

Cloncurry Shire Council - Councillor Conduct Register

Updated as at 22/11/2023

Summary of Complaint	Decision (dismissal / substantiated)	Reason for Decision	Decision Date	Order	Date of Order
<p>Allegation One: It is alleged that on or around 20 December 2016, Councillor Gregory Campbell, a Councillor and Mayor of Cloncurry Shire Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Local Government Act 2009 in that their conduct involved a breach of trust placed in the councillor in that their conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.</p> <p>Allegation Two: It is alleged that on 28 November 2017, Councillor Gregory Campbell, a councillor and Mayor of Cloncurry Shire Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Local Government Act 2009, in that their conduct involved a breach of the trust placed in the councillor in that their conduct was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes, and decision-making in the public interest' and section 4(2)(e) 'ethical and legal behaviour of councillors and local government employees'.</p>	Sustained	The Tribunal has determined, on the balance of probabilities, that Allegations 1 and 2 have been sustained .	30.10.2023	The Tribunal orders, in respect of Allegations 1 and 2, that the Councillor must (within 90 days of the Councillor's receipt of this decision and reasons) attend training or counselling, at his expense, to address the councillor's conduct in accordance with section 150AR(1)(b)(iii) of the Act.	30.10.2023
It is alleged a councillor engaged in misconduct when the councillor received an allowance that the councillor was not entitled to receive	Dismissed	The OIA decided to take no further action pursuant to section 150Y(b)(iii) of the Local Government Act 2009 [the Act] on the basis that taking further action would be an unjustifiable use of resources. The OIA was advised that the councillor made an administrative error that led to a payment being made to the councillor that the councillor was not entitled to under the Act. On recognising the error, the councillor repaid the amount in full in a timely manner and self referred their conduct to the OIA.	08.01.2023		
It is alleged a councillor engaged in misconduct when the councillor failed to declare a conflict of interest in a matter being considered by Council	Dismissed	The OIA dismissed this matter pursuant to section 150X(a)(ii) of the Local Government Act 2009 as the councillor's interest was too remote to the matter under consideration to reasonably raise a conflict of interest in the matter.	22.03.2022		
It is alleged a councillor had failed to fully disclose a declarable conflict of interest in a matter at a council meeting	Dismissed	The OIA dismissed this matter pursuant to section 150X(c)(ii) of the Local Government Act 2009 (the Act) as an unjustifiable use of resources. The councillor did declare a conflict of interest relating to the entity subject to the complaint, however, however did so in a minimum form. The councillor's attention has been drawn to further guidance provided on this issue in the model meeting procedures 4.3 to inform any future declarations in relation to the same entity.	22.03.2022		

