

# Councillor Conduct Tribunal: Councillor misconduct complaint – Summary of decision and reasons for department’s website

*Local Government Act 2009: Sections 150AS(2)(c)*

Note that the Tribunal is prohibited from giving another entity information that is part of a Public Interest Disclosure unless required or permitted under another Act; or including in this summary the name of the person who made the complaint or information that could reasonably be expected to result in identification of the person: S150AS(5)(a) and (b).

## 1. Complaint:

<b>CCT Reference</b>	F21/4709
<b>Subject Councillor</b>	Mayor Tom Tate (the councillor)  Note that the name of the councillor may be included on the register if the Tribunal decided the councillor engaged in misconduct. Where misconduct by the councillor has not been sustained the councillor needs to agree to their name being included (s150DY(3)). <sup>1</sup>
<b>Council</b>	Gold Coast City Council

## 2. Decision (s150AQ):

<b>Date:</b>	11 August 2023
<b>Decision:</b>	<b>Allegation One</b>  It is alleged that on or around 22 August 2016, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the <i>Local Government Act 2009</i> by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the <i>Local Government Act 2009</i> .  <b>Particulars</b>

<sup>1</sup> This notice should be delayed until 7 days after the date of the Tribunal letter advising the councillor of the decision and reasons in relation to the complaint, to enable the councillor time to indicate if they would like their name included in the publication or not.

**Councillor Conduct Tribunal**

GPO Box 10059, City East, Q 4002

- a. Under the Gold Coast City Council's Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.
- b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Under the community representation category, the Mayor is permitted to incur as an incidental expense the cost of an obligatory raffle or donation whilst attending an event or function in an official capacity, to a maximum of \$500.
- c. On 7 May 2016, whilst attending the Currumbin Wildlife Hospital Foundation Annual Gala Dinner, Councillor Tate made a \$5,000 donation to the Currumbin Wildlife Hospital Foundation.
- d. On or around 22 August 2016, Councillor Tate acquitted the \$5,000 donation as an incidental expense for the 2015-2016 financial year.
- e. Councillor Tate's conduct was in breach of the Expenses Policy in that the donation:
  - i. exceeded the \$500 limit specified in Attachment A for an obligatory raffle or donation;
  - ii. Attachment A states that the allowance is not budgeted for community purposes; discretionary donations must be made in accordance with the discretionary funds provisions of the *Local Government Regulation 2012* and the Community Grants Policy;
  - iii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.
- f. Councillor Tate's conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.

**Allegation Two**

It is alleged that on or around 22 August 2016, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the *Local Government Act 2009* by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the *Local Government Act 2009*.

**Particulars**

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- a. Under the Gold Coast City Council's Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a Councillor.
- b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Under the community representation category, the Mayor is permitted to incur as an incidental expense the cost of an obligatory raffle or donation whilst attending an event or function in an official capacity, to a maximum of \$500.
- c. On 5 January 2016, Councillor Tate purchased a table of 10 for the Mayoress' Charity Foundation Annual Ball for the amount of \$2,500.
- d. On or around 22 August 2016, Councillor Tate acquitted the cost of the table of 10 as an incidental expense for the 2015/2016 financial year.
- e. Councillor Tate's conduct was in breach of the Expenses Policy in that the purchase of the table of 10:
  - i. was not listed in Attachment A as an acceptable incidental expense;
  - ii. Attachment A states that the allowance is not budgeted for community purposes; discretionary donations must be made in accordance with the discretionary funds provisions of the *Local Government Regulation 2012* and the Community Grants Policy;
  - iii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.
- f. Councillor Tate's conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.

**Allegation Three**

It is alleged that on or around 21 August 2017, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the *Local Government Act 2009* by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the *Local Government Act 2009*.

**Particulars**

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- a. Under the Gold Coast City Council's Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.
- b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Under the community representation category, the Mayor is permitted to incur as an incidental expense the cost of an obligatory raffle or donation whilst attending an event or function in an official capacity, to a maximum of \$500.
- c. On 30 November 2016, Councillor Tate purchased a table of 10 for the Mayoress' Charity Foundation Annual Ball for the amount of \$2,500.
- d. On or around 21 August 2017, Councillor Tate acquitted the cost of the table of 10 as an incidental expense for the 2016/2017 financial year.
- e. Councillor Tate's conduct was in breach of the Expenses Policy in that the purchase of the table of 10:
  - i. was not listed in Attachment A as an acceptable incidental expense;
  - ii. Attachment A states that the allowance is not budgeted for community purposes; discretionary donations must be made in accordance with the discretionary funds provisions of the Local Government Regulation 2012 and the Community Grants Policy;
  - iii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.
- f. Councillor Tate's conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.

