SUPPLEMENTARY ITEMS

COUNCIL MEETING ON 27 AUGUST 2020

13.1. BUSINESS OUTSTANDING:

13.1.1 Suspected Inappropriate Conduct of a Councillor 3

15.4. OFFICERS' REPORTS:

15.4.1 Report - Audit and Risk Management Committee No. 2020(03) of 19 August 2020..... 23

Doc ID No: A6433373

The Chairperson has determined this matter is of real urgency and approval has been given to refer this report to the Council as a late item.

ITEM: 13.1.1

SUBJECT: SUSPECTED INAPPROPRIATE CONDUCT OF A COUNCILLOR

AUTHOR: CHIEF EXECUTIVE OFFICER

DATE: 19 AUGUST 2020

EXECUTIVE SUMMARY

This is a report concerning a referral from the Office of the Independent Assessor related to the suspected Inappropriate Conduct of a Councillor.

RECOMMENDATION/S

A. That Council determine whether or not the Councillor has engaged in inappropriate conduct.

B. That Council decide what penalty or penalties, if any, to impose on the subject Councillor.

C. That Attachment 4 titled Investigation Summary be made public at the conclusion of this meeting and be included in the minutes.

PURPOSE OF REPORT/BACKGROUND

Ipswich City Council received a referral from the Office of the Independent Assessor on 19 May 2020 relating to the suspected inappropriate conduct of one of its Councillors.

Pursuant to section 150AF of the LGA, after receiving a referral by the Independent Assessor of an instance of suspected inappropriate conduct, the Local Government must complete an investigation into the alleged conduct.

On the completion of an investigation, the investigator is required to 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.

The investigation report is contained in confidential Attachment 1 with related Annexures in confidential Attachment 2. Costs for the investigation are summarised in the below costs section.

A summary of the matter including the investigation executive summary is also attached (Attachment 4) and it is proposed that this be made publicly available at the conclusion of this meeting.

After the completion of the investigation (s150AG) and considering the findings in the report, the Local Government must decide:

a) whether or not the Councillor has engaged in inappropriate conduct, unless it has delegated responsibility for this decision under section 257 of the LGA.

b) If the local government decides the councillor has engaged in inappropriate conduct – what action the local government will take in accordance with section 150AH of the LGA and as outlined below.

If the Local Government decides that the subject Councillor has engaged in inappropriate conduct, the Local Government is then required to decide what penalty or penalties from the following orders, if any, to impose on the subject Councillor:

i. Order that no action be taken against the councillor;

or make 1 or more of the following orders;

ii. an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct

iii. an order reprimanding the Councillor for the conduct

iv. an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense

v. an order that the Councillor be excluded from a stated Local Government meeting

vi. an order that the Councillor is removed, or must resign, from a position representing the Local Government, other than the office of Councillor, for example, the Councillor is ordered to resign from an appointment representing the Local Government on a State board or committee

vii. an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct

viii. an order that the Councillor reimburse the Local Government for all or some of the costs arising from the Councillor's inappropriate conduct.

COSTS

In accordance with the adopted Investigations Policy, the investigator sought assistance with the investigation by engaging an external provider to ensure that the investigation was undertaken in line with policy requirements and legislative provisions including conducting the investigation in an objective and impartial manner.

The investigation was undertaken by Wise Workplace Investigations and the costs for the investigation are summarised below and detailed in confidential Attachment 3.

Investigation	$660.00
Travel and Interview costs	$587.40
Investigation Report	$1320.00
Total	**$2567.40**

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

5.	Investigations Policy
6.	Dealing with Inappropriate Conduct Policy Summary
7.	Legislative Summary
	CONFIDENTIAL
1.	Investigation Report
2.	Investigation Annexures
3.	Investigation Costs
4.	Investigation Summary

David Farmer
CHIEF EXECUTIVE OFFICER

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

IPSWICH CITY COUNCIL

Investigations Policy

Version Control and Objective ID	Version No: 1	Objective ID: A5811748
Approved by Council on	17 September 2019	
Date of Review	17 September 2023	

1. Statement

Council is committed to providing a statutory compliant 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

- Listening, Leading and Financial Management

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. 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.

6. 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.

7. 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.

8. 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.

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.

9. 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.

10. 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.

