

Logan City Council

Code of Conduct for Councillors

This Code has been developed to promote ethics and integrity within Logan City Council and to provide Councillors with a framework for their ethical behaviour, duties and decisions.

The Code applies to all Councillors and will heighten Councillor awareness of ethical issues and positively shape the culture and reputation of Council.



Message from the Mayor, Logan City

As Councillors, we face increasing expectations from the community for greater accountability for our use of public resources and the outcomes that we achieve. To operate effectively, the Council needs to maintain the confidence of our community. At the same time, modern workplace standards demand greater customer focus, better risk management, and increased emphasis on individual responsibility. This requires high levels of accountability and fairness, as well as care and skill in deploying public resources.

In this environment, reliance on rules and procedures is not enough and deciding on the 'right thing to do' sometimes requires difficult and delicate judgements. The Model Code of Conduct for Councillors (the Code) developed by the Department of Local Government, Sport and Recreation has been designed as a guide to help Councillors in Queensland resolve ethical issues in the public sector and business environments.

The Code is based upon the principle that behaving ethically is central to achieving the Council's purpose and supporting its values which involve commitments to residents, business partners, colleagues and quality. It is imperative that Councillors all ensure that the highest standards of integrity underpin everything that they do. Indeed Council's reputation depends upon the conduct of all Councillors in carrying out their duties.

The Code has strong links to customer service, professionalism, and good management practice. Its purpose is to provide common guiding principles and standards of conduct for all Councillors, which enhances the Council's public image and business reputation. As well as helping each Councillor discharge their responsibilities, the Code is a public statement of how Councillors conduct their business and how Councillors treat Logan's residents, business partners and colleagues.

The Code covers a range of issues which all Councillors may face in their role, and addresses the most appropriate procedures to follow. When applying the Code to particular circumstances, we are expected to follow its spirit and intent as much as its explicit provisions.

The Code is required under the Queensland *Local Government Act 1993*. Without exception, all Councillors are required to adhere to the standards of conduct which the Code outlines.

We are committed to the content of the Code and the principles on which it is based. As a Councillor, I will strive to abide by the Code, and I call on my fellow Councillors to demonstrate a similar commitment. Council is confident that by supporting each other in addressing these principles, Councillors will all ensure that our residents are well serviced by this Council.

Cr Pam Parker
Mayor, Logan City

Part 1 - Code of Conduct for Councillors

INTRODUCTION 4

KEY ETHICS PRINCIPLES 4

 1.1 Integrity of local government 4

 1.2 Primacy of the public interest 4

 1.3 Independence of action by councillors..... 4

 1.4 Appropriate use of information by councillors 4

 1.5 Transparency and scrutiny 4

 1.6 Appropriate use of entitlements 4

COUNCILLORS' STATUTORY OBLIGATIONS..... 5

COUNCILLORS' ADDITIONAL ETHICAL AND BEHAVIOURAL OBLIGATIONS..... 7

 1.7 Integrity of local government 7

 1.8 Transparency and scrutiny 7

 1.9 Appropriate use of entitlements 7

 1.10 Reporting of suspected official misconduct 8

BREACHES OF THE CODE OF CONDUCT 8

 1.11 Meeting breach..... 8

 1.12 Minor breach 8

 1.13 Repeat breach..... 8

 1.14 Statutory breach 8

HOW TO MAKE A COMPLAINT ABOUT A BREACH OF THE CODE OF CONDUCT 8

 1.15 Complaint about a meeting breach..... 8

 1.16 Complaint about a minor breach..... 8

 1.17 Complaint about a repeat breach 9

 1.18 Complaint about a statutory breach..... 9

COMPLIANCE 9

WHO THE CODE OF CONDUCT APPLIES TO 10

DEALING WITH ALLEGED BREACHES OF THE CODE OF CONDUCT 10

REPORTING - PUBLIC ACCOUNTABILITY..... 10

ATTACHMENT 1 - TABLE OF PROCEDURES, DECISIONS AND PENALTIES FOR
BREACHES OF THE CODE 11

ATTACHMENT 2 - COPY OF LOCAL GOVERNMENT ACT & REGULATION PROVISIONS 14

ATTACHMENT 3 - GUIDELINES FOR COMMUNICATION BETWEEN COUNCILLORS AND
OFFICERS 23

CODE OF CONDUCT FOR COUNCILLORS

INTRODUCTION

The Code states requirements for councillor's behaviour in the *Local Government Act 1993* (the Act). For Logan City Council this version of the Code came into effect from 16 September 2008.

KEY ETHICS PRINCIPLES

The Act sets out ethics principles for local government councillors (Schedule 1 of the Act) which are:

1.1 Integrity of local government

- It is vital that the public has confidence in a local government's ability to ensure the good rule and government of its area.
- Councillors must conduct themselves in a way that promotes and maintains the public's trust and confidence in the local government and the good rule and government of its area.

1.2 Primacy of the public interest

- Councillors are elected to act in the public interest and to make decisions solely in terms of the public interest.
- Councillors must take steps to avoid, resolve or disclose conflicts of interest.

