# FINANCE AND GOVERNANCE COMMITTEE SUPPLEMENTARY REPORTS

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# FINANCE AND GOVERNANCE COMMITTEE NO. 6

#### **14 NOVEMBER 2024**

#### SUPPLEMENTARY REPORTS

# 8. <u>INVESTIGATION POLICY</u>

This is a report concerning required amendments to the Investigation Policy following recent legislative reform. Council is required to adopt an Investigation Policy in accordance with section 150AE(1) of the *Local Government Act 2009*.

# **RECOMMENDATION**

- A. That Council repeal the existing Investigations Policy as detailed in Attachment 1.
- B. That Council adopt the revised Investigation Policy as detailed in Attachment 2.

# 9. MONTHLY FINANCIAL PERFORMANCE REPORT - OCTOBER 2024

This is a report concerning Council's financial performance for the period ending 31 October 2024, submitted in accordance with section 204 of the *Local Government Regulation 2012*.

# **RECOMMENDATION**

That the report on Council's financial performance for the period ending 31 October 2024, submitted in accordance with section 204 of the *Local Government Regulation 2012*, be considered and noted by Council.

# 10. QUEENSLAND AUDIT OFFICE 2024 FINAL AUDIT REPORT

This is a report concerning the Queensland Audit Office findings and recommendations from the 2023-2024 external audit of Ipswich City Council.

# **RECOMMENDATION**

That the 2023-2024 final management report Ipswich City Council, as detailed in Attachment 1, be received and the contents noted.

Doc ID No: A10918211

This matter has been determined to be of a significant nature and approval has been given to refer this report to the Finance and Governance Committee as a supplementary item.

ITEM: 8

SUBJECT: INVESTIGATION POLICY

AUTHOR: MANAGER, EXECUTIVE SERVICES

DATE: 8 NOVEMBER 2024

#### **EXECUTIVE SUMMARY**

This is a report concerning required amendments to the Investigation Policy following recent legislative reform. Council is required to adopt an Investigation Policy in accordance with section 150AE(1) of the *Local Government Act 2009*.

# **RECOMMENDATION/S**

- A. That Council repeal the existing Investigations Policy as detailed in Attachment 1.
- B. That Council adopt the revised Investigation Policy as detailed in Attachment 2.

#### **RELATED PARTIES**

The adoption of an investigation policy is prescribed by section 254AB(a) of the *Local Government Regulation 2012* (the Regulation) as an 'ordinary business matter' for Councillor conflict of interest purposes under section 150EF(1)(d) of the Act.

#### **IFUTURE THEME**

A Trusted and Leading Organisation

#### PURPOSE OF REPORT/BACKGROUND

Section 150AE (1) of the Local Government Act 2009 (the Act) requires Council to adopt, by resolution, an Investigation Policy. The Investigation Policy outlines how Council will deal with suspected conduct breaches of Councillors referred to Council by the Office of the Independent Assessor (OIA).

The Local Government (Councillor Conduct) and Other Legislation Amendment Act 2023 was passed by the Queensland Legislative Assembly on 15 November 2023 and commenced on 22 November 2023. Council is required to ensure its Investigation Policy meets the requirements of the revised legislation.

The policy must outline how Council deals with suspected conduct breaches of Councillors referred to it by the Independent Assessor. The revised Investigation Policy also must:

Include a procedure for investigating suspected conduct breaches of Councillors

- state the circumstances in which another entity may investigate the conduct (i.e. misconduct and corrupt conduct)
- be consistent with the principles of natural justice
- require a report, called an investigation report, to be prepared about each investigation
- require Councillors and complainants to be given notice about the outcome of investigations, and
- include a procedure about when Council may decide not to start, or to discontinue, an investigation.

The Investigation Policy must require Council to:

- give the Councillor information about the suspected conduct beach, including details about the evidence of the conduct,
- give the Councillor and the complainant (if contact details known) notice if an investigation is not started or is discontinued,
- give the Councillor the preliminary findings of the investigation and allow the Councillor to give evidence or a written statement about the suspected conduct beach and preliminary findings before preparing an investigation report,
- consider any evidence and written statements given by the Councillor in preparing the investigation report, and
- include a summary of any evidence and full copy of any written statement by the Councillor in the investigation report.

Proposed variations to the example policy are limited to layout and formatting, and removal of the exclusion of costs (expenses) of the subject Councillor as this is in conflict with the provisions within the Councillor Expenses Reimbursement and Administrative Support Policy where legal support is available for Councillors and costs may be recovered only where a there is a sustained conduct breach.

The example policy requires that where the local government meeting loses quorum due to conflicts of interest of Councillors or absent Councillors, then the conduct matter must be delegated to the Mayor or a standing committee to make a decision. If the referral notice is about the suspected conduct breach by the Mayor, then the matter must be delegated to a standing committee. The example policy also requires that the committee be in place prior to receipt of a referral. As Council has a number of standing committees already in place, there is no recommendation to setup a standing committee for this purpose and the delegation can be determined on a case-by-case basis. Alternatively, Council can setup a specific conduct standing committee for this purpose with all Councillors as members.

#### **LEGAL IMPLICATIONS**

This report and its recommendations are consistent with the following legislative provisions: Local Government Act 2009 Local Government Regulation 2012

#### **POLICY IMPLICATIONS**

Meeting Procedures Policy Meeting Conduct Policy

#### **RISK MANAGEMENT IMPLICATIONS**

Council is required by legislation to adopt an investigation policy. The example policy provided by the state should be considered suitable subject to any amendments that Council considers appropriate and remains consistent with legislation.

# FINANCIAL/RESOURCE IMPLICATIONS

There are minor resource and financial implications as a result of the proposed policy. The mandatory requirement for an investigation will result in increased costs when matters are referred to Council for investigation. No specific annual budget has been allocated previously to conduct investigations. Council has only undertaken one investigation previously in 2021 at a cost of \$2,824.14, not including staff or administration costs.

#### **COMMUNITY AND OTHER CONSULTATION**

Councillors have been provided with a copy of the example policy from the state. Councillors will be briefed on 12 November 2024 regarding the proposed example policy and legislative reforms.

# **CONCLUSION**

A local government must adopt, by resolution, an investigation policy about how it deals with the suspected conduct breach of Councillors referred, by the Office of the Independent Assessor to the local government to be dealt with.

Noting the significant nature of the changes and that both the current and proposed version are heavily modelled on the example policy that has been provided by the state, it is proposed that a repeal of the existing policy and adoption of the new version would be the clearest approach.

#### **HUMAN RIGHTS IMPLICATIONS**

# **HUMAN RIGHTS IMPACTS**

#### **NON-DISCRETIONARY DECISION**

Recommendation A and B that Council adopt the Investigation Policy states that Council has no ability to act differently/make a different decision because of the requirement to

adopt an investigation policy in accordance with s150AE of the Local Government Act 2009. Therefore, while the proposed decision may not be compatible with human rights Council's decision will not be unlawful under the *Human Rights Act 2019*.

#### ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Current Investigations Policy 🗓 🖀
2.	Investigation Policy - New 🗓 🛗
3.	Example Investigation Policy 🗓 🖺

Wade Wilson

# **MANAGER, EXECUTIVE SERVICES**

I concur with the recommendations contained in this report.

Sonia Cooper

**CHIEF EXECUTIVE OFFICER** 

"Together, we proudly enhance the quality of life for our community"



Version Control and Objective ID	Version No: 2 Objective ID: A6677349	
Adopted at Council Ordinary Meeting on	10 December 2020	
Date of Review	10 December 2024	

#### 1. Statement

Council is committed to providing a statutory complaints process for dealing with complaints relating to alleged inappropriate conduct of a Councillor.

# 2. Purpose and Principles

The purpose of this policy is to outline the process that applies to investigations and determinations of a complaint about the alleged inappropriate conduct of a Councillor which has been referred by the Independent Assessor.

Council will achieve its policy commitment by:

- Complying with legislation;
- Maintaining ethical and legal behaviour of councillors;
- Ensuring transparent and effective processes and decision making in the public interest.

# 3. Strategic Plan Links

This policy aligns with the following iFuture 2021-2026 Corporate Plan theme:

• A Trusted and Leading Organisation

#### 4. Regulatory Authority

Section 150AE of the *Local Government Act 2009*Councillors Code of Conduct *Crime and Corruption Act 2001*Ipswich City Council Meeting Procedures Policy

#### 5. Human Rights Commitment

Ipswich City Council (Council) has considered the human rights protected under the *Human Rights Act 2019 (Qld)* (the Act) when adopting and/or amending this policy. When applying this policy, Council will act and make decisions in a way that is compatible with human rights and give proper consideration to a human right relevant to the decision in accordance with the Act.

# **IPSWICH CITY COUNCIL | Investigations Policy**

#### 6. Scope

This investigation policy applies to the management of how complaints about the inappropriate conduct of Councillors will be dealt with as required by the *Local Government Act 2009*; however this policy does not relate to more serious Councillor conduct such as misconduct or corrupt conduct.

# 7. Roles and Responsibilities

Under this policy the Chief Executive Officer has responsibility:

- to advise the Mayor and Councillors on receipt of a referral notice from the Independent Assessor;
- to refer suspected inappropriate conduct that the Mayor believes is in the best interest to refer to the President of the Tribunal;
- for updating the councillor conduct register;
- for advising the assessor about instances of possible misconduct;
- for advising the Crime and Corruption Commission about instances of possible corrupt conduct.

# 8. Confidentiality

Matters of suspected inappropriate conduct of a Councillor are confidential except as otherwise specifically provided for either in the *Local Government Act 2009* or this investigation policy.

Note: It must be kept in mind that the matter is an allegation only and not yet proven. Further, there will be circumstances where the detail of the referral will need to remain confidential to the Local Government. Any release of confidential information that a Councillor knows, or should reasonably know, to be confidential to the local government may be contrary to section 171(3) of the Local Government Act 2009 and dealt with as misconduct.

#### 9. Natural Justice

Any investigation of suspected inappropriate conduct of a Councillor must be carried out in accordance with natural justice.

"Natural justice" or procedural fairness, refers to three key principles:

- the person being investigated has a chance to have his or her say before adverse formal findings are made and before any adverse action is taken (fair hearing);
- the investigator(s) should be objective and impartial (absence of bias); and
- any action taken is based on evidence (not suspicion or speculation).

A fair hearing means the Councillor who is the subject of the suspected inappropriate conduct matter must be told of the case against them including any evidence and be provided with an opportunity to put their case in writing with the investigation report provided to the Councillors as part of the meeting agenda.

An absence of bias means that any investigation must not be biased or be seen to be biased in any way. This principle embodies the concept of impartiality.

# **IPSWICH CITY COUNCIL | Investigations Policy**

Decisions based on evidence requires that the investigation should not be based on mere speculation or suspicion but instead must be based upon evidence material.

A proper examination of all issues means the investigation must give a proper and genuine consideration to each party's case.

#### 10. Assessor's Referral

The Council may receive from the Assessor a referral notice about the suspected inappropriate conduct of a Councillor. Council may also receive referrals directly.

#### 11. Receipt of Assessor's Referral

On receipt of a referral notice about the suspected inappropriate conduct of a Councillor from the Assessor, the Council's Chief Executive Officer will forward a copy of that referral notice to the Mayor and all Councillors as a confidential document.

Should the Mayor or a Councillor (other than the subject of the complaint or the complainant) disagree with any recommendation accompanying the Assessor's referral notice or form the opinion that the complaint should be dealt with in a way other than under this policy, the Mayor or Councillor may request the matter be placed on the agenda of the next Council meeting to decide on the appropriate process to investigate the complaint. Such a request must be made in accordance with the Council's meeting procedure requirements.

#### 12. Investigator

Unless otherwise resolved by Council, the Mayor will manage the investigation of suspected inappropriate conduct of other Councillors.

If the suspected inappropriate conduct involves conduct that in the circumstances, the Mayor believes, it is in the best interests of the investigation to refer the matter for external investigation, then the Chief Executive Officer must refer the suspected inappropriate conduct to the President of the Tribunal to investigate and make recommendations to the Council about dealing with the conduct.

If the suspected inappropriate conduct involves:

- an allegation about the conduct of the Mayor, or
- the Mayor as the complainant, then

the Chief Executive Officer must refer the suspected inappropriate conduct to the President of the Tribunal to investigate and make recommendations to the Council about dealing with the conduct.

#### 13. Early Resolution

Before beginning an investigation, the investigator must consider whether the matter is appropriate for resolution prior to the investigation. This consideration includes any recommendation made by the Assessor.

A matter is only appropriate for early resolution if the parties to the matter agree to explore early resolution.

# **IPSWICH CITY COUNCIL | Investigations Policy**

The investigator may engage an independent person with suitable qualifications or experience to facilitate this process.

If the matter cannot be resolved, the matter will then be investigated as outlined in this investigation policy.

If the matter is resolved prior to investigation, the investigator will advise the Chief Executive Officer of this outcome. In turn, the Chief Executive Officer will advise the Mayor (if the Mayor is not the investigator) and all Councillors that the matter has been resolved. The Chief Executive Officer will also update the Councillor Conduct Register to reflect this.

#### 14. Timeliness

The investigator will make all reasonable endeavors to complete the investigation and provide a report for inclusion on the agenda of a Council meeting no more than eight (8) weeks after the receipt of the complaint.

Note: If the investigator is of the opinion that it may take longer than eight (8) weeks to complete the investigation, the matter should be raised with the Mayor (if the Mayor is not the investigator) to seek an extension of time.

#### 15. Assistance for Investigator

If the Mayor is the investigator of a matter of suspected inappropriate conduct, the Mayor may use section 170A of the *Local Government Act 2009* to seek assistance during the investigation.

The Mayor is authorised by Council to expend money as reasonably needed to engage contractors in accordance with the Council's procurement policy.

# 16. Possible Misconduct or Corrupt Conduct

If during the course of an investigation the investigator obtains information which indicates a Councillor may have engaged in misconduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Assessor of the possible misconduct.

If during the course of an investigation, the investigator obtains information which indicates a Councillor may have, on reasonable suspicion, engaged in corrupt conduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Crime and Corruption Commission of the possible corrupt conduct.

Instances of suspected misconduct or corrupt conduct may be referred back to the Council if determined by the Assessor or Crime and Corruption Commission to be inappropriate conduct.

# 17. Completion of Investigation

On the completion of an investigation, the investigator will provide a report to the Council outlining the investigation process, the investigation findings, any recommendations about dealing with the conduct and a record of the investigation costs.

# **IPSWICH CITY COUNCIL | Investigations Policy**

The Council will consider the findings and recommendations of the investigator's report and decide whether the Councillor has engaged in inappropriate conduct and, if so, what action it will take under section 150AH of the *Local Government Act 2009*.

Provisions for internal and external review of decisions are set out in sections 150CO to 150CS of the *Local Government Act 2009*.

#### 18. Notice about the Outcome of Investigation

After an investigation is finalised, the Council must give notice about the outcome of the investigation to the person who made the complaint about the Councillor's conduct that was the subject of the investigation.

# 19. Councillor Conduct Register

The Chief Executive Officer of the respective Council must ensure decisions about suspected inappropriate conduct of a Councillor must be entered into the Councillor Conduct Register.

Where a complaint has been resolved under section 12 of this policy, the Chief Executive Officer will update the register to reflect that the complaint was withdrawn.

#### 20. Expenses

Council must pay any reasonable expenses of Council associated with the informal early resolution or investigation of suspected inappropriate conduct of a Councillor including any costs of:

- the president of the Tribunal in undertaking an investigation for Council;
- a mediator engaged under this investigation policy;
- a private investigator engaged on behalf of or by the investigator;
- travel where the investigator needed to travel to undertake the investigation or to interview witnesses;
- seeking legal advice;
- engaging an expert.

Council may order the subject Councillor reimburse it for all or some of the costs arising from the Councillor's inappropriate conduct.

#### 21. Monitoring and Evaluation

This policy will be reviewed by the Coordination and Performance Department when any of the following occur:

- As required by legislation;
- The related information is amended or replaced; or
- Other circumstances as determined from time to time by the Council.

