

2011 Decisions of the Tribunal and the Regional Conduct Review Panel

Review Body		Council	Allegation	Determination	Recommendations/Orders	
Tribunal	10/35710	Fraser Coast Regional Council	Breach of Confidentiality	<p>Following meetings of the Council held in confidential sessions on 14 July 2010 and 21 July 2010, articles appeared in the Fraser Coast Chronicle on 16 July 2010 and 23 July 2010 which detailed issues discussed at the respective Council meetings. The 16 July newspaper article quoted unnamed councillors as the sources of the (confidential) matters reported upon.</p> <p>A further element to the complaint related to a missing copy of the Council and Committee Agenda, including the confidential papers, for the 14 July meeting, allegedly removed from the Council chambers between the Council and Committee meetings. Following initial investigation by council officers and a departmental investigation, no further action was taken on this allegation.</p>	The matter was unsustainable.	Not applicable in this matter.
Tribunal	10/46823	Redland City Council	Breach of Confidentiality	<p>That on 3 June 2010, contrary to section 250 of the <i>Local Government Act 1993</i>, a councillor of the Redland City Council released an audio recording of a confidential session of a Committee meeting of the Council held on 6 May 2009, which dealt with the appointment of the Southern Moreton Bay Islands Community Advisory Committee, to a member of the public.</p>	<p>That the councillor involved engaged in misconduct by breaching section 250(2) of the <i>Local Government Act 1993</i> in that they released an audio recording of a confidential session of a Committee meeting of the Redland City Council held on 6 May 2009.</p>	<p>The Tribunal ordered that:</p> <ol style="list-style-type: none"> 1) The councillor be counselled by the CEO of the Council in relation to adhering to Council's confidentiality guidelines and policies as well as their obligations under the Act concerning confidentiality. 2) The councillor make an admission at the next full meeting of the Redland City Council that the Tribunal has found, on the balance of probabilities, that the councillor did release information they knew was confidential to the Council and, on the basis of this finding, the councillor apologise to the Council.

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Tribunal	10/32906	Townsville City Council	Breach of Confidentiality	That a councillor of the Townsville City Council knowingly released confidential budget discussion information to the media in breach of section 250 of the <i>Local Government Act 1993</i> .	<p>The matter was unsustainable.</p> <p>The Tribunal recommended that:</p> <ol style="list-style-type: none"> 1) The CEO of Townsville City Council remind all councillors that extreme caution needs to be exercised by them in dealing with constituents and other stakeholders when the subject matter of any such discussion turns to confidential matters which have been before, or might come before, the council. 2) That councillors be informed that the release of confidential information by councillors is viewed as serious misconduct by the Tribunal. This view is enshrined in section 171(3) of the <i>Local Government Act 2009</i> which provides that any contravention is mandated for Tribunal action. Importantly, the Act imposes an absolute bar on the release of information that a councillor knows, or should reasonably know, is confidential to the local government. In the Tribunal's view section 171(3) does not relate solely to information discussed in 'closed' sessions of council meetings. All councillors should appreciate that other information made available to them during the course of fulfilling their role of a councillor may be 'information that is confidential to the local government'.

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Tribunal	10/32901	Torres Strait Island Regional Council	Breach of Trust	That whilst claiming the accommodation travel allowance provided by the Council, a councillor stayed in accommodation with a relative who was staying in accommodation provided and paid for by the Council.	That the councillor involved engaged in misconduct by misappropriating three days of the accommodation allowance provided to them covering the period 8 to 27 May 2010.	<p>The Tribunal ordered that:</p> <ol style="list-style-type: none"> 1) The councillor be counselled by the CEO of the Council in relation to adhering to Council's expense reimbursement policy as well as their obligations under the provisions of the <i>Local Government Act 2009</i> in the areas of conduct, performance and responsibilities. 2) The councillor make an admission at the next full meeting of the Torres Strait Island Regional Council that the Tribunal has found, on the balance of probabilities, that the councillor engaged in misconduct by claiming three nights accommodation when they were not entitled to make such claim and, on the basis of this finding, the councillor apologise to the council for their actions. 3) That the councillor reimburse the amount of \$369 to the Council.
Tribunal	10/34631	Torres Strait Island Regional Council	Breach of Trust	That whilst claiming the accommodation travel allowance provided by the Council, a councillor stayed in accommodation with a relative who was staying in accommodation provided and paid for by the Council.	That the councillor involved engaged in misconduct by misappropriating 14 days of the accommodation allowance provided to them covering the period 8 to 22 May 2010.	<p>The Tribunal ordered that:</p> <ol style="list-style-type: none"> 1) The councillor be counselled by the CEO of the Council in relation to adhering to Council's expense reimbursement policy as well as their obligations under the provisions of the <i>Local Government Act 2009</i> in the areas of conduct, performance and responsibilities. 2) The councillor make an admission at the next full meeting of the Torres Strait Island Regional Council that the Tribunal has found, on the balance of probabilities, that the councillor engaged in misconduct by claiming three nights accommodation when they were not entitled to make such claim and, on the basis of this finding, the councillor apologise to the council for their actions. 3) That the councillor reimburse

