

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:

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| CCT Reference | F19/2924 |
| Subject councillor: | Councillor Paul Gleeson (the councillor) |
| Council | Redland City Council (the Council) |

2. Decision (s150AQ):

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| Date: | 16 August 2019 |
| Hearing: | 3.00pm 21 May 2009 at the Queensland Industrial Relations Hearing Rooms, 66 Eagle Street, Brisbane. |
| Appearances: | <p>After conducting a directions hearing on 21 May 2019, the matter was heard and determined at 2.00pm, 6 August 2019 at 239 George Street, Brisbane by the Tribunal members on the documents, pursuant to s150AP(2) of the <i>Local Government Act 2009</i>, as it was considered appropriate in all of the circumstances by the Tribunal and agreed by the parties.</p> <p>The Tribunal directed that the final hearing be held in private.</p> |
| Decision regarding Allegation 1: | It is alleged that on 25 September 2018, Councillor Gleeson, a councillor of Redland City Council, engaged in misconduct as defined in section 176(3)(b)(ii) ¹ of the <i>Local Government Act 2009</i> (the Act), in that the conduct constituted a breach of the trust placed in him as a councillor. |

¹ The Tribunal noted that the sections 150AA, 150AJ and 150AK documents issued by the Office of the Independent Assessor refer to section 176(b)(ii) of the *Local Government Act 2009* (the Act), in the allegation statements for Allegation 1, 2 and 3. Pursuant to sections 213(2)(e)&(f) of the Act, the Tribunal has amended that reference to section 176(3)(b)(ii), to correctly identify the section of the Act under which, the conduct the subject of the application is being dealt. The Tribunal considered there was no prejudice to either party in correcting reference to this section of the Act.

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| | <p>Particulars of the alleged conduct which could amount to misconduct involved posts that were intimidatory and unfitting, on Councillor Gleeson's personal Facebook page, with a photograph containing personal information and names of certain individuals.</p> <p>a. The alleged conduct could amount to misconduct on the basis that it did not comply with local government principle 4(2)(e) being 'ethical and legal behaviour of councillors and local government employees'.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation that, on 25 September 2018, Councillor Gleeson, a councillor of Redland City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the <i>Local Government Act 2009</i> (the Act), in that the conduct constituted a breach of the trust placed in him as a councillor has been sustained.</p> |
| <p>Reasons:</p> | <p>The Tribunal was satisfied on the balance of probabilities, that the Councillor had engaged in misconduct as alleged.</p> <p>The Councillor was responsible for the content of his Personal facebook page, with potential that it could be seen by members of the public, including the complainant.</p> <p>The posting of the material was inconsistent with the obligation in section 12(3)(b) of the Act which required all councillors to provide high quality leadership to the local government and the community.</p> <p>The content of the page was also not consistent with the requirements of the Council's Code of Conduct (POL-0248) which required that the councillor's personal conduct must not reflect adversely on Council's reputation; must demonstrate respect for members of the community; must commit to honest, fair and respectful engagement with the community, and must respect and protect the privacy and personal information of individuals.</p> |
| <p>Decision regarding Allegation 2:</p> | <p>It is alleged that on 23 October 2018, Councillor Gleeson, a councillor of Redland City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Act, in that the conduct constituted a breach of the trust placed in him as a councillor.</p> <p>Particulars of the alleged conduct which could amount to misconduct are as follows:</p> <p>a. On 23 October 2018, Councillor Gleeson verbally threatened a Councillor in the Councillor lounge by shouting words "your gone" and "I'm coming after you".</p> |