1.3 Independence of action by councillors

- Councillors must not place themselves under any financial obligation that may influence them in discharging their duties and responsibilities as councillors.

1.4 Appropriate use of information by councillors

- Councillors who, in the course of carrying out their duties, receive information that is not available to the general public must not misuse this information, particularly for personal gain.

1.5 Transparency and scrutiny

- It is vital that the public has confidence in the integrity of a local government's decision-making processes.
- To ensure transparency and public scrutiny of, and public confidence in, those processes, councillors must disclose their financial interests.

1.6 Appropriate use of entitlements

- Councillors must comply with the requirements about using entitlements provided for under the local government's policies.

COUNCILLORS' STATUTORY OBLIGATIONS

The Act specifies councillors' obligations (statutory obligations) which are grouped below according to the ethics principles in the Act. If a penalty can be imposed under the Act for a breach of the obligation, it is shown below. Councillors must comply with these obligations.¹

Obligation	Section	Penalty in Act
<i>Integrity of local government</i>		
<ul style="list-style-type: none"> ▪ A councillor must not assume any part of the role of mayor without the mayor's approval (additional roles of the mayor are stated in s.231). 	s.230(1)	No
<ul style="list-style-type: none"> ▪ A councillor must not direct or attempt to direct staff about the way they perform their duties. Refer to Attachment 3 for guidance on the <i>Communication between Councillors and Officers</i>. 	s.230(2)	No
<ul style="list-style-type: none"> ▪ A councillor must not direct or attempt to direct staff or other people engaged to provide services for the local government about the way they give advice or make recommendations about the following:- <ul style="list-style-type: none"> ○ grant of a licence or permit under an Act or local law; ○ grant of a concession, rebate or waiver; ○ entering into a contract with the local government; ○ disposing of land or assets; or ○ allocating resources for local government projects. 	s.230(3) (4) & (5)	Yes - fine of up to 85 penalty units (\$6375)
<ul style="list-style-type: none"> ▪ A councillor should not knowingly agree to make a disbursement that is not provided for in the budget adopted by the local government for that year. If a councillor does knowingly agree to a disbursement that is not provided for in the budget they are liable to repay to the local government the amount of the disbursement plus interest. 	s.523	No
<ul style="list-style-type: none"> ▪ A councillor should not knowingly agree to the local government borrowing money in contravention of the Act. If a councillor knowingly agrees to the borrowing of money in contravention of the Act, the councillor is liable to pay to the local government the amount borrowed and all interest and other penalties incurred by the local government. 	s.526	No

¹ It is important that councillors be familiar with the relevant provisions of the *Local Government Act 1993* as they may be prosecuted in court against these provisions.

Obligation	Section	Penalty in Act
<i>Primacy of the public interest</i>		
<ul style="list-style-type: none"> ▪ A councillor must serve the public interest of the area and, if a councillor for a division, the interests of the division. The councillor must give preference to the public interest if there is a conflict between the councillor's private interest or that of another person, and the public interest. 	s.229(2)	No
<ul style="list-style-type: none"> ▪ A councillor must disclose any <i>material personal interest</i> (defined in s.6) in a matter that is to be considered at a meeting and must not take part in or be present in the meeting (the Minister may allow a councillor with a material personal interest to participate in a meeting in certain circumstances; see s.245). 	s.244, s.6 s.246	Yes - fine of up to 200 penalty units (\$15000) if councillor voted, intending to gain an advantage - fine of up to 85 penalty units (\$6375) in other circumstances
<i>Independence of action by councillors</i>		
<ul style="list-style-type: none"> ▪ A councillor must ensure there is no conflict, or possible conflict, between their private interests and their role of serving the public interest. 	s.229(3)	No
<i>Appropriate use of information by councillors</i>		
<ul style="list-style-type: none"> ▪ A councillor or person who has been a councillor must not make improper use of information obtained as a councillor to gain a direct or indirect financial advantage, or to harm the local government. 	s.250(1)	Yes - fine of up to 100 penalty units (\$7500)
<ul style="list-style-type: none"> ▪ A councillor or person who has been a councillor must not release confidential information which was obtained as a councillor. 	s.250(2)	Yes - fine of up to 100 penalty units (\$7500)
<i>Transparency and scrutiny</i>		
<ul style="list-style-type: none"> ▪ A councillor must give the chief executive officer a return about electoral gifts and make a declaration of office before commencing in office and within 1 month of election or appointment (or a longer period allowed by the Minister). The declaration of office must state that the councillor will faithfully and impartially fulfil their duties and comply with the Code. 	s.242 s.427	Yes - fine of up to 100 penalty units (\$7500) for knowingly giving a false or misleading return - councillor ceases to hold office if they do not complete a return and declaration in the required time

