

Councillor Conduct Tribunal: Councillor misconduct complaint – Summary of decision and reasons for department’s website

Local Government Act 2009: Sections 150AS(2)(c)

1. Complaint:

CCT Reference	F20/4386
Subject Councillor	Councillor Ashley Gallagher (the councillor)
Council	Carpentaria Shire Council

2. Decision (s150AQ):

Date:	3 December 2021
Decision:	The Tribunal has determined, on the balance of probabilities, that: Allegation 1 , that on 11 December 2019, Councillor Ashley Gallagher, a councillor of Carpentaria Shire Council, engaged in misconduct as defined in section 150L(1)(b)(i) of the <i>Local Government Act 2009</i> (the Act), in that his conduct involved a breach of trust placed in him as councillor, either knowingly or recklessly, in that it was inconsistent with local government principles in section 4(2)(a) of the Act “transparent and effective processes, and decision-making in the public interest” and or section 4(2)(e) of the Act “ethical and legal behaviour of councillors and local government employees”, in that Councillor Gallagher did not inform the meeting about his personal interest in the matter as required by section 175E(2) of the Act, has been sustained .
Reasons:	<ol style="list-style-type: none"> 1. The Independent Assessor has alleged, and the councillor has admitted, that he has engaged in misconduct by failing to disclose a conflict of interest at the Council meeting of 11 December 2019. 2. The conflict related to his participation in voting on a development application lodged by Gulf Christian College. His wife was, at the time of the Council meeting, a member of the Gulf Christian College Board of Directors. 3. Cr Gallagher took no steps to notify the chair of the Council meeting, nor to disclose his conflict of interest in any way.

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GPO Box 15009, City East, Q 4002

	<p>4. The Tribunal’s view is that Cr Gallagher knowingly breached the trust reposed in him by failing to disclose his conflict of interest. The Respondent is an extremely experienced Councillor, having served six terms including one term as Mayor. He should have been extremely knowledgeable about the obligations of elected local government officials.</p> <p>5. He has also received several training sessions from the Department and LGAQ, and so should have been aware of his obligations in relation to conflicts of interest.</p> <p>6. Lastly, Cr Gallagher should have reviewed the Council papers prior to the meeting to determine if he held conflicts of interest in relation to any aspect of the agenda – if he did not, the Tribunal is of the view that he would (or should) have quickly realised that the matter related to the school at which his wife held a position.</p> <p>7. The Tribunal also noted that his wife’s appointment was disclosed in his Register of Interests.</p> <p>8. The fact that the Respondent’s wife did not receive payment for her role on the board of directors is irrelevant. This is the kind of situation which the conflict-of-interest provisions in the Act were enacted to guard against. This Tribunal cannot accept that the Respondent could have drawn any conclusion other than that this matter involved a conflict of interest.</p>
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3. Orders and/or recommendations (s150AR - disciplinary action):

Date of orders:	3 December 2021
Order/s and/or recommendations:	<p>The Tribunal orders that within 60 days of the date that a copy of this decision and orders are given to him by the Registrar:</p> <p>a. Pursuant to s 150AR(1)(b)(i) of the Act, that Cr Gallagher make a public admission that he engaged in misconduct, in an open session of Council that is open to members of the public;</p> <p>b. Pursuant to s 150AR(1)(b)(iii) of the Act, that Cr Gallagher attend training to address the councillor’s conduct at the expense of the councillor on the appropriate management and disclosure of conflicts of interest required of a Councillor. The Tribunal recommends that such training be facilitated by, or provided by, the Department;</p> <p>c. Pursuant to s 150AR(1)(b)(iv) of the Act, that Cr Gallagher pay an amount to the local government of \$250.</p>
Reasons:	1. The Councillor has admitted to the conduct, and so is to be afforded the benefit of a lesser penalty than if he had contested the allegation.

	<ol style="list-style-type: none">2. The Councillor was a sixth-term Councillor and has also held a position as Mayor of the Council. He has been repeatedly educated in his responsibilities and trained by the Department in his obligations.3. Conflicts of interest cut to the heart of matters of local government. Managing conflicts of interest are of such importance that Queensland Parliament has dedicated an entire Part of the Act to dealing with them, and certain conflicts of interest may be a criminal offence.4. The Tribunal does not wish to suggest that the Respondent in any way acted criminally. This example is given to underscore the point that conflicts of interest are to be treated seriously, and so a financial penalty is appropriate.5. The Tribunal also noted that Cr Gallagher has previously been found to have engaged in misconduct involving conflicts of interest by a Regional Conduct Review Panel.6. Cr Gallagher has not adequately reflected on this previous finding of misconduct, and so will be ordered to make a public admission during an open session of Council at which the public may be in attendance.7. Given that the Tribunal's core role is also educative, it will also order that the Respondent undergo further training at his own expense on conflicts of interest.
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