# **IPSWICH CITY COUNCIL | Investigations Policy**

# 22. Definitions

Assessor	means the Independent Assessor appointed under section 150CV			
	of the Local Government Act 2009			
Behavioural Standard	means a standard of behaviour for Councillors set out in the Code			
	of Conduct approved under section 150E of the Local			
	Government Act 2009			
Conduct	includes—			
	(a)failing to act; and			
	(b)a conspiracy, or attempt, to engage in conduct			
Corrupt Conduct	As per the <i>Crime and Corruption Act 2001</i> , conduct of a person			
'	regardless of whether the person holds or held an appointment			
	that fulfils each of the following elements:			
	(a) adversely affects, or could adversely affect, directly or			
	indirectly, the performance of functions or the exercise of			
	powers of—			
	(i) a unit of public administration; or			
	(ii) a person holding an appointment; and			
	(b) results, or could result, directly or indirectly, in the			
	performance of functions or the exercise of powers			
	mentioned in paragraph (a) in a way that—			
	(i) is not honest or is not impartial; or			
	(ii) involves a breach of the trust placed in a person			
	holding an appointment, either knowingly or recklessly;			
	or			
	(iii) involves a misuse of information or material acquired in			
	or in connection with the performance of functions or			
	the exercise of powers of a person holding an			
	appointment; and			
	(c) is engaged in for the purpose of providing a benefit to the			
	person or another person or causing a detriment to another			
	person; and			
	(d) would, if proved, be—			
	(i) a criminal offence; or			
	(ii) a disciplinary breach providing reasonable grounds for			
	terminating the person's services, if the person is or			
	were the holder of an appointment.			
Councillor Conduct	As required under section 150DX of the Act and is a record of all			
Register	written complaints about councillors and the outcome of each			
	complaint, including any disciplinary or other action.			
Councillor	As per section 150L the Local Government Act 2009			
Misconduct	(1) The conduct of a councillor is misconduct if the conduct—			
	(a) adversely affects, directly or indirectly, the honest and			
	impartial performance of the councillor's functions, or the			
	exercise of the councillor's powers; or			
	(b) is or involves—			
	(i) a breach of the trust placed in the councillor, either			
	knowingly or recklessly; or			

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# **IPSWICH CITY COUNCIL | Investigations Policy**

	(ii) a misuse of information or material acquired in, or in connection with, the performance of the councillor's functions, whether the misuse is for the benefit of the
	councillor or for the benefit, or to the detriment, of another person; or
	(c) contravenes any of the following—
	(i) an order of the local government or the conduct tribunal;
	(ii) the acceptable requests guidelines of the local government under section 170A;
	(iii) a policy of the local government about the reimbursement of expenses;
	(iv) section 150R, 170(2), 171(3) or 175G.
	(2) Also, the conduct of a councillor is misconduct if the conduct—
	(a) is part of a course of conduct leading to the local government deciding to take action under section 150AG to discipline the councillor for inappropriate conduct on 3
	occasions within a period of 1 year; or
	(b) is of the same type stated in an order of the local
	government that if the councillor engages in the same type of conduct again, it will be dealt with as misconduct.
	(3) For subsection (2)(a), the conduct that led to the 3
	occasions of disciplinary action, taken together, is the
	misconduct.
Chairperson	The person presiding at a meeting of the local government or committee
Chief Executive	The Chief Executive Officer of the local government
Officer or CEO	A person who holds an appointment under section 194 of the Act.
Inappropriate	As per section 150K of the Local Government Act 2009
conduct	(1) The conduct of a councillor is <i>inappropriate conduct</i> if the conduct contravenes—
	(a) a behavioural standard; or
	<ul> <li>(b) a policy, procedure or resolution of the local government.</li> <li>(2) Also, the conduct of a councillor is <i>inappropriate conduct</i> if—</li> </ul>
	(a) the conduct contravenes an order of the chairperson of a local government meeting for the councillor to leave and stay away from the place at which the meeting is being held; or
	(b) it is part of a course of conduct at local government meetings leading to orders for the councillor's unsuitable meeting conduct being made on 3 occasions within a period
	of 1 year.
	(3) For subsection (2)(b), the conduct that led to the orders being made, taken together, is the inappropriate conduct.
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# **IPSWICH CITY COUNCIL | Investigations Policy**

	<ul> <li>(4) However, inappropriate conduct does not include conduct that is—</li> <li>(a) unsuitable meeting conduct, to the extent the conduct is not conduct mentioned in subsection (2); or</li> <li>(b) misconduct; or</li> <li>(c) corrupt conduct</li> </ul>
Investigation policy	refers to this policy, as required by section 150AE of the <i>Local Government Act 2009</i>
investigator	means the person responsible under this investigation policy for carrying out the investigation of the suspected inappropriate conduct of a Councillor or Mayor
Local Government Meeting	<ul><li>local government meeting means a meeting of—</li><li>(a) a local government; or</li><li>(b) a committee of a local government.</li></ul>
misconduct	see section 150L of the Local Government Act 2009
Model procedures	see section 150F of the Local Government Act 2009
Natural justice	a set of principles to ensure fair and just decision making, including a fair hearing, an absence of bias, decisions based on evidence, and the proper examination of all issues.
Referral notice	see section 150AC of the Local Government Act 2009
Tribunal	means the Councillor Conduct Tribunal as established under section 150DK of the Local Government Act 2009
Procedural Motion	A set of motions that can be employed in specific ways to control the conduct of meetings
Regulation	Local Government Regulation 2012
Unsuitable meeting conduct	As per section 150H of the Local Government Act 2009  The conduct of a councillor is unsuitable meeting conduct if the conduct—  (a) happens during a local government meeting; and (b) contravenes a behavioural standard.

# 23. Policy Owner

The Executive Services Branch (Office of the CEO) is the policy owner and the Manager, Executive Services is responsible for authoring and reviewing this policy.



Version Control and Objective ID	Version No: 2	Objective ID:
Adopted at Council Ordinary Meeting on		
Date of Review		

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# **IPSWICH CITY COUNCIL | Investigations Policy**

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# **IPSWICH CITY COUNCIL | Investigations Policy**

#### 1. Statement

This is Ipswich City Council's investigation policy for how complaints about a suspected conduct breach of councillors will be dealt with as required by section 150AE of the Local Government Act 2009 (LGA).

A local government must adopt, by resolution, an investigation policy (the policy) about how it deals with the suspected conduct breach of councillors referred, by the independent assessor (the Assessor) under section 150AE (1), LGA, to the local government to be dealt with, and must be published on the local government's website, section 150AE (4), LGA.

#### 2. Purpose and Principles

Chapter 5A of the LGA prescribes the councillor conduct management system. Section 150CT of the LGA establishes an Independent Assessor (the Assessor) to carry out certain functions including the preliminary assessment, dismissal, referral, or investigation of complaints about councillor conduct.

After undertaking a preliminary assessment on a councillor conduct matter, if the Assessor reasonably suspects a councillor has engaged in a conduct breach, the Assessor may decide to refer a suspected conduct breach to the Council to deal with under section 150SD(4)(a) or 150W(b) of the LGA.

Upon receipt of the referral notice of a complaint of suspected conduct breach the Council must deal with the councillor's conduct as prescribed under section 150AF of the LGA unless a decision is made not to start or to discontinue the investigation under section 150AEA of the LGA. In conducting the investigation, the Council must comply with this investigation policy.

The Council may decide not to start or discontinue the investigation if:

- a. if the complaint is withdrawn by the complainant
- b. if the complainant consents to the matter being withdrawn. For example, the matter has been resolved and it is unnecessary for the local government to investigate the matter.
- c. if the complainant refuses to cooperate by providing additional information during the investigation phase and not enough information is available to proceed
- d. if the office of the councillor becomes vacant for any reason, i.e., the person has resigned or was not re-elected and is no longer a councillor.

#### 3. Strategic Plan Links

This policy aligns with the following iFuture 2021-2026 Corporate Plan theme/s:

A Trusted and Leading Organisation

# 4. Regulatory Authority

- Local Government Act 2009
- Local Government Regulation 2012
- Crime and Corruption Act 2001
- Public Interest Disclosure Act 2010
- Public Sector Ethics Act 1994

# **IPSWICH CITY COUNCIL | Investigations Policy**

## 5. Human Rights Commitment

Ipswich City Council (Council) has considered the human rights protected under the *Human Rights Act 2019 (Qld)* (the Act) when adopting and/or amending this policy. When applying this policy, Council will act and make decisions in a way that is compatible with human rights and give proper consideration to a human right relevant to the decision in accordance with the Act.

#### 6. Scope

This investigation policy applies to investigations and determinations by the Council about the suspected conduct breach of a councillor including a mayor, which has been referred by the Independent Assessor. The policy must:

- include a procedure for investigating the suspected conduct breaches of councillors (see Annexure 3 – Investigation Standards); and
- state the circumstances in which another entity may investigate the conduct; and
- be consistent with the principles of natural justice; and
- require the local government to prepare a report about each investigation (see Annexure 2
   Report template and summary report template); and
- require a notice about the outcome of investigations be provided to the Assessor, councillor and persons who made complaint about the councillors' conduct; and
- include a procedure about when the local government may decide not to start, or to discontinue, an investigation under section 150AEA.

The policy must require the Council -

- to give the councillor information about the suspected conduct, including details about the evidence of the conduct; and
- to give the councillor a notice if an investigation is not started or is discontinued; and
- for conduct the subject of a complaint to give the person who made the complaint, if the
  contact details of the person are known, a notice if an investigation is not started or is
  discontinued; and
- to give the councillor the preliminary findings of the investigation before preparing an investigation report about the investigation (see Annexure 4 - Statement of Preliminary Findings Template); and
- to allow the councillor to give evidence or a written submission to the local government about the suspected conduct and preliminary findings; and
- to consider any evidence and written submission given by the councillor in preparing the investigation report for the investigation; and
- to include in the investigation report –
- o if evidence is given by the councillor—a summary of the evidence; and
- o if the councillor gives a written submission—a full copy of the written submission.

This Policy does not relate to more serious councillor conduct, such as misconduct or corrupt conduct, which are dealt with under separate legislative provisions.

This Policy also does not deal with unsuitable meeting conduct, or any conduct undertaken in a personal capacity by a councillor, for example, a sitting councillor campaigning for re-election or attending a private social function.

# **IPSWICH CITY COUNCIL | Investigations Policy**

#### 7. Roles and Responsibilities

The Mayor and Councillors are required to adhere to the requirements of this policy.

#### 8. Key Stakeholders

- Executive Services Branch
- Legal and Governance Branch

#### 9. Confidentiality

Matters relating to the investigation of suspected conduct breach of a councillor are confidential to the local government during the investigation period, except:

- a. to give the councillor information about the suspected conduct, including details about the evidence of the conduct
- b. to give the councillor the preliminary findings of the investigation before preparing an investigation report about the investigation
- c. to give the councillor a notice if an investigation is not started or is discontinued; and
- d. for conduct the subject of a complaint to give the person who made the complaint, and the Assessor a notice if an investigation is not started or is discontinued.

However, once the conduct is investigated and an investigation report is received, a summary of the investigation report must be made publicly available before any discussion is undertaken by Ipswich City Council. The published summary report must not contain any names or identifying information about the complainant and persons who were interviewed or a transcript of interview, or provided a statement or affidavit, unless the complainant is a councillor or chief executive officer of the local government, whose identity was disclosed at the meeting at which the investigation report was considered.

Once the matter has been investigated and a report has been provided to the local government, the matter will be placed on the council meeting agenda and the investigation report and any recommendations of the investigator may be debated in the council meeting, which may be in a closed session under section 254J(j) of the LGR. At this point, the summary investigation report is not treated as confidential as it must be publicly available and attached to the agenda papers that are circulated before the meeting.

A final decision by resolution of the council in an open council meeting must take place when the decision is made about whether a councillor engaged in a conduct breach and if so any decision about orders that are made under section 150AH of the LGA. Any decision that is not consistent with the recommendation of the investigation report must state in the meeting minutes, the reasons for the decision. The minutes must give sufficient information to demonstrate the logic that has been applied to justify the decision not to follow the recommendation of the investigation report.

The full investigation report must be made publicly available within 10 business days of the Council making a decision by resolution about whether the councillor engaged in a conduct breach and if so, any orders made in relation to the matter. The published report must not contain any names or identifying information about the complainant, persons who were interviewed or a transcript of interview, or provided a statement or affidavit unless the complainant is a councillor

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or chief executive officer of the local government whose identity was disclosed at the meeting at which the investigation report was considered.

When deciding what action to take, the local government may consider any previous conduct breach of the councillor, any allegation made in the investigation that was admitted or not challenged, and the local government is reasonably satisfied is true.

A notice about the outcome of the investigation must be given to the Assessor as soon as practicable that states the decision, the reasons for the decision and the details of any orders made under section 150AH of the LGA.

Note: For investigation report templates please refer to Annexure 2 - Report template & summary report template, and Annexure 4 - Statement of Preliminary Findings Template. These templates must be used by the investigator.

#### 10. Natural Justice

Any investigation of suspected conduct breach of a councillor must be carried out in accordance with natural justice.

Natural justice or procedural fairness refers to three key principles:

- that the councillor who is the subject of the suspected conduct breach matter has a chance to have his or her say before adverse formal findings are made and before any adverse action is taken i.e., fair hearing
- ii. that the investigator should be objective and impartial i.e., absence of bias
- iii. that any actions taken, or decisions made are based on evidence i.e., not on suspicion or speculation.

A fair hearing means the councillor who is the subject of the suspected conduct breach matter will receive information about the suspected conduct, including;

- a. the preliminary findings of the investigation before the preparing of an investigation report about the investigation; and
- b. a notice if an investigation is not started or is discontinued including the reasons for the decision
- c. allow the councillor to give evidence or a written submission to the local government about the suspected conduct breach and preliminary findings; and
- d. require the local government to consider the evidence or written statement from the councillor in preparing the investigation report, and
- e. include, if evidence is given by the councillor, a summary of the evidence and, if a written submission is provided, a full copy of the written submission, in the investigation report.
- i. The local government must give the following notices to the other parties;
- f. the person who made the complaint if an investigation is not started or dismissed including the reasons for the decision
- g. the Assessor if an investigation is not started or dismissed including the reasons for the decision.

An absence of bias means that any investigation must not be biased or be seen to be biased in any way. This principle embodies the concept of impartiality.

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A proper examination of all issues means the investigation must give a proper and genuine consideration to each party's case.

Note: It must be kept in mind that the matter when referred, is suspected, and not yet proven.

#### 11. Standard of Proof

The civil standard of proof is applied by the Investigator when determining whether a councillor has engaged in a conduct breach.

The civil standard of proof is 'on the balance of probabilities,' which means the weighing up and comparison of the likelihood of the existence of competing facts or conclusions.

An allegation is sustained 'on the balance of probabilities,' if based on the evidence, the Investigator and/or the local government, is reasonably satisfied that its existence is more probable than not.

#### 12. Timeline

The councillor conduct framework must be effective and efficient. The investigator will make all reasonable endeavours to complete the investigation and provide a report for inclusion on the agenda of the local government's meeting within eight weeks of commencing the investigation, after the receipt of the complaint from the Assessor.

Note: If the investigator is of the opinion that it may take longer than eight weeks to complete the investigation, the matter should be raised with the mayor or delegate (if the mayor is managing the investigation) to seek an extension of time. Delay in procuring an investigator to undertake the investigation should be avoided by the local government.

# 13. Expenses

Council will pay the expenses associated with the investigation of suspected conduct breach of a councillor including any costs of:

- a. an independent investigator engaged on behalf of the Council
- b. travel where the investigator needed to travel to undertake the investigation, or to interview witnesses
- c. obtaining legal or expert advice.

Legal advice or representation for the subject Councillor may only be accessed in accordance with the Councillor Expenses Reimbursement and Administrative Support Policy.

Note: Council may order the subject councillor to reimburse them for all or some of the costs arising from a sustained conduct breach. These costs would usually only relate to obtaining legal or expert advice and reasonable costs for the investigator engaged to undertake the investigation.

Any costs incurred by complainants will not be met by council. Where possible, costs should be kept to a reasonable rate taking into consideration the costs for more serious matters dealt with by, for example, the Councillor Conduct Tribunal or other jurisdictions who deal with conduct matters.

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#### 14. Councillor Conduct Register

The Chief Executive Officer must ensure decisions and any orders under section 150AH of the LGA made about suspected conduct breach of a councillor or any decision to not start, or to discontinue an investigation of suspected conduct breach under section 150AEA of the LGA, are entered into the relevant councillor conduct register.

#### 15. Procedures for the Investigation

#### 15.1 Independent Assessor's referral

The Council will receive a referral notice from the Assessor about the suspected conduct breach of a councillor. The referral notice will include details of the conduct and any complaint received about the conduct, state why the Assessor reasonably suspects that the councillor has engaged in a conduct breach and include information about the facts and circumstances that form the basis of the Assessor's reasonable suspicion.

The Council must deal with the matter and the investigation must be conducted in a way that is consistent with this investigation policy.

The Assessor must also give a notice to the councillor that states the councillor's conduct has been referred to the Council to deal with and a copy of the referral notice must be attached.

## 15.2 Receipt of Assessor's referral

On receipt of a referral notice about the suspected conduct breach of a councillor from the Assessor, the chief executive officer will forward a copy of that referral notice to the mayor and all councillors, including the subject councillor, as a confidential document.