Obligation	Section	Penalty in Act
<ul style="list-style-type: none"> A councillor must declare any conflict of interest, or possible conflict, in an issue to be considered at a local government meeting. The local government must record the conflict of interest in the minutes of the meeting. 	s.246A	No
<ul style="list-style-type: none"> A councillor must tell the chief executive officer of their interests, corrections to the register of those interests, or the interests of a person related to the councillor, for recording in the register of interests, as required by the <i>Local Government Regulation (2005)</i> (the Regulation). The Regulation requires reporting of gifts valued at \$500 or more. 	s.247 Reg.Sch 1, s.10	Yes - fine of up to 85 penalty units (\$6375)
<ul style="list-style-type: none"> Within 30 days of being informed of a possible omission of information from the register of the councillor's interests, the councillor must establish whether it should be amended to make it factual. If amendment is needed, the councillor must give the chief executive the appropriate information in writing; if no amendment is needed, the councillor must give the chief executive a statutory declaration to that effect. 	s.249(3) s.249(4)	No

COUNCILLORS' ADDITIONAL ETHICAL AND BEHAVIOURAL OBLIGATIONS

In addition to their statutory obligations, councillors must comply with the following obligations.

1.7 Integrity of local government

Councillors must:-

- exhibit high standards of personal behaviour and demonstrate respect for others
- refrain from harassing, bullying or intimidating others
- abide by any staff communication guidelines that have been approved by the council's chief executive officer, (Refer to Attachment 3)
- follow the letter and the spirit of council policies and procedures, administrative policies endorsed by the chief executive officer, and the law
- respect the democratic process and publicly represent council decisions
- when communicating with the public or media make it clear when they are expressing a personal opinion, and when they are speaking on behalf of council.

1.8 Transparency and scrutiny

Councillors should use due care and diligence in fulfilling the functions of office and exercising the powers attached to that office.

1.9 Appropriate use of entitlements

Councillors should not use council resources for personal benefit or gain, aside from reimbursement of expenses in accordance with council's policy.

1.10 Reporting of suspected official misconduct

Councillors must disclose to the chief executive officer any suspected fraud, corruption, maladministration and official misconduct of which they become aware. If the concern relates to the chief executive officer, then a councillor should disclose the concern to the Crime and Misconduct Commission or the Police as appropriate.

BREACHES OF THE CODE OF CONDUCT

A breach of the Code may be one of the following:

1.11 Meeting breach

A breach of a councillor's obligations at a meeting of council or a committee of council.

1.12 Minor breach

A breach of the ethical obligations (other than a statutory obligation shown above), or of any additional ethical or behavioural obligations that a council includes in the Code.

1.13 Repeat breach

The fourth and subsequent meeting and/or minor breaches within six months are repeat breaches.

1.14 Statutory breach

A breach of one of the obligations in the Act, which are listed above.

HOW TO MAKE A COMPLAINT ABOUT A BREACH OF THE CODE OF CONDUCT

A complaint about a possible minor breach or statutory breach of the Code may be made by anyone, including a councillor. Complaints about a meeting breach may be made only by a councillor.

The procedure to complain about an alleged breach of the Code varies depending on the type of conduct breach. The types of conduct breach are defined in the Act (s.250M). A complaint may be made in the following ways:

1.15 Complaint about a meeting breach

If a councillor breaches an obligation under a code or a local law about behaviour at a meeting of council or a council committee, a complaint may be made by a councillor who is present at the meeting during the meeting. The complaint must be made to the person chairing the meeting (s.250O).

1.16 Complaint about a minor breach

A complaint about a breach of non-statutory obligations in the Code should be made under the council's general complaints process (s.250M (2), s.250R).² A complaint about a possible repeat of a minor breach is made in the same way. A complaint may be made to council by contacting Mr Chris Lawson, Administration Review & Ethics Program Leader, on 3412 5358 or Mrs Tracy Duffill-Wilson, Governance Officer on 3412 5378.

² All local governments are required by s.501D of the Act to have a general complaints process.

1.17 Complaint about a repeat breach

A complaint about an alleged repeat breach may only be made by using the procedure outlined herein for meeting and minor breaches. After a complaint is made about a meeting breach or a minor breach, the local government will assess whether the complaint is a repeat breach (s.250Q (3) and s.250S (4)).

1.18 Complaint about a statutory breach

A complaint about a breach of a councillor's statutory obligations may be made in writing to the chief executive officer of the local government. Making a complaint to the chief executive officer does not prevent a person from making a complaint to the Crime and Misconduct Commission or the Ombudsman (s.250T).

COMPLIANCE

As outlined by S243A of the Act, councillors must comply with the obligations stated in the Code. S243 also provides that breaches of the Code are to be dealt with as outlined in the Act and that if the breach of the Code is an offence under the Act, court proceeding may also be taken.

GUIDE TO THE CODE OF CONDUCT FOR LOCAL GOVERNMENT COUNCILLORS

Below are extracts of the relevant provisions to Logan City Council from the Department's guide.

WHO THE CODE OF CONDUCT APPLIES TO

The Code applies to councillors, including the mayor, in performing their duties of office (s.250E). Councillors must comply with the obligations in the Code. Once elected or appointed a councillor must sign a declaration of office which includes the councillor's agreement to comply with the Code (s.242 (4B)).

