



GENERAL POLICY

Councillor Code of Conduct



JUNE 1, 2016

MAPOON ABORIGINAL SHIRE COUNCIL
Main Street, Mapoon, Qld 4874

Code of Conduct for Councilors

VERSION: 1.0

APPROVED BY: Ordinary Meeting of Council

EFFECTIVE DATE: 14th June 2016

REVIEW DATE: June 2018 (unless specified by council)

1. INTRODUCTION

This Code of Conduct sets out the standards of behaviour expected of councillors of Mapoon Aboriginal Shire Council.

The requirements of this code are in addition to the roles, responsibilities and obligations of councilors, as set out in the **Local Government Act 2009**.

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 Local Government Act 2009 (see below).

2. KEY RESPONSIBILITIES OF COUNCILLORS UNDER THE LOCAL GOVERNMENT ACT 2009

2.1 To perform all responsibilities under the Act in accordance with the local government principles (s.4(1)):

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

2.2 To represent the current and future interests of the residents of the Shire (s.12(1)).

2.3 To ensure the local government discharges its responsibilities under the Act; achieves its corporate plan; and complies with all applicable laws (s.12(3)(a)).

2.4 To provide high quality leadership to the local government and to the community (s.12(3)(b)).

2.5 To participate in council meetings, policy development and decision-making for the benefit of the local government area (s.12(3)(c)).

2.6 To be accountable to the community for the local government’s performance (s.12(3)(d)).

2.7. The mayor has additional responsibilities to: lead and manage meetings of the local government; prepare a budget to present to the local government; lead, manage and provide strategic direction to the CEO; direct the CEO and senior executive employees in accordance with the local government’s policies; conduct the CEO’s performance appraisals; provide information to the Minister upon request; be a member of each standing committee; and represent the local government at ceremonial or civic functions (s.12 (4)).

2.8. Abide by the caretaker period arrangements prior to a local government election (s.90A-90D).

2.9. Not to direct council staff (s.170(2)). Only the mayor may direct the CEO or senior executive employees (other members of the Executive Leadership Group) and then only in accordance with Council's policies.

2.10. To contact staff for assistance or information only in accordance with Council's approved acceptable requests guideline (s. 170A).

2.11. 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 (s.171(1)).

2.12. Not to release information the councillor knows, or should reasonably know, is information that is confidential to the local government (s.171(3)).

2.13. To correct and keep up to date the councillor's register of interests (s.171B) and as stipulated in Chapter 8, Part 5 and Schedule 5 of the Local Government Regulation 2012.

2.14. To disclose a material personal interest (s.172).

2.15. To declare conflicts and perceived conflicts of interest (s.173).

2.16. Not to give false or misleading information, either orally or in a document to anyone named under this section (s.234).

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 (s.28).

*This 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.**

3. KEY ETHICAL AND BEHAVIOURAL OBLIGATIONS

Councillors must:

- ✓ ***ensure their personal conduct does not reflect adversely on the reputation of the Council;***
- ✓ ***demonstrate respect for fellow councillors, council employees and members of the public;***
- ✓ ***refrain from harassing, bullying or intimidating fellow councillors, council staff or other members of the public;***
- ✓ ***not communicate with the public or media on behalf of the Council, unless expressly authorised by the Council to make that communication;***
- ✓ ***when communicating with the public or the media, make it clear when they are expressing a personal opinion, and when they are speaking on behalf of Council; and***
- ✓ ***when communicating with the public or the media to express a personal opinion about a Council resolution, respect the democratic process by first acknowledging that Council resolutions represent the majority view of council***
- ✓ ***not provide information about Council to, or issue any instructions to any of Council's contractors or service providers; and***
- ✓ ***respect and protect the privacy and personal information of individuals;***

4. DECISION-MAKING

Councillors must comply with the statutory requirements covered in section 2 above.

Additionally, councillors are expected to:

- 4.1. prepare for meetings and workshops by allocating sufficient time to read and comprehend the information provided for that purpose;
- 4.2. attend all Council ordinary meetings unless given prior leave of absence and prioritise attendance at Councillor Workshops;
- 4.3. be active participants in contributing to ideas generation, discussion and debate;
- 4.4. minimise distractions from phones and computers;
- 4.5. 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
- 4.6. 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).

5. CONTACT WITH STAFF

The Acceptable Requests Guideline, adopted by Council pursuant to section 170A(6) of 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 that Guideline. Councillors must also note section 170 of the Act 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.

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), 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. USE OF ENTITLEMENTS

Councillors must ensure that public resources are used prudently and only in the public interest. Council has adopted the Expenses and Reimbursement 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.

7. COUNCIL'S POLICIES, GUIDELINES AND PROCEDURES

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

8. 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 committees.

A failure to comply with this code by a councillor (other than by the mayor or the deputy mayor) will be inappropriate conduct (as defined in section 176(4) of the Act) and render a councillor liable to disciplinary action prescribed by section 181(2) of the Act.

Section 181(2) provides that 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.

Pursuant to section 181(3) of the Act, if the mayor makes three orders under section 181(2) of the Act about 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 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 (s.176(3) of the Act and s.15 Crime and Corruption Act 2001.)

9. 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 Conduct and Performance of Councillors Policy which has been adopted by Council.

DEFINITIONS

Inappropriate conduct has the same meaning as in the Act.

Misconduct has the same meaning as in the Act

The Act refers to the Local Government Act 2009 and “Sections” refers to the sections contained therein.

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.

Associated Documents

- Local Government Act 2009
- Local Government Regulations 2012
- Expenses and Reimbursement Policy
- Acceptable Requests Guideline