The councillor who is the subject of the complaint and the complainant, if the complainant is a councillor, have a declarable conflict of interest and should manage it in a way that is consistent with the requirements of the Meeting Conduct Procedure.

The Mayor will manage the investigation process and may undertake the investigation themself, or engage an external investigator, to investigate the suspected conduct breach and prepare an investigation report with recommendations about whether the councillor engaged in a conduct breach and how the conduct may be dealt with. If the Mayor has a conflict of interest in the matter, the Mayor's powers to manage the investigation must be delegated by council resolution to the Deputy Mayor, or if the Deputy Mayor is conflicted, then an acting mayor must be appointed from the other councillors by resolution, to manage the investigation.

Where the local government meeting loses quorum due to conflicts of interest of councillors or absent councillors, then the conduct matter must be delegated to the mayor or a standing committee to make a decision. If the referral notice is about the suspected conduct breach by the mayor, then the matter must be delegated to a standing committee.

The Council will consider establishing a standing committee under section 264 of the LGR to deal with decisions about a conduct breach matters which are delegated by resolution to a standing committee. The standing committee will decide about the mayor's conduct in all circumstances where there is a loss of quorum or more generally, may also deal with councillors' conduct.

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While section 12(4)(f) of the LGA provides that the mayor has the extra responsibility of being a member of each standing committee, the mayor could not be a decision-making member of a standing committee dealing with decisions about the mayor's conduct because of the conflict of interest. The remainder of the unconflicted members of the committee will decide the matter.

The standing committee must be in existence before receiving the referral notice from the Assessor, in circumstances where there is no quorum to decide a matter under sections 150AEA or 150AG of the LGA due to conflicts of interest.

# 15.3 Deciding not to start, or to discontinue, an investigation

On receipt of the referral notice from the Assessor, the Mayor will manage the investigation unless it is delegated. If there are circumstances for considering not starting or discontinuing an investigation, the matter will be placed on the agenda for the next council meeting. The local government may decide by resolution to not start, or discontinue, a suspected conduct breach matter. The resolution must state the decision and the reasons for the decision.

The only circumstances in which the local government can formally not start or discontinue a matter are under section 150AEA of the LGA.

Note: The matters not started or discontinued must be reported in the annual report (including the reasons) and recorded in councillor conduct register.

#### 15.4 Investigating the suspected conduct breach of a councillor

Unless the matter has been delegated by the local government, the Mayor will manage the investigation of suspected conduct breach matters relating to other councillors by either performing the role of Investigator or engaging a suitably qualified person to undertake the investigation and provide an investigation report for the local government to consider. The Mayor is authorised by council to expend money as reasonably needed to engage contractors in accordance with the council's procurement policy.

If the investigator obtains information which indicates a councillor may have engaged in misconduct, the investigator must cease the investigation and advise the Mayor and the Chief Executive Officer. The Chief Executive Officer will determine if the conduct is within the timeframe for reporting the matter. The Chief Executive Officer will then provide an information notice to the Assessor giving the details of the suspected misconduct. The notice must be given within 1 year after the conduct occurred, or within 6 months after the conduct comes to the knowledge of the chief executive officer or another person who gave the information notice to the Assessor, but within 2 years after the conduct occurred.

If the investigator obtains information that indicates a councillor may have engaged in corrupt conduct, the investigator must cease the investigation and advise the Mayor and Chief Executive Officer. The Chief Executive Officer will then provide an information notice to the Assessor giving the details of the suspected corrupt conduct or notify the Crime and Corruption Commission of the suspected corrupt conduct. There are no reporting time limits for corrupt conduct.

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#### 15.5 Engaging an Investigator

Once an investigator has been selected to undertake the investigation, that investigator will follow the investigation standards of the local government (see Annexure 3– Investigation Standards) e.g. an investigation plan and file management system will be established.

Once the investigation is finalised the investigator will prepare a report for the local government including the following the details:

- i. the investigation process
- ii. any witnesses interviewed
- iii. documents or other evidence obtained
- iv. a statement of the relevant facts ascertained
- v. confirmation that the subject councillor has been provided with an opportunity to respond to the complaint and the evidence compiled
- vi. the investigation findings
- vii. a statement of any relevant previous disciplinary history
- viii. any recommendations about dealing with the conduct
- ix. a record of the investigation costs.

# 15.6 Completion of investigation

#### 15.6.1 Findings and recommendations

The investigator must prepare a Preliminary Statement of Findings and must give the preliminary findings to the councillor before preparing the Investigation Report and allow the councillor to give evidence or a written statement about the conduct and preliminary findings.

The investigator must consider any evidence or written submission given by the councillor in preparing the investigation report and include a summary of the evidence and a full copy of any written submission in the investigation report.

# 15.6.2 Investigation Report

The investigator must prepare an investigation report about the investigation of a suspected conduct breach matter referred by the Assessor to the local government under section 150AFA of the LGA. The investigation report must include the findings of the investigation, a summary of the evidence or a full copy of any written submission given by the councillor and recommendations for consideration by the local government (see Annexure 2 – Report Template).

A summary investigation report with the preliminary Statement of Findings and summary of the outcome of the investigation attached, must be prepared for public availability before the meeting where the councillors will consider the investigation report matter on or before the day and time prescribed by the LGR section 254C.

The Council must prepare a summary of the investigation report that must include—

- a. the name of the councillor whose conduct has been investigated; and
- b. a description of the alleged conduct; and
- c. a statement of the facts established by the investigation; and
- d. a description of how natural justice was afforded to the councillor during the conduct of the investigation; and
- e. a summary of the findings of the investigation; and

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f. any recommendations made by the investigator who investigated the conduct.

The following information must not be made publicly available—

- a. if the investigation relates to the conduct of a councillor that was the subject of a complaint
  - i. the name of the person who made the complaint or any other person, other than the councillor; or
  - ii. information that could reasonably be expected to result in identifying a person who made the complaint or any other person;
- if a person, other than the councillor, provided information for the purposes of the investigation including, for example, by giving an interview or making a submission or affidavit
  - i. the name of the person; or
  - ii. information that could reasonably be expected to result in identifying the person or any other person, other than the councillor;
  - iii. any other information the local government is entitled or required to keep confidential under a law.

#### 15.6.3 Making a decision about the investigation

The Council must make a decision as to whether the subject councillor has engaged in a conduct breach.

When debating this matter the subject councillor who has a declarable conflict of interest in the matter, must declare the conflict of interest, and the eligible councillors (those who do not have a conflict of interest in the matter) can decide by resolution for the subject councillor to remain in the meeting during the debate and may answer questions put to the subject councillor through the chairperson to assist the eligible councillors in making a decision. The resolution can include conditions that the subject councillor must leave the place where the meeting is being held, including any area set aside for the public, during the vote on whether they have committed a conduct breach and what, if any, penalty to impose if the councillor is found to have committed a conduct breach.

Should the complainant be a councillor, that councillor has a declarable conflict of interest in the matter and must follow the declarable conflict of interest procedures set out in the Meeting Conduct Policy.

If the council has lost quorum due to the number of conflicted councillors or another reason, the matter must be delegated consistent with section 257 of the LGA or deferred to another date when a quorum will be present.

If a decision is reached that the councillor has engaged in a conduct breach, the Council (with the exception of the councillor the subject of the investigation and the complainant, if another councillor), will consider the findings and recommendations of the investigator's report and decide what, if any, action it will take under section 150AH of the LGA.

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After making a decision about the conduct breach, the Council must make the investigation report for the investigation publicly available after the meeting at which the decision about the outcome of the investigation is made.

The following information contained in the investigation report must not be made publicly available:

- a. if the investigation relates to the conduct of a councillor that was the subject of a complaint
  - i. the name of the person who made the complaint or any other person, other than the councillor even if that person has a declarable conflict of interest;
  - ii. information that could reasonably be expected to result in identifying a person;
- b. if a person, other than the councillor, provided information for the purposes of the investigation including, for example, by giving an interview or making a submission or affidavit:
  - i. the name of the person; or
  - ii. information that could reasonably be expected to result in identifying the person or any other person, other than the councillor;
  - iii. the submission or affidavit of, or a record or transcript of information provided orally by, a person, including, for example, a transcript of an interview;
  - iv. any other information the local government is entitled or required to keep confidential under a law e.g. documents subject to legal professional privilege or information that is part of a public interest disclosure under the *Public Interest Disclosure Act 2010*.

The report made publicly available must include the name of the person who made the complaint if:

- a. the person is a councillor or the chief executive officer of the local government; and
- b. the person's identity as the complainant was disclosed at the meeting at which the report for the investigation was considered.

#### 16. Disciplinary action against councillors

If the Council decides that the councillor has engaged in a conduct breach, any of the following orders may be imposed:

- a. order that no action be taken against the councillor, or
- b. make an order outlining action the councillor must undertake in accordance with section 150AH(1)(b) of the LGA.

Note: For further information refer to Annexure 5 - Conduct Breach Disciplinary Action Guideline

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#### 17. Notice about the outcome of the investigation

After an investigation is finalised, the Council must give a notice about the outcome decision of the investigation if the local government decides not to start or discontinue an investigation (section 150AEA of the LGA), or makes a decision about whether the councillor has engaged in a conduct breach (section 150AG of the LGA) including the reasons for the decision and any orders made under section (150AH of the LGA)to:

- a. the Assessor
- b. the person who made the complaint about the councillor' conduct that was the subject of the investigation, and
- c. the subject councillor who was investigated.

# 18. Monitoring and Evaluation

This policy will be reviewed in accordance with Council's four (4) year review cycle or sooner if required.

#### 19. Definitions

Assessor means the Independent Assessor appointed under section 150CT of the LGA

**Behavioural standard** means a standard of behaviour for councillors set out in the Code of Conduct for Councillors in Queensland approved under section 150D and 150E of the LGA

#### Conduct includes:

- (a) failing to act; and
- (b) a conspiracy, or attempt, to engage in conduct

**Councillor conduct register** means the register required to be kept by the local government as set out in section 150DX and 150DY of the LGA

Conduct breach as set out in section 150K of the LGA

Investigation policy refers to this policy, as required by section 150AE of the LGA

**Investigator** means the person responsible under this investigation policy for carrying out the investigation of the suspected conduct breach of a councillor or mayor

**Summary of investigation report** means a summary of the full investigation report prepared before making a decision about the outcome of the investigation that must be publicly available on or before the day prescribed by regulation.

**Investigation report** means a report provided by the investigator to the local government that must be publicly available within 10 business days after the local government makes a decision about the outcome of the investigation.

LGA means the Local Government Act 2009

Local government meeting means a meeting of:

(a) a local government; or

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(b) a committee of a local government

Misconduct see section 150L of the LGA

Meeting Procedures Policy see section 150F of the LGA

Referral notice see section 150AB, AC and AD of the LGA

Tribunal means the Councillor Conduct Tribunal as established under section 150DK of the LGA

Unsuitable meeting conduct see section 150H of the LGA

# 20. Related Documents

If no related documents, add N/A.

# 21. Policy Owner

The Manager, Executive Services is responsible for authoring and reviewing this policy.



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#### Annexure 1 - Report template and summary report template

#### Conduct Breach Complaint Investigation and Recommendation Report to the Council

Reference number:

Date received from council:

# 1. The complaint

(Outline the allegation/s as referred for investigation, including date/s, time/s, place/s, description of alleged conduct. Succinct description of (full title and relevant sections) of policy (e.g. code of conduct) alleged to have been breached)

#### 2. The complainant

Description of the alleged conduct

(Consider if council indicates the matter relates to a public interest disclosure and ensure compliance with the Public Interest Disclosure Act 2010)

# 3. The subject councillor

Name (Reference level of experience as a councillor and any past disciplinary history including for like matters)

#### 4. Conflict of interest considerations

(Declaration of any conflict of interest or 'no conflict of interest' by the investigator)

# 5. Summary of the investigation process

- Scope of the investigation:
- Interviews conducted:
- Documents examined:
- Facts identified:
- Category of the conduct breach:

Set out relevant standards of sections considered.

# 6. Investigation Report

- Date of the report
- Wording of allegation for consideration
- A statement of the facts established by the investigation
- A description of how natural justice was afforded to the councillor during the conduct of the investigation
- A summary of the findings of the investigation
- A summary of any relevant previous disciplinary history
- Summary of the evidence or a full copy of any written submission given by the councillor
- Application of facts to the conduct breach outlined above
- A record of the investigation costs.

Note: Insert discussion of sufficiency of evidence to sustain the allegation and whether the evidence is capable of supporting a finding that the councillor has breached

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#### 7. Recommendation to council

• Recommendations made by the investigator who investigated the conduct.

#### It is recommended that:

- a) This report be submitted to the [council name] for consideration, pursuant to section 150AG of the Local Government Act 2009 (the LG Act), as to whether or not the councillor has engaged in a conduct breach; and if they are found to have so engaged, what action the local government will take to discipline the councillor pursuant to section 150AH of the LG Act;
- b) Having analysed the material from this investigation, a conclusion might be drawn that: Note: make a recommendation as to whether a conduct breach is made or not, with succinct reasons:
- c) If [council name] finds the councillor has engaged in a conduct breach, are there any aggravating or mitigating circumstances that should be taken into account? For example, any action taken by the councillor since the conduct, any Aboriginal traditions or Islander customs of the councillor.
- d) If council finds the councillor has engaged in a conduct breach, the following disciplinary action under section 150AH LGA is recommended (refer to the 'Guideline conduct breach disciplinary action)

	(SIGN)
NAME:	
ATTACHMENTS:	

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# **Annexure 2 - Summary Report Template**

Include the following:

- 1. the name of the councillor whose conduct has been investigated; and
- 2. a description of the alleged conduct; and
- 3. a statement of the facts established by the investigation; and
- 4. a description of how natural justice was afforded to the councillor during the conduct of the investigation; and
- 5. a summary of the findings of the investigation; and
- 6. any recommendations made by the investigator who investigated the conduct.



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#### Annexure 3 - Investigation Standards

The investigation must be managed in a consistent manner.

Documentation must be contained in an efficient records management system.

Confidential information must be secured appropriately.

#### 1. Case Management file

The investigation must be supported by a recognised case management tool so that emails, letters, statements, and evidence can be stored and secured confidentially. File notes must be made in the case management system to document key milestones in the investigation such as when lines of inquiry are identified, witnesses are spoken to, when evidence is secured, and document key decisions.

#### 2. Investigation Plan

The mayor or delegate will, prior to beginning the investigation, check that the investigator does not have a conflict of interest in the matter. Remove them immediately from the investigation should a conflict of interest become known.

The following investigation process must be followed by the investigator unless the mayor or delegate agrees to vary the process in a particular case.

Take all necessary steps to protect the identity of the complainant(s) as far as possible during communications with the councillor.

Consider the following:

- a) Research the legislation and policy framework thoroughly.
- b) Identify lines of inquiry and record them as a file note in case file management system.
- c) Present all the evidence the councillor provides or gives in a written statement.
- d) Gather further evidence (for example, from interviewing other witnesses, obtaining documents, or carrying out site inspections) when necessary.
- e) Secure evidence in case file management system, making a file note when lines of inquiry are followed up and key decisions are made during the course of in the investigation.
- f) Undertake a proper and impartial examination of the evidence gathered, including expert advice and analysis and / or legal advice if required.
- g) Draw conclusions based on the evidence and applying the appropriate legislative and policy frameworks.

# 3. Prepare an investigation report

Prepare the investigation report for the local government to consider on the template attached (Attachment 11).

If during the course of an investigation, the Investigator obtains new information that a Councillor may have engaged conduct that may give rise to a new allegation, the Investigator must obtain particulars related to the conduct and then advise the mayor and the chief executive officer who will provide an information notice to the Assessor. The Assessor will undertake a preliminary assessment or alternative action on the matter.

The Investigator will be informed of activities of the local government in relation to the investigation. For example, the Investigator will be informed in the event the finalisation of a

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matter is delayed, or if the Local Government has to notify of a fresh allegation identified during the course of an investigation to the Assessor for a preliminary assessment.

If during the course of an investigation, the Investigator obtains new information that a Councillor may have engaged in misconduct or corrupt conduct the investigation will cease and the investigator will notify the mayor and chief executive officer who will be responsible for providing an information notice to the Assessor/Crime and Corruption Commission.



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# **Annexure 4 - Statement of Preliminary Findings Template**

**Statement of Preliminary Findings** 

The Investigator has assessed the evidence set out in the investigation report and, taking into account the seriousness of the allegations, has made findings on the balance of probabilities.

The table below contains a summary of the Allegations and the Investigator's findings. A detailed summary of the evidence and findings is provided in the full investigation report.