DEALING WITH ALLEGED BREACHES OF THE CODE OF CONDUCT

The action or penalty that may result from a breach of the Code varies according to the seriousness of the breach. A local government may take the actions shown in the **table at Attachment 1**. In addition, a statutory breach (where the Act specifies a fine) may be prosecuted in the courts.

REPORTING - PUBLIC ACCOUNTABILITY

Local governments are required by the Act (s.533) to include information about complaints and breaches of the Code in their annual reports. The information required is:

- 1) number of breaches of the Code;
- 2) name of each councillor who breached the Code, a description of the breach (eg. misuse of confidential information) and the penalty imposed by the council;
- 3) number of complaints referred to the conduct review panel (excluding frivolous or vexatious complaints);
- 4) number of conduct review panel recommendations that were adopted, and not adopted;
- 5) number of complaints resolved under the general complaints process, and the number of those complaints which alleged a breach of the Code; and
- 6) number of complaints made to the ombudsman (and notified to the local government) about decisions by the local government relating to enforcement of its Code.

ATTACHMENT 1 - TABLE OF PROCEDURES, DECISIONS AND PENALTIES FOR BREACHES OF THE CODE

Summary of Procedures, Decisions & Penalties for Breaches of the Code of Conduct	
Local Government Process	Local Government Action or Penalty
<i>Meeting breach</i>	
<p><i>At a council meeting</i></p> <ul style="list-style-type: none"> ▪ The behaviour may be dealt with under the council’s local law / standing orders etc. ▪ The councillor has an opportunity to withdraw a comment, apologise or take some other appropriate step. ▪ Council decides whether it is necessary to continue considering the alleged breach. ▪ If council considers the alleged breach, it decides whether or not a meeting breach has occurred. ▪ If a breach has occurred, council decides whether it may also be a repeat breach or a statutory breach. ▪ If council proposes to reprimand or suspend the councillor, the councillor should be given an opportunity to make a submission to the meeting on the proposed action. 	<ul style="list-style-type: none"> ▪ Council acts in accordance with the relevant standing orders etc. ▪ If the complaint is frivolous or made vexatiously, council takes no action. ▪ If council decides that a breach has occurred, council may: <ul style="list-style-type: none"> ○ take no further action; ○ impose 1 or more of the following penalties by resolution: <ul style="list-style-type: none"> ○ written reprimand, ○ suspend councillor from the remainder of the meeting, ○ suspend councillor from 1 future meeting of council, ○ suspend councillor from future committee meetings. ▪ If council decides the breach may be a repeat breach or a statutory breach, refer it to the conduct review panel.
<p><i>At a committee meeting</i></p> <ul style="list-style-type: none"> ▪ Chairperson of the meeting must notify the Chief Executive Officer (CEO) of the complaint as soon as practicable. ▪ The CEO must refer the complaint to council as soon as practicable. ▪ The behaviour may be dealt with under the council’s local law / standing orders etc. ▪ The councillor has an opportunity to withdraw a comment, apologise or take some other appropriate step. ▪ Council decides whether it is necessary to continue considering the alleged breach. ▪ If council considers the alleged breach, it decides whether or not a meeting breach has occurred. 	<ul style="list-style-type: none"> ▪ Action or penalty, if any, is decided at the next council meeting. ▪ If the complaint is frivolous or made vexatiously, council takes no action. ▪ If council decides that a breach has occurred, council may: <ul style="list-style-type: none"> ○ take no further action; ○ impose 1 or more of the following penalties by resolution: <ul style="list-style-type: none"> ○ written reprimand, ○ suspend councillor from the remainder of the meeting, ○ suspend councillor from 1 future meeting of council, ○ suspend councillor from future committee meetings. ▪ If council decides the breach may be a repeat breach or a statutory

Summary of Procedures, Decisions & Penalties for Breaches of the Code of Conduct

Local Government Process	Local Government Action or Penalty
<ul style="list-style-type: none"> ▪ If a breach has occurred, council decides whether it may also be a repeat breach or a statutory breach. ▪ If council proposes to reprimand or suspend the councillor, the councillor should be given an opportunity to make a submission to the meeting on the proposed action. 	<p>breach, refer it to the conduct review panel.</p>
<i>Minor breach</i>	
<p>Complaints are dealt with under the council's general complaints process:</p> <ul style="list-style-type: none"> ▪ Complaints officer decides whether to investigate the complaint; reasons for not investigating should be recorded. ▪ Where practical, attempt to resolve complaint informally before commencing the formal stage of the investigation; <ul style="list-style-type: none"> ○ if resolution is not possible, record the reasons; ○ complaints resolved informally are not recorded as a breach. ▪ If a complaint is not resolved informally, an impartial external investigator should generally be appointed. ▪ Investigation is conducted and report prepared, allowing adequate time according to the complexity of the investigation. The report should specify which part of the code is alleged to have been breached. ▪ Before council considers the investigation report, a councillor about whom adverse comment or an adverse finding is made in the report should be given a copy of the draft report and a reasonable opportunity to respond to the findings. ▪ If a councillor makes a written response to an investigation report, the councillor's response should be provided to council along with the final investigation report. ▪ The investigation report and any response from a councillor about whom there is adverse comment or adverse findings are provided to council. ▪ Council must decide: <ul style="list-style-type: none"> ○ whether the councillor has committed the alleged minor breach; ○ if a breach has occurred, decide whether it is also a repeat breach. 	<ul style="list-style-type: none"> ▪ If the complaint is frivolous or made vexatiously, council takes no action. ▪ If council decides that a breach has occurred, council may: <ul style="list-style-type: none"> ○ take no further action; ○ impose 1 or more of the following penalties by resolution: ○ written reprimand, ○ suspend councillor from the remainder of the meeting, ○ suspend councillor from 1 future meeting of council, ○ suspend councillor from future committee meetings. ▪ If council decides the breach may be a repeat breach or a statutory breach, refer it to the conduct review panel.

