

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

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

1. Complaint:

CCT Reference	F20/3552
Subject Councillor	Councillor Pat Eastwood (the councillor)
Council	Livingstone Shire Council

2. Decision (s150AQ):

Date:	28 October 2021
Decision:	<p>The Tribunal has determined, on the balance of probabilities, that:</p> <p>Allegation 1, that on 29 August 2019, Councillor Pat Eastwood, a Councillor of Livingstone Shire Council (LSC), engaged in misconduct as defined in section 150L(1)(b)(i) of the <i>Local Government Act 2009</i> (the Act), in that his conduct involved a breach of the trust placed in him as a councillor, either knowingly or recklessly, in that it was inconsistent with local government principle 4(2)(a), ‘transparent and effective processes, and decision making in the public interest’, when he, without a Council Officer present, attended the property of an applicant for a development application with some other councillors only present, to discuss the application prior to it being voted on by the full council, has been sustained.</p>
Reasons:	<ol style="list-style-type: none">1. On 29 August 2019, Councillor Eastwood attended the site of a proposed development with two other Councillors. These Councillors met with the development applicants (Mr & Mrs X) without any other Councillors or Council officers being present.2. Councillor Eastwood was aware that Mr & Mrs X were also involved in litigation against Council in the Planning and Environment Court.3. The Respondent did not believe his attendance at this meeting amounted to misconduct. He also claimed that he was unaware of the

Councillor Conduct Tribunal

GPO Box 10059, City East, Q 4002

	<p>existence of a Council Policy, which was established to regulate interactions between Councillors and development applicants.</p> <p>4. The Tribunal was willing to accept that the Councillor acted in good faith; however, a meeting between the developers of a property and selected Councillors in the absence of any oversight is not behaviour which encourages transparent or accountable decision-making which is in the public interest.</p> <p>5. In addition, although the Councillor took some notes in his diary regarding the meeting, they lacked considerable detail and were of no assistance to the Tribunal in determining whether the conduct was misconduct.</p> <p>6. The Tribunal considered that Councillor Eastwood behaved recklessly, as the meeting was not transparent, was against Council policy, and that he undertook no enquiries nor availed himself of any alternatives to conducting a meeting with the Roebucks without a Council officer present. This was particularly concerning given that Councillor Eastwood was an inexperienced Councillor, having only been elected around 18 months earlier.</p>
--	--

3. Orders and/or recommendations (s150AR - disciplinary action):

Date of orders:	28 October 2021
Order/s and/or recommendations:	<p>The Tribunal orders that, for Allegation 1, within 60 days of the date that a copy of this decision and orders are given to him by the Registrar:</p> <p>a. Pursuant to s 150AR(1)(b)(i) of the Act, that Cr Eastwood make a public admission that he engaged in misconduct, at a meeting of Council that is open to the public;</p> <p>b. Pursuant to s 150AR(1)(b)(iii) of the Act, that Cr Eastwood attend training (not at his expense), where such training must include the proper application of the local government principles to meetings with ratepayers and development applicants.</p>
Reasons:	<p>1. The Respondent had no prior misconduct and demonstrated some insight into the conduct that brought him before the Tribunal; however, he seemed to consider later on that the issue was in fact with the ambiguity in the Policy, rather than with his conduct.</p> <p>2. Councillors must always apply the local government principles to their actions and decisions to ensure that the purpose of the Act is upheld, public confidence in local government is maintained, and ratepayers continue to be represented in local government by persons of high integrity and probity.</p>

Councillor Conduct Tribunal

GPO Box 10059, City East, Q 4002

	<ol style="list-style-type: none">3. It is important that both Livingstone Shire Councillors and Councillors more generally take this opportunity to learn that their conduct must always abide by the local government principles; therefore, a public admission has been ordered.4. The Councillor has also been ordered to attend training, but not at his expense, as the Councillor had not had the benefit of a robust Departmental training program when he was elected at a by-election.
--	---