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					the amount of \$1722 to the Council.	
Tribunal	DEPC11/70	Fraser Coast Regional Council	Breach of Confidentiality	That a councillor of the Fraser Coast Regional Council released confidential information to a member of the public relating to details provided by Ergon Energy in a confidential briefing session of council concerning Ergon's program of expansion for the Hervey Bay area.	The matter was unsustainable.	Not applicable in this matter.
Tribunal	DEPC11/577	Redland City Council	Breach of Confidentiality	That a councillor of the Redland City Council, contrary to section 171(3) of the <i>Local Government Act 2009</i> , disclosed information that as a councillor they would have known, or should have reasonably known, was information that was confidential to the local government, being an excerpt of a confidential transcript of interviews conducted by the Redland City Council Internal Audit Department.	That the councillor did release confidential information, being the excerpt of a confidential transcript of interviews conducted by the Redland City Council Internal Audit Department.	As the CEO had counselled this councillor previously on their obligation in handling confidential information, post to this incident occurring, the Tribunal recommended no further action on this matter.

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Panel	10/35337	Mount Isa City Council	Breach of Trust	<p>That a councillor of the Mount Isa City Council breached the trust placed in them as a councillor by:</p> <p>1) Failing to advise an employee they were acting as a member of the general public rather than as a councillor, thereby causing the employee to breach Council's visitor policy.</p> <p>2) Contacting an employee for advice contrary to the advice guidelines issued by the CEO under section 170A of the <i>Local Government Act 2009</i>.</p> <p>3) Misusing information acquired as a councillor via email from a council officer when acting as a member of the general public, trying to influence the decision of an employee.</p> <p>4) Attempting to direct an officer of council contrary to section 170(3) of the Act by requesting the officer call them with the result's of the officer's decision.</p>	<p>1) The Panel found that the councillor's conduct was misconduct for the purposes of section 176(3)(b)(ii) of the <i>Local Government Act 2009</i> in that they breached the trust placed in them as a councillor in failing to advise.</p> <p>2) The Panel found that the councillor's conduct was misconduct for the purposes of section 176(3)(b)(i) of the Act in that their attempt to seek advice from a council employee was contrary to the Council's Contact Policy and such conduct was an attempt to exercise their powers in a way that was not honest or impartial.</p> <p>3) The Panel found that the councillor's conduct was misconduct for the purposes of section 176(3)(b)(ii) of the Act in that they misused information acquired as a councillor in an attempt to influence a council officer in that officer's future dealings with another outstanding rates account.</p> <p>4) The Panel found that the councillor's conduct in their attempt to direct an officer of Council was misconduct for the purposes of section 176(3)(b)(i) of the Act in that the councillor attempted to exercise their powers in a way that was not honest or impartial.</p>	<p>1) The councillor make an apology to the council officers for the councillors failure to advise that they were acting as a member of the general public and not as a councillor on 21 July 2010.</p> <p>2) The councillor be counselled about the misconduct and how not to repeat the conduct namely exercising powers as a councillor that are contrary to the Mount Isa City Council Contact Policy.</p> <p>3) The councillor be counselled about the misconduct and how not to repeat the conduct, namely using information obtained as a councillor in an attempt to influence a council officer in any future dealing by that officer with another outstanding rates account.</p> <p>4) The councillor make an apology to the Council officer for the councillor's attempt to direct the Council officer on 21 July 2010 contrary to section 170(3) of the Act by requesting that the Council officer take steps to ensure the councillor was advised as to the outcome of the member of the public's rates account.</p>
Panel	10/41926	Logan City Council	Breach of Trust	<p>That a councillor of the Logan City Council breached the trust placed in them as a councillor by allegedly misusing a council photocopier to make 400-500 colour photocopies of how-to-vote cards for themselves as a candidate running at the 2010 federal election.</p>	<p>The matter was unsustainable.</p>	<p>Not applicable in this matter.</p>
Panel	10/40284	Moreton Bay Regional Council	Breach of Confidentiality	<p>That a councillor of the Moreton Bay Regional Council misused information or material acquired in the performance of their duties by providing advice of an objection to a development application to the developer for the benefit of trying to have the objection withdrawn prior to Council making a decision on the application.</p>	<p>The matter was unsustainable.</p>	<p>Not applicable in this matter.</p>
Panel	10/38004	Redland City Council	Conflict of Interest	<p>That a councillor of the Redland City Council failed to appropriately deal with, or had failed to declare, a conflict of interest to various committees of the council on various dates and regarding the appointment of two individuals to the Southern Moreton Bay Islands Communities Advisory Committee.</p>	<p>The matter was unsustainable.</p>	<p>Not applicable in this matter.</p>
Panel	10/42546	Redland City Council	Conflict of Interest	<p>That a councillor of the Redland City Council</p>	<p>The matter was unsustainable.</p>	<p>Not applicable in this matter.</p>