Summary of Procedures, Decisions & Penalties for Breaches of the Code of Conduct	
Local Government Process	Local Government Action or Penalty
<ul style="list-style-type: none"> ▪ The councillor who is alleged to have breached the code should not be in room during deliberation and voting. ▪ If council decides a breach has occurred, the councillor should be given an opportunity to make a submission on the proposed action before council makes a final decision. 	
<i>Repeat breach</i>	
<ul style="list-style-type: none"> ▪ Council decides whether a meeting breach or a minor breach may be a repeat breach as outlined in the Code. 	<ul style="list-style-type: none"> ▪ If Council decides it is a repeat breach, the complaint is referred to the conduct review panel.
<i>Statutory breach</i>	
<ul style="list-style-type: none"> ▪ Alleged breaches of councillors' statutory obligations where a fine is specified in the Act may also be "official misconduct" under the <i>Crime and Misconduct Act 2001</i> (CM Act). ▪ The Chief Executive Officer (CEO) must consider whether s/he is obliged under the CM Act to notify the Crime and Misconduct Commission (CMC) about the complaint. ▪ The CEO must notify the councillor as soon as practicable if the complaint has been referred to the conduct review panel. ▪ If the complaint is referred to the conduct review panel, council considers the panel's report and recommendations and decides whether the councillor has committed the breach. 	<ul style="list-style-type: none"> ▪ CEO notifies the CMC if required by the CM Act. ▪ CEO refers the complaint to the conduct review panel if the CEO is not required to notify the CMC of the complaint, or if the CEO has been notified by the CMC or the Ombudsman that they have decided not to take action, or have decided to discontinue action on the complaint. ▪ If council decides that a breach has occurred, council may: <ul style="list-style-type: none"> ○ take no further action; ○ impose 1 or more of the following penalties by resolution: <ul style="list-style-type: none"> ○ provide a written reprimand, ○ suspend councillor from the remainder of the meeting, ○ suspend councillor from up to 2 future meetings of council, ○ suspend councillor from future committee meetings. ▪ If council decides that a statutory breach has occurred, it may decide to initiate prosecution in the courts.

ATTACHMENT 2 - COPY OF LOCAL GOVERNMENT ACT & REGULATION PROVISIONS

With reference to "Integrity of local government":

LOCAL GOVERNMENT ACT 1993

Sections s.230(1) (2) (3) (4) & (5)

230 Limitations on councillors' roles

- (1) A councillor who is not the mayor must not assume any part of the mayor's role without the mayor's prior approval.
- (2) A councillor can not direct, and must not attempt to direct, an employee of the local government about the way in which the employee's duties are to be performed.
- (3) Subsection (4) applies if a councillor directs, purports to direct or attempts to direct, an employee of the local government, or another person otherwise engaged to provide services to the local government, about the way the employee or other person is to perform a relevant duty.
- (4) The councillor commits an offence.
Maximum penalty—85 penalty units.
- (5) In this section—
relevant duty means the duty of giving the local government a recommendation or advice about—
 - (a) the grant of a licence, permit or approval, however named, under an Act or under a local law of the local government; or
 - (b) the grant of a concession, rebate or waiver in relation to an amount owed to the local government; or
 - (c) the local government entering into a contract under chapter 6, part 3; or
 - (d) disposing of land or a non-current asset; or
 - (e) allocating any of the local government's resources for carrying out local government programs or projects.

resources, of the local government, means staff, funds, plant and equipment of the local government.

LOCAL GOVERNMENT ACT 1993

Section s.523

523 Councillors' liability for disbursements

- (1) This section applies if—
 - (a) a local government makes a disbursement in a financial year from an operating fund; and
 - (b) the disbursement is not provided for in the budget adopted for the fund for the year.

-
- (2) The councillors who knowingly agreed to the disbursement are jointly and severally liable to repay to the local government—
 - (a) the amount of the disbursement; and
 - (b) interest on the amount, calculated from the day of the disbursement to the day of repayment, at the rate at which interest accrues on overdue rates.
 - (3) However, subsection (2) does not apply if the disbursement was made for a purpose of genuine emergency or hardship.
 - (4) An amount for which councillors are jointly and severally liable under subsection (2) may be recovered, as a debt payable to the local government, by—
 - (a) the local government; or
 - (b) a person appointed by the Minister for the purpose; or
 - (c) an elector or ratepayer.
 - (5) An amount recovered by a person mentioned in subsection (4)(b) or (c) must be immediately paid to the local government.

