



Cloncurry Shire Council

**POLICY
NO.**

COR 1023

CODE OF CONDUCT FOR COUNCILLORS GOVERNANCE POLICY

1. Background and Context

This Code of Conduct sets out the standards of behaviour that Council expects of Councillors of the Cloncurry Shire Council.

The requirements of this Code are in addition to the roles, responsibilities and obligations of Councillors as set out in the *Local Government Act 2009* (the “Act”) and the *Local Government Regulation 2012* (the “Regulation”). This Code has been adopted by resolution of Council. Council accordingly considers this Code to be a ‘procedure’, as that term is used in section 176(4) of the Act.

Failure to comply with a procedure may be inappropriate conduct for the purposes of the Act.

2. Scope

This policy applies to all Councillors of the Cloncurry Shire Council in performing their duties of their office and sets out the standards of behaviour expected of Councillors.

3. Objectives

The objectives of this policy are to:

- Enhance Councillor’s awareness of ethical issues;
- Generate public confidence in the way they operate; and
- Set a high standard for the culture and reputation of the Council as a whole.

4. Definitions

Workplace bullying *the repeated less favourable treatment of a person by another or others in the workplace, which may be considered unreasonable and inappropriate workplace practice. It includes behaviour that intimidates, offends, degrades or humiliates a worker.*

Workplace harassment *unlawful harassment occurs when someone is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin, sex, disability, sexual preference, or some other characteristic specified under antidiscrimination or human rights legislation. It can also happen if someone is working in a ‘hostile’ – or intimidating – environment.*

5. Roles and Responsibilities

Councillors are:

5.1 To perform all responsibilities under the Act in accordance with the local government principles:

- (a) transparent and effective processes, and decision-making in the public interest;

Document No. Policy # COR 1023
Authorised by Director Corporate Services
Document maintained by Corporate Governance

Version No.1
Initial Date of Adoption: 05.04.16
Current Version Adopted: 05.04.16
Next review date: 04/2020

- (b) sustainable development and management of assets and infrastructure, and delivery of effective services;
 - (c) democratic representation, social inclusion and meaningful community engagement;
 - (d) good governance of, and by, local government; and
 - (e) ethical and legal behaviour of Councillors.
- 5.2 To represent the current and future interests of the residents and ratepayers of the Shire.
- 5.3 To ensure the local government -
- (a) discharges its responsibilities under the Act;
 - (b) achieves its corporate plan; and
 - (c) complies with all applicable laws.
- 5.4 To provide high quality leadership to the local government and to the community.
- 5.5 To participate in Council meetings, policy development and decision-making for the benefit of the local government area.
- 5.6 To be accountable to the community for the local government's performance.
- 5.7 The Mayor has additional responsibilities to -
- (a) lead and manage meetings of the local government;
 - (b) prepare a budget to present to the local government;
 - (c) lead, manage and provide strategic direction to the CEO;
 - (d) direct the CEO and senior executive employees in accordance with the local government's policies;
 - (e) conduct the CEO's performance appraisals;
 - (f) provide information to the Minister upon request;
 - (g) be a member of each standing committee; and
 - (h) represent the local government at ceremonial or civic functions.
- 5.8 Abide by the caretaker period arrangements prior to a local government election.
- 5.9 Not to direct Council staff. Only the Mayor may direct the CEO or senior executive employees (Directors) and then only in accordance with Council's policies.
- 5.10 To contact staff for assistance or information only in accordance with Council's approved acceptable requests guideline.
- 5.11 Not to use information acquired as a Councillor to gain, directly or indirectly, a financial advantage for anyone, or to cause detriment to the local government.

- 5.12 Not to release information the Councillor knows, or should reasonably know, is information that is confidential to the local government.
- 5.13 To correct and keep up to date the Councillor's register of interests.
- 5.14 To disclose a material personal interest.
- 5.15 To declare conflicts and perceived conflicts of interest.
- 5.16 Not to give false or misleading information.

Councillors also have responsibilities under the *Work Health & Safety Act 2011*, including a general duty of any worker to take reasonable care for his/her safety, take reasonable care that his/her acts or omissions do not adversely affect the health and safety of others, comply with any reasonable instruction by the person conducting the business or undertaking, and co-operate with any reasonable policy or procedure relating to the health or safety of the workplace.

This list of responsibilities is not an exhaustive list. Councillors should maintain a good working knowledge of the Act and other legislation to the extent that they impose obligations on them. Examples include: *Integrity Act 2009*, *Right to Information Act 2009*, *Local Government Electoral Act 2011* and the *Public Sector Ethics Act 1994*.

6. Policy

6.1. Key Ethical and Behavioural Obligations

Councillors must:

- ensure that their personal conduct does not reflect adversely on Council's reputation;
- demonstrate respect for fellow Councillors, council employees and members of the community;
- commit to honest, fair and respectful engagement with the community;
- conform to the requirements of Council's Meetings Standing Orders during formal meetings of the Council and any formal committees;
- not communicate with the public on behalf of Council, through the media or otherwise, unless authorised to do so by the Mayor;
- not commit Council to a position or outcome unless expressly authorised to do so;
- when communicating to the public, through the media or otherwise, make it clear whether they are speaking on behalf of Council, or are expressing a personal opinion;
- not provide information about Council to, or issue any instructions to any of Council's contractors or service providers;
- refrain from harassing or bullying (see Clause 4 for definitions) another Councillor, Council employee or any other person; and refrain from supporting anyone else who behaves in such a manner; and
- respect and protect the privacy and personal information of individuals.