# **CONDUCT ALLEGATIONS**

Allegation	Finding
Allegation:	Substantiated/Not Substantiated
Particulars:	Summary of Evidence:
	Summary of reasons for finding:
Date	
Investigator's signature and name	

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#### Annexure 5 - Conduct Breach Disciplinary Action Guideline

This guideline is provided to assist Queensland local governments to make consistent decisions about the appropriate disciplinary action to be taken against a councillor who is found to have engaged in a conduct breach.

#### 1. What is a conduct breach?

According to section 150K of the Local Government Act 2009 (LGA), a conduct breach occurs when a councillor:

- a) breaches a behavioural standard (Code of Conduct for Councillors in Queensland)
- b) breaches a council policy, procedure, or resolution
- c) contravenes an order by a chairperson of a local government to leave a council meeting and stay away from the place at which it is being held
- d) is part of a course of unsuitable meeting conduct orders on three occasions within a one-year period, taken together, is a conduct breach. The local government is not required to notify the OIA of these matters and may deal with the conduct as if an investigation has been undertaken section 150J and make a decision under section 150AG of the Local Government Act 2009 (including Brisbane City Council). Below are some examples of conduct which may constitute a conduct breach:

#### 2. Decision

Section 150AG of the LGA provides that where an allegation of a conduct breach has been referred by the Office of the Independent Assessor (OIA) to a local government for investigation, the local government must decide:

- a) whether or not the councillor has engaged in a conduct breach, and,
- b) what action the local government will take under section 150AH of the LGA to discipline the councillor if the councillor has been found to have engaged in a conduct breach.

# 3. Types of orders

Section 150AH of the LGA provides a list of the types of orders that the local government may make where it has found that a councillor has engaged in a conduct breach:

- a) An order that no action be taken against the councillor
- b) An order that the councillor make a public apology, in the way decided by the local government, for the conduct
- c) An order reprimanding the councillor for the conduct
- d) An order that the councillor attend training or counselling addressing the councillor's conduct including at the councillor's expense
- e) An order that the councillor be excluded from a stated local government meeting
- f) An order that the councillor is removed or must resign from a position representing the local government other than the office of councillor
- g) An order that if the councillor engages in the same type of conduct again, it will be treated as misconduct
- h) An order that the councillor reimburse the local government for all or some of the costs arising from the councillor's conduct breach.

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#### 4. Factors that may be taken into account

Section 150AG(2) of the LGA provides that in deciding what action to take, the local government may consider:

- a) Any previous conduct breach of the councillor
- b) Any allegation made in the investigation that
  - i) was admitted, or was not challenged and
  - ii) the local government is reasonably satisfied is true.

# 5. Guidance on appropriate disciplinary action

It is open to local governments to decide which order/s in section 150AH of the LGA /are suitable when a councillor is found to have engaged in a conduct breach. The particular circumstances of a case must always be taken into consideration.

As a guide, it is suggested that it may be appropriate for the local government to consider making an order or combination of orders depending on whether a councillor has been found to have engaged in a conduct breach for the first time, or for a second, or third time.

Section 150L of the LGA provides that conduct is misconduct if the conduct is part of a course of conduct leading the local government to take action under s150AG to discipline the councillor for a conduct breach on three occasions within a 1 year period.

The table on the following page may assist councils to decide what disciplinary action is suitable in various circumstances.

Order	First instance engaging in a conduct breach	Second instance engaging in a conduct breach	Third instance engaging in a conduct breach
No action be taken against the councillor	х		
An order for the councillor to make a public apology in the way decided by the local government, for the conduct	X*	X*	X*
An order reprimanding the councillor for the conduct	X#	X#	X#
An order that the councillor attend training or counselling addressing the councillor's conduct including at the councillor's expense	X#	X#	X#
An order that the councillor be excluded from a stated local government meeting		х	х
An order that the councillor is removed or must resign from a position representing the			х

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local government other than the office of councillor			
An order that if the councillor engages in the same type of conduct again, it will be treated as misconduct	χ^	х	
An order that the councillor reimburse the local government for all or some of the costs arising from the councillor's conduct breach **		х	х

<sup>\*</sup>May be appropriate where there is heightened or particular public interest in the type of conduct or the subject matter relating to the conduct



<sup>#</sup> May be particularly appropriate where the conduct involves bullying or harassment or making inappropriate comments about another person

<sup>^</sup> For more serious and deliberate conduct breaches by an experienced councillor

<sup>\*\*</sup> Costs arising from the councillor's conduct breach includes investigative costs, legal costs, and administrative costs. However, costs should be kept to a reasonable rate taking into consideration the costs for more serious matters dealt with by the Councillor Conduct Tribunal.

**Queensland Government** 

# Example Local Government Investigation Policy March 2024

# Investigation policy – [insert Local Government's name]

This document is an example investigation policy for local governments to adopt or to use as a guide in preparing their own policies.

Queensland Government

Last updated: 26/03/24

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#### **Conditions applying to the Investigation**

#### 1. Authority

This is [insert local government's name] investigation policy for how complaints about the suspected conduct breach of councillors will be dealt with as required by section 150AE of the *Local Government Act 2009* (LGA).

A local government must adopt, by resolution, an investigation policy (the policy) about how it deals with the suspected conduct breach of councillors referred, by the independent assessor (the Assessor) under section 150AE (1), LGA, to the local government to be dealt with, and must be published on the local government's website, section 150AE (4), LGA.

#### **Related Policies and Legislation**

#### Policies (suggestions):

Complaints (Administrative Actions) Policy

Information Management Policy

Information Privacy Policy

Whistleblowers (Public Interest Disclosure) Policy

Code of Conduct for Councillors in Queensland

Model Meeting Procedures/Standing Orders

#### Legislation:

Local Government Act 2009 (LGA)

Local Government Regulation 2012 (LGR)

City of Brisbane Act 2010 (COBA)

City of Brisbane Regulation 2012 (CBR)

Crime and Corruption Act 2001 (CCA)

Public Interest Disclosure Act 2010 (PIDA)

Public Sector Ethics Act 1994 (PSEA)

#### Adoption

This investigation policy was adopted by [local government name] resolution on [insert date] and applies from [insert date].



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#### 2. Policy Statement

Chapter 5A of the LGA prescribes the councillor conduct management system. Section 15oCT of the LGA establishes an Independent Assessor (the Assessor) to carry out certain functions including the preliminary assessment, dismissal, referral, or investigation of complaints about councillor conduct.

After undertaking a preliminary assessment on a councillor conduct matter, if the Assessor reasonably suspects a councillor has engaged in a conduct breach, the Assessor may decide to refer a suspected conduct breach to the [local government name] to deal with under section 150SD(4)(a) or 150W(b) of the LGA.

Upon receipt of the referral notice of a complaint of suspected conduct breach the [local government name] must deal with the councillor's conduct as prescribed under section 150AF of the LGA unless a decision is made not to start or to discontinue the investigation under section 150AEA of the LGA. In conducting the investigation, the [local government name] must comply with this investigation policy.

The [local government name] may decide not to start or discontinue the investigation if:

- the complaint is withdrawn by the complainant
- the complainant consents to the matter being withdrawn. For example, the matter has been resolved and it is unnecessary for the local government to investigate the matter.
- the complainant refuses to cooperate by providing additional information during the investigation phase and not enough information is available to proceed
- the office of the councillor becomes vacant for any reason, i.e., the person has resigned or was not re-elected and is no longer a councillor.

#### 3. Scope

#### In Scope

This investigation policy applies to investigations and determinations by the [local government name] about the suspected conduct breach of a councillor including a mayor, which has been referred by the Independent Assessor. The policy must:

- include a procedure for investigating the suspected conduct breaches of councillors (see Addendum 3 Investigation Standards); and
- state the circumstances in which another entity may investigate the conduct; and
- be consistent with the principles of natural justice; and
- require the local government to prepare a report about each investigation (see Addendum 2 -Report template and summary report template); and
- require a notice about the outcome of investigations be provided to the Assessor, councillor and
  persons who made complaint about the councillors' conduct and include a procedure about
  when the local government may decide not to start, or to discontinue, an investigation under
  section 150AEA.



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The policy must require the [insert local government's name]:

- to give the councillor information about the suspected conduct, including details about the evidence of the conduct; and
- to give the councillor a notice if an investigation is not started or is discontinued; and
- for conduct the subject of a complaint to give the person who made the complaint, if the contact details of the person are known, a notice if an investigation is not started or is discontinued; and
- to give the councillor the preliminary findings of the investigation before preparing an
  investigation report about the investigation (see Addendum 4 Statement of Preliminary Findings
  Template); and
- to allow the councillor to give evidence or a written submission to the local government about the suspected conduct and preliminary findings; and
- to consider any evidence and written submission given by the councillor in preparing the investigation report for the investigation; and
- to include in the investigation report
  - o if evidence is given by the councillor—a summary of the evidence; and
  - o if the councillor gives a written submission—a full copy of the written submission.

#### Out of Scope

This Policy does not relate to more serious councillor conduct, such as misconduct or corrupt conduct, which are dealt with under separate legislative provisions.

This Policy also does not deal with unsuitable meeting conduct, or any conduct undertaken in a personal capacity by a councillor, for example, a sitting councillor campaigning for re-election or attending a private social function.

#### 4. Confidentiality

Matters relating to the investigation of suspected conduct breach of a councillor are confidential to the local government during the investigation period, except:

- to give the councillor information about the suspected conduct, including details about the evidence of the conduct
- to give the councillor the preliminary findings of the investigation before preparing an investigation report about the investigation
- to give the councillor a notice if an investigation is not started or is discontinued; and
- for conduct the subject of a complaint to give the person who made the complaint, and the Assessor a notice if an investigation is not started or is discontinued.

However, once the conduct is investigated and an investigation report is received, a summary of the investigation report must be made publicly available before any discussion is undertaken by the [insert local government's name]. The published summary report must not contain any names or identifying



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information about the complainant and persons who were interviewed or a transcript of interview, or provided a statement or affidavit, unless the complainant is a councillor or chief executive officer of the local government, whose identity was disclosed at the meeting at which the investigation report was considered.

Once the matter has been investigated and a report has been provided to the local government, the matter will be placed on the council meeting agenda and the investigation report and any recommendations of the investigator may be debated in the council meeting, which may be in a closed session under section 254J(j) of the LGR. At this point, the summary investigation report is not treated as confidential as it must be publicly available and attached to the agenda papers that are circulated before the meeting.

A final decision by resolution of the council in an open council meeting must take place when the decision is made about whether a councillor engaged in a conduct breach and if so any decision about orders that are made under section 150AH of the LGA. Any decision that is not consistent with the recommendation of the investigation report must state in the meeting minutes, the reasons for the decision. The minutes must give sufficient information to demonstrate the logic that has been applied to justify the decision not to follow the recommendation of the investigation report.

The full investigation report must be made publicly available within 10 business days of the [insert local government's name] making a decision by resolution about whether the councillor engaged in a conduct breach and if so, any orders made in relation to the matter. The published report must not contain any names or identifying information about the complainant, persons who were interviewed or a transcript of interview, or provided a statement or affidavit unless the complainant is a councillor or chief executive officer of the local government whose identity was disclosed at the meeting at which the investigation report was considered.

When deciding what action to take, the local government may consider any previous conduct breach of the councillor, any allegation made in the investigation that was admitted or not challenged, and the local government is reasonably satisfied is true.

A notice about the outcome of the investigation must be given to the Assessor as soon as practicable that states the decision, the reasons for the decision and the details of any orders made under section 150AH of the LGA.

**Note:** For investigation report templates please refer to Addendum 2 - Report template & summary report template, and Addendum 4 - Statement of Preliminary Findings Template. These templates should be used by the investigator.

#### 5. Natural Justice

Any investigation of suspected conduct breach of a councillor must be carried out in accordance with natural justice.



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Natural justice, or procedural fairness, refers to three key principles:

- that the councillor who is the subject of the suspected conduct breach matter has a chance to
  have his or her say before adverse formal findings are made and before any adverse action is
  taken i.e., fair hearing
- that the investigator should be objective and impartial i.e., absence of bias
- that any actions taken or decisions made are based on evidence i.e., not on suspicion or speculation.

A fair hearing means the councillor who is the subject of the suspected conduct breach matter will receive information about the suspected conduct, including;

- the preliminary findings of the investigation before the preparing of an investigation report about the investigation outcome; and
- a notice if an investigation is not started or is discontinued including the reasons for the decision
- allow the councillor to give evidence or a written submission to the local government about the suspected conduct breach and preliminary findings; and
- require the local government to consider the evidence or written statement from the councillor in preparing the investigation report, and
- include, if evidence is given by the councillor, a summary of the evidence and, if a written submission is provided, a full copy of the written submission, in the investigation report.

The local government must give the following notices to the other parties if an investigation is not started or discontinued including the reasons for the decision;

- the person who made the complaint
- the Assessor

An absence of bias means that any investigation must not be biased or be seen to be biased in any way. This principle embodies the concept of impartiality.

A proper examination of all issues means the investigation must give a proper and genuine consideration to each party's case.

Note: It must be kept in mind that the matter when referred, is suspected, and not yet proven.

#### 6. Standard of proof

The civil standard of proof is applied by the Investigator when determining whether a councillor has engaged in a conduct breach.

The civil standard of proof is 'on the balance of probabilities', which means the weighing up and comparison of the likelihood of the existence of competing facts or conclusions.

An allegation is sustained 'on the balance of probabilities', if based on the evidence, the Investigator and/or the local government, is reasonably satisfied that its existence is more probable than not.



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#### 7. Timeline

The councillor conduct framework must be effective and efficient. The investigator will make all reasonable endeavours to complete the investigation and provide a report for inclusion on the agenda of the local government's meeting within eight weeks of commencing the investigation, after the receipt of the complaint from the Assessor.

**Note**: If the investigator is of the opinion that it may take longer than eight weeks to complete the investigation, the matter should be raised with the mayor or delegate (if the mayor is managing the investigation) to seek an extension of time. Delay in procuring an investigator to undertake the investigation should be avoided by the local government.

#### 8. Expenses

Local Governments must pay the expenses associated with the investigation of suspected conduct breach of a councillor including any costs of:

- an independent investigator engaged on behalf of the [insert local government's name]
- travel where the investigator needed to travel to undertake the investigation, or to interview witnesses
- obtaining legal or expert advice.

**Note**: Council may order the subject councillor to reimburse them for all or some of the costs arising from a sustained conduct breach. These costs would usually only relate to obtaining legal or expert advice and reasonable costs for the investigator engaged to undertake the investigation. Any costs incurred by complainants, or the subject councillor will not be met by council. Where possible, costs should be kept to a reasonable rate taking into consideration the costs for more serious matters dealt with by, for example, the Councillor Conduct Tribunal or other jurisdictions who deal with conduct matters.

#### 9. Councillor conduct register

The chief executive officer must ensure decisions and any orders under section 150AH of the LGA made about a conduct breach by a councillor or any decision to not start, or to discontinue an investigation of suspected conduct breach under section 150AEA of the LGA, are entered into the relevant councillor conduct register.

#### **Procedures for the Investigation**

#### Independent Assessor's referral

The [local government name] will receive a referral notice from the Assessor about the suspected conduct breach of a councillor. The referral notice will include details of the conduct and any complaint received about the conduct, state why the Assessor reasonably suspects that the councillor has



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engaged in a conduct breach and include information about the facts and circumstances that form the basis of the Assessor's reasonable suspicion.

The [local government name] must deal with the matter and the investigation must be conducted in a way that is consistent with this investigation policy.

The Assessor must also give a notice to the councillor that states the councillor's conduct has been referred to the [local government name] to deal with and a copy of the referral notice must be attached.

#### 11. Receipt of Assessor's referral

On receipt of a referral notice about the suspected conduct breach of a councillor from the Assessor, the chief executive officer will forward a copy of that referral notice to the mayor and all councillors, including the subject councillor, as a confidential document.

The councillor who is the subject of the complaint and the complainant, if the complainant is a councillor, have a declarable conflict of interest and should manage it in a way that is consistent with the requirements of the **model meeting procedures** section 5.

The mayor will manage the investigation process and may undertake the investigation themself, or engage an external investigator, to investigate the suspected conduct breach and prepare an investigation report with recommendations about whether the councillor engaged in a conduct breach and how the conduct may be dealt with. If the mayor has a conflict of interest in the matter, the mayor's powers to manage the investigation must be delegated by council resolution to the Deputy Mayor, or if the Deputy Mayor is conflicted, then an acting mayor must be appointed from the other councillors by resolution, to manage the investigation.

Where the local government meeting loses quorum due to conflicts of interest of councillors or absent councillors, then the conduct matter must be delegated to the mayor or a standing committee to make a decision. If the referral notice is about the suspected conduct breach by the mayor, then the matter must be delegated to a standing committee.

The [insert local government's name] will consider establishing a standing committee under section 264 of the LGR to deal with decisions about a conduct breach matters which are delegated by resolution to a standing committee. The standing committee will decide about the mayor's conduct in all circumstances where there is a loss of quorum or more generally, may also deal with councillors' conduct.