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The allegation is that on 15 May 2018 the Respondent Councillor of the Cloncurry Shire Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Local Government Act 2009, in that the conduct involved a breach of the trust placed in the councillor, in that it was inconsistent with the local government principles in section 4(2)(a) 'transparent and effective processes and decision-making in the public interest' and section 4(2)(e) "ethical and legal behavior of councillors and local government employees', in that the Councillor did not deal with a real or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act	Not sustained	The Councillor Conduct Tribunal has determined on the balance of probabilities, that the allegation has not been sustained.	21.10.2021	Under s150AR, the Councillor was not found to have engaged in misconduct and accordingly Orders and recommendations are not applicable.	
The allegation that on 9 August 2019 the Councillor and Mayor of the Cloncurry Shire Council, engaged in misconduct as defined in section 150L(1)(b)(i) of the Local Government Act 2009, in that his conduct involved a breach of the trust placed in the councillor, either knowingly or recklessly, in that the conduct was inconsistent with local government principles 4(2)(a) "transparent and effective processes and decision-making in the public interest" and section 4(2)(e) being "ethical and legal behaviour of councillors and local government employees',	Sustained		21.10.2021	Having found that the Councillor engaged in misconduct, the Tribunal orders that Councillor Gregory Campbell, Mayor of the Council: 1. Make an admission of misconduct during a Council meeting within 60 days from receipt of a copy of this report and decision from the Registrar of the Tribunal (s150AR(1)(b)(i)); 2. Attend training to address the councillor's conduct (at the Councillor's expense), where such training must include a proper assessment and determination of conflicts of interest (s150AR(1)(b)(iii)); 3. Pay to the local government an amount of \$500.00 within 90 days from the date of receipt of this order (s150AR(10)(b)(iv)).	21.10.2021
It was alleged that a councillor told the council's chief executive officer to deal with an industrial matter relating to a council employee in a certain way.	Dismissed	The OIA dismissed this matter pursuant to section 150X (a)(ii) of the Local Government Act 2009 as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct. It was found that during the relevant council meeting during 'General Business, the councillor had used this opportunity to be transparent by noting an issue raised by a concerned resident.	15.06.2021		
It is alleged a Councillor has engaged in the following conduct: 1. Two (2) counts of breach of trust for failing to engage in ethical and legal behaviour 2. Three (3) counts of directing staff 3. Bullying and harassment of a Council Officer 4. Failure to declare a declarable conflict of interest 5. Two (2) counts of influencing, attempting to influence or discussing a matter with other participants in a decision, in circumstances where a declarable conflict of interest existed 6. Reprisal against a Council officer 7. Breach of the Code of Conduct for failing to respectfully engage with the community	No further action	The OIA decided to take no further action pursuant to section 150Y(b)(i) and 150Y(b)(ii) of the Local Government Act 2009 [the Act] on the basis that, after a full investigation into each allegation, the evidence obtained did not raise a reasonable suspicion of inappropriate conduct or misconduct or it was not considered a justifiable use of resources to continue to pursue the matter any further as key witnesses had provided conflicting evidence and no independent corroborating evidence was available. Capacity issues were identified in declaring and managing conflicts of interest. In the circumstances of this case it was considered that those issues would be better addressed by targeted training.	17.05.2021		
It is alleged four councillors engaged in misconduct by breaching the trust placed in them as a councillors either knowingly or recklessly, when considering an agenda item in a closed session of the council meeting on 21 July 2020. In particular it is alleged that process set out in section 175E(6) of the Act for dealing with conflicts of interest was not followed, the decision made did not follow council officers recommendations, cost council additional monies, and was not consistent with the procurement principles.	Dismissed	The OIA dismissed this complaint pursuant to Section 150X (c) (iii) of the Act on the basis that further dealing with this matter would be an unjustifiable use of resources. Seven issues were identified with how all councillors procedurally dealt with this matter including non-compliance with quorum, delegation and recording requirements set out in the Act and the Local Government regulations. After an investigation the OIA considered that the best way to deal with this matter in the public interest was to focus on capacity building.	02.06.2021		

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It was alleged that a councillor had instructed senior council staff to not use a particular contractor to Council due to a personal grievance with the contractor	Dismissed	The OIA dismissed this matter pursuant to section 150X (a)(ii) of the Local Government Act 2009 as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct. The OIA conducted enquiries with a senior local government employee responsible for engaging contractors for Council. The staff member stated that they had not been told by any councillor not to engage with the contractor.	06.07.2020		
It is alleged a councillor acted operationally and outside their role as a councillor when they purchased hoses and sprinklers with a council issued corporate card on 18 April 2017 and 23 May 2017, and approved the purchases himself, when they should have been approved by council's Chief Executive Officer.	No further action	The OIA decided to take no further action pursuant to section 150Y(b)(iii) of the Local Government Act 2009, as taking further action would be an unjustifiable use of resources. The purchases were low value and for legitimate council purposes. It has been recommended however that council review current practices, card holders and credit limits to ensure that they are sufficient to meet the day to day needs of council without requiring the assistance of councillors.	19.02.2020		
It is alleged that on 28 November 2017, Councillor Dane Swalling, a Councillor of Cloncurry Shire Council, engaged in misconduct as defined in section 176(3)(b)(ii)2 of the Local Government Act 2009 (the Act), in that his conduct contravened section 173(4) of the Act, as it then was, to deal with the real or perceived conflict of interest in a transparent and accountable way. Particulars of the alleged conduct which could amount to misconduct are as follows: a. On 28 November 2017, an Ordinary Council meeting was held. One of the matters for consideration was whether to adopt the amended Procurement Policy COR1004 version 4. b. The key amendment to the Procurement Policy, which was adopted at the meeting was a change to the definition of "Local Supplier". The policy involved the creation of two tiers of local supplier, being Local Supplier Level 1 and Local Supplier Level 2. A business qualifying as a Local Supplier Level 1 was eligible to a 20% local advantage whereas a business qualifying as a Local Supplier Level 2 was eligible to a 10% local advantage. The change to the policy enabled businesses that did not meet the requirements of the Local Supplier definition under the previous version of the policy, to access half the local supplier advantage.	Sustained	Not applicable		28.10.2020	
c. The matter was not an ordinary business matter. d. Councillor Swalling attended the general Council meeting. e. Councillor Swalling is the owner of a local plumbing company, Cloncurry Plumbing Pty Ltd, which has supplied services to Council between 2004 and 2017. f. Councillor Swalling's personal interest in the matter did not arise merely because of the circumstances specified in section 173(3) of the Act. g. Councillor Swalling's personal interest in the matter could be deemed as a real conflict of interest or perceived conflict of interest because under the Procurement Policy, Cloncurry Plumbing Pty Ltd, qualified as a Local Supplier Level 1. h. As a Local Supplier Level 1, Cloncurry Plumbing Pty Ltd had an advantage over Local Suppliers Level 2 and over non-local suppliers. i. At the Ordinary Council Meeting on 28 November 2017, Councillor Swalling did not deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way.					