11. 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.

12. 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.

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.

13. 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.

14. 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.

15. 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.

16. 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.

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*.

17. 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.

18. 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.

19. 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. Any costs incurred by complainants or the subject Councillors will not be met by Council.

20. Monitoring and Evaluation

This policy will be reviewed by the Legal and Governance Branch of the Corporate Services 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.

21. 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 *Crime and Corruption Act 2001*, 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 Register	As required under section 150DX of the Act and is a record of all written complaints about councillors and the outcome of each complaint, including any disciplinary or other action.
Councillor Misconduct	As per section 150L the *Local Government Act 2009* (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 (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 Officer or CEO	The Chief Executive Officer of the local government A person who holds an appointment under section 194 of the Act.
Inappropriate conduct	As per section 150K of the Local Government Act 2009 (1) The conduct of a councillor is ***inappropriate conduct*** if the conduct contravenes— (a) a behavioural standard; or (b) a policy, procedure or resolution of the local government. (2) Also, the conduct of a councillor is ***inappropriate conduct*** if— (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.

	(4) However, inappropriate conduct does not include conduct that is— (a) unsuitable meeting conduct, to the extent the conduct is not conduct mentioned in subsection (2); or (b) misconduct; or (c) corrupt conduct
Investigation policy	refers to this policy, as required by section 150AE of the *Local Government Act 2009*
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	***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 *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.

22. Policy Owner

The General Manager (Corporate Services) is the policy owner and the Corporate Governance Manager (Legal and Governance Branch) is responsible for authoring and reviewing this policy.

IPSWICH CITY COUNCIL – DEALING WITH INAPPROPRIATE CONDUCT POLICY EXTRACT

1. Meeting Conduct Policy

9.3 Dealing with suspected Inappropriate Conduct which has been referred to a Local Government

9.3.1 Pursuant to section 150AF of the LGA, after receiving a referral by the Independent Assessor of an instance of suspected inappropriate conduct, the Local Government must complete an investigation into the alleged conduct.

9.3.2 After the completion of the investigation, the Local Government must decide:

- whether or not the Councillor has engaged in inappropriate conduct, unless it has delegated responsibility for this decision under section 257 of the LGA.
- If the local government decides the councillor has engaged in inappropriate conduct – what action the local government will take in accordance with section 150AH of the LGA and as outlined in 9.3.3(d) below.

9.3.3 When dealing with an instance of suspected inappropriate conduct which has been referred to a Local Government by the Independent Assessor, the Local Government must:

a. Be consistent with the Local Government principle of transparent and accountable decision making in the public interest, by dealing with suspected inappropriate conduct in an open meeting of the Council. Where the complainant or other parties may be adversely affected due to the nature of the complaint, the Council may resolve to go into closed session under section 275 of the *Local Government Regulation 2012* (the LGR).

b. When deliberating on the issue the subject Councillor must leave the place where the meeting is being held, including any area set aside for the public. Should the complainant be a Councillor, that Councillor must inform the meeting of a personal interest and follow the conflict of interest procedures in section 10 of this policy.

c. The Local Government should then debate the issue and decide whether the accused Councillor engaged in inappropriate conduct.

d. If the Local Government decides that the subject Councillor has engaged in inappropriate conduct, the Local Government is then required to decide what penalty or penalties from the following orders, if any, to impose on the subject Councillor:

I. Order that no action be taken against the councillor;

or make 1 or more of the following orders;

II. an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct

III. an order reprimanding the Councillor for the conduct
IV. an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense
V. an order that the Councillor be excluded from a stated Local Government meeting
VI. an order that the Councillor is removed, or must resign, from a position representing the Local Government, other than the office of Councillor, for example, the Councillor is ordered to resign from an appointment representing the Local Government on a State board or committee
VII. an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct
VIII. an order that the Councillor reimburse the Local Government for all or some of the costs arising from the Councillor's inappropriate conduct.

9.3.4 When making an order, the Local Government can take into consideration any previous inappropriate conduct of the Councillor, and any allegation made in the investigation that was admitted, or not challenged and that the Local Government is reasonably satisfied is true.

9.3.5 The subject Councillor and where relevant the complainant Councillor, must be invited back into the place where the meeting is being held once a decision has been made.