While section 12(4)(f) of the LGA provides that the mayor has the extra responsibility of being a member of each standing committee, the mayor could not be a decision-making member of a standing committee dealing with decisions about the mayor's conduct because of the conflict of interest. The remainder of the unconflicted members of the committee will decide the matter.



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The standing committee must be in existence before receiving the referral notice from the Assessor, in circumstances where there is no quorum to decide a matter under sections 150AEA or 150AG of the LGA due to conflicts of interest.

## 12. When the local government may decide not to start, or to discontinue, an investigation

On receipt of the referral notice from the Assessor, the mayor will manage the investigation unless it is delegated. If there are circumstances for considering not starting or discontinuing an investigation, the matter will be placed on the agenda for the next council meeting. The local government may decide by resolution to not start, or discontinue, a suspected conduct breach matter. The resolution must state the decision and the reasons for the decision.

The only circumstances in which the local government can formally not start or discontinue a matter are under section 150AEA of the LGA:

**Note:** The matters not started or discontinued must be reported in the annual report (including the reasons) and recorded in councillor conduct register.

### 13. Local government investigating the suspected conduct breach of a councillor

Unless the matter has been delegated by the local government, the mayor will manage the investigation of suspected conduct breach matters relating to other councillors by either performing the role of Investigator or engaging a suitably qualified person to undertake the investigation and provide an investigation report for the [insert the local government's name] to consider. The mayor is authorised by council to expend money as reasonably needed to engage contractors in accordance with the council's procurement policy.

If the investigator obtains information which indicates a councillor may have engaged in misconduct, the investigator must cease the investigation and advise the mayor and the chief executive officer. The chief executive officer will determine if the conduct is within the timeframe for reporting the matter. The chief executive officer will then provide an information notice to the Assessor giving the details of the suspected misconduct. The notice must be given within one year after the conduct occurred, or within six months after the conduct comes to the knowledge of the chief executive officer or another person who gave the information notice to the Assessor, but within two years after the conduct occurred.

If the investigator obtains information that indicates a councillor may have engaged in corrupt conduct, the investigator must cease the investigation and advise the mayor and chief executive officer. The chief executive officer will then provide an information notice to the Assessor giving the details of the suspected corrupt conduct or notify the Crime and Corruption Commission of the suspected corrupt conduct. There are no reporting time limits for corrupt conduct.



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#### 14. Engaging an Investigator

Once an investigator has been selected to undertake the investigation, that investigator will follow the investigation standards of the local government (see Addendum 3– Investigation Standards) e.g. an investigation plan and file management system will be established.

Once the investigation is finalised the investigator will prepare a report for the local government including the following the details:

- the investigation process
- any witnesses interviewed
- documents or other evidence obtained
- a statement of the relevant facts ascertained
- confirmation that the subject councillor has been provided with an opportunity to respond to the complaint and the evidence compiled
- the investigation findings
- a statement of any relevant previous disciplinary history
- any recommendations about dealing with the conduct
- a record of the investigation costs.

#### 15. Completion of investigation

#### **Findings and recommendations**

The investigator must prepare a Preliminary Statement of Findings and must give the preliminary findings to the councillor before preparing the Investigation Report and allow the councillor to give evidence or a written statement about the conduct and preliminary findings.

The investigator must consider any evidence or written submission given by the councillor in preparing the investigation report and include a summary of the evidence and a full copy of any written submission in the investigation report.

#### **Investigation Report**

The investigator must prepare an investigation report about the investigation of a suspected conduct breach matter referred by the Assessor to the local government under section 150AFA of the LGA. (However, this does not apply to a decision by the Establishment and Coordination Committee under the COBA). The investigation report must include the findings of the investigation, a summary of the evidence or a full copy of any written submission given by the councillor and recommendations for consideration by the local government (see Addendum 2 – Report Template).



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A summary investigation report with the preliminary Statement of Findings and summary of the outcome of the investigation attached, must be prepared for public availability before the meeting where the councillors will consider the investigation report matter on or before the day and time prescribed by the LGR section 254C and the COBR section 242C, which is;

- 5pm on the next business day after the notice of the meeting at which a decision is to be made has been provided to the councillors, or
- the day and time when the agenda for the meeting at which a decision is to be made is publicly available.

The [insert the local government's name] must prepare a summary of the investigation report that must include—

- the name of the councillor whose conduct has been investigated; and
- a description of the alleged conduct; and
- a statement of the facts established by the investigation; and
- a description of how natural justice was afforded to the councillor during the conduct of the investigation; and
- a summary of the findings of the investigation; and
- any recommendations made by the investigator who investigated the conduct.

The following information must not be made publicly available—

- if the investigation relates to the conduct of a councillor that was the subject of a complaint—
- the name of the person who made the complaint or any other person, other than the councillor; or
- information that could reasonably be expected to result in identifying a person who made the complaint or any other person;
- if a person, other than the councillor, provided information for the purposes of the investigation including, for example, by giving an interview or making a submission or affidavit
  - o the name of the person; or
  - o information that could reasonably be expected to result in identifying the person or any other person, other than the councillor;
  - o any other information the local government is entitled or required to keep confidential under a law.

#### Making a decision about the investigation

The [Local Government name] must make a decision as to whether the subject councillor has engaged in a conduct breach.

When debating this matter the subject councillor who has a declarable conflict of interest in the matter, must declare the conflict of interest, and the eligible councillors (those who do not have a conflict of



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interest in the matter) can decide by resolution for the subject councillor to remain in the meeting during the debate and may answer questions put to the subject councillor through the chairperson to assist the eligible councillors in making a decision. The resolution can include conditions that the subject councillor must leave the place where the meeting is being held, including any area set aside for the public, during the vote on whether they have committed a conduct breach and what, if any, penalty to impose if the councillor is found to have committed a conduct breach.

Should the complainant be a councillor, that councillor has a declarable conflict of interest in the matter and must follow the declarable conflict of interest procedures set out in the **model meeting procedures** section 5.

If the council has lost quorum due to the number of conflicted councillors or another reason, the matter must be delegated consistent with section 257 of the LGA or section 238 of the COBA, or deferred to another date when a quorum will be present.

If a decision is reached that the councillor has engaged in a conduct breach, the [insert the local government's name] (with the exception of the councillor the subject of the investigation and the complainant, if another councillor), will consider the findings and recommendations of the investigator's report and decide what, if any, action it will take under section 150AH of the LGA.

After making a decision about the conduct breach, the [local government name] must make the investigation report for the investigation publicly available after the meeting at which the decision about the outcome of the investigation is made, by;

- on or before the day and time prescribed by regulation, or 5pm on the tenth day, or
- the day and time that the meeting minutes are made publicly available.

The following information contained in the investigation report must **not** be made publicly available;

- if the investigation relates to the conduct of a councillor that was the subject of a complaint
  - o the name of the person who made the complaint or any other person, other than the councillor even if that person has a declarable conflict of interest; or
  - o information that could reasonably be expected to result in identifying a person;
- if a person, other than the councillor, provided information for the purposes of the investigation including, for example, by giving an interview or making a submission or affidavit:
  - o the name of the person; or
  - o information that could reasonably be expected to result in identifying the person or any other person, other than the councillor;
  - o the submission or affidavit of, or a record or transcript of information provided orally by, a person, including, for example, a transcript of an interview;
  - o any other information the local government is entitled or required to keep confidential under a law e.g. documents subject to legal professional privilege or information that is part of a public interest disclosure under the *Public Interest Disclosure Act 2010*.



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The report made publicly available must include the name of the person who made the complaint if:

- the person is a councillor or the chief executive officer of the local government; and
- the person's identity as the complainant was disclosed at the meeting at which the report for the investigation was considered.

#### 16. Disciplinary action against councillors

If the [local government name] decides that the councillor has engaged in a conduct breach, any of the following orders may be imposed:

- order that no action be taken against the councillor, or
- make an order outlining action the councillor must undertake in accordance with section 150AH(1)(b) of the LGA.

Note: For further information refer to Addendum 5 - Conduct Breach Disciplinary Action Guideline

#### 17. Notice about the outcome of the investigation

After an investigation is finalised, the [local government name] must give a notice about the outcome decision of the investigation if the local government decides not to start or discontinue an investigation undersection 150AEA of the LGA, or makes a decision about whether the councillor has engaged in a conduct breach under section 150AG of the LGA including the reasons for the decision and any orders made under section 150AH of the LGA.to:

- the Assessor
- the person who made the complaint about the councillor' conduct that was the subject of the investigation, and
- the subject councillor who was investigated.



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#### Addendums -

#### 1 - Index

Assessor means the Independent Assessor appointed under section 150CT of the LGA

Behavioural standard means a standard of behaviour for councillors set out in the Code of Conduct for Councillors in Queensland approved under section 150D and 150E of the LGA

Conduct includes—

- (a) failing to act; and
- (b) a conspiracy, or attempt, to engage in conduct

**Councillor conduct register** means the register required to be kept by the local government as set out in section 150DX and 150DY of the LGA

Conduct breach as set out in section 150K of the LGA

Investigation policy refers to this policy, as required by section 150AE of the LGA

**Investigator** means the person responsible under this investigation policy for carrying out the investigation of the suspected conduct breach of a councillor or mayor

Summary of investigation report means a summary of the full investigation report prepared before making a decision about the outcome of the investigation that must be publicly available on or before the day prescribed by regulation.

**Investigation report** means a report provided by the investigator to the local government that must be publicly available within 10 business days after the local government makes a decision about the outcome of the investigation.

LGA means the Local Government Act 2009

Local government meeting means a meeting of—

- (a) a local government; or
- (b) a committee of a local government

Misconduct see section 150L of the LGA

Model meeting procedures see section 150F of the LGA

Referral notice see section 150AB, AC and AD of the LGA

Tribunal means the Councillor Conduct Tribunal as established under section 150DK of the LGA

Unsuitable meeting conduct see section 150H of the LGA



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#### 2 - Report template and summary report template

Conduct Breach Complaint Investigation and Recommendation Report to {insert name of local government}

Reference number:

Date received from council:

#### 1. The complaint

Description of the alleged conduct.

(Outline the allegation/s as referred for investigation, including date/s, time/s, place/s, description of alleged conduct. Succinct description of (full title and relevant sections) of policy (e.g. code of conduct) alleged to have been breached)

#### 2. The complainant

Name of the complainant who made the complaint about the alleged conduct.

(Consider if council indicates the matter relates to a public interest disclosure and ensure compliance with the *Public Interest Disclosure Act 2010*)

#### 3. The subject councillor

Name (Reference level of experience as a councillor and any past disciplinary history including for like matters)

#### 4. Conflict of interest considerations

(Declaration of any conflict of interest or 'no conflict of interest' by the investigator)

#### 5. Summary of the investigation process

- scope of the investigation
- interviews conducted
- documents examine
- facts identified
- category of the conduct breach set out relevant standards of sections considered.

#### 6. Investigation Report

- · date of the report
- wording of allegation for consideration
- a statement of the facts established by the investigation



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- a description of how natural justice was afforded to the councillor during the conduct of the investigation
- a summary of the findings of the investigation
- a summary of any relevant previous disciplinary history
- summary of the evidence or a full copy of any written submission given by the councillor
- application of facts to the conduct breach outlined above
- a record of the investigation costs.

**Note:** Insert discussion of sufficiency of evidence to sustain the allegation and whether the evidence is capable of supporting a finding that the councillor has breached

#### 7. Recommendation to council

• Recommendations made by the investigator who investigated the conduct.

It is recommended that:

- a) This report be submitted to the [insert local government's name] for consideration, pursuant to section 150AG of the *Local Government Act 2009* (the LG Act), as to whether or not the councillor has engaged in a conduct breach; and if they are found to have so engaged, what action the local government will take to discipline the councillor pursuant to section 150AH of the LG Act;
- b) Having analysed the material from this investigation, a conclusion might be drawn that:

**Note:** make a recommendation as to whether a conduct breach is made or not, with succinct reasons:

- c) If [insert local government's name] finds the councillor has engaged in a conduct breach, are there any aggravating or mitigating circumstances that should be taken into account? For example, any action taken by the councillor since the conduct, any Aboriginal traditions or Islander customs of the councillor.
- d) If council finds the councillor has engaged in a conduct breach, the following disciplinary action under section 150AH LGA is recommended (refer to the 'Guideline conduct breach disciplinary action')

	(SIGN)
NAME:	
ATTACHMENTS:	

#### 8. Summary Report Template

#### Include the following:

- the name of the councillor whose conduct has been investigated; and
- a description of the alleged conduct; and



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- a statement of the facts established by the investigation; and
- a description of how natural justice was afforded to the councillor during the conduct of the investigation; and
- a summary of the findings of the investigation; and
- any recommendations made by the investigator who investigated the conduct.



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#### 3 - Investigation Standards

The investigation must be managed in a consistent manner.

Documentation must be contained in an efficient records management system.

Confidential information must be secured appropriately.

#### 1. Case Management file

The investigation must be supported by a recognised case management tool so that emails, letters, statements, and evidence can be stored and secured confidentially. File notes must be made in the case management system to document key milestones in the investigation such as when lines of inquiry are identified, witnesses are spoken to, when evidence is secured, and document key decisions.

#### 2. Investigation Plan

The mayor or delegate will, prior to beginning the investigation, check that the investigator does not have a conflict of interest in the matter. Remove them immediately from the investigation should a conflict of interest become known.

The following investigation process must be followed by the investigator unless the mayor or delegate agrees to vary the process in a particular case.

Take all necessary steps to protect the identity of the complainant(s) as far as possible during communications with the councillor.

Consider the following:

- Research the legislation and policy framework thoroughly.
- Identify lines of inquiry and record them as a file note in case file management system.
- Present all the evidence the councillor provides or gives in a written statement.
- Gather further evidence (for example, from interviewing other witnesses, obtaining documents, or carrying out site inspections) when necessary.
- Secure evidence in case file management system, making a file note when lines of inquiry are followed up and key decisions are made during the course of in the investigation.
- Undertake a proper and impartial examination of the evidence gathered, including expert advice and analysis and / or legal advice if required.
- Draw conclusions based on the evidence and applying the appropriate legislative and policy frameworks.

#### 3. Prepare an investigation report

Prepare the investigation report for the local government to consider on the template attached (Addendum 2).



#### **Queensland Government**

If during the course of an investigation, the Investigator obtains new information that a Councillor may have engaged conduct that may give rise to a new allegation, the Investigator must obtain particulars related to the conduct and then advise the mayor and the chief executive officer who will provide an information notice to the Assessor. The Assessor will undertake a preliminary assessment or alternative action on the matter.

The Investigator will be informed of activities of the [insert local government's name] in relation to the investigation. For example, the Investigator will be informed in the event the finalisation of a matter is delayed, or if the [insert local government's name] has to notify of a fresh allegation identified during the course of an investigation to the Assessor for a preliminary assessment.

If during the course of an investigation, the Investigator obtains new information that a councillor may have engaged in misconduct or corrupt conduct the investigation will cease and the investigator will notify the mayor and chief executive officer who will be responsible for providing an information notice to the Assessor/Crime and Corruption Commission.



**Queensland Government** 

#### 4 - Statement of Preliminary Findings Template

#### Statement of Preliminary Findings

The Investigator has assessed the evidence set out in the investigation report and, taking into account the seriousness of the allegations, has made findings on the balance of probabilities.

The table below contains a summary of the Allegations and the Investigator's findings.

A detailed summary of the evidence and findings is provided in the full investigation report.

#### **CONDUCT ALLEGATIONS**

Allegation	Finding
	Substantiated/Not Substantiated
Allegation:	
Particulars:	Summary of Evidence:
	Summary of reasons for finding:
Date	
Investigator's signature and name	



**Queensland Government** 

#### 5 - Conduct Breach Disciplinary Action Guideline

This guideline is provided to assist Queensland local governments to make consistent decisions about the appropriate disciplinary action to be taken against a councillor who is found to have engaged in a conduct breach.

#### 1. What is a conduct breach?

According to section 150K of the *Local Government Act 2009* (LGA), a conduct breach occurs when a councillor:

- breaches a behavioural standard (Code of Conduct for Councillors in Queensland)
- breaches a council policy, procedure, or resolution
- contravenes an order by a chairperson of a local government to leave a council meeting and stay away from the place at which it is being held
- is part of a course of unsuitable meeting conduct orders on three occasions within a one-year period, taken together, is a conduct breach. The local government is not required to notify the OIA of these matters and may deal with the conduct as if an investigation has been undertaken section 150J and make a decision under section 150AG of the *Local Government Act 2009* (including Brisbane City Council). Below are some examples of conduct which may constitute a conduct breach:

#### 2. Decision

Section 150AG of the LGA provides that where an allegation of a conduct breach has been referred by the Office of the Independent Assessor (OIA) to a local government for investigation, the local government must decide:

- 1. whether or not the councillor has engaged in a conduct breach, and,
- 2. what action the local government will take under section 150AH of the LGA to discipline the councillor if the councillor has been found to have engaged in a conduct breach.

