



**IPSWICH CITY COUNCIL**

**CODE OF CONDUCT**

**FOR**

**COUNCILLORS**

**2008 - 2012**

## INTRODUCTION

The basis for this Code of Conduct "this Code" is the *Local Government Act 1993* ("the Act").

In accordance with section 250E(1) of the Act, this Code applies to all councillors of the Ipswich City Council in performing the duties of their office.

It provides councillors with guidance about their official roles and obligations and provides a public statement of professional conduct considered appropriate for elected officials.

### Duration of this Code

This Code comes into effect on 16 September 2008 and, subject to the Act, remains in force until not later than 6 months after the 2012 quadrennial election.

## 1. OBLIGATIONS

### 1.1. Statutory Obligations

The Act and the *Local Government Regulation 2005* ("the Regulation") place a number of statutory obligations on councillors relating to the way they carry out their roles. A number of these statutory obligations provides a penalty in the event of a breach by a councillor. The statutory obligations are set out in the table below and are grouped according to the ethics principles<sup>1</sup> in the Act.

Obligation	Section	Penalty in Act
<b><i>Integrity of local government</i></b>		
<ul style="list-style-type: none"><li>• 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).</li></ul>	s.230(1)	No
<ul style="list-style-type: none"><li>• A councillor must not direct or attempt to direct staff about the way they perform their duties.</li></ul>	s.230(2)	No
<ul style="list-style-type: none"><li>• 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"><li>○ grant of a licence or permit under an Act or local law</li><li>○ grant of a concession, rebate or waiver</li><li>○ entering a contract with the local government</li><li>○ disposing of land or assets; or</li><li>○ allocating resources for local government projects</li></ul></li></ul>	s.230(3) (4) & (5)	Yes – fine of up to 85 penalty units (\$6375)

<sup>1</sup> See 1.2.1

Obligation	Section	Penalty in Act
<ul style="list-style-type: none"> <li>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.</li> </ul>	s.523	No
<ul style="list-style-type: none"> <li>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.</li> </ul>	s.526	No
<b><i>Primacy of the public interest</i></b>		
<ul style="list-style-type: none"> <li>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.</li> </ul>	s.229(2)	No
<ul style="list-style-type: none"> <li>A councillor must disclose any material personal interest (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).</li> </ul>	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.
<b><i>Independence of action by councillors</i></b>		
<ul style="list-style-type: none"> <li>A councillor must ensure there is no conflict, or possible conflict, between their private interests and their role of serving the public interest.</li> </ul>	s.229(3)	No
<b><i>Appropriate use of information by councillors</i></b>		
<ul style="list-style-type: none"> <li>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.</li> </ul>	s.250(1)	Yes – fine of up to 100 penalty units (\$7500)
<ul style="list-style-type: none"> <li>A councillor or person who has been a councillor must not release confidential information which was obtained as a councillor.</li> </ul>	s.250(2)	Yes – fine of up to 100 penalty units (\$7500)

Obligation	Section	Penalty in Act
<b><i>Transparency and scrutiny</i></b>		
<ul style="list-style-type: none"> <li>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 fulfill their duties and comply with the code of conduct.</li> </ul>	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.
<ul style="list-style-type: none"> <li>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.</li> </ul>	s.246A	No
<ul style="list-style-type: none"> <li>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 <i>The Local Government Regulation (2005)</i> (The Regulation). The Regulation required reporting of gifts valued at \$500 or more.</li> </ul>	s.247 Reg. Sch 1 s.10	Yes – fine of up to 85 penalty units (\$6375)
<ul style="list-style-type: none"> <li>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 officer the appropriate information in writing; if no amendment is needed, the councillor must give the chief executive officer a statutory declaration to that effect.</li> </ul>	s.249(3) s.249(4)	No

## **1.2. Key Ethics Principles**

Section 250G(2) of the Act provides that the ethics principles for local governments must be stated in a local government's Code of Conduct.

### **1.2.1 Ethics principles under Schedule 1 of the Act**

The ethics principles for local governments are contained in Schedule 1 of the Act and are as follows:

#### **1.2.1.1. Integrity of local government**

- (1) It is vital that the public has confidence in a local government's ability to ensure the good rule and government of its area.
- (2) 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.