LOCAL GOVERNMENT ACT 1993

Section s.526

526 Councillors' liability for unauthorised borrowings

- (1) If a local government borrows money—
 - (a) without authority conferred under the *Statutory Bodies Financial Arrangements Act 1982*; or
 - (b) for a purpose that is not a proper exercise of its jurisdiction; or
 - (c) in contravention of this Act; the councillors who knowingly agreed to the borrowing are jointly and severally liable to pay to the local government the amount borrowed and all interest, and other penalties incurred by the local government, for the borrowing.
- (2) An amount for which councillors are jointly and severally liable under subsection (1) may be recovered, as a debt to the local government by—
 - (a) the local government; or
 - (b) a person appointed by the Minister for the purpose; or
 - (c) an elector or ratepayer.
- (3) An amount recovered by a person mentioned in subsection (2)(b) or (c) must be immediately paid to the local government.
- (4) This section must be given effect despite—
 - (a) the issue of a security for the borrowing by a local government; and
 - (b) the *Statutory Bodies Financial Arrangements Act 1982*.

With reference to "Primacy of the public interest":

LOCAL GOVERNMENT ACT 1993

Section s.229(2)

229 Councillors' role

- (2) In performing the role, a councillor—
 - (a) must serve the overall public interest of the area and, if the councillor is a councillor for a division, the public interest of the division; and
 - (b) if conflict arises between the public interest and the private interest of the councillor or another person—must give preference to the public interest.

LOCAL GOVERNMENT ACT 1993

Section s.244

244 Exclusion from meeting of councillor with material personal interest

- (1) A councillor who has a material personal interest in an issue to be considered at a meeting of the local government, or any of its committees—
 - (a) must disclose the interest to the meeting; and
 - (b) must not be present at or take part in the meeting while the issue is being considered or voted on.
- (2) A councillor who is barred from a meeting under subsection (1) must not be in the chamber where the meeting is being conducted, including any area set apart for the public.

LOCAL GOVERNMENT ACT 1993

Section s.6

6 Meaning of *material personal interest*

- (1) A person has a ***material personal interest*** in an issue if the person has, or should reasonably have, a realistic expectation that, whether directly or indirectly, the person or an associate stands to gain a benefit or suffer a loss, including a benefit or loss as a director of a significant business entity under chapter 8, part 7 that is, or is to become, an LGOC, depending on the issue's outcome.
- (2) An ***associate*** is any of the following persons—
 - (a) a spouse or other member of the person's household;
 - (b) an entity (other than a government entity) of which the person or the person's nominee is a member;
 - (c) a partner of the person;
 - (d) an employer (other than a government entity) of the person;
 - (e) a person prescribed by regulation.

-
- (3) However, a person does not have a material personal interest in an issue—
- (a) if the issue is about—
 - (i) the remuneration of councillors or members of a local government committee or directors of significant business entities that are, or are to become, LGOCs; or
 - (ii) salary, wages or other remuneration of local government employees; or
 - (iii) the terms on which goods, services or facilities are to be offered by the local government for use or enjoyment of the public in its area; or
 - (iv) the making or levying of a rate, or the fixing of a regulatory fee, by the local government; or
 - (v) a planning scheme of general application in the local government's area; or
 - (vi) provision of superannuation entitlements or accident insurance for councillors or employees of the local government; or
 - (b) if the interest is merely—
 - (i) as an elector, ratepayer or resident of the local government's area; or
 - (ii) as a user of goods, services or facilities supplied, or to be supplied, by the local government (whether under a contract or otherwise) as a member of the public in common with other members of the public; or
 - (iii) as a member of a non-profit, charitable or religious organisation involving no personal gain or loss to the person; or
 - (iv) as a member of another entity in which the member does not have personal financial interest; or
 - (c) merely because the person—
 - (i) is an employee of the State or a government entity; or
 - (ii) is a candidate for election or appointment as mayor or deputy mayor of the local government or chairperson, deputy chairperson, member or delegate member of any of its committees or a director of a significant business entity that is, or is to become, an LGOC or the shareholder's delegate for an LGOC; or
 - (iii) may become entitled to benefits under a policy of accident insurance, public liability or professional indemnity insurance held, or to be held, by the local government.
- (4) This section does not apply to section 689.

LOCAL GOVERNMENT ACT 1993
Section s.246

246 Penalty for contravening exclusion from meeting

A councillor of a local government who contravenes section 244 is liable to a maximum penalty of—

- (a) if the councillor voted on the issue with an intention to gain an advantage for the councillor or anyone else—200 penalty units;
- (b) in any other case—85 penalty units.

With reference to "Independence of action by councillors":

LOCAL GOVERNMENT ACT 1993
Section s.229(3)

229 Councillors' role

- (3) A councillor must ensure there is no conflict, or possible conflict, between the councillor's private interest and the honest performance of the councillor's role of serving the public interest.