#### 3. Types of orders

Section 150AH of the LGA provides a list of the types of orders that the local government may make where it has found that a councillor has engaged in a conduct breach:

- An order that no action be taken against the councillor
- An order that the councillor make a public apology, in the way decided by the local government, for the conduct
- An order reprimanding the councillor for the conduct



#### **Queensland Government**

- An order that the councillor attend training or counselling addressing the councillor's conduct including at the councillor's expense
- An order that the councillor be excluded from a stated local government meeting
- An order that the councillor is removed or must resign from a position representing the local government other than the office of councillor
- An order that if the councillor engages in the same type of conduct again, it will be treated as misconduct
- An order that the councillor reimburse the local government for all or some of the costs arising from the councillor's conduct breach.

#### 4. Factors that may be taken into account

Section 150AG(2) of the LGA provides that in deciding what action to take, the local government may consider:

- any previous conduct breach of the councillor
- any allegation made in the investigation that
  - o was admitted, or was not challenged and
  - o the local government is reasonably satisfied is true.

#### 5. Guidance on appropriate disciplinary action

It is open to local governments to decide which order/s in section 150AH of the LGA are suitable when a councillor is found to have engaged in a conduct breach. The particular circumstances of a case must always be taken into consideration.

As a guide, it is suggested that it may be appropriate for the local government to consider making an order or combination of orders depending on whether a councillor has been found to have engaged in a conduct breach for the first time, or for a second, or third time.

Section 150L of the LGA provides that conduct is misconduct if the conduct is part of a course of conduct leading the local government to take action under s150AG to discipline the councillor for a conduct breach on three occasions within a one year period.

The table on the following page may assist councils to decide what disciplinary action is suitable in various circumstances.

Order	First instance	Second	Third instance
	engaging in a	instance	engaging in a
	conduct	engaging in a	conduct breach
	breach	conduct breach	
No action be taken against the councillor	✓		



#### **Queensland Government**

An order for the councillor to make a public apology in the way decided by the local government, for the conduct	<b>√</b> *	<b>√</b> *	<b>√</b> *
An order reprimanding the councillor for the conduct	<b>√</b> #	<b>√</b> #	<b>√</b> #
An order that the councillor attend training or counselling addressing the councillor's conduct including at the councillor's expense	<b>√</b> #	<b>√</b> #	<b>√</b> #
An order that the councillor be excluded from a stated local government meeting		✓	✓
An order that the councillor is removed or must resign from a position representing the local government other than the office of councillor			✓
An order that if the councillor engages in the same type of conduct again, it will be treated as misconduct	<b>√</b> ∧	<b>√</b>	
An order that the councillor reimburse the local government for all or some of the costs arising from the councillor's conduct breach**		<b>√</b>	<b>√</b>

<sup>\*</sup>May be appropriate where there is heightened or particular public interest in the type of conduct or the subject matter relating to the conduct



<sup>#</sup> May be particularly appropriate where the conduct involves bullying or harassment or making inappropriate comments about another person

 $<sup>{}^{\</sup>wedge}$  For more serious and deliberate conduct breaches by an experienced councillor

<sup>\*\*</sup> Costs arising from the councillor's conduct breach includes investigative costs, legal costs, and administrative costs. However, costs should be kept to a reasonable rate taking into consideration the costs for more serious matters dealt with by the Councillor Conduct Tribunal.

Doc ID No: A10905956

This matter has been determined to be of a significant nature and approval has been given to refer this report to the Finance and Governance Committee as a supplementary item.

ITEM: 9

SUBJECT: MONTHLY FINANCIAL PERFORMANCE REPORT - OCTOBER 2024

AUTHOR: FINANCIAL ACCOUNTING MANAGER

DATE: 5 NOVEMBER 2024

#### **EXECUTIVE SUMMARY**

This is a report concerning Council's financial performance for the period ending 31 October 2024, submitted in accordance with section 204 of the *Local Government Regulation 2012*.

#### **RECOMMENDATION/S**

That the report on Council's financial performance for the period ending 31 October 2024, submitted in accordance with section 204 of the *Local Government Regulation 2012*, be considered and noted by Council.

#### **RELATED PARTIES**

Not applicable

#### **IFUTURE THEME**

A Trusted and Leading Organisation

#### PURPOSE OF REPORT/BACKGROUND

This report outlines the financial results for Ipswich City Council as at 31 October 2024.

The total net result (including capital revenue) for Ipswich City Council as at 31 October 2024 is a surplus of \$81.8 million compared to the year to date (YTD) budget surplus of \$54.7 million.

Council's YTD operating surplus (excluding capital revenue) is approximately \$6.3 million compared to the budgeted YTD surplus of \$789K. The explanations are outlined further in the report.

Overall, capital expenditure including the Nicholas Street Redevelopment YTD but excluding the voluntary home buy-back is \$16.6 million below budget YTD. Asset donations as at 31 October 2024 are \$26.0 million above the YTD budget.

#### Revenue

Operating revenue is \$5.2 million above the YTD budget which is mainly due to fees and charges for animal management and waste services, operational flood recovery grants and UU tax revenue. Interest revenue YTD is \$1.3 million higher than budget due to cash being slightly higher than budget, and investment interest rates remaining high.

#### Expenses

Overall operating expenses are approximately \$417k below YTD budget.

Employee expenses (including labour contracts) are over budget by \$346k which is due to greater than budgeted labour contracts. Council had also budgeted for a salary increase effective from 1 October, which remains part of on-going Enterprise Bargaining Agreement negotiations.

Materials and services (excluding labour contracts) are underbudget by \$1.6 million. This is mainly due to the timing of expenditure, and it is expected that this variance will reduce over the coming months as works are initiated.

Depreciation is in line with budget and will continue to be monitored during the financial year as capital works are undertaken and construction projects are capitalised.

#### Capital

The total YTD capital expenditure (including the Nicholas Street Redevelopment and excluding voluntary home buy back and disaster recovery) is \$41.6 million compared to the YTD budget of \$58.2 million.

The Nicholas Street Precinct Redevelopment is tracking under budget by approximately \$8.6 million. This variance will reduce over the coming months as construction costs are finalised and contractor claims submitted.

Asset and Infrastructure Services Infrastructure Program YTD capital expenditure (excluding voluntary home buy back and disaster recovery) is \$26.0 million compared to budget of \$30.3 million.

Due to the timing of the Finance and Governance Committee detailed capital expenditure commentary is unavailable. The capital expenditure results will be reviewed and discussed by the leadership team over the coming weeks.

Please note that the capital expenditure forecast provided in the attachment reflects the September forecast. It is not expected that the October forecast would be materially different to the September forecast.

#### Cash Balances

Council's cash and cash equivalents balance as at 31 October 2024 was \$147.8 million and slightly above forecasts.

#### **LEGAL IMPLICATIONS**

This report and its recommendations are consistent with the following legislative provisions: *Local Government Regulation 2012* 

#### **POLICY IMPLICATIONS**

Council's financial position is managed in accordance with the Financial Management Policy.

#### RISK MANAGEMENT IMPLICATIONS

The favourable operating result of a \$6.4 million surplus against a budgeted surplus of \$789K is mainly driven by higher operating revenues and lower materials and services expenditure. The underspends in materials and services are expected to reduce over the coming months as works are initiated. This will continue to be monitored as the year progresses.

#### FINANCIAL/RESOURCE IMPLICATIONS

There are no specific financial implications as a result of this report.

#### **COMMUNITY AND OTHER CONSULTATION**

The contents of this report did not require any community consultation. Analysis and explanations of the variances are undertaken in conjunction with the various departments.

#### **CONCLUSION**

Regular reporting and monitoring of expenditure will continue during the financial year as part of Council's regular governance and reporting process.

#### **HUMAN RIGHTS IMPLICATIONS**

#### **HUMAN RIGHTS IMPACTS**

#### **RECEIVE AND NOTE REPORT**

The Recommendation states that the report be received and the contents noted. The decision to receive and note the report does not limit human rights. Therefore, the decision is compatible with human rights.

#### ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1. Monthly Financial Performance Report - October 2024 🗓 🖫

Christina Binoya

#### FINANCIAL ACCOUNTING MANAGER

I concur with the recommendations contained in this report.

Jeffrey Keech

#### **CHIEF FINANCIAL OFFICER**

I concur with the recommendations contained in this report.

**Matt Smith** 

**GENERAL MANAGER (CORPORATE SERVICES)** 

"Together, we proudly enhance the quality of life for our community"



**Ipswich City Council** 

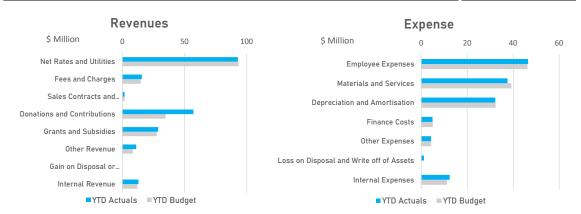
**Performance Report** 

**OCTOBER 2024** 

#### FINANCIAL EXECUTIVE SUMMARY

#### **OCTOBER 2024**

		ΥT	TD .		Annual	
	Actuals	Current	Variance	Variance	Current	
	\$'000s	Budget \$'000s	\$'000s	%	Budget \$'000s	Trend from SEP 2024
Operating Revenue	144,130	138,974	5,156	3.7%	421,742	<b>A</b>
Operating Expense	137,768	138,185	417	0.3%	419,565	<b>A</b>
Operating Surplus/(Deficit)	6,362	789	5,573		2,177	▼
Capital Revenue	76,418	53,899	22,519	41.8%	156,267	▼
Other Capital Income (Asset disposals)	(187)	0	(187)	N/A	0	▼
Capital Loss (Asset write-off)	820	0	(820)	N/A	0	▼
Net Result	81,773	54,688	27,085		158,444	▼
	-			-		
Construction Program and Asset Purchase	55,835	65,658	9,822	15.0%	181,899	<b>A</b>
Nicholas Street Precinct	4,905	13,494	8,588	63.6%	21,736	▼
Donated Assets	51,125	25,170	(25,955)	(103.1%)	75,510	▼
Total Capital Expenditure	111,866	104,321	(7,545)	(7.2%)	279,145	<b>A</b>



#### FINANCIAL EXECUTIVE SUMMARY

		YTD				Annual	
	Actuals	Current Budget		Variance	Variance	Current Budget	
	\$'000s	\$'000s		\$'000s	%	\$'000s	Trend from SEP 2024
Revenue							
Net rates and utilities charges	92,946	93,493	•	(547)	(0.6%)	281,914	•
Fees and charges	15,681	14,800	1	881	6.0%	43,822	•
Government grants and subsidies	28,858	27,758	ı	1,100	4.0%	66,932	•
Internal revenue	12,921	12,107	ı	814	6.7%	35,816	•
Other revenue	13,135	9,982	1	3,153	31.6%	45,333	•
Donations and contributions	57,172	34,733	•	22,439	64.6%	104,192	<b>A</b>
Total Revenue	220,713	192,873		27,840	14.4%	578,009	•
Expense							
Employee expenses	45,100	45,449	1	349	0.8%	140,780	•
Labour contracts	1,381	710	ı	(671)	(94.5%)	2,171	•
Materials and services	37,576	39,181	ı	1,605	4.1%	119,706	•
Internal expenses	12,379	11,266	ı	(1,113)	(9.9%)	33,331	•
Other expenses	10,302	9,255	1	(1,047)	(11.3%)	26,316	•
Depreciation & amortisation	32,199	32,324	ı	125	0.4%	97,261	•
Total Expenses	138,937	138,185		(752)	(0.5%)	419,565	▼
Net Result	81,776	54,688		27,088		158,444	•



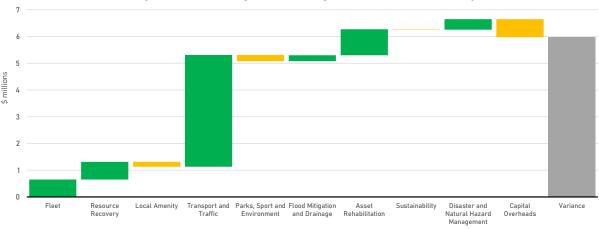
#### FINANCIAL EXECUTIVE SUMMARY

**OCTOBER 2024** 

Capital

		Υ	Annual			
	Actuals \$'000s	Current Budget \$'000s	Variance \$'000s	Variance %	Current Budget \$'000s	Trend from SEP 2024
Executive	5,828	5,828	1	0.0%	6,828	-
Nicholas Street Precinct	4,905	13,494	8,588	63.6%	21,736	▼
Corporate Services	1,842	2,904	1,062	36.6%	9,219	<b>A</b>
Community, Cultural and Economic Development	402	1,064	662	62.2%	4,011	<b>A</b>
Asset and Infrastructure Services	26,968	31,802	4,834	15.2%	99,632	<b>A</b>
VHBB and Disaster Recovery	19,115	20,931	1,816	8.7%	44,831	▼
Environment and Sustainability	1,000	2,019	1,020	50.5%	13,326	<b>A</b>
Planning and Regulatory Services	682	1,110	428	38.6%	4,052	<b>A</b>
Net Result	60,741	79,151	18,411	23.3%	203,635	<b>A</b>

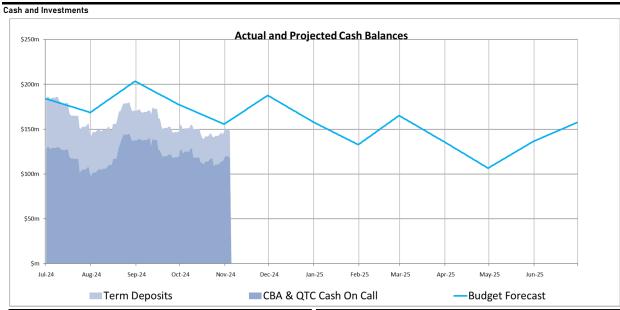


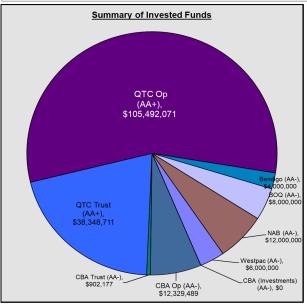


CAPITAL 5	UMMAKI	AS AT C	CTOBER 2	2024				
	MTD Actual \$'000s	MTD Budget \$'000s	MTD Variance \$'000s	YTD Actual \$'000s	YTD Budget \$'000s	YTD Variance \$'000s	Full Year Budget \$'000s	September EC Forecast \$'000s
Whole of Council								
Construction Program and Asset Purchase (incl. VHBB & Dis	13,724	15,904	2,179	60,741	79,151	18,411	203,635	208,98
VHBB and Disaster Recovery	3,098	2,855	(243)	19,115	20,931	1,816	44,831	44,00
Construction Program and Asset Purchase (ex VHBB & Disas	10.627	13.049	2.423	41.626	58.221	16.595	158.804	164.9
Donated Assets	6,452	6,293	(160)	51,125	25,170	(25,955)	75,510	
Executive								
Construction Progam and Asset Purchase	0	0	0	5,828	5,828	1	6,828	6,8
Nicholas Street Precinct	2,069	1,540	(530)	4,905	13,494	8,588	21,736	28,3
Total Capital Expenditure	2,069	1,540	(530)	10,733	19,322	8,589	28,564	35,1
Corporate Services								
Construction Program and Asset Purchase	319	461	142	1,069	2,062	993	4,935	5,1
iVolve	136	233	97	773	841	69	4,284	4,2
Total Capital Expenditure	455	694	239	1,842	2,904	1,062	9,219	9,4
Community, Cultural and Economic Development								
Construction Program and Asset Purchase	49	530	481	402	1,064	662	4,011	4,7
Total Capital Expenditure	49	530	481	402	1,064	662	4,011	4,7
Accepts and Inforcetors Complete								
Assets and Infrastructure Services Infrastructure Program	7,883	8,326	443	26,039	30,341	4,302	91,532	87,4
Emergent Works	0	0	0	0	0	0	1,211	1,0
Equipment	2	0	(2)	31	0	(31)	0	
Ipswich Central Revitalisation	3	0	(3)	89	0	(89)	0	
Fleet	53	485	432	809	1,461	652	6,889	9,5
Disaster Recovery	2,586	2,462	(123)	10,958	12,961	2,002	33,721	36,3
Voluntary Home Buy Back Scheme	512	393	(120)	8,157	7,970	(187)	11,110	7,6
Total Capital Expenditure	11,040	11,666	627	46,083	52,733	6,650	144,463	142,2
5								
Environment and Sustainability Infrastructure Program	167	337	170	436	793	357	8,395	8,8
Waste	(147)	536	683	564	1,227	663	4,931	4,6
Total Capital Expenditure	21	873	853	1,000	2,019	1,020	13,326	13,8
District District Control								
Planning and Regulatory Services Construction Program and Asset Purchase	91	600	509	682	1,110	428	4,052	3,6
Total Capital Expenditure	91	600	509 509	682	1,110	428	4,052	3,6
Donated Assets								·
Community, Cultural and Economic Development	0	3	3	67	11	(57)	32	
Corporate Services	0	0	0	0	0	0	0	
Asset and Infrastructure Services Environment and Sustainability	6,452 0	6,290 0	(162) 0	51,058 0	25,159 0	(25,899) 0	75,478 0	
	0	0	0	0	0	0	0	
Executive Planning and Regulatory Services	0	0	0	0	0	0	0	

#### FINANCIAL EXECUTIVE SUMMARY

OCTOBER 2024





Investments and Earnings Summary	Margin	% Return	\$
CBA Operating Account	0.005	4.85%	\$12,329,489
Term Deposit Investments	0.006	4.98%	\$30,000,000
QTC Trust Fund Account	0.007	5.08%	\$38,348,711
QTC Operating Account - CBD	0.007	5.08%	
QTC Operating Account - General	0.007	5.08%	\$105,492,071
QTC Operating Account - Total	0.007	5.08%	\$105,492,071
Total Invested funds (W.Avg return)	0.007	5.05%	\$186,170,271
Total Operating Funds (Ex Trust)	0.006	5.04%	\$147.821.560

#### Cashflow

Council's cash and cash equivalents balance as at 31 October 2024 was \$147.8 million. Actual cash balance includes deficit \$473K of funds related to the Voluntary Home Buy-Back program. Council's investments are made in accordance with Council's Investment Policy (adopted as part of the annual budget) with an average return percentage of 5.04%.

