpose mentioned in the *State Development and Public Works Organisation Act 1971*, section 125; or
- (d) other works that is declared under a regulation to be a public utility.

QCAT information notice means a notice complying with the QCAT Act, section 157(2).

quadrennial election means the election for local governments that is held in 2012, and every fourth year after 2012.

rateable land see section 93(2).

rates includes any interest accrued, or premium owing, on the rates.

reasonable entry notice see section 138AA(3).

reasonable proportion of electors see section 15(2).

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably satisfied means is satisfied on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

referral notice, for chapter 5A, see section 150AC.

registered officer, of a political party, means the registered officer of the political party under the Electoral Act.

registrar of titles means the public authority responsible for registering title to land and dealings affecting land.

regulated pool see the Building Act, section 231B.

related, for chapter 6, part 5A—

- (a) to a councillor—see section 201A(3); or
- (b) to a councillor advisor—see section 201A(4).

related party, of a councillor, see section 150EP.

relevant fund, for chapter 7, part 2, see section 216A.

relevant term, for a councillor, means the councillor's current term of office, and the period—

- (a) starting on the day after the conclusion of the quadrennial election held before the most recent quadrennial election; and
- (b) ending on the day immediately before the councillor's current term of office started.

relevant trustee, for chapter 7, part 2, see section 216A.

remedial action see section 113(2).

remedial notice see section 138AA(1).

remuneration category means a remuneration category prescribed under a regulation.

remuneration commission see section 176.

resolution, of a local government, means the formal decision of the local government at a local government meeting.

responsibility includes a function.

reward does not include—

- (a) a councillor's remuneration as a councillor; or
- (b) an amount decided under the deed under the *Superannuation (State Public Sector) Act 1990* in relation to a transferring member within the meaning of repealed section 32A of that Act; or
- (c) reasonable expenses actually incurred for any 1 or more of the following—
 - (i) accommodation;
 - (ii) meals;
 - (iii) domestic air travel;