#### **1.2.1.2. Primacy of the public interest**

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

#### **1.2.1.3. 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.

#### **1.2.1.4. 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.

#### **1.2.1.5. Transparency and scrutiny**

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

#### **1.2.1.6. Appropriate use of entitlements**

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

## **1.2.2. Additional obligations imposed by this Code**

The additional ethical and behavioural obligations imposed by this Code under section 250F(2) are set out below. These obligations are in addition to any statutory obligation.

### **1.2.2.1. Use of Council Resources**

Councillors must use Council resources in accordance with Council's Councillor Remuneration Policy and any other policy, procedure or official practice which applies to councillors.

### **1.2.2.2. Use of official information**

Councillors must use council information which is not available to the public, in accordance with any relevant Council policy to ensure, as far as reasonable, the primacy of the public interest over any private interest.

### **1.2.2.3. Standards of personal behaviour**

- (1) Councillors must ensure that all communications with council staff on the official operations of the Council are in accordance with any guidelines approved by the Chief Executive Officer.
- (2) Councillors must abide by any local law, subordinate local law or Council policy covering the behaviour of councillors at Council meetings and Council committee meetings.
- (3) Councillors must ensure that they comply with any Council policy relating to official purchasing and tendering by the Council which applies to councillors.

### **1.2.2.4. Reporting of suspected official misconduct**

Councillors must comply with the provisions of the Act and Regulations thereunder and any other laws of the State or Commonwealth regarding the disclosure of suspected fraud, corruption or other official misconduct in relation to the Council, of which they become aware.

### **1.2.2.5. Councillor training and development**

Councillors shall take part as far as practicable in arranged training sessions and workshops which the Council has determined by resolution that councillors should attend, unless prevented by illness or other circumstances beyond the councillor's control.

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## **2. COMPLIANCE**

Section 243A of the Act requires councillors to comply with the obligations stated in the code of conduct, which provides for contraventions of the code to be dealt with under the Act, and confirms that, if an act, omission or contravention is an offence under the provisions of the Act, court proceedings may also be taken for the offence.

## 3. BREACHES

### 3.1. Types of Breaches

Section 250M of the Act identifies four categories of code of conduct breaches:

- **Meeting breach**  
Section 250M(1) of the Act provides that a councillor commits a *meeting breach* of the local government's code of conduct if the councillor breaches an *obligation* under the code, or under a local law, about councillors' behaviour at a meeting of the local government or a committee of the local government.
- **Minor breach**  
Section 250M(2) of the Act provides that a councillor commits a *minor breach* of the local government's code of conduct if the councillor breaches an obligation which may be stated in the code under section 250F(2), other than a meeting breach described in section 250M(1) of the Act.
- **Repeat breach**  
Section 250M(3) of the Act provides that a councillor commits a *repeat breach* if the councillor commits a meeting breach or minor breach that, under the code, is a repeat breach. For the purposes of this Code, a repeat breach means:
  - (a) more than three meeting breaches within three months (where a penalty has been imposed in respect of each such breach) but does not include a meeting breach which has previously been taken into account for the purposes of determining if a repeat breach has occurred; or
  - (b) more than three minor breaches within three months (where a penalty has been imposed in respect of each such breach) but does not include a minor breach which has previously been taken into account for the purposes of determining if a repeat breach has occurred.
- **Statutory breach**  
Section 250M(4) of the Act provides that a councillor commits a *statutory breach* of the local government's code of conduct if the councillor breaches a statutory obligation identified in the code.

#### 4. HOW TO MAKE A COMPLAINT ABOUT A BREACH OF THE CODE OF CONDUCT

A complaint about a possible minor breach or statutory breach of this 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 this 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:

***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. The complaint must be made to the person chairing the meeting (s.250O).

***Complaint about a minor breach*** A complaint about a breach of non-statutory obligations in this Code should be made under the council's general complaints process (s.250M( 2 ), s.250R). 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 Council's Contact Officer.

***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)).

***Complaint about 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).

#### 5. DICTIONARY

All terms in this Code have the meaning given under the Act or Regulation.

**Adopted at Council Ordinary Meeting** - 16 September 2008

**Committee Reference:** City Management and Finance Board No. 2008(06) of 9 September 2008 - City Management and Finance Committee No. 2008(06) of 9 September 2008.

**Resolution No:** 4