**Allegation Four**

It is alleged that on or around 30 July 2018, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the *Local Government Act 2009* by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the *Local Government Act 2009*.

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- a. Under the Gold Coast City Council’s Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.
- b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Under the community representation category, the Mayor is permitted to incur as an incidental expense the cost of an obligatory raffle or donation whilst attending an event or function in an official capacity, to a maximum of \$500.
- c. On 6 December 2017, Councillor Tate purchased a table of 10 for the Mayoress’ Charity Foundation Annual Ball for the amount of \$2,950.
- d. On or around 30 July 2018, Councillor Tate acquitted the cost of the table of 10 as an incidental expense for the 2017/2018 financial year.
- e. Councillor Tate’s conduct was in breach of the Expenses Policy in that the purchase of the table of 10:
  - i. was not listed in Attachment A as an acceptable incidental expense;
  - ii. Attachment A states that the allowance is not budgeted for community purposes; discretionary donations must be made in accordance with the discretionary funds provisions of the *Local Government Regulation 2012* and the Community Grants Policy;
  - iii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.
- f. Councillor Tate’s conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.

**Allegation Five**

It is alleged that on or around 21 August 2017, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the *Local Government Act 2009* by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the *Local Government Act 2009*.

**Particulars**

- a. Under the Gold Coast City Council’s Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses

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	<p>Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.</p> <ul style="list-style-type: none"> <li>b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Purchasing a membership to a sporting club is not listed as an item that can be incurred as an incidental expense.</li> <li>c. On 27 October 2016, Councillor Tate purchased an annual membership of the Titans Football Club for \$72.</li> <li>d. On or around 21 August 2017, Councillor Tate acquitted the cost of the Titans membership as a Mayoral Expense for the 2016/2017 financial year.</li> <li>e. Councillor Tate’s conduct was in breach of the Expenses Policy in that the purchase of the club membership: <ul style="list-style-type: none"> <li>i. was not listed in Attachment A as an acceptable incidental expense;</li> <li>ii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.</li> </ul> </li> <li>f. Councillor Tate’s conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.</li> </ul> <p><b>Allegation Six</b></p> <p>It is alleged that on or around 30 July 2018, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the <i>Local Government Act 2009</i> by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the <i>Local Government Act 2009</i>.</p> <p><b>Particulars</b></p> <ul style="list-style-type: none"> <li>a. Under the Gold Coast City Council’s Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.</li> <li>b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Purchasing a</li> </ul>
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	<p>membership to a sporting club is not listed as an item that can be incurred as an incidental expense.</p> <p>c. On 9 November 2017, Councillor Tate purchased an annual membership of the Titans Football Club for \$216.</p> <p>d. On or around 30 July 2018, Councillor Tate acquitted the cost of the Titans membership as an incidental expense for the 2017/2018 financial year.</p> <p>e. Councillor Tate’s conduct was in breach of the Expenses Policy in that the purchase of the club membership:</p> <ul style="list-style-type: none"> <li>i. was not listed in Attachment A as an acceptable incidental expense;</li> <li>ii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.</li> </ul> <p>f. Councillor Tate’s conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.</p> <p><b>Allegation Seven</b></p> <p>It is alleged that on or around 21 August 2017, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Local Government Act 2009 by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the Local Government Act 2009.</p> <p><b>Particulars</b></p> <p>a. Under the Gold Coast City Council’s Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.</p> <p>b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Under the community representation category, the Mayor is permitted to incur as an incidental expense the cost of an obligatory raffle or donation whilst attending an event or function in an official capacity, to a maximum of \$500.</p> <p>c. On 22 November 2016, Councillor Tate donated \$1,000 to the Gold Coast Community Fund White Christmas Appeal.</p>
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- d. On or around 21 August 2017, Councillor Tate acquitted the donation as an incidental expense for the 2016/2017 financial year.
- e. Councillor Tate's conduct was in breach of the Expenses Policy in that a donation of this amount to a community organisation:
  - i. was not listed in Attachment A as an acceptable incidental expense;
  - ii. Attachment A states that the allowance is not budgeted for community purposes; discretionary donations must be made in accordance with the discretionary funds provisions of the Local Government Regulation 2012 and the Community Grants Policy;
  - iii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.
- f. Councillor Tate's conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.

