

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

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

Note that the Tribunal is prohibited from giving another entity information that is part of a Public Interest Disclosure unless required or permitted under another Act; or including in this summary the name of the person who made the complaint or information that could reasonably be expected to result in identification of the person: S150AS(5)(a) and (b).

1. Complaint:

CCT Reference	F20/9112
Subject Councillor	Former Councillor Paul Gleeson (the councillor) Note that the name of the councillor may be included on the register if the Tribunal decided the councillor engaged in misconduct. Where misconduct by the councillor has not been sustained the councillor needs to agree to their name being included (s150DY(3)). ¹
Council	Redland City Council

2. Decision (s150AQ):

Date:	17 May 2022
Decision (Allegation One):	The Tribunal has determined, on the balance of probabilities, that the allegation that on 21 April 2019, the Respondent engaged in misconduct as defined in section 150L(1)(b)(i) of the <i>Local Government Act 2009</i> (the Act), in that the conduct constituted a breach of trust placed in him as a councillor, either knowingly or recklessly, in that his conduct was inconsistent with the responsibilities of councillors as specified in section 12(3)(b) of the Act, is sustained . Particulars of the alleged conduct which could amount to misconduct are as follows:

¹ This notice should be delayed until 7 days after the date of the Tribunal letter advising the councillor of the decision and reasons in relation to the complaint, to enable the councillor time to indicate if they would like their name included in the publication or not.

Councillor Conduct Tribunal

GPO Box 10059, City East, Q 4002

	<ul style="list-style-type: none"> a. The Respondent’s personal Facebook page is under the name “Anthony Paul”; b. On 21 April 2019, a member of the public made a post on “The ABF Back Room” Facebook page querying whether the “CSA No fly” rule applies to individuals with minor child support debts; c. Via his “Anthony Paul” Facebook page, the Respondent commented on the post-dated 21 April 2019 stating, “A shot gun that’ll fix it (sunglasses smiling face emoji)”; d. The alleged conduct could amount to misconduct on the basis that it does not comply with the following responsibility of a councillor: Section 12(3)(b) to provide “high quality leadership to the local government and the community”.
<p>Decision (Allegation Two):</p>	<p>The Tribunal has determined, on the balance of probabilities, that the allegation that that on 21 July 2019, the Respondent engaged in misconduct as defined in section 150L(1)(b)(i) of the Act, in that the conduct constituted a breach of trust placed in him as a councillor, either knowingly or recklessly, in that his conduct was inconsistent with the responsibilities of councillors as specified in section 12(3)(b) of the Act, is sustained.</p> <p>Particulars of the alleged conduct which could amount to misconduct are as follows:</p> <ul style="list-style-type: none"> a. The Respondent’s personal Facebook page is under the name “Anthony Paul”; b. On 21 July 2019, “The ABF Back Room” Facebook page shared a news article with the headline “Sydney woman dead in a suspected domestic violence-related murder”; c. Via his “Anthony Paul” Facebook page, the Respondent commented on the post-dated 21 July 2019 stating, “She must have done something bad to deserve that.” d. The alleged conduct could amount to misconduct on the basis that it does not comply with the following responsibility of a councillor: Section 12(3)(b) to provide “high quality leadership to the local government and the community”.
<p>Decision (Allegation Three):</p>	<p>The Tribunal has determined, on the balance of probabilities, that the allegation that between 19 December 2019 and 20 March 2020, the Respondent engaged in misconduct as defined in section 150L(1)(c)(i) of the Act, in that the conduct contravened an order of the conduct tribunal, is sustained.</p> <p>Particulars of the alleged conduct which could amount to misconduct are as follows:</p> <ul style="list-style-type: none"> a. On 15 August 2019, the Applicant made an application to the Tribunal in relation to a misconduct allegation against the Respondent;

	<ul style="list-style-type: none"> b. On 15 December 2019, the Tribunal found that the Respondent had engaged in misconduct and ordered that the Respondent make a public admission that he has engaged in misconduct, within 90 days of being given a copy of the decision and orders by the Registrar; c. On 19 December 2019, the Tribunal notified the Respondent and Redland City Council of the orders via email; d. The Respondent was required to make a public admission that he had engaged in misconduct, by 19 March 2020, being 90 days after being given a copy of the decision and orders by the Registrar; e. On or about 4 February 2020, the Respondent published a post on Paul Gleeson (Councillor Div 9 – Redlands) Facebook page; f. The post made by the Respondent on his Facebook page does not in the view of the Applicant constitute as a public admission; g. The alleged conduct amounts to misconduct as defined in section 150L(1)(c)(i) in that the Respondent’s failure to make to make a public admission contravenes an order of the conduct tribunal namely to make a public admission that he has engaged in misconduct, within 90 days of being given a copy of the decision and orders by the Registrar.
Decision (Allegation Four):	The Tribunal has determined, on the balance of probabilities, that the allegation that between 30 November 2019 and 29 March 2020, the Respondent, a councillor of Redland City Council, engaged in misconduct as defined in section 150L(1)(c)(i) of the Act, by contravening an order of the conduct tribunal, is not sustained .
Decision (Allegation Five):	The Tribunal has determined, on the balance of probabilities, that the allegation that between 30 November 2019 and 29 March 2020, the Respondent engaged in misconduct as defined in section 150L(1)(c)(i) of the Act, in that the conduct contravenes an order of the conduct tribunal, is not sustained .
Reasons:	<p>Allegations One and Two</p> <ol style="list-style-type: none"> 1. Allegations One and Two allege a failure by the Respondent to demonstrate high quality leadership to the local government and the community consistent with the Councillor responsibilities outlined in the Act, after the Respondent posted comments in the closed group “<i>ABF Back Room</i>”, which was part of a broader “<i>Australian Brotherhood of Fathers</i>” Facebook page. 2. Though the Respondent claimed to have distanced himself from these comments by using a personal Facebook account, the Tribunal found there was sufficient information available to enable a member of the public to identify him as Councillor Gleeson of Redland City Council.

