

Supporting information for the code of conduct for councillor advisors in Queensland

Guideline

This document provides extra guidance and examples to demonstrate how councillor advisors can comply with standards of behaviour under the code of conduct for councillor advisors in Queensland, in particular regard to the key focus areas of integrity and interaction with council and council employees.

Focus area 1 – Integrity

Registers of interests

Similar to councillors, councillor advisors have obligations under the Local Government Act 2009 (LGA) and City of Brisbane Act 2010 (COBA) to complete and update registers of interests. Councillor advisors must be familiar with these obligations and ensure that their register of interests is provided to the chief executive officer (CEO) within 30 days of appointment to their position, or when any changes arise, and annually at the end of the financial year. These are the mandated timeframes and must be updated as prescribed.

The reporting period for an advisor includes the period of the current contract of employment and if applicable, the period of the contract of employment as a councillor advisor ending immediately before the current contract.

Example:

A councillor advisor acquires shares since making the register of interest at the commencement of the contract of employment. The councillor advisor must make sure that the new interest is notified to the CEO using the statutory form with all prescribed particulars within 30 days of acquiring the shares.

Conflicts of interest

Councillor advisors must notify their councillor and the CEO of any conflict of interest as soon as they become aware that they have, or could reasonably be presumed to have, a conflict between their personal interests and the public interest. The councillor and the CEO will then determine how best to manage the potential conflict of interest.

Personal interests held by a councillor advisor and their respective councillor must be managed separately. There may be instances in which a councillor advisor does not have a conflict of interest, but the relevant councillor does, and vice versa. Both parties must ensure their conduct promotes integrity and transparent decision-making in the public interest.

Example:

A councillor advisor has a close personal relationship with a local developer. The local developer has a matter she intends to lodge with the council shortly for its consideration. In this instance, the councillor advisor must disclose the conflict of interest to their councillor and the CEO and agree not to have any involvement with respect to the matter, including speaking to or seeking information in relation to the matter with, or from, council staff or councillors.

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Example:

A councillor has declared a conflict of interest in relation to a matter and must take no further actions in relation to that matter. The councillor advisor does not have a conflict of interest but must ensure their subsequent actions do not breach the principles of this code of conduct and do not cause the councillor to breach their obligations having declared a conflict of interest.

In this case, the councillor advisor must not have any involvement in the matter in which the councillor has declared a conflict of interest.

Confidentiality and use of information

During the course of their role councillor advisors will have access to confidential information, including information captured by the Information Privacy Act 2009. Councillor advisors must ensure they do not misuse information in compliance with section 200 of the LGA and section 197 of the COBA or engage in insider trading in accordance with section 201F of the LGA and section 198F of the COBA.

Example:

A councillor advisor attends a briefing with their councillor by council officers on a proposed tender evaluation to establish a panel for mowing of council parks. The councillor advisor must not disclose information regarding the suppliers (including pricing) to a third party that might result in them receiving a benefit or cause a detriment.

Example:

A councillor advisor is privy to a list of ratepayers seeking rates remission on financial hardship grounds. The councillor advisor meets one of the ratepayers at a community function and offers condolences based on private information provided to council in their hardship application. This would be a misuse of information that the councillor advisor had been exposed to in the course of their role.

Lobbyists

Ethical lobbying is a legitimate activity and an important part of the democratic process. Lobbyists can help individuals and organisations communicate their views on matters of public interest to the government and opposition and, in doing so, improve outcomes for the community as a whole. The Integrity Act 2009 ensures that there is accountability, transparency, and equitable access to elected representatives. A councillor advisor must ensure that they do not facilitate, inadvertently, an unregistered lobbyist's access to their councillor.

Example:

At a community function, an unregistered lobbyist approaches the councillor advisor and provides information on a new development being proposed by their client. The councillor advisor later discloses the information to their councillor. This would be considered to be facilitating lobbying of a councillor by an unregistered lobbyist.

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Public resources

A councillor advisor, during the course of their employment, will have access to public resources to assist them in performing their role. The councillor advisor must ensure that any use of public resources is in accordance with the council's policies. All information created or received by a councillor advisor which contributes to the councillor's decision-making (or any Council business undertaken by the councillor) must be treated as a public record under the Public Records Act 2002 and saved in accordance with council's policies.