With reference to "Appropriate use of information by councillors":

LOCAL GOVERNMENT ACT 1993
Section s.250(1) & (2)

250 Improper use of information by councillors

- (1) A person who is or has been a local government councillor must not make improper use of information acquired as a councillor—
 - (a) to gain, directly or indirectly, a financial advantage for the person or someone else; or
 - (b) to harm the local government.
- (2) A person who is or has been a local government councillor must not release information that the person knows, or should reasonably know, is information that is confidential to the local government.
Maximum penalty—100 penalty units.

With reference to "Transparency and scrutiny":

LOCAL GOVERNMENT ACT 1993

Section s.242

242 Requirements of councillors before acting in office

- (1) A person elected as a councillor must not act in the office until the person—
 - (a) gives the chief executive officer of the local government a return in the approved form; and
 - (b) after giving the return, makes a declaration of office.
 - (2) A person appointed as a councillor must not act in the office until the person makes a declaration of office.
 - (3) The return under subsection (1)(a) must state the information the person is required to give under section 427 relating to the disclosure period for the election of the person to the extent that the person states the information is readily available when giving the return.
 - (4) The declaration of office for a councillor of Brisbane City Council must be in the following form—

'I,, having been elected/appointed as a councillor of Brisbane City Council, declare that I will faithfully and impartially fulfil the duties of the office to the best of my judgment and ability.'
 - (4A) The declaration of office for a councillor of another local government must be in the following form—

'I,, having been elected/appointed as a councillor of the Council of the Region/City/Town/Shire of, declare that I will faithfully and impartially fulfil the duties of the office, including perform the role of a councillor under the *Local Government Act 1993*, section 229, to the best of my judgment and ability.'
 - (4B) If, when the councillor is elected or appointed, there is a code of conduct for the local government, the declaration of office for the councillor must also include the following statement—

'I declare that I agree to comply with the Council's code of conduct.'
 - (5) The chief executive officer of the local government is authorised to take the declaration.
 - (6) The chief executive officer must keep a record of the taking of the declaration.
 - (7) The person ceases to hold office as a councillor if the person does not comply with subsection (1) or (2) within 1 month after being elected or appointed or a longer period allowed by the Minister.
 - (8) The person must not give a return, under subsection (1)(a), containing particulars that are, to the knowledge of the person, false or misleading in a material particular.
- Maximum penalty for subsection (8)—100 penalty units.

LOCAL GOVERNMENT ACT 1993
Section s.427

427 Gifts to candidates

- (1) This section applies to gifts received by a candidate for an election during the candidate's disclosure period for the election but not to a gift made in a private capacity to the candidate, for the candidate's personal use, that the candidate has not used, and does not intend to use, solely or substantially for a purpose related to any election.
- (2) Each candidate for the election must, within 15 weeks after the conclusion of the election, give to the chief executive officer of the local government to which the election relates a return, in the approved form, stating—
 - (a) whether the candidate received any gifts to which this section applies; and
 - (b) if so—
 - (i) the total value of all of the gifts; and
 - (ii) how many persons made the gifts; and
 - (iii) the relevant details for each gift made by a person to the candidate, if the total value of all gifts made by the person to the candidate during the disclosure period is the prescribed amount or more.
- (3) A candidate need not comply with subsection (2) if—
 - (a) the candidate gives a return under section 242(1)(a)79 and the return states the candidate—
 - (i) does not expect to receive gifts in the disclosure period for the election after giving the return; and
 - (ii) will give a return under the section if gifts are received in the disclosure period for the election after giving the return; and
 - (b) the candidate does not receive gifts in the disclosure period for the election after giving the return.

LOCAL GOVERNMENT ACT 1993
Section s.246A

246A Recording of conflict of interest

- (1) This section applies if a councillor of a local government has a conflict of interest, or could reasonably be taken to have a conflict of interest, in an issue being considered or to be considered at a meeting of the local government or any of its committees.
- (2) For subsection (1), a councillor has a conflict of interest in an issue if there is a conflict between the councillor's private interest and the honest performance of the councillor's role of serving the public interest.
- (3) The councillor must declare the conflict of interest to the meeting.
- (4) The local government must ensure the declaration is recorded in the minutes for the meeting.

-
- (5) The record must include—
- (a) the nature of the conflict of interest as described by the councillor; and
 - (b) how the councillor dealt with the conflict of interest; and
 - (c) if the councillor voted on the issue—how the councillor voted.
- (6) In this section—
- conflict of interest**, for a councillor in an issue, does not include a conflict of interest arising out of a material personal interest the councillor has in the issue.
- private interest** includes both pecuniary and non-pecuniary interests, and may include having received a donation to be used for electoral purposes.

LOCAL GOVERNMENT ACT 1993
Section s.247

247 Registers of interests

- (1) The chief executive officer of a local government must keep—
- (a) a register of interests of each local government councillor; and
 - (b) a register of interests of the persons who, under a regulation, are related to the councillor.
- (2) A register—
- (a) must relate to only 1 person; and
 - (b) must contain the financial and non-financial particulars prescribed by regulation.
- (3) If a councillor knows—
- (a) of an interest that the chief executive officer must record in a register of interests kept under subsection (1) in relation to the councillor or a person who, under a regulation, is related to the councillor (a **related person**); or
 - (b) that particulars of an interest recorded in a register kept under subsection (1) in relation to the councillor or a related person are no longer correct;
- the councillor must tell the chief executive officer of the interest, or the correct particulars, in accordance with the regulations.
- Maximum penalty for subsection (3)—85 penalty units.