9.3.6 The Local Government must ensure the meeting minutes reflect the resolution made.

2. Meeting Conduct Procedure

9. Receiving a referral by the Independent Assessor about inappropriate conduct

9.1 Completing an Investigation

9.1.1 Pursuant to section 150AF of the LGA, after receiving a referral by the Independent Assessor of an instance of suspected inappropriate conduct, the Local Government must complete an investigation into the alleged conduct.

9.1.2 The Chief Executive Officer is required to advise the Mayor and all councillors upon receipt of a referral from the OIA.

9.1.3 The Mayor is the Investigator unless otherwise determined by the local government.

9.1.4 After the completion of the investigation, the Mayor will consult with the Chief Executive Officer to prepare a report so the investigation findings can be listed and included on the next Council Meeting agenda.

9.2 Deciding on the matter at a Council Meeting

9.2.1 The Local Government must decide whether the Councillor has engaged in inappropriate conduct in a Council meeting.

9.2.3 When dealing with an instance of suspected inappropriate conduct which has been referred to a Local Government by the Independent Assessor, the Local Government must:

a. Be consistent with the Local Government principle of transparent and accountable decision making in the public interest, by dealing with suspected inappropriate conduct in an open meeting of the Council. Where the complainant or other parties may be adversely affected due to the nature of the complaint, the Council may resolve to go into closed session under section 275 of the *Local Government Regulation 2012* (the LGR).

b. When the matter is to be discussed at the Council meeting, the subject Councillor must leave the place where the meeting is being held, including any area set aside for the public and these details must be recorded in the minutes.

c. Should the complainant be a Councillor, the Councillor must inform the meeting of a personal interest and follow the conflict of interest process in section 9 of this procedure and these details must be recorded in the minutes.

d. The Local Government should then debate the issue and decide whether the accused Councillor engaged in inappropriate conduct.

e. If the Local Government decides that the subject Councillor has engaged in inappropriate conduct, the Local Government is then required to decide what penalty or penalties from the following orders, if any, to impose on the subject Councillor:

- an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct
- an order reprimanding the Councillor for the conduct
- an order that the Councillor attend training or counselling to address 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, for example, the Councillor is ordered to resign from an appointment representing the Local Government on a State board or committee
- 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 inappropriate conduct.

9.2.4 When making an order, the Local Government can take into consideration any previous inappropriate conduct of the Councillor, and any allegation made in the investigation that was admitted, or not challenged and that the Local Government is reasonably satisfied is true.

9.2.5 The subject Councillor and where relevant the complainant Councillor, must be invited back into the place where the meeting is being held once a decision has been made.

9.2.6 The Local Government must ensure the meeting minutes reflect the resolution made.

9.2.7 The resolution and outcome must be recorded in the Councillor Conduct Register.

9.2.8 The Committee Manager will forward a link of the minutes to the Office of CEO for updating the register and the web.

3. Investigations Policy

16. 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.

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*.

17. 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.

18. 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.

LEGISLATIVE PROVISIONS – INAPPROPRIATE CONDUCT OF A COUNCILLOR

Extract from Local Government Act 2009

150AF Investigating suspected inappropriate conduct

(1) The local government must investigate the councillor's conduct.

(2) The investigation must be conducted—

(a) in a way that is consistent with—

(i) any recommendation of the assessor made under section 150AC(3); and

(ii) to the extent the local government's investigation policy is not inconsistent with a recommendation of the assessor—the investigation policy; or

(b) in another way the local government, by resolution, decides.

(3) A resolution under subsection (2)(b) must state the decision and the reasons for the decision.

(4) If, in investigating the conduct, the local government obtains information indicating the councillor may have engaged in misconduct, the local government must—

(a) give the information to the assessor for further investigation under division 4; and

(b) take no further action in relation to the conduct.

150AG Decision about inappropriate conduct

(1) After conducting the investigation, the local government must decide—

(a) whether or not the councillor has engaged in inappropriate conduct; and

(b) if the local government decides the councillor has engaged in inappropriate conduct—what action the local government will take under section 150AH to discipline the councillor.

(2) In deciding what action to take, the local government may consider—

(a) any previous inappropriate conduct of the councillor; and

(b) any allegation made in the investigation that—

(i) was admitted, or not challenged; and

(ii) the local government is reasonably satisfied is true.