Example:

A councillor requests their advisor help on a volunteer basis with the production of election flyers for public distribution. The councillor can make a request but cannot direct the advisor to assist, because this is a voluntary, non-work request. A councillor advisor cannot use a council computer to develop

flyers or a council printer to produce campaign flyers and cannot complete the task during paid work hours that are recorded on the advisor's work timesheet.

Example:

During the course of their employment the councillor advisor may be requested to develop reports or frameworks to assist their councillor in their decision-making. The intellectual property associated with these remains that of the Council and the Councillor advisor cannot use the information or templates for a benefit outside of their council role.

Example:

A councillor requests their councillor advisor to attend a community meeting on their behalf. The councillor advisor takes notes of the discussions held during the meeting and provides them to the councillor. The meeting notes taken by the councillor advisor need to be saved in council's record management system as a formal public record.

Campaigning

A councillor advisor may work on a campaign for either a local government candidate (including a current councillor) or another person seeking election to either the Queensland or Commonwealth Parliament. However, this campaigning must not use council resources and must be carried out during a councillor advisor's personal time. Also, the councillor advisor must not use or release confidential information that they have access to in their role for any other purpose, including gaining a benefit in a campaign.

Example:

A councillor advisor is asked to work on the campaign of a current councillor for re-election at the next local government elections. The councillor advisor must not use council assets or resources, such as a council-issued phone or tablet, for this purpose. To comply with the code of conduct, the councillor advisor carries out this work on the weekend, in their own personal time.

Focus area 2 – Interaction with council and council employees

Proxy for a councillor

A councillor advisor's role is to provide advice to the councillor in order to promote informed decision-making by the councillor. Councillor advisors must not act as a councillor and cannot make decisions on their behalf. If a councillor advisor attends a workshop, a meeting or similar, they may do so in the absence of the councillor, but they are not delegated any of the councillor's decision-making authority.

Importantly, a councillor advisor must not:

- purport to speak on behalf of the councillor, without the express permission of the councillor
- purport to have decision-making authority where none exists.

Example:

A councillor is invited to attend a meeting with a member of the public about local road matters. The councillor is no longer able to attend and instead asks the councillor advisor to attend for them. The councillor advisor must be clear to the member of the public that they are attending to receive information and provide that to the councillor only and that they themselves have no decision-making authority.

Example:

A councillor is granted a leave of absence from a council meeting and asks the councillor advisor to attend. The councillor advisor may only attend as an observer for information and advisory purposes and is not a formal participant in the council meeting, and only if such attendance does not breach council's policies.

Communication with local government employees

The purpose of the councillor advisor role is to complement that of council employees to support councillors in their role under the LGA and COBA. However, it is acknowledged that the role of a local government employee is different to the role of a councillor advisor and that effective communication protocols must be followed to promote respectful communication that is in the public interest.

A councillor advisor must not direct local government employees, except a direction of an administrative nature on behalf of the councillor to a local government employee who works in the councillor's office (including a ward office or mayoral office). Any such direction must be in line with the CEO's guideline for councillor administrative support staff.

A councillor advisor must not seek information directly from local government employees, including the councillor's administrative support staff, except in accordance with the council's acceptable request guidelines.

Example:

A councillor has sought advice from their councillor advisor in relation to the status of a development application lodged with council. The councillor advisor must request that information in accordance with the acceptable request guidelines if it is not already accessible to the councillor through a councillor's portal or other approved access provided by council. For better transparency, the request should be made in writing to the CEO. If the councillor advisor is not entitled to the information under council's acceptable request guidelines, the request will not be actioned.

NOTE: The council may wish to update their acceptable request guidelines to address requests from councillor advisors on behalf of councillors.

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Public statements

It is not the role of the councillor advisor to make public statements on a local government matter on behalf of their councillor. Where a councillor advisor makes a public comment reflecting their own views, it must not adversely affect the reputation of the council and must comply with relevant council policies and resolutions.

Example:

A councillor advisor makes a comment on social media indicating that a council resolution was 'poor policy made by uninformed councillors'. This is a breach of the advisor code of conduct as it is a statement that adversely reflects upon the reputation of the council and is likely to be inconsistent with council's own policy regarding public statements.