LOCAL GOVERNMENT ACT 1993
Regulation Schedule 1 s.10

10 Gifts totalling more than \$500

- (1) The particulars required for each gift, or all gifts totalling, more than \$500 in amount or value given by a person (a **donor**) to a councillor or related person are—
- (a) the donor's name; and

-
- (b) the amount or value of each gift.
 - (2) Subsection (1) does not apply to a gift from a donor who is—
 - (a) if the councillor receives the gift—
 - (i) a person related to the councillor, or
 - (ii) someone else related by blood or marriage to the councillor; or
 - (iii) the councillor's friend; or
 - (b) if the related person receives the gift—
 - (i) a councillor to whom the related person is related; or
 - (ii) someone else related by blood or marriage to the related person; or
 - (iii) the related person's friend.
 - (3) For subsection (2), the councillor must be satisfied there can not be the perception of a conflict of interest, financial or otherwise, relating to the gift that could conflict with the councillor's duty as a councillor.

LOCAL GOVERNMENT ACT 1993

Section s.249 (3) & (4)

249 Queries on contents of register

- (3) The councillor must, within 30 days of being informed—
 - (a) establish whether the register should be amended to make it a true record of fact; and
 - (b) if the register should be amended—give the chief executive officer the appropriate particulars in writing.
- (4) If the councillor establishes that the register does not need to be amended, the councillor must—
 - (a) complete a statutory declaration to the effect that the particulars in the register are a true record of fact; and
 - (b) give the statutory declaration to the chief executive officer.

ATTACHMENT 3 - GUIDELINES FOR COMMUNICATION BETWEEN COUNCILLORS AND OFFICERS

COMMUNICATIONS BETWEEN COUNCILLORS AND OFFICERS

(extracted from Logan City Council's *Code of Conduct for Staff*)

Under the provisions of Section 1135 of the Local Government Act 1993, the Mayor may request reasonable help or advice from any employee, and a Councillor other than the Mayor may request help or advice only from the Chief Executive Officer (CEO) unless the CEO has established an administrative system with clear guidelines on which employees may be approached. The following protocol has been prepared for the assistance of Councillors pursuant to that provision of the Act.

Council may adopt alternative guidelines to apply to particular Councillor(s) or in particular circumstances. Should such alternative guidelines be adopted, then these will apply and override the existing guidelines, to the extent of any inconsistencies. If such alternative guidelines are adopted, then for the life of those guidelines they will be included in the existing guidelines. That is, this protocol can be suspended and/or overridden for a particular Councillor(s) and/or in particular circumstances.

1. Councillors shall not give direction to officers, or request them to perform work. If an attempt is made by a Councillor to do so, officers must report the matter to their Supervisor or Manager.
2. A Councillor should not be placed in a lesser position than a member of the public when seeking general information from officers. Council officers will provide every reasonable assistance to Councillors in the exercise of their role and the performance of their duties.
3. Councillors must not take advantage of their official position to improperly influence officers.
4. All requests made by Councillors, that are within the requirements of the Local Government Act, this code and approved administrative systems should be undertaken by officers with due diligence.
5. In regard to a request for help or advice of a specific nature, or in relation to any matter which may involve the organisation in an active response (with or without cost), any request should be directed in writing through either the CEO, a Deputy Chief Executive Officer, or a Manager. The written request is to be placed on a Council record and filed appropriately.
6. A Councillor seeking assistance as in (4) above from the CEO, Deputy Chief Executive Officer, or Manager should advise that officer if the Councillor has made a similar request of any other officer.
7. Any response to the Councillor must have due regard for the provisions of the *Local Government Act 1993*, Council's Local Laws, Council Policy instruments, and Council resolutions and should be documented. It is essential that requests for assistance which involve the expenditure of funds or the use of resources not specifically provided for in the Budget, are referred to the relevant Manager, Deputy Chief Executive Officer, or to the CEO or his delegate, for approval under approved Delegations of Authority or for referral to the relevant Committee and Council.
8. The Mayor is the only Council spokesperson on this issue.
9. Communications between Councillors and officers shall, at all times, be carried out in a professional manner, with due regard to the Councillor's role under *Local Government Act 1993*.
10. Councillors shall not direct, nor attempt to direct, officers in the way they carry out their duties.
11. Councillors shall not direct nor attempt to direct the officers in the content of recommendations in reports to Committees or Council, nor in the content of correspondence.
12. If a Councillor is concerned about any refusal to provide help or advice, they should firstly raise the matter with the CEO, or Mayor if it was the CEO who refused to provide the advice. If the Councillor is still dissatisfied they may request the information by way of a question on notice to Council.
13. Officers at all levels may communicate directly with Councillors on any issue affecting them as a citizen.