150AH Disciplinary action against councillor

(1) For section 150AG(1)(b), the local government may—

(a) order that no action be taken against the councillor; or

(b) make 1 or more of the following orders—

(i) an order that the councillor make a public admission that the councillor has engaged ininappropriate conduct;

(ii) an order reprimanding the councillor for the conduct;

(iii) an order that the councillor attend training or counselling to address the councillor's conduct, including at the councillor's expense;

(iv) an order that the councillor be excluded from a stated local government meeting;

(v) an order that the councillor is removed, or must resign, from a position representing the local government, other than the office of councillor;

Example—
The councillor is ordered to resign from an appointment representing the local government on a State board or committee.
(vi) an order that if the councillor engages in the same type of conduct again, it will be treated as misconduct;
(vii) an order that the councillor reimburse the local government for all or some of the costs arising from the councillor's inappropriate conduct.

(2) However, the local government may not make an order mentioned in subsection (1)(b)(iii), (iv), (v), or (vi) in relation to a person who is no longer a councillor.

150DX Local governments to keep and publish register

(1) A local government must keep an up-to-date register (a ***councillor conduct register****) about the following matters for the local government—*
(a) orders made about the unsuitable meeting conduct of councillors at its local government meetings;
(b) decisions about the suspected inappropriate conduct of councillors referred to the local government under part 3, division 5;
(c) decisions about whether or not councillors engaged in misconduct or inappropriate conduct made by the conduct tribunal under part 3, division 6;
(d) complaints about the conduct of councillors dismissed by the assessor;
(e) decisions to take no further action in relation to the conduct of councillors investigated by the assessor.

(2) The local government must—
(a) publish the register on the local government's website; and
(b) ensure the public may inspect the register, or purchase a copy of an entry in the register, at the local government's public office.

(3) However, subsection (2) does not apply to information recorded in the register that is part of a public interest disclosure under the Public Interest Disclosure Act 2010.

150DY Content of register—decisions

(1) This section applies to each of the following decisions—
(a) a decision by a chairperson of a local government meeting to make an order against a councillor under section 150I(2) for unsuitable meeting conduct;
(b) a decision by the local government about the suspected inappropriate conduct of a councillor referred to the local government under part 3, division 5 and any action taken to discipline the councillor;
(c) a decision about the misconduct or inappropriate conduct of a councillor made by the conduct tribunal under part 3, division 6 and any action taken to discipline the councillor;
(d) a decision by the assessor to take no further action in relation to the conduct of a councillor after conducting an investigation.

(2) The councillor conduct register must include the following details for the decision—
(a) a summary of the decision and the reasons for the decision;
(b) the name of the councillor about whom the decision was made;
(c) the date of the decision.

(3) However, the name of the councillor whose conduct is the subject of the decision may be included in the entry in the register for the decision only if—

(a) the local government or conduct tribunal decided the councillor engaged in inappropriate conduct or misconduct; or

(b) the councillor agrees to the councillor's name being included.

(4) If a decision relates to the conduct of a councillor that was the subject of a complaint, a summary of the decision included in the register must not include—

(a) the name of the person who made the complaint; or

(b) information that could reasonably be expected to result in identification of the person.

150DZ Content of register—dismissed complaints

(1) The councillor conduct register must include the following particulars for each complaint about the conduct of a councillor dismissed by the assessor—

(a) the date the complaint was made;

(b) a summary of the complaint;

(c) a statement about why the complaint was dismissed.

(2) However, the name of the councillor against whom the complaint was made is not to be included in the entry in the register for the complaint, unless the councillor agrees to the councillor's name being included.

(3) A summary of a complaint included in the register must not include—

(a) the name of the person who made the complaint; or

(b) information that could reasonably be expected to result in identification of the person.

Item 13.1.1 / Attachment 7.

Doc ID No: A6438011

The Chairperson has determined this matter is of real urgency and approval has been given to refer this report to the Council as a late item.

ITEM: 15.4.1

SUBJECT: REPORT - AUDIT AND RISK MANAGEMENT COMMITTEE NO. 2020(03) OF 19 AUGUST 2020

AUTHOR: COMMITTEE MANAGER

DATE: 21 AUGUST 2020

INTRODUCTION

This is the report of the Audit and Risk Management Committee No. 2020(03) of 19 August 2020.