	<p>3. Further, the Respondent’s submissions – that he was attempting to draw attention to the difficulties faced by fathers experiencing divorce, domestic violence or family law proceedings – were hard to accept. The comments made by the Respondent were so far out of alignment with what the other members of the ABF Back Room were discussing, and the way they were discussing it.</p> <p>4. In making these comments, the Respondent breached the trust reposed in him as Councillor. Councillors are required by the Act to display high quality leadership in all of their dealings – the Act does not simply cease applying to Councillors once they are no longer physically standing in Council chambers. The Act may capture conduct in their personal lives, where that conduct may reflect poorly on local government, where it breaches the Act, or where it contravenes the local government principles or Councillor’s obligations.</p> <p>5. Similarly, the “free speech” of elected Councillors does not mean that speech is without fetters or boundaries. Queensland Parliament has placed reasonable restrictions around communications by Councillors – including online communications and including anonymous communications – by enacting the Act and the Code of Conduct. Conduct that is not consistent with the Act or the Code of Conduct is unlawful, whether it is undertaken in a Councillor’s personal capacity or by a Councillor attempting to act anonymously.</p> <p>6. To be clear, the Tribunal has no issue with the Respondent being a member of any Facebook group, nor does it take issue with the Respondent seeking to be outspoken about men’s issues, risks of suicide, and/or family separation and divorce. However, in engaging in that debate and in every instance, Councillors must remain aware that it is their conduct which may offend the Act and/or the Code of Conduct, and it is the conduct of the Councillor which the Tribunal will examine when making its findings.</p> <p>7. In the alternative, the Respondent’s attempts to make jokes about the plight of various men posting in the ABF Back Room were made in poor taste and were inappropriate given the context of the ABF Back Room posts. Such behaviour is inconsistent with the requirement to demonstrate high quality leadership imposed by the Act.</p> <p>Allegation Three</p> <p>8. Allegation Three involved an alleged failure by the Respondent to make an admission of misconduct as required by a previous order of the Tribunal.</p>
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Councillor Conduct Tribunal

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3. Orders and/or recommendations (s150AR - disciplinary action):

Date of orders:	17 May 2022
Order/s and/or recommendations:	<p>The Tribunal orders that, within 60 days of the day that he is issued with this decision and reasons:</p> <ol style="list-style-type: none"> 1. With respect to Allegation One: <ol style="list-style-type: none"> a. pursuant to section 150AR(1)(b)(ii) of the Act, the Respondent be reprimanded; b. pursuant to section 150AR(1)(b)(iv) of the Act, the Respondent must pay to the local government the amount of 15 penalty units (\$2,067.75); 2. With respect to Allegation Two: <ol style="list-style-type: none"> a. pursuant to section 150AR(1)(b)(ii) of the Act, the Respondent be reprimanded; b. pursuant to section 150AR(1)(b)(iv) of the Act, the Respondent must pay to the local government the amount of 20 penalty units (\$2,757.00);

Councillor Conduct Tribunal

GPO Box 10059, City East, Q 4002

	<p>3. With respect to Allegation Three:</p> <ul style="list-style-type: none"> a. pursuant to section 150AR(1)(b)(i) of the Act, the Respondent be reprimanded; b. pursuant to section 150AR(1)(b)(iv) of the Act, the Respondent must pay to the local government the amount of 5 penalty units (\$689.25).
<p>Reasons:</p>	<ol style="list-style-type: none"> 1. The Respondent’s lengthy misconduct history is a significant aggravating factor. It is apparent from the evidence that the Respondent has difficulty in properly moderating his behaviour in respect of online communication. 2. Had the Councillor still been serving on the Council the Tribunal would have considered whether it would be appropriate to recommend to the Minister that the Councillor be suspended for a period of time under section 150AR(1)(b)(xi) of the Act. However, this power may not be invoked in respect of a person who is no longer a Councillor. 3. Further, the Tribunal is satisfied that the comments made in Allegation Two were objectively more serious than those in Allegation One, which the Tribunal believes is appropriate ground to slightly increase the pecuniary penalty applied in Allegation Two. 4. Allegation Three involved a failure by the Respondent to properly give effect to an order of the Tribunal. This is concerning given that the findings of the Tribunal on 15 December 2019 – and from which the Respondent was intended to provide a public admission under Allegation Three – involved communications which <i>“could be perceived as an attempt at interference with a witness before the Tribunal”</i>. The Respondent’s submissions in that matter were also held to be <i>“further evidence that the Respondent considers it appropriate to continue to use Tribunal proceedings to further intimidate the complainant”</i>. 5. The purpose of this Tribunal’s proceedings is to maintain high standards of conduct by councillors and ensure public confidence in the institution of local government. 6. The Respondent’s poor conduct and lengthy history of proceedings before this Tribunal and its predecessors warrants a sanction at the higher end of the spectrum, consisting of both reprimands as well as pecuniary penalties to protect the integrity of the local government system that the Respondent was once part of.