**Allegation Eight**

It is alleged that on or around 21 August 2017, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the *Local Government Act 2009* by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the *Local Government Act 2009*.

**Particulars**

- a. Under the Gold Coast City Council's Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.
- b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Under the community representation category, the Mayor is permitted to incur as an incidental expense the cost of an obligatory raffle or donation whilst attending an event or function in an official capacity, to a maximum of \$500.
- c. On 8 June 2017, Councillor Tate donated \$5,000 to Juice 107.3 Radio Station.

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- d. On or around 21 August 2017, Councillor Tate acquitted the donation as an incidental expense for the 2016/2017 financial year.
- e. Councillor Tate's conduct was in breach of the Expenses Policy in that a donation of this amount to a community organisation:
  - i. was not listed in Attachment A as an acceptable incidental expense;
  - ii. Attachment A states that the allowance is not budgeted for community purposes; discretionary donations must be made in accordance with the discretionary funds provisions of the Local Government Regulation 2012 and the Community Grants Policy;
  - iii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.
- f. Councillor Tate's conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.

**Allegation Nine**

It is alleged that on or around 21 August 2017, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Local Government Act 2009 by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the Local Government Act 2009.

**Particulars**

- a. Under the Gold Coast City Council's Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.
- b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Under the community representation category, the Mayor is permitted to incur as an incidental expense the cost of an obligatory raffle or donation whilst attending an event or function in an official capacity, to a maximum of \$500.
- c. On 14 June 2017, Councillor Tate donated \$5,000 to the Salvation Army Red Shield Appeal.

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- d. On or around 21 August 2017, Councillor Tate acquitted the donation as an incidental expense for the 2016/2017 financial year.
- e. Councillor Tate's conduct was in breach of the Expenses Policy in that a donation of this amount to a community organisation:
  - i. was not listed in Attachment A as an acceptable incidental expense;
  - ii. Attachment A states that the allowance is not budgeted for community purposes; discretionary donations must be made in accordance with the discretionary funds provisions of the Local Government Regulation 2012 and the Community Grants Policy;
  - iii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.
- f. Councillor Tate's conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.

**Allegation Ten**

It is alleged that on or around 30 July 2018, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the *Local Government Act 2009* by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the *Local Government Act 2009*.

**Particulars**

- a. Under the Gold Coast City Council's Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.
- b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses. Under the community representation category, the Mayor is permitted to incur as an incidental expense the cost of an obligatory raffle or donation whilst attending an event or function in an official capacity, to a maximum of \$500.
- c. On 6 June 2018, Councillor Tate donated \$5,000 to the Salvation Army Red Shield Appeal.

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- d. On or around 30 July 2018, Councillor Tate acquitted the donation as an incidental expense for the 2017/2018 financial year.
- e. Councillor Tate's conduct was in breach of the Expenses Policy in that a donation of this amount to a community organisation:
  - i. was not listed in Attachment A as an acceptable incidental expense;
  - ii. Attachment A states that the allowance is not budgeted for community purposes; discretionary donations must be made in accordance with the discretionary funds provisions of the *Local Government Regulation 2012* and the Community Grants Policy;
  - iii. was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.
- f. Councillor Tate's conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.

**Allegation Eleven**

It is alleged that on or around 21 August 2017, Councillor Tom Tate, the Mayor and a Councillor of Gold Coast City Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the *Local Government Act 2009* by breaching the trust placed in the councillor, in that his conduct was inconsistent with the local government principle of ethical and legal behaviour, as stated in section 4(2)(e) of the *Local Government Act 2009*.

**Particulars**

- a. Under the Gold Coast City Council's Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy (the Expenses Policy), the Mayor is provided \$23,000 for incidental expenses, which may be paid in advance. Councillors can only use the allowance for reasonable expenses incurred or to be incurred in performing their role as a councillor.
- b. Attachment A of the Expenses Policy provides guidance to councillors on items which may be incurred as incidental expenses.
- c. On 17 July 2016, Councillor Tate purchased a Humax Tuner and MC BPL UHD cables for \$734. On 21 August 2017, Councillor Tate acquitted \$734 for the Humax Tuner and MC BPL UHD Cables as an incidental expense for the 2016/2017 financial year.
- d. On 23 December 2016, Councillor Tate purchased GHT BT headphones for \$534.92. On 21 August 2017, Councillor Tate acquitted the \$534.92