RECOMMENDATION

> **That the report of the Audit and Risk Management Committee No. 2020(03) of 19 August 2020 be received, the contents noted and the recommendations contained therein be adopted.**

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Audit and Risk Management Committee Report No. 2020(03) of 19 August 2020 ⇩

AUDIT AND RISK MANAGEMENT COMMITTEE NO. 2020(03)

19 AUGUST 2020

REPORT

MEMBERS' ATTENDANCE: Robert Jones (External Member and Chairperson); Martin Power (External Member), Dr Annette Quayle (External Member); Deputy Mayor Marnie Doyle, Councillor Nicole Jonic

MEMBER'S APOLOGIES: Nil

OTHER ATTENDANCE: David Farmer (Chief Executive Officer), Steve Greenwood (Advisor to the Minister), Peter Tabulo (General Manager Planning and Regulatory Services), Sean Madigan (General Manager Coordination and Performance), Freddy Beck (Chief Audit Executive), Sonia Cooper (General Manager Corporate Services), Jeff Keech (Chief Financial Officer), Angela Harms (Governance Manager), Graham McGinniskin (Principal Risk and Compliance Specialist), Dianne Nikora (Integrity and Complaints Manager), Anna Payne (Business Improvement Manager), Nick Sheehan (Acting Manager, People and Culture), Queensland Audit Office attendees – Patrick Flemming (Assistant Auditor-General Parliamentary Services), Lisa Fraser (Senior Manager) and Sumi Kusumo (IT Director)

DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA

Nil

1. REPORT - AUDIT AND RISK MANAGEMENT COMMITTEE NO. 2020(02) OF 20 MAY 2020

This is the report of the Audit and Risk Management Committee No. 2020(02) of 20 May 2020 which was presented to the Council Ordinary Meeting of 26 May 2020.

RECOMMENDATION

A. That the report be received and the contents noted.

B. That the report of the Audit and Risk Management Committee No. 2020(02) of 20 May 2020 be amended to include Queensland Audit Office representatives (Patrick Flemming and Lisa Fraser) in the attendance.

DISCUSSION
The Chairperson suggested an amendment to the previous minutes to include Queensland Audit Office (Patrick Flemming and Lisa Fraser) in the attendance section of the minutes.

2. OUTSTANDING ACTIONS

This is a report concerning the outstanding actions associated with the following committees:

Audit and Risk Management Committee
Risk ELT Committee
Risk – Infrastructure and Environment Committee
Risk – Corporate Services Committee
Risk – Coordination and Performance Committee
Risk – Planning and Regulatory Services Committee
Risk – Community, Cultural and Economic Development Committee

The attachment/s to this report are confidential in accordance with section 275(1)(h) of the *Local Government Regulation 2012*.

RECOMMENDATION

A. That the report be received and the contents noted.

B. That a further update in relation to progress with Cherish the Environment Foundation be provided at the November 2020 meeting of the Audit and Risk Management Committee.

DISCUSSION
The Chairperson requested an update in relation to Cherish the Environment Foundation (CTEF). The General Manager Corporate Services provided an update outlining progress undertaken since the last meeting:

- Two new Council Representatives have been appointed as CTEF Board Directors (Councillor Andrew Fechner and Chief Financial Officer, Jeff Keech.
- Council's previous Interim Administrator Steve Greenwood is no longer the Council representative.
- A Board meeting has occurred (including the two Council Directors and two external Directors) and Council's position has been articulated that Council is seeking to ensure that its interests are protected and the appropriate governance arrangements are put in place for the Foundation.
- A further meeting of Directors only is being scheduled to seek to reach a clearer understanding of the Directors' respective positions.
- Council is continuing to treat CTEF as a controlled entity noting that the two external Directors supported by a former Council executive are not in agreement with Council's assessment and treatment.
- A further report will be provided to the ARMC at its next regular meeting.

It was agreed that this matter be carried forward and that a further update be provided at the November meeting of the ARMC.

3. QUEENSLAND AUDIT OFFICE BRIEFING PAPER

This is a report concerning a briefing paper presented by the Queensland Audit Office.

The attachment/s to this report are confidential in accordance with section 275(1)(h) of the *Local Government Regulation 2012*.