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| | <p>b. The alleged conduct could amount to misconduct on the basis that it did not comply with local government principle 4(2)(e) being ‘ethical and legal behaviour of councillors and local government employees’.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation that, on 23 October 2018, Councillor Gleeson, a councillor of Redland City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Act, in that the conduct constituted a breach of the trust placed in him as a councillor has been sustained.</p> |
| <p>Reasons:</p> | <p>The conduct was inconsistent with the Council Code of Conduct (POL-0248) which requires that Councillors must ensure that their personal conduct does not reflect adversely on Council's reputation and that their conduct must demonstrate respect for fellow councillors.</p> <p>The nature of the conduct was verbally intimidating or threatening, which is conduct that the community would not expect of its elected representative, and fails to fulfil the trust reposed in the councillor by the community.</p> |
| <p>Decision regarding Allegation 3:</p> | <p>It is alleged that on or about 6 November 2018, Councillor Gleeson, a councillor of Redland City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Act, in that the conduct constituted a breach of the trust placed in him as a councillor.</p> <p>Particulars of the alleged conduct which could amount to misconduct involved posts on his Facebook page referring to the content of an individual's freedom of information request to Council.</p> <p>The alleged conduct could amount to misconduct on the basis that it did not comply with local government principle 4(2)(e) being ‘ethical and legal behaviour of councillors and local government employees’ and did not comply with the responsibilities of councillors pursuant to section 12(3)(b) of the Act to provide high quality leadership to the local government and the community.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation that, on or about 5 November 2018, Councillor Gleeson, a councillor of Redland City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Act, in that the conduct constituted a breach of the trust placed in him as a councillor has been sustained.</p> |
| <p>Reasons:</p> | <p>Disclosure of non-public details obtained by a Councillor in the course of his duties as a Councillor, regarding an individual's freedom of information request, put the Council at risk of a possible contravention of the law. In</p> |

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| | <p>any event, disclosure of information obtained in the course of duties undertaken as a Councillor, in such a manner is inconsistent with the local government principle that requires ethical and legal behaviour of councillors (s.4(2)(e)) and that councillors are to provide high quality leadership to the local government and the community (s.12(3)(b).</p> |
| <p>Decision regarding Allegation 4:</p> | <p>It is alleged that on 28 December 2018, Councillor Gleeson, engaged in misconduct as defined in section 150L(b)(i) of the <i>Local Government Act 2009</i>, in that the conduct constituted a breach of the trust placed in him as a councillor.</p> <p>Particulars of the alleged conduct which could amount to misconduct involved posts on the Councillor's personal Facebook page which made comments about ██████████ and another person.</p> <p style="padding-left: 40px;">The alleged conduct could amount to misconduct on the basis it did not comply with the responsibilities of councillors pursuant to section 12(3)(b) of the Act to provide high quality leadership to the local government and the community.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation that, on 28 December 2018, Councillor Gleeson, engaged in misconduct as defined in section 150L(b)(i) of the <i>Local Government Act 2009</i>, in that the conduct constituted a breach of the trust placed in him as a councillor has been sustained.</p> |
| <p>Reasons:</p> | <p>The conduct breached provisions of the Code of Conduct made by the Minister under section 150D of the Act, which took affect on 3 December 2018 in that it did not show respect for members of the public, and the behaviour failed to maintain the dignity of the office of councillor.</p> <p>It was considered that due to the disciplinary history of the councillor involving social media misuse and the previous training specifically provided on social media use, that the conduct as alleged was reckless, and properly characterised as a breach of trust rather than inappropriate conduct.</p> |

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

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| Date of orders: | 16 August 2019 |
| Order/s and/or recommendations: | <p>ALLEGATION 1:</p> <p>The Tribunal determined orders that are ‘substantially the same as an order that could have been made under former section 180’. The Tribunal orders pursuant to s150AR(1)(b)(ii) and (iv) of the Act, that Cr Gleeson:</p> <ul style="list-style-type: none"> • Be reprimanded for the conduct; • Pay to the local government, namely the Council, an amount of \$700, to be paid within two (2) months of the date of this Order. <p>ALLEGATION 2:</p> <p>The Tribunal determined orders that are ‘substantially the same as an order that could have been made under former section 180’. The Tribunal orders pursuant to s150AR(1)(b)(ii) and (iv) of the Act, that Cr Gleeson:</p> <ul style="list-style-type: none"> • Be reprimanded for the conduct; • Pay to the local government, namely the Council, an amount of \$700, to be paid within four (4) months of the date of this Order. <p>ALLEGATION 3:</p> <p>The Tribunal then determined orders that are ‘substantially the same as an order that could have been made under former section 180’. The Tribunal orders pursuant to s150AR(1)(b)(ii) and (iv) of the Act, that Cr Gleeson:</p> <ul style="list-style-type: none"> • Be reprimanded for the conduct; • Pay to the local government, namely the Council, an amount of \$350, to be paid within five (5) months of the date of this Order. <p>ALLEGATION 4:</p> <p>The Tribunal orders pursuant to s150AR(1)(b)(ii) and (iv) of the Act, that Cr Gleeson:</p> <ul style="list-style-type: none"> • Be reprimanded for the conduct; • Pay to the local government, namely the Council, an amount of \$350, to be paid within six (6) months of the date of this Order. |

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