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It was alleged that a Councillor had placed an email sent to council about the councillor's integrity into the council meeting minutes for public scrutiny.	Dismissed	The OIA dismissed this matter pursuant to section 150X (a)(ii) of the Local Government Act 2009 as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct. It was found that during the relevant council meeting during 'General Business, the councillor had used this opportunity to be transparent by noting an issue raised by a concerned resident.	24.08.2020		
It is alleged a councillor acted operationally and outside their role as a councillor when they purchased hoses and sprinklers with a council issued corporate card on 18 April 2017 and 23 May 2017, and approved the purchases himself, when they should have been approved by council's Chief Executive Officer.	Dismissed	The OIA decided to take no further action pursuant to section 150Y(b)(iii) of the Local Government Act 2009, as taking further action would be an unjustifiable use of resources. The purchases were low value and for legitimate council purposes. It has been recommended however that council review current practices, card holders and credit limits to ensure that they are sufficient to meet the day to day needs of council without requiring the assistance of councillors.	19.02.2020		
It was alleged that a councillor had a material personal interest in council matters discussed concerning John Flynn Place	Dismissed	The OIA decided to take no further action pursuant to section 150Y(b)(ii) of the Local Government Act 2009, on the basis that there was insufficient information to properly investigate the conduct or form an opinion about whether the conduct is, or may be, inappropriate conduct or misconduct. An aspect of this complaint had also been previously fully investigated and did not raise a reasonable suspicion of misconduct.	17.02.2020		
It was alleged that two councillors commented on an official council Facebook site and reacted to public comment on the same site in a manner that could amount to inappropriate conduct. The	Dismissed	The OIA decided to take no further action pursuant to Section 150Y(b)(i) of the Local Government Act 2009 on the basis that the conduct did not raise a reasonable suspicion of inappropriate conduct or misconduct. This decision was made on the basis that the comments made by members of the public on Facebook were reasonable and the language used in the posts in question was not abusive, threatening or offensive.	20.12.2020		
It is alleged the councillor failed to declare a conflict of interest during ordinary business meetings. The interests being: - a business relationship with a council contractor - a family member being awarded council contracts Contrary to section 175E(2) of the Local Government Act 2009	Dismissed	Following an investigation, the OIA decided to take no further action in relation to the alleged interests pursuant to 150Y(b)(i) of the Act in that the conduct did not raise a reasonable suspicion of inappropriate conduct or misconduct. There was no evidence of any business relationship between the councillor and the alleged business interest that would reasonably give rise to a conflict of interest. The family member had worked for council, however, did not carry out contracts of a value that would require Council approval in Council meetings. No matters involving the family member had been discussed at any council meeting. As such there was no requirement under the Act for the councillor to declare a conflict of interest.	22.11.2019		
It is alleged the councillor failed to update their register of interests with interests in a property and directorship of a business in the approved form within 30 days after the interest arose or the change occurred. Contrary to section 171B(2) of the Local Government Act 2009	Dismissed	The OIA decided to take no further action pursuant to section 150Y(b)(ii) of the Local Government Act 2009 (the Act) in relation to the property interest on the basis that the property was recorded on the councillor's related-party register. The OIA decided to take no further action relation to the business interest pursuant to section 150Y(b)(iii) of the Act as there was insufficient information to form an opinion on whether the conduct is or may be inappropriate conduct or misconduct and no reasonable enquiries could be further made to ascertain the relevant facts due to administrative issues. Those issues were raised by the OIA.	22.11.2019		