RECOMMENDATION

That the report be received and the contents noted.

4. INTERNAL AUDIT BRANCH ACTIVITIES REPORT FOR THE PERIOD 11 MAY 2020 TO 5 AUGUST 2020

This is a report concerning the activities of Internal Audit undertaken during the above-mentioned period and the current status of these activities.

The attachment/s to this report are confidential in accordance with section 275(1)(a), (h) of the *Local Government Regulation 2012*.

RECOMMENDATION

A. That the report be received, considered and the recommendations in Attachments 3, 4 and 5, be considered finalised and archived.

B. That the General Manager Corporate Services provide a report to the November Audit and Risk Management Committee outlining the finalisation process, ongoing plan and control process for the Conflicts of Interest for Employees Framework.

DISCUSSION

Discussion was held relating to the internal audit recommendations on the framework for conflicts of interest for employees. External Member Dr Annette Quayle noted that some staff may not fully understand the Conflicts of Interest Policy and questioned what processes Council has in place on a day to day basis. The Chief Audit Executive and General Manager Corporate Services noted that the recommendation on a policy had been recommended for closure however the recommendations on the broader aspects of the framework remain open until the procedure, form, system and communication strategy have been implemented.

The Chairperson suggested that this matter be carried over to the November meeting and the General Manager Corporate Services provide a report to the November meeting outlining the finalisation of the process, the ongoing plan and what the control processes will be. The Chairperson suggested that when the internal audit plan is set, an element could be added if necessary to test the implementation.

External Member Martin Power queried the internal recommendation for retention basins. The Chief Audit Executive advised that he would take this on notice and provide an update to the committee.

5. REPORT - RISK ELT MEETING NO. 2020(03) OF 17 JUNE 2020

This is the report of the Risk ELT Meeting No. 2020(03) of 17 June 2020.

RECOMMENDATION

That the report be received and the contents noted.

DISCUSSION
External Member Martin Power queried the discussion in one of the Risk ELT meetings in relation to abandoned mine sites and any exposure that Council may have. The Principal Risk and Compliance Specialist advised that the General Manager Infrastructure and Environment will be providing a report on this matter.

6. INSURANCE AND RISK MANAGEMENT UPDATE

This is a report concerning Council's insurance statistics for the period 1 April 2020 to 30 June 2020 and an update on risk management.

The attachment/s to this report are confidential in accordance with section 275(1)(a), (f) of the *Local Government Regulation 2012*.

RECOMMENDATION

That the report on Council's insurance statistics for the period 1 April 2020 to 30 June 2020 and the update on risk management be received and the contents noted.

DISCUSSION
Deputy Mayor Marnie Doyle queried how often the fraud and corruption training was being held. The Principal Risk and Compliance Specialist advised that training will be held every two years with senior management on an annual basis and that fraud and corruption is now included in induction training and in e-learning.

7. PRESENTATION - PLANNING AND REGULATORY SERVICES DEPARTMENT RISK REGISTER

This is a presentation by the General Manager, Planning and Regulatory Services providing an overview of the Planning and Regulatory Services Department Risk Register.

RECOMMENDATION

That the presentation be received and noted.

---

8. MATURING AND STRENGTHENING OF COUNCIL'S GOVERNANCE, INTERNAL CONTROLS AND COMPLIANCE

This is a report concerning the maturing and strengthening of Council's governance, internal controls and compliance. Council is progressively maturing and strengthening its governance, internal controls and compliance with the broad range of legislative, policy and procedural obligations upon it. Council's investment and focus in these critical areas has been strengthened significantly in recent years.

This report offers an update on current initiatives and actions to mature governance and document and strengthen internal controls.

RECOMMENDATION

That the Audit and Risk Management Committee (ARMC) note the actions and initiatives being scoped and implemented to mature and strengthen Council's governance, internal controls and compliance.

DISCUSSION

The General Manager Corporate Services provided an overview of the report. Rob Jones (Chairperson) queried the implementation of the new procurement model and requested an update on where this was at and how it will be proceeding. The General Manager Corporate Services advised that this will be added to the strategic projects update to give a more comprehensive report for the next meeting.