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	<p>for the headphones as an incidental expense for the 2016/2017 financial year.</p> <p>e. Councillor Tate’s conduct was in breach of the Expenses Policy in that the items were not listed in Attachment A as items that could be acquitted as incidental expenses. Acquitting these items as incidental expenses was not consistent with the objectives and policy statement of the Expenses Policy in that it did not meet community expectations concerning the prudent and responsible use of public funds.</p> <p>f. Councillor Tate’s conduct, in breaching the Expenses Policy, involved a breach of the trust placed in him as a councillor in that his conduct was not consistent with the local government principle of ethical and legal behaviour.</p>
<p><b>Reasons:</b></p>	<ol style="list-style-type: none"> <li>1. This matter concerned eleven allegations that the Respondent had failed to abide by the provisions of the Council’s Reimbursement Policy as it applied to certain “incidental” expenses said to be incurred by the Respondent.</li> <li>2. The Respondent admitted that he expended the funds personally in the first instance for all eleven allegations, and that he subsequently sought acquittals of those costs from Council. However, he denied that the act of doing so was misconduct.</li> <li>3. The Tribunal must point out that it is not the act of donating or purchasing which could be misconduct. Instead, the misconduct occurs when the Councillor seeks to have Council reimburse him or her from the funds of local government; that is, ratepayer’s funds. Any misappropriation of ratepayer’s funds is serious.</li> <li>4. Consistent across all eleven allegations, the Respondent has paid an amount of money to another party, then applied to Council for reimbursement of that payment. At the point of applying, the Respondent’s evidence was that he had read the Policy and was satisfied that he was entitled to make such an application.</li> </ol> <p><b>Allegation One</b></p> <ol style="list-style-type: none"> <li>5. In his reliance upon the Expenses Policy during his seeking of an acquittal, the Respondent must have been of the view – which he maintains was honestly held – that his donation was “<i>obligatory</i>”.</li> <li>6. However, the Respondent was not authorized to seek reimbursement of the full amount of \$5,000, as this exceeded the maximum amount of obligatory donations which the Council could reimburse.</li> <li>7. The Respondent was in breach of the Expenses Policy.</li> </ol>

**Allegations Two, Three and Four**

8. The Respondent was not tasked to attend the three dinners as part of a delegation of Council; the Respondent's position was that he held an honest (if mistaken) view that his acquittals were conducted in accordance with the Policy from his role as Mayor (such is also apparent from his Statutory Declaration).
9. Attendance at a dinner is a permissible reason, but there is no exculpatory provision in the Policy which indicates that the Respondent was not permitted to purchase a table of 10 seats.
10. In this instance, when balancing the potential for a finding of misconduct against the specificity of the wording regarding attendance at dinners in the Policy, the Tribunal is not reasonably satisfied, having regard to the nature and consequence of the facts to be proved, that the Respondent has breached the Expenses Policy.

**Allegations Five and Six**

11. It is difficult to understand how the Respondent considered that membership of the Gold Coast Titans football club was "*incurred in his role as Mayor*".
12. They were personal memberships, purchased by the Respondent and for the benefit of the Respondent (or such persons as he might exclusively extend such benefits). It cannot be seriously contended that the Respondent's role as Mayor required him to purchase annual memberships to a local football club.
13. The Respondent was therefore in breach of the Expenses Policy.

**Allegations Seven, Eight, Nine and Ten**

14. As with Allegation One, the Tribunal is willing to find that the Respondent was minded that such donations were "*obligatory*", as he sought reimbursement for those amounts under the Expenses Policy (and not as a matter of "*discretionary*" donations supported by the Regulations and Council's Community Engagement Policy).
15. On that basis, all four Allegations involved reimbursements of amounts well in excess of the amount of \$500 permitted for obligatory donations.
16. Consistent with its approach to Allegation 1, the Respondent was entirely entitled to have sought reimbursement of \$500 under the Expenses Policy, but chose not to do so. In respect of all four

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Allegations, the Respondent has not behaved in accordance with the Policy and is in breach.