Doc ID No: A10915807

This matter has been determined to be of a significant nature and approval has been given to refer this report to the Finance and Governance Committee as a supplementary item.

ITEM: 10

SUBJECT: QUEENSLAND AUDIT OFFICE 2024 FINAL AUDIT REPORT

AUTHOR: FINANCIAL ACCOUNTING MANAGER

DATE: 7 NOVEMBER 2024

#### **EXECUTIVE SUMMARY**

This is a report concerning the Queensland Audit Office findings and recommendations from the 2023-2024 external audit of Ipswich City Council.

#### **RECOMMENDATION/S**

That the 2023-2024 final management report Ipswich City Council, as detailed in Attachment 1, be received and the contents noted.

#### **RELATED PARTIES**

There are no related parties.

#### **IFUTURE THEME**

A Trusted and Leading Organisation

#### PURPOSE OF REPORT/BACKGROUND

The Queensland Audit Office (QAO) has completed its external audit of Ipswich City Council for the 2023-2024 financial year. The Auditor-General has now written to the Mayor providing a copy of the final management report comprising a summary of issues formally reported to management relating to internal controls and financial reporting matters for attention.

Section 213 of the *Local Government Regulation 2012* provides as follows:

- (1) This section applies if the Auditor-General gives the Mayor of a local government a copy of the Auditor-General's observation report about an audit of the local government's financial statements.
- (2) An Auditor-General's observation report, about an audit of a local government's financial statements, is a report about the audit prepared under section 54 of the *Auditor-General Act 2009* that includes observations and suggestions made by the Auditor-General about anything arising out of the audit.

(3) The Mayor must present a copy of the report at the next ordinary meeting of the local government.

The QAO raised three new significant deficiencies relating to user accounts and accesses to council's systems. One of these significant deficiencies has been resolved.

The QAO also raised new control deficiencies that are detailed in the report. Eight of these deficiencies relate to system accesses and configurations, with two of these issues resolved pending audit verification. One issue related to procurement contracts and tendering documentation, which is resolved pending audit verification.

This report also provides an update on previous matters raised of which three issues remain work in progress and all other matters are resolved.

## **LEGAL IMPLICATIONS**

This report and its recommendations are consistent with the following legislative provisions: Local Government Act 2009

Local Government Regulation 2012

Australian Accounting Standards

## **POLICY IMPLICATIONS**

There are no policy implications.

## **RISK MANAGEMENT IMPLICATIONS**

The QAO has raised internal control issues that require action and implementation by management to ensure effective controls, processes and procedures and continued improved governance, to minimise the risk of misstatement in the financial statements or non-compliance with policies and procedures.

## FINANCIAL/RESOURCE IMPLICATIONS

As set out in the covering letter from QAO, the audit fees of \$360,000 are in line with QAO's external audit plan and is included in Council's adopted budget. \$25,000 of the increase relates to the one-off cost for the audit of the finance system implementation.

## **COMMUNITY AND OTHER CONSULTATION**

Community consultation has not been undertaken in relation to this report.

The summary of issues detailed in the final management report were also detailed in the QAO's Closing Report presented to the Audit and Risk Management Committee (ARMC) on 9 October 2024 for their consideration and further recommendations as to follow-up action.

## CONCLUSION

Following the annual external audit of Ipswich City Council by the QAO the attached final management report is to be received and noted.

The final management report includes observations and suggestions made by the QAO about matters arising out of the external audit.

## **HUMAN RIGHTS IMPLICATIONS**

## **HUMAN RIGHTS IMPACTS**

## **RECEIVE AND NOTE REPORT**

The Recommendation states that the report be received and the contents noted. The decision to receive and note the report does not limit human rights. Therefore, the decision is compatible with human rights.

## ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1. 2023-2024 QAO Final Management Report 🗓 🖺

Christina Binoya

## FINANCIAL ACCOUNTING MANAGER

I concur with the recommendations contained in this report.

Jeffrey Keech

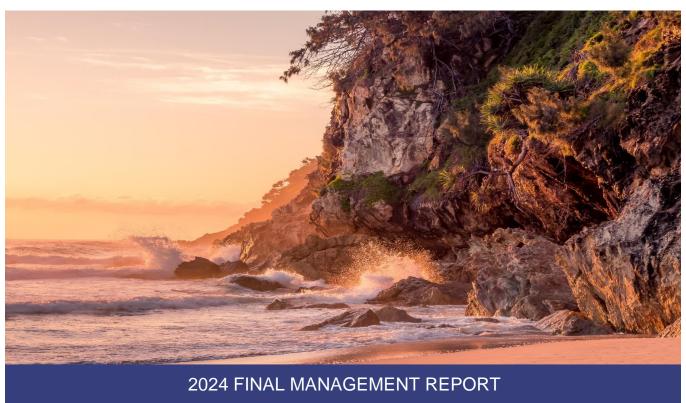
## **CHIEF FINANCIAL OFFICER**

I concur with the recommendations contained in this report.

Matt Smith

**GENERAL MANAGER (CORPORATE SERVICES)** 

"Together, we proudly enhance the quality of life for our community"



# **Ipswich City Council** 8 November 2024



## **SENSITIVE**



Councillor T Harding Mayor Ipswich City Council

**Dear Councillor Harding** 

## Final management report for Ipswich City Council

We have completed our 2024 financial audit for Ipswich City Council. I have issued an unmodified audit opinion on your financial statements.

The purpose of this report is to update you on any matters that have arisen since we presented our interim report to you on 22 April 2024.

## Reporting on issues identified after the closing report

I can confirm that we have not identified significant issues since the presentation of our closing report to the audit committee. The issues and other matters we have formally reported to management and an update on management's actions taken to resolve these issues is included as Appendix A.

Please note that under section 213 of the Local Government Regulation 2012, you must present a copy of this report at your council's next ordinary meeting.

## Report to parliament

Each year, we report the results of all financial audits and significant issues to parliament.

We intend to include the results of our audit of Ipswich City Council in our report to parliament *Local Government 2024*. We will comment on the results of our audit, any significant internal control issues, and the overall results for the sector, including major transactions and events. We will discuss the proposed report content with your entity contact and continue to consult as we draft it. Formally, entities have an opportunity to comment on our report, and for these comments to be included in the final version tabled in parliament.

## Audit fee

The final audit fee for this year is \$360,000, exclusive of GST. This fee is in line with the estimate in our external audit plan.

We would like to thank you and your staff for your engagement in the audit this year and look forward to working with your team again next year.

If you have any questions about this report or would like to discuss any matters regarding our services and engagement, please do not hesitate to contact me on 3149 6208 or Megan Manuel, Senior Manager on 3149 6122.

Yours sincerely

Sri Narasimhan Senior Director

cc. Ms S Cooper, Chief Executive Officer
Mr R Jones, Chair of the Audit and Risk Management Committee

## **SENSITIVE**

2024 Final management report

# Appendix A1 – Status of issues

## Internal control issues

This section provides an update on the significant control deficiencies and other matters we have identified since our interim report. It includes a response from management.

Our risk ratings are as follows. For more information and detail on our rating definitions, please see the webpage here: www.gao.gld.gov.au/information-internal-controls or scan the QR code.





## **Significant Deficiency**

24-CR1 - number of highly privileged accounts greater than vendor and industry recommendations

#### Observation

During the FY23 audit, we identified 16 user accounts with privileged access level in council's active directory. Council has worked on reducing this number during FY24 and at the time of our testing we identified that there are still 8 users that have this level of access. We also noted that 6 accounts were assigned to a specific security group.

We have removed further detail from this report given it is publicly available. We have provided more details to management and the audit and risk management committee in a separate closing report.

## Implication

Privileged account credentials are sought by malicious actors as they provide unrestricted system-wide access to sensitive assets and information. Therefore, restricting privileged access to only users with a demonstrated business need is essential in minimising the risk posed to council's computing environment.

## QAO recommendation

We provided recommendations to management to improve the number of privileged accounts.

## Management response

Management agreed with our recommendations and provided a detailed response which is available in our closing report to management and the audit and risk management committee.

Responsible officer: ICT operations Manager

Status: Resolved

Action date: 7 August 2024



# **Significant Deficiency**

24-CR2 Finance System - privileged user access management is ineffective

## Observation

Following the implementation of a new finance system on 4 December 2023, council has not fully established:

## User access matrix for its implementation partner and service provider

Council developed a spreadsheet detailing approved access for their managed service provider (MSP) staff by business areas (e.g. Finance, Projects, Procurement, Inventory etc). However, our inspection revealed discrepancies between approved and granted access. Users have been granted access beyond their approved roles, and some approved roles include conflicting responsibilities, such as business and IT access.

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#### Review of appropriateness of users with privileged access after the system went live

Council has yet to perform a review whether users with privileged access or the staff of service providers could continue to have excessive business process access after the system went live.

## Processes and controls to monitor the activities of users with privileged access

Effective monitoring and review of privileged activities within the finance system are critical to mitigating risks associated with elevated privileges. Such oversight minimises the potential for misuse of privileged access and ensures visibility and accountability for actions involving sensitive data with the organisation.

Council has not defined the critical or sensitive activities and transactions that requiring monitoring in the finance system.

There are currently no controls implemented to monitor or detect any potential unauthorised activities and transactions in the system.

While council advised that that there was some level of monitoring, the process is carried out on ad-hoc and informal basis.

We have removed further detail from this report given it is publicly available. We have provided more details to management and the audit and risk management committee in a separate closing report.

#### Implication

#### User access matrix for its implementation partner and service provider

The discrepancies between approved and granted access for MSP staff can increase the risks of unauthorised access. Conflicting roles elevate the risk of internal fraud.

## Review of appropriateness of users with privileged access after the system went live

The lack of a comprehensive review of users with privileged access post-system go-live poses risks to the Council's IT security and operational integrity. The unrestricted access granted to MSP staff, particularly in critical areas such as IT system administration, business, and finance functions, increases risks of unauthorised access and transactions.

#### Processes and controls to monitor the activities of users with privileged access

The absence of defined critical or sensitive activities and transactions requiring monitoring in the finance system exposes the Council to accountability risks. Without established monitoring controls, there is a heightened potential for unauthorised activities and transactions to go undetected. This lack of oversight can lead to misuse of privileged access, compromising sensitive data and undermining accountability within the Council.

## **QAO** recommendation

We recommend council:

## User access matrix for its implementation partner and MSP

• defines a user access matrix for the finance system service provider.

## Review of appropriateness of users with privileged access after the system went live

- establishes a formal user access review process and implements a structured process for regular user access reviews to ensure that access rights are appropriate and up-to-date
- reviews the validity and appropriateness of users with privileged access ensuring adequate segregation of duties.

## Processes and controls to monitor the activities of users with privileged access

- · performs a risk assessment to identify critical and sensitive activities and transactions that requires monitoring
- defines and implements process to regularly review these activities and transactions, either by manual review, or automated alerts and notifications.

## Management response

Council acknowledges the QAO recommendation to improve privileged user access management. Actions include defining an MSP-only user access matrix, establishing a formal review process, and performing risk assessments for critical activities.

Responsible officer: ICT Digital Transformation Manager

Status: Work to be planned and scheduled

Action date: 6 December 2024

## SENSITIVE

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## **Significant Deficiency**

#### 24-CR3 Finance System - managing user access

#### Observation

#### We noted the following:

Council has defined the access privileges ('access matrix') for users transitioning to the new finance system. This access matrix is defined for specific business units and does not adequately address:

- · segregation of duties or conflicting system access based on users' roles and responsibilities
- comprehensive definitions of all user positions, instead assigning access to specific individuals.

Upon the new finance system launch on 4 December 2023, roles were initially assigned to the system. However, it was later discovered that these roles provided excessive access. Efforts to reduce access without disrupting other users' duties proved challenging. A review of 22 user access during FY24 revealed that all users were granted more access than permitted by the access matrix.

## Regular review of user access

Council has not yet conducted a review of user access to ensure appropriateness and segregation from incompatible functions. Additionally, there is no established process for ongoing access reviews. The Council's *Information Security Handbook* mandates that the user access review procedures must ensure that any unapproved or unnecessary administrative access is immediately revoked.

#### Transition from manual to automated access assignments in the finance system

We have removed further detail from this report given it is publicly available. We have provided more details to management and the audit and risk management committee in a separate closing report.

#### **Implication**

The existing access matrix lacks sufficient oversight regarding segregation of duties, resulting in conflicting system access and excessive access privileges. This gap increases the risk of unauthorised actions and transactions. Additionally, the absence of regular user access reviews, combined with reliance on manual access assignments, further compromises system security and operational efficiency.

## QAO recommendation

We recommend council:

## Consideration of segregation of duties in council's user access matrix

· formalises a user access matrix for the new finance system that incorporates segregation of duties requirements

## Regular review of user access

- conducts a comprehensive review of user access to ensure appropriate access levels and segregation of incompatible functions
- develops and implements a process for regular user access reviews to verify the validity of user and the
  appropriateness of access privileges moving forward

## Transition from manual to automated access assignments in the new finance system

- expedites the integration of payroll system with the new finance system to enable automated role-based access provisioning, ensuring consistent access assignments and reducing reliance on manual processes
- · conducts thorough User Acceptance Testing (UAT) to identify and address any issues prior to integration going live.

## Management response

Council agrees with the QAO recommendation to enhance user access management in the new finance system. Steps include formalising a user access matrix, conducting thorough reviews, and expediting the payroll system to the new finance system integration for automated access provisioning.

The development of a full user-access matrix is anticipated to be an activity of significant complexity and duration and it is estimated that the work will be delivered in stages over the next 12 months.

Responsible officer: ICT Digital Transformation Manager

Status: Work to be planned and scheduled

Action date: 30 September 2025

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## **Deficiency**

#### 24-CR4 Contracts and Tendering - improvements required to documentation

#### Observation

During our testing over contracts and tendering, several inconsistencies were noted:

- · Four contracts had data entry issues between council's contract register and council's website for awarded contracts
- Three award contracts were not on council's website for awarded contracts due to new finance system migration
- · For one contract the multi-evaluation report and conflicts of interest forms were not provided to audit.

#### Implication

In the absence of incorrect data, council may not be able to track the performance obligations of the contract. Where contracts are not published by council on their website or conflict of interest forms are not available, it can diminish council's transparency over the process in the eyes of the public.

#### QAO recommendation

We recommend that council maintains appropriate documentation and data in relation to it tendering processes and update the website as required under the legislation.

## Management response

Procurement have implemented an additional validation step after the data has been extracted from the council's contract register and before it is published on the council's website for awarded contracts to ensure data inaccuracy issues are minimised. Re-communication will also occur to reinforce the importance of ensuring all relevant documents, COI's and otherwise are saved and attached as per procedures and work instructions.