The Chairperson queried the trends on the ratings of corporate risks and stated that it doesn't give a sense of how it was rated last time and whether the committee should be concerned or not. The Principal Risk and Compliance Specialist advised that the report could be changed to track movements in risk ratings.

External Member Dr Annette Quayle noted that council had a new procurement policy with a "Buy Ipswich Approach" and that this could create more conflicts of interest with closer working arrangements. The General Manager Corporate Services advised that the implementation of the Buy Ipswich Approach will be included as a component of the project management plan for the implementation of the new procurement model, noting that there are a range of considerations including actual and potential conflicts of interest that will need to be managed. Council's approach to this will be included in a report to the next meeting.

9. DRAFT UNAUDITED 2019-2020 ANNUAL FINANCIAL STATEMENTS

This is a report concerning the draft unaudited 2019-2020 Annual Financial Statements.

The attachment/s to this report are confidential in accordance with section 275(1)(h) of the *Local Government Regulation 2012*.

RECOMMENDATION

That the draft unaudited 2019-2020 Annual Financial Statements as detailed in Attachment 1 to the report be received and noted.

DISCUSSION
The Chief Financial Officer advised that there has been a change in relation to Queensland Urban Utilities that will affect the equity note and share of profits.

External Member Martin Power raised a number of disclosure issues with the Finance Manager offline. They agreed to finalise these matters prior to providing Queensland Audit Office with the first draft of the Financial Statements for their review.

10. 2019-2020 LOST AND STOLEN ITEMS REPORT

This is a report concerning assets/items reported to the Finance Branch as suspected of being stolen during the financial year end 30 June 2020.

The attachment/s to this report are confidential in accordance with section 275(1)(h) of the *Local Government Regulation 2012*.

RECOMMENDATION

That the report be received and the contents noted.

11. REPORT ON COMPLAINTS MANAGEMENT, INFORMATION PRIVACY AND RIGHT TO INFORMATION COMPLIANCE

This is a report concerning performance in relation to Council's legislative compliance in the management of complaints, Right to Information and Information Privacy for the period 1 April 2020 to 30 June 2020 (the Quarter).

RECOMMENDATION

That the report on complaints management and Information Privacy and Right to Information compliance for the period 1 April 2020 to 30 June 2020 be received and the contents noted.

DISCUSSION
External Member Martin Power queried a couple of outstanding matters in the Office of the Information Commissioner's (OIC) follow up report and asked whether the OIC would continue to assess progress. The General Manager Corporate Services advised that OIC

consider the audit closed. However, council will be ensuring that it follows through to implement outstanding actions. One of these is a draft Information Management Policy Framework that is currently being reviewed and will soon be considered by the ICT Steering Committee and then the Executive Leadership Team. This will be reported to the next Audit and Risk Management Committee meeting.

12. MINUTES FROM THE ICT STEERING COMMITTEES FROM APRIL TO JUNE 2020

This is a report concerning the minutes from the ICT Steering Committee (ICTSC) meetings held between April and June 2020.

RECOMMENDATION

That the Audit and Risk Management Committee (ARMC) note the minutes from the Information and Communication Technologies Steering Committee (ICTSC) meetings held between April and June 2020.

DISCUSSION

External Member Martin Power queried the ICT Disaster Recovery recommendation in relation to the Polaris Datacentre. The General Manager Corporate Services provided a response and update that council is doing further work on disaster recovery including seeking expert advice from other sources and planning and executing tests of recovery timeframes for business critical ICT.

External Member Martin Power queried if the Disaster Recovery test proceeded on 11 July 2020. The General Manager Corporate Services advised that based on an assessment of risk with a current service provider, it did not proceed on that date, and is being rescheduled to take place with a replacement external service provider.

13. UPDATE ON IPSWICH CBD REDEVELOPMENT PROJECT

This is a report concerning the risk management for the Ipswich Central Redevelopment project. At a high level, the construction is progressing well with practical completion achieved for the new library and civic space. The administration building is progressing ahead of schedule and on budget.

The retail components of the project continue to pose a significant risk for Council which is compounded by the current economic impacts of COVID-19.

RECOMMENDATION

That the report be received and the contents noted.

14. ICT PLATFORM PROJECT - UPDATE

This is a report concerning the status of the Information and Communication Technologies (ICT) Platform Project to implement a significantly improved technology platform for Ipswich City Council.