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It is alleged that a councillor failed to ensure the accuracy of the minutes of council meetings.	Dismissed	The OIA resolved to take no further action pursuant to section 150Y(b)(i) of the Local Government Act 2009 on the basis that the councillor's conduct did not constitute inappropriate conduct. The OIA established that the confirmed/adopted meeting minutes had not been changed, it was the draft minutes which were changed and	24.09.2020		
It is alleged that a councillor took reprisal action against the complainant.	Dismissed	The OIA decided to take no further action on the complaint pursuant to Section 150Y(b)(i) on the basis that the conduct does not constitute inappropriate conduct or misconduct. There was no evidence to raise a reasonable suspicion of reprisal action having been taken by the subject councillor.	21.06.2019		
It was alleged that a Councillor failed to declare a Conflict of Interest when discussing and voting on a matter during an ordinary council meeting.	Take no further action	Following an investigation by the OIA including a review of council minutes and the submission of a company identified in the alleged conflict, there was no information to indicate the councillor had a real or perceived conflict of interest. The OIA delegate made the decision to take no further action pursuant to S150Y (b)(i) of the Local Government Act 2009 in that the conduct does not constitute inappropriate conduct or misconduct as defined by the Act.	03.09.2019		
It is alleged that a Councillor uses the Council's media officers to "push their own agenda", resulting in one sided posts on the Council's Facebook page.	Take no further action	The OIA decided to take no further action on the basis that the conduct does not constitute inappropriate conduct or misconduct. Council staff indicated that they do not receive direction or requests from any Councillors for content to be posted on the council Facebook page.	21.05.2019		
The OIA raised an own motion complaint in relation to allegations against Councillor 1 and Councillor 2. The allegations were that the decision made by Councillor 1 and Councillor 2 not to grant Councillor 3 a leave of absence to attend a Council meeting was vindictive and was done so to seek retribution against Councillor 3. It was further alleged that Councillor 1 and Councillor 2 failed to show respect by bullying and harassing Councillor 3 which	Dismissed	The OIA delegate made the decision to dismiss the complaint on the basis that taking further action would be an unjustifiable use of resources.	05.07.2019		
It was alleged that a councillor had: Failed to adequately deal with a conflict of interest at a council meeting on 4 September 2018. Not honestly or impartially performed their functions as a councillor having contacted tenderers in relation to a council contract while the matter was under consideration. Breach the trust placed in them as a Councillor by engaging in behaviour towards a council employee that was bullying or harassing.	Take no further action	The OIA decided to take no further action pursuant to section 150Y(b) (i) and (iii) of the Local Government Act 2009 [the Act] on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct and taking further action would be an unjustifiable use of resources. Investigations did not support that misconduct or inappropriate conduct as defined under the act had occurred concerning the councillors behaviour towards council employees or contact with a tenderer during a tender process. It was not considered a justifiable use of resources to continue investigation in relation to the failure to adequately deal with a conflict of interest when there had been failures in council meeting procedure that contributed.	26.08.2020		

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The complaint raised allegations against two councillors in relation to their participation in charitable activities without inviting all other councillors to participate and without a Council policy or resolution in relation to the charitable activities.	Take no further action	The OIA decided to take no further action pursuant to section 150Y(b)(i) of the Local Government Act 2009 [the Act] on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct. There was no suggestion of Council funds being spent in purchasing items in relation to the charitable activity and in the absence of any Council policy it is equally open to other Councillors to participate in charitable activities which are not funded by Council.	06.01.2020		
It was alleged that a councillor gave directions to council staff to make changes to the design of a council approved project. The OIA delegate made the decision to take no further action pursuant to S150Y(b)(i) of the Local Government Act 2009 (the Act) in that it does not constitute inappropriate conduct or misconduct as defined by the Act.	Dismissed	Following an investigation by the OIA including submissions from council staff and contractors involved in the project, no information was provided to indicate any direction was made to either council staff or external contractors to make changes to the project.	20.09.2019		
Acted in a vindictive manner and sought retribution by voting against Complainants leave of absence on 18 October 2018	OIA issued letter that matter will be referred to CSC to deal with		12.02.2019		
Calls and Text message "have you done Qantas training"	Mayor determined a breach of the Acceptable Requests Guidelines COR1024		24.04.2019		
It is alleged Cr engaged in misconduct when he failed to declare a Material Personal Interest (MPI) in relation to a Local Government Procurement Policy that provided 20% default weighting for local businesses over their competitors.	Dismissed	The majority of the Panel decided, on the balance of probabilities, that the allegation that Councillor McGee engaged in misconduct when he failed to declare a Material Personal Interest (MPI) in relation to a Local Government Procurement Policy that provided 20% default weighting for local businesses over their competitors is NOT sustained.	07.05.2018		
It is alleged Cr engaged in misconduct when he failed to declare a Conflict of Interest (COI) in relation to a Local Government Procurement Policy that provided 20% default weighting for local businesses over their competitors.	Dismissed	The majority of the Panel decided, on the balance of probabilities, that the allegation that Councillor Swaling engaged in misconduct when he failed to declare a Conflict of Interest (COI) in relation to a Local Government Procurement Policy that provided 20% default weighting for local businesses over their competitors is NOT sustained.	07.05.2018		