Responsible officer: Manager Procurement Status: Resolved pending audit verification

Action date: 25 September 2024



## **Deficiency**

## 24-CR5 - ineffective custom password policies and non-compliant account lockout durations

## Observation

Strong passwords are the first line of defence against unauthorised access to computers, systems and networks. We reviewed the password configurations for accessing council's corporate network and noted the following:

## Stronger password policy for system administrators not implemented effectively

Fine-Grained Password Policies (FGPP) allow for the creation and use of different password policies tailored to specific user groups where required.

We identified 193 named administrative accounts that does not use the Administrator Account Password Policy. Instead, these administrative accounts are using the least restrictive policy. Of the 193 identified accounts, 160 are user accounts.

We have removed further detail from this report given it is publicly available. We have provided more details to management and the audit and risk management committee in a separate closing report.

## Account lockout duration not implemented according to internal security requirements

Per the *Information Security Handbook*, the *Account Lockout Duration* password setting is required to be configured. This means when user accounts are locked from incorrect password inputs, they will be locked. We noted the *Account Lockout Duration* password setting. Strong passwords are the first line of defence against unauthorised access to computers, systems and networks. We reviewed the password configurations for accessing council's corporate network and noted council has ineffective custom password policies and non-compliant account lockout durations.

## Implication

## Stronger password policy for system administrators not implemented effectively

We have provided to management the implications on not implementing a stronger password policy.

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#### Administrator Accounts with password set to never expire

Passwords set to never expire allows for prolonged use of potentially compromised passwords, making it easier for unauthorised users to gain access to critical systems and sensitive data. Without regular password changes, the likelihood of password-related breaches escalates, exposing council's network to potential attacks and unauthorised access.

#### Account lockout duration not implemented according to internal security requirements

A shorter account lockout period allows malicious actors more frequent opportunities to attempt password guessing attacks. Misalignments with defined security policies raises compliance issues and weakens the overall security posture of council's network.

#### **QAO** recommendation

We recommend council:

## Customised password policy for system administrators not implemented effectively

· enforces the Administrator Account Password Policy for all identified administrative accounts

## Administrator Accounts with password set to never expire

· configures accounts to have passwords that expire, forcing regular password changes

## Account lockout duration not implemented according to internal security requirements

• configures the Account Lockout Duration to match the requirements outlined in the Information Security Handbook.

#### Management response

Acknowledge and agree with the QAO findings and recommendation.

Responsible officer: ICT Operations Manager Status: Work to be planned and scheduled

Action date: 30 November 2024



## **Deficiency**

## 24-CR6 – terminated employees accounts are not disabled in a timely manner

## Observation

We identified 3 user accounts that remained enabled for 127 to 266 days after staff termination. Two of these accounts recorded login events after the termination date. The Council has since provided offboarding requests to disable these accounts upon our advice.

Council's ICT Access Management Administrative Directive states that 'access to all ICC services, including ICT networks and applications, shall be revoked immediately when a user's employment with the Council is terminated.'

## Implication

Delays in disabling and revoking access for terminated employees increases the risk of unauthorised access to council's computing environment. Account compromise could result in unauthorised access to sensitive information and potential fraudulent transactions being processed in financial systems.

## QAO recommendation

We recommend council ensures the process effectively disables user accounts in alignment with council's ICT Access Management Administrative Directive requirements.

## Management response

The ICT Service Delivery Team will review the employee termination notification and offboarding process with the People & Culture Team to ensure it is operating effectively and explore if there are opportunities for improvement.

Responsible officer: ICT Operations Manager

Status: Work to be planned and scheduled

Action date: 30 November 2024

## **SENSITIVE**

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## **Deficiency**

#### 24-CR7 - dormant user accounts not actioned in a timely manner

#### Observation

Regular user access reviews are performed to confirm that a user account's privileges are still valid and to identify any unused or dormant user accounts that have not been disabled. This is to ensure that unused or dormant user accounts cannot be unknowingly compromised and used by a malicious or unauthorised user.

Council has not defined a dormancy period or established a formal process to perform regular user access reviews. User access reviews are currently performed on an ad-hoc basis.

We acknowledge council has implemented a quarterly user access review process during the audit. This process identifies and disables accounts that have not been used, accounts that have expired, and vendor user accounts with no account expiration date configured.

#### Implication

## Dormant user accounts not actioned in a timely manner

When user accounts that have not been used for an extended period are not disabled, this increases the risk that malicious actors could also use this account for unauthorised access to sensitive information.

## Expired user accounts not actioned in a timely manner

Expired user accounts not promptly disabled are vulnerable to social engineering attacks. These accounts can be reactivated with a simple expiry date change or password reset.

#### **QAO** recommendation

We recommend council:

#### Dormant user accounts not actioned in a timely manner

- · ensures the newly implemented process for identifying and disabling dormant user accounts is operating effectively
- documents and manages a register for all account exceptions
- assesses and disables the identified dormant accounts, where applicable.

## Expired user accounts not actioned in a timely manner

ensures the newly implemented process for identifying and disabling expired user accounts is operating effectively.

## Management response

In August 2024 Council ICT Service Delivery Team implemented and operationalised a monthly Clean Up Process.

Responsible officer: ICT Operations Manager

Status: Work in progress
Action date: 30 September 2024



## **Deficiency**

## 24-CR8 - managing external users (contractors/vendors/consultants) not effective

## Observation

Our review identified 99 contractors accounts without configured expiration date.

Council's Information Security Handbook states: "Temporary access is required (such as for contractors), access must be automatically set to expire when reaching the defined temporary access period (where supported)".

Additionally, Council's ICT Access Management Administrative Directive states: "Vendor representative access shall be only for period of the contract".

## Implication

External accounts without account expiration dates increase the risk of terminated contractors or temporary employees retaining access to Council's network beyond their contracted period, resulting in a potential for access to sensitive information that they are not entitled to access anymore.

## **SENSITIVE**

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#### QAO recommendation

We recommend council configures account expiration dates to all identified contractor user accounts based on their contracted end dates.

#### Management response

Agree with QAO recommendation, setting expiration dates on external accounts is the Council standard operating practice. The ICT Service Delivery Team monthly clean-up process implemented in August 2024 to confirm Vendor accounts with no Expiry will address this gap.

Responsible officer: ICT Operations Manager

Status: Work in progress

Action date: 30 September 2024



## **Deficiency**

## 24-CR9 – service accounts lacking appropriate security configuration

#### Observation

Council creates and manages 'service accounts' to support background processes and jobs that do not require human intervention. These accounts must follow the principle of least privilege, granting only necessary access permissions for their specific function. This includes configuring appropriate user rights and permissions, and regularly rotating passwords where possible.

During our review on council's service accounts in, we noted the following:

## Service accounts not restricted interactive logon controls (i.e., can be used by human user to log on)

We identified enabled service accounts, not restricted from interactive log on. This means these accounts can be used to log on to devices in the Council's computing environment.

## Service accounts with highest level of privilege

We identified 6 service accounts are members of the group, granting them the highest level of privilege in the Council's computing environment. Upon reviewing vendor documentation, we confirmed that 3 of these accounts do not require privileges. 5 of the 6 service accounts are restricted from interactive log on. One service account has not been restricted from interactive log on.

## Lack of controls for periodic service account password changes

Service account passwords should be regularly changed to minimise the risk of credential theft and misuse.

The Information Security Handbook states that "password/passphrases for any service accounts must be changed periodically (at a frequency determined by risk assessment)".

## Implication

Malicious actors often target service accounts because they are less actively managed, often do not have regularly changed passwords, and can often be used to move within a network undetected.

If service accounts have high privilege levels, the consequences of compromise can be severe. The *Australian Cyber Security Centre* (ACSC) recommends that no service accounts be members of built-in administrator groups (e.g. *Domain Admins*, *Enterprise Admins* or *Schema Admins*) to reduce cyber incident risks. Similar findings have been identified in other entities, with two experiencing publicly reportable security incidents due to lack of controls.

In February 2024, the ACSC, along with its equivalent partners in the US, Canada and New Zealand governments, issued a joint alert<sup>2</sup> detailing Russian cyber espionage activity. This activity successfully exploited unsecured service accounts to carry out a global supply chain compromise.

<sup>&</sup>lt;sup>1</sup> https://www.cyber.gov.au/resources-business-and-government/maintaining-devices-and-systems/system-hardening-and-administration/system-administration/secure-administration

https://www.cyber.gov.au/about-us/view-all-content/alerts-and-advisories/svr-cyber-actors-adapt-tactics-initial-cloud-access

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#### QAO recommendation

#### We recommend council:

## Service accounts not restricted interactive logon controls (i.e., can be used by human user to log on)

• assesses all service accounts and disables interactive login where applicable by assigning 'Deny log on locally' and Deny user rights to the service accounts.

## Service accounts with highest level of privilege in

- assesses the service accounts that possess privileges and reduce the numbers to only service accounts that require the
  privilege
- · implements additional security controls for service accounts that are legitimately required to possess privileges.

## Lack of controls for periodic service account password changes

- ensures strong passwords are used for all service accounts, where possible, and all passwords are changed on a regular basis
- investigates the use of group Managed Service Accounts for improved management and regular rotation of service account passwords.

#### Management response

Council acknowledges the QAO recommendation to restrict service account privilege, interactive login and implement periodic password changes as good practice. Careful analysis for each service account is required to determine the practical implications of these changes.

Responsible officer: ICT Operations Manager Status: Work to be planned and scheduled

Action date: 30 June 2025



## **Deficiency**

## 24-CR10 Payroll System – security parameters not set effectively

## Observation

We found two critical configurations in council's Payroll System that have not been set up correctly:

- a setting to prevent accidental changes to critical data during system updates and maintenance which must be set to 'disallow overwriting of production system data' is currently set to 'allow overwriting'.
- a setting that controls whether changes can be made to the system's configuration is recommended to be set as 'no changes allowed' but is currently set to 'permit changes".

## Implication

These settings could allow accidental overwriting of financial and master data during system maintenance and updates and other unauthorised changes.

## QAO recommendation

We recommend that council ensures settings are aligned with recommended values in the production system.

## Management response

Council sought further investigation from our vendor and agrees that the settings needed to be updated. The recommended settings have been implemented and screenshots provided.

Council's vendor confirmed that the settings are set at the recommended values.

Responsible officer: Systems and Governance Manager

Status: Resolved pending audit verification

Action date: 23 September 2024

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## **Deficiency**

## 24-CR11 Finance System - security controls not in line with Council's requirement

#### Observation

Council deploys two authentication methods for Finance System access:

• Privileged users that authenticate directly through the Finance System application.

Regular users that authenticate via single-sign-on using council's network credentials with multi-factor authentication We noted following key findings:

## Password policy misalignment and lack of MFA for privileged users

Privileged users logging in directly to the finance system face a minimum password length of only, while Council's policy mandates characters for privileged users. This misalignment weakens security for privileged accounts.

## Lack of restriction

The new finance system provides restriction capabilities that allow organisations to control access. However, council currently does not use these features.

#### Implication

## Password policy misalignment

The weaker password policy increases vulnerability to user credential compromise, allowing easier access for malicious actors

#### Lack of restriction

Without restriction, the finance system remains open to potential threats.

#### **QAO** recommendation

We recommend that council:

## Password policy misalignment

- updates the finance system's password policy to enforce a minimum password length, consistent with Council's password security requirement
- implements additional measures for all privileged users who log in directly to the finance system

## Lack of restriction

• enables restriction features in the finance system to limit access.

## Management response

Council acknowledges the QAO recommendation to align security controls with Council's requirements.

Responsible officer: ICT Digital Transformation Manager

Status: Work to be planned and scheduled

Action date: 7 February 2025



## **Deficiency**

## 24-CR12 Finance System - access control for terminated employee

## Observation

An employee terminated on 4 March 2024 had access to the finance system as of 23 April 2024. The user account showed a last login on 12 April 2024.

Council`s Information Security Handbook section requires that user accounts must be revoked immediately upon termination.

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#### **Implications**

A terminated employee retaining access to finance system could lead to unauthorised access to sensitive information. There is also a potential for executing unauthorised transactions within the finance system, which could result in data manipulation or other illicit activities.

## **QAO** recommendation

We recommend that council:

- · investigates the access granted to the terminated employee and promptly revoke their access to the finance system
- analyses the activities performed by the terminated employee's account during the post-termination period to identify
  any unauthorised actions or data access
- establishes a process that aligns with the Council's Information Security Handbook to ensure timely removal of access for terminated staff.

#### Management response

Council agrees with the QAO recommendation to ensure timely removal of access for terminated staff.

The investigation into the access granted to the terminated employee has been concluded, and their access to the finance system has been revoked.

An analysis of the activities performed by the terminated employee's account during the post-termination period was conducted, with no further data available due to retention rules.

The business team has been informed to ensure this practice is no longer followed. Process aligned with the Council's Information Security Handbook has been implemented, and all staff accounts are now removed upon termination.

Responsible officer: ICT Digital Transformation Manager

Status: Resolved pending audit verification

Action date: Completed

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# Appendix A2 - Matters previously reported

The following table summarises all control deficiencies, financial reporting issues and other matters that have previously been raised but are not yet resolved or which may have been reported as resolved in the closing report. The listing includes issues from our report this year and those issues raised in prior years.

Our risk ratings are as follows. For more information and detail on our rating definitions, please see the webpage here: <a href="www.qao.qld.gov.au/information-internal-controls">www.qao.qld.gov.au/information-internal-controls</a> or scan the QR code.





# Internal control issues

Ref.	Rating	Issue	Status
24-IR1	D	Annual rates update in the revenue system - lack of evidence of sign off on the validation process  No sign off by responsible officers of the rates validation process undertaken	Resolved Sign off process has been implemented by council for the 2024/25 rates update.
23-CR1	D	Procurement non-conforming report not prepared on a timely basis  Council introduced quarterly exception reporting to identify possible issues of non-conformance with council's procurement policies. This report is not currently being run.  Council to consider whether the finance system upgrade project has scope to embed automated controls and reporting within the finance system.  Alternatively, council to assess what compensating controls it can practically implement and embed these into its standard operating procedures, with clear guidance around expected timeframes.	Work in progress The Procurement team have implemented stronger controls by their buyers, and have not yet re-established regular non-conformance quarterly reporting. Council's data analyst is finalising the report for the previous quarter, with completion expected by 30 September 2024. New finance system will offer improved procurement options and better control over contracts, reducing non-conformances and improve reporting. However, some reporting remains manual during the ongoing finance system implementation. Council is actively working to enhance the system and report generation. Action date: 30 June 2024 Revised action date: 31 January 2025

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Ref.	Rating	Issue	Status
23-CR2	D	Annual asset stocktake incomplete Council's annual fixed asset stocktake for 2023 reported that the stocktake was incomplete. Council to consider earlier commencement of the fixed asset stocktake and specifically target those assets that were unable to be identified in prior stocktakes.	Resolved 99% of the entire council stocktake was completed and further internal controls implemented.
20-FR1	D	Untimely reconciliation between physical asset register and fixed asset register  In our 2020 final report we noted that council maintains a physical asset register (PAR) containing physical attributes of assets and a separate Fixed Asset Register (FAR) that includes only financial data. We previously reported that frequent reconciliations are not performed between the FAR and PAR to confirm the completeness of these registers for all asset classes. Currently council performs a detailed reconciliation between the PAR and FAR for the specific class of asset being comprehensively revalued in that financial year. Interim asset capitalisations are validated to the PAR data prior to capitalisation in the FAR.	Work in progress The procurement phase scoping of an Asset and Works Management Solution has commenced and the reconciliation of the PAR and FAR is a key system requirement.  Action date: A strategic project – Effective Asset Management and the scoping of Asset and Works Management systems has commenced.
19-CR3	D	Valuation of contributed assets In our 2019 final report we noted that developers engage engineers to advise quantities and values of assets contributed to council and that council does not perform detailed checks or reasonableness checks over unit rates and valuations provided.  Council has now introduced an Asset Design as Constructed (ADAC) methodology. Council is currently working on developing an automated process to recognise the contributed assets at the appropriate council unit rate.	Work in progress Council has begun to develop a process which will enable it to recognise donated assets at the council's unit rates. There has been further work identified which needs to be resolved before it can rely on this process for all donated assets. Original action date: 30 June 2024 Revised action date: 31 December 2024
23-FR1	M	Artwork donations received from Ipswich Arts Foundation Trust not shown in related parties disclosure note  We recommended that council review its processes for to ensure that all related party transactions are captured, and that all transactions are disclosed in the financial statements.	Resolved  Donated artworks from IAFT is included in the related parties note in the FY24 financial statements.



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Sri Narasimhan Queensland Audit Office T: 3149 6208

E: Sri.Narsimhan@qao.qld.gov.au

T: (07) 3149 6000 E: qao@qao.qld.gov.au W: www.qao.qld.gov.au 53 Albert Street, Brisbane Qld 4000 PO Box 15396, City East Qld 4002