RECOMMENDATION

That the report concerning the status of the Information and Communication Technologies (ICT) Platform Project to implement a significantly improved technology platform for Ipswich City Council be received and the contents noted.

DISCUSSION

The General Manager Corporate Services provided a brief summary of the report noting that a recommendation was being advanced to the ICT Steering Committee to engage a strategic business partner to develop a preliminary business case. The Chairperson asked how the strategic business partner was being sourced and whether they could be a potential vendor noting conflicts of interest considerations. The General Manager Corporate Services responded that the strategic business partner would be selected carefully with this fully in mind. Committee members queried cost and time considerations and the General Manager Corporate Services responded that these were yet to be confirmed in any detail subject to the option/s arrived at through the development of the preliminary business case. Committee members noted the options presented in the report and its attachments.

15. PEOPLE AND CULTURE UPDATE - PROGRESS OF THE IMPLEMENTATION OF THE PEOPLE AND CULTURE STRATEGIC PLAN 2019 - 2021

This is a report concerning progress in the implementation of the People and Culture Strategic Plan 2019-2021.

RECOMMENDATION

That the progress in the implementation of the People and Culture Strategic Plan 2019-2021 be noted by the Audit and Risk Management Committee.

DISCUSSION

Committee members noted the initiatives and work underway in delivering the People and Culture Strategic Plan 2019-2021 and sought an update on the current workplace culture. It was noted that while there is much work underway, the transformation of the workplace culture is a long term endeavour. The Chairperson requested a presentation to a future Audit and Risk Management Committee meeting in relation to the culture aspects of the staff survey.

16. PROTECTING THE PERSONAL INFORMATION OF OUR CUSTOMERS AND EMPLOYEES

This is a report to the Audit and Risk Management Committee providing information on how Ipswich City Council protects the personal information of customers and employees in accordance with the *Information Privacy Act 2009*.

RECOMMENDATION

That the report to the Audit and Risk Management Committee providing information on how Ipswich City Council protects the personal information of customers and employees in accordance with the *Information Privacy Act 2009* be noted.

DISCUSSION

External Member Martin Power queried if there should be a link in the Information Privacy Policy to the Code of Conduct and the consequences of information privacy breaches. The General Manager Corporate Services advised that further work on education and communication with the workforce is underway including enhanced induction training and a communication campaign across the organisation.

Deputy Mayor Marnie Doyle concurred with the importance of information privacy and outlined that a staff awareness campaign catering to a range of staff from office based staff to field staff needs to be prepared.

The Chairperson queried if there were corporate penalties for information privacy breaches in the use of personal information. The General Manager Corporate Services took this matter on notice and will provide an update to members.

External Member Martin Power queried the information stored via Amazon web services and asked who owns the data stored and whether and how quickly it could be retrieved. The General Manager Corporate Services advised she would take this matter on notice and provide an update to members.

17. CONFLICTS OF INTEREST FOR EMPLOYEES

This is a report concerning Council's Conflicts of Interest for Employees framework.

RECOMMENDATION

That the report be received and the contents noted.

18. ICT BRANCH GOVERNANCE AND CONTROLS FRAMEWORK

This is a report concerning the status and focus areas for development in the Information and Communication Technologies (ICT) governance controls framework.

RECOMMENDATION

That this matter be carried over to the November Audit and Risk Management Committee meeting.

19. TRANSPARENCY AND INTEGRITY HUB IMPLEMENTATION REPORT

This is a report providing an update on the implementation of the Transparency and Integrity Hub (Hub) in line with Council's resolution on 27 April 2020. The Hub was successfully implemented by Council on 1 July 2020. The direct cost of the implementation of the Hub with the contracted service delivery partner, Redman Solutions, was $189,687. An additional $57,800 was expended in order to undertake necessary due diligence in the implementation of the Hub, including the gathering of advice and the costs of an independent Privacy Impact Assessment (PIA).

RECOMMENDATION

That this matter be carried over to the November Audit and Risk Management Committee meeting.

20. NEXT MEETING
The next meeting is scheduled for Wednesday, 7 October 2020.

PROCEDURAL MOTIONS AND FORMAL MATTERS

The meeting commenced at 1.07 pm.

A members only session commenced at 4pm.

The meeting closed at 4.31 pm.