**Allegation Eleven**

17. This Allegation relates to the purchase by the Respondent, and subsequent lodgment of an acquittal for a “tuner” and “headphones”. The Respondent claimed these were needed in accordance with Council’s own policy documents.
18. There is no evidence that suggests that the Mayor’s office lacked a TV or associated audio/visual equipment to the extent that the Respondent would have been motivated to purchase that equipment himself.
19. Consequently, if the Respondent required this equipment in connection with his role as Mayor, the proper course of action should have been to request that Council supply that equipment to him in accordance with Council’s policies. There is no evidence that he did so.
20. 149. The Respondent was not authorized to seek reimbursement for the items, and submitted acquittals in breach of the Expenses Policy.

**Breach of trust**

21. The Tribunal is not required to find that the Respondent acted dishonestly. This is not a criminal trial, and the Respondent is not alleged to have engaged in fraud, or to have behaved fraudulently, or to have been dishonest. Nor would a conclusion of that kind be open to the Tribunal on the evidence before it.
22. However, the Respondent was required by the local government principles in the Act to ensure that his conduct resulted in outcomes (as much as he controlled them) consistent with those principles.
23. The Respondent sought reimbursements for far more than he was authorized to by Council Policy. The limitations contained in the Expenses Policy are appropriate safeguards on the expenditure of Council funds. If Councillors are permitted to spend Council funds without oversight, or on items not covered by the relevant Policy, this would defeat the purpose of the local government principles seeking to provide for a “*system of local government is accountable, effective, efficient and sustainable*”.
24. The Respondent’s statutory declarations also departed from the wording encouraged by the Policy. The reason for doing so was not clear, but it was a conscious choice by the Respondent to do so.

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	<p>25. The Respondent’s behaviour was not ethical because it did not “conform to accepted standards of conduct” applicable to Councillors, which is an infringement of the local government principle in section 4(2)(e) of the Act. It further was also not in accordance with the requirements of section 4(2)(a) requiring “effective” processes, nor section 4(2)(d) requiring “good governance of, and by, local government”.</p>
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**3. Orders and/or recommendations (s150AR - disciplinary action):**

<b>Date of orders:</b>	11 August 2023
<b>Order/s and/or recommendations:</b>	<p>The Tribunal orders, in respect of Allegations 1, 7, 8, 9 and 10, that pursuant to section 150AR(1)(b)(i) of the Act, the Councillor must (within 60 days of the Councillor’s receipt of this decision and reasons) make a public admission of misconduct during a General Ordinary Meeting of Council, at a time when the Meeting is open to members of the public.</p> <p>The Tribunal orders, in respect of Allegations 5, 6 and 11, that the Councillor must (within 90 days of the Councillor’s receipt of this decision and reasons) pay the amount of \$2,322 (15 penalty units) to the local government an amount, in accordance with section 150AR(1)(b)(iv) of the Act.</p> <p>The Tribunal orders, in respect of Allegations 1, 5, 6, 7, 8, 9, 10 and 11, that the Councillor must (within 90 days of the Councillor’s receipt of this decision and reasons) attend training or counselling, at the Councillor’s expense, to address the councillor’s conduct in respect of the Expenses Reimbursement and Provision of Facilities for Mayor and Councillors Policy of Council, in accordance with section 150AR(1)(b)(iii) of the Act.</p>
<b>Reasons:</b>	<ol style="list-style-type: none"> <li>1. The Respondent had two previous instances of misconduct, both of which post-date the conduct of these proceedings by a significant margin, meaning the Respondent will not have had the benefit of Tribunal orders to guide or correct his conduct.</li> <li>2. The Respondent has operated for a long period of time under the reasonable and honest – but mistaken – apprehension that his conduct was authorized by the Policy. The Tribunal will take steps to correct that mistaken belief, by ordering that the Respondent make a public admission of misconduct.</li> <li>3. The Respondent will also – consistent with section 150AR(1)(b)(iii) of the Act – be required to attend training or counselling to address the</li> </ol>

	<p>Respondent's conduct, at the Respondent's expense. The Tribunal considers that this training will address the Respondent's misunderstandings in respect of the reimbursement of expenses in his role as Councillor and Mayor.</p> <p>4. Finally, the Tribunal concluded that the Respondent should be ordered to pay a pecuniary penalty. A small sum of the Respondent's acquittals related to items which could not reasonably be justified by reference to the Expenses Policy. On that ground, the Tribunal does not consider that the Council should be "<i>short changed</i>" by the Respondent's conduct.</p> <p>5. The Tribunal will order that the Respondent pay the local government an amount of \$2,322 (or 15 penalty units) under section 150AR(1)(b)(iv) of the Act.</p>
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