6.2. Decision Making

Councillors must comply with the statutory requirements covered in clause 5 above.

Additionally, Councillors are expected to:

- prepare for meetings and workshops by allocating sufficient time to read and comprehend the information provided for that purpose;
- attend all Council ordinary meetings unless given leave of absence and prioritise attendance at Councillor workshops;
- be active participants in contributing to ideas generation, discussion and debate;
- minimise distractions from phones and computers;
- note that workshops are not decision-making forums and are held to inform, engage and consult with Councillors prior to formal consideration of matters in a public forum; and
- respect that all information presented and discussed at workshops is confidential unless specifically documented to the contrary.

(Note – ‘workshops’ includes Councillor workshops and Mayor/Councillor meetings).

6.3. Contact with Staff

The Acceptable Request Guideline, adopted by Council pursuant to the Act, details the arrangements that apply to Councillors seeking assistance or information from Council’s employees.

Councillors should avoid seeking advice or information from staff who are not on the list attached to the Guideline. Councillors must also note section 170 of the Act as amended from time to time and the requirement not to direct staff, or attempt to do so (see ‘key responsibilities of Councillors’ above).

Councillors should take particular care to frame requests for assistance or information in such a way that they cannot be interpreted as instructions, or as attempts to exert improper influence over a process or decision.

Contact with managers and staff should be restricted to normal business hours unless the matter is urgent; i.e. it is of such significance that its resolution cannot wait until business hours resume.

Excessive and unnecessary copying of emails to groups of managers/staff should be avoided. Unless specifically involved as a panel member of a staff recruitment process (such as required by section 196 of the Act – employing a senior executive employee where the Mayor, Deputy Mayor and Chief Executive Officer comprise the selection panel), Councillors are to distance themselves from such processes to avoid being perceived as using their office to improperly influence decisions relating to the employment or career advancement of Council staff.

6.4. Use of Entitlements

Councillors must ensure that public resources are used prudently and only in the public interest.

Council has adopted the Councillor Reimbursement of Expenses Reimbursement and Provision of Facilities Policy which ensures that Councillors have the facilities and support to perform their duties whilst also ensuring compliance with community expectations and statutory requirements.

Councillors must not use Council resources for any purpose that is prohibited in any Council policy, guideline or procedure. This includes the use of Council equipment and facilities for electoral purposes, or enlisting Council employees to assist with a Councillor's private business. Councillors must take all reasonable care of Council equipment and must not permit the misuse of equipment, facilities or other resources by any other person.

6.5. Council's Policies, Guidelines and Procedures

To the extent that they are relevant, Councillors must comply with Council's approved policies, guidelines and procedures.

6.6. Consequences of Failing to Comply with this Code:

Section 176(4) of the *Local Government Act 2009* provides:

- (4) *Inappropriate conduct is conduct that is not appropriate conduct for a representative of local government, but is not misconduct, including for example –*
- (a) *a councillor failing to comply with the local government's procedures; or*
 - (b) *a councillor behaving in an offensive or disorderly way in a meeting of the local government or any of its committee.*

A failure to comply with this Code by a Councillor (other than the Mayor or the Deputy Mayor) will be inappropriate conduct and render a Councillor liable to disciplinary action prescribed by the Act. Pursuant to the Act, the Mayor may make either or both the following orders that the Mayor considers appropriate in the circumstances:

- (a) *an order reprimanding the councillor for the inappropriate conduct;*
- (b) *an order that any repeat of the inappropriate conduct be referred to the regional conduct review panel as misconduct.*

Under the Act, if the Mayor makes three orders about inappropriate conduct by the same Councillor within one year, the Mayor must refer the repeated inappropriate conduct by the Councillor to a regional conduct review panel or the tribunal.

A failure to comply with this Code by the Mayor or Deputy Mayor will also be considered inappropriate conduct but, by virtue of section 176C (3) of the Act, must be referred to the Chief Executive Officer of the Department of Local Government.

While any failure to comply with any part of this Code may comprise an act of inappropriate conduct, some acts or omissions may also constitute misconduct or corrupt conduct depending on the circumstances relating to the acts or omissions (s176(3) of the Act or s15 *Crime and Corruption Act 2001*).

6.7. How Complaints are dealt with

Complaints about the conduct and performance of Councillors are dealt with according to the requirements of the Act. Details of the processes followed are contained in the *Local Government Act 2009*.

References and Related Documents:

Local Government Act 2009
Local Government Regulations 2012

Adopted by Council Resolution

POLICY VERSION AND REVISION INFORMATION

Version No.	Date Adopted	Review Date
1	05.04.2016	April 2020

Policy Authorised by: David Neeves

Title: Chief Executive Officer