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			failed to appropriately deal with, or had failed to declare, a conflict of interest to various committees of the council on various dates and regarding the appointment of two individuals to the Southern Moreton Bay Islands Communities Advisory Committee.		
Panel	10/41466	Redland City Council	Conflict of Interest That a councillor of the Redland City Council: 1) Did not declare a conflict of interest while deliberating on Material Change of Use applications from developers who allegedly donated at a fundraising event that allegedly the councillor received benefit from in the 2004 Local Government Election campaign. 2) Did not disclose the receipt of funds through a fundraising activity in an electoral gift return post the 2004 Local Government Elections as required under section 436 of the <i>Local Government Act 1993</i> .	The matter was unsustainable.	Not applicable in this matter.
Panel	10/31904	Redland City Council	Conflict of Interest That a councillor of the Redland City Council: 1) Failed to appropriately deal with conflict of interests on various dates when deliberating on development applications, where the developer had contributed a donation to the councillor's 2004 election campaigns. 2) On 10 October 2006, failed to declare a conflict of interest, as required under the Councillor Code of Conduct, during a development application request to change an exiting approval from a developer who had provided the councillor with an electoral donation of \$5000 on 1 February 2004. 3) On 27 February 2008 at a Council general meeting, failed to declare a conflict of interest, as required under section 246A of the <i>Local Government Act 1993</i> , while deliberating a request for funds form Councillor's Community Benefit Fund to provide support for a building project at the Redland Bay Community Hall which was quoted on by a developer who had provided the councillor with an electoral donation of \$1000 on 5 February 2008.	1) These matters were sustained, however, they all occurred prior to 1 March 2006 and at this time, there was no provision under the Act which mandated that councillors disclose conflicts of interest or provided a means of disciplinary actions should a councillor fail to fulfil that requirement. 2) The Panel found that the councillor did fail to declare a conflict of interest as required under the Councillor Code of Conduct. 3) The Panel found that the councillor did fail to declare a conflict of interest as required under section 246A of the <i>Local Government Act 1993</i> .	1) The Panel did not recommend any disciplinary action with regard to these sustained allegations. 2) The Panel ordered that the councillor be counselled about the misconduct and how not to repeat the misconduct. The Panel also recommended the Department's Chief Executive Officer monitor the councillor for compliance with the Local Government Act. 3) The Panel ordered under section 180(2)(a) of the Act that the councillor be counselled about the misconduct and how not to repeat the misconduct. The counselling was to relate to the negative consequences that had arisen as a consequence of not disclosing the perceived conflict of interest.
Panel	DGC10/436	Redland City Council	Breach of Trust That a councillor of the Redland City Council contravened section 176(3)(b)(i) of the <i>Local Government Act 2009</i> , by performing their duties as a councillor in a way that was not honest or impartial by encouraging selected people (i.e. dog owners) to visit the council park at Point Talburpin that was, at the time, subject to a council commissioned survey on the merits of erecting an off-leach dog run at the facility.	The matter was unsustainable.	Not applicable in this matter.
Panel	DGC11/405	Redland City Council	Breach of Trust That a councillor of the Redland City Council made comments published in the Bayside Bulletin on 4 January 2011, the making of which comments constituted misconduct by	The Panel found that the councillor made the comments published in the Bayside Bulletin on 4 January 2011, and that the making of these comments	The Panel made the following orders under section 180(2) of the act:

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			<p>the councillor, in that the making of such comments:</p> <p>1) Involved the performance of the councillor's responsibilities or the exercise of the councillor's powers in a way that was not honest or was not impartial (section 176(3)(b)(i) of the Act).</p> <p>2) Was a breach of the trust placed in the councillor (section 176(3)(b)(ii)).</p>	<p>constituted misconduct by the councillor as per sections 176(3)(b)(i) and (ii) of the Act.</p>	<p>1) The councillor be counselled by the Mayor about the misconduct and how not to repeat the misconduct.</p> <p>2) The councillor make an apology for the breach to the Council at the next General Meeting following notification of the outcome of the complaint.</p>

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