Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025

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15 December 2025

Mr James Lister MP
Member for Southern Downs
Chair
Local Government, Small Business and Customer Service Committee

Dear Chair

Re: OIA submission on the Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025

The attached submission on the *Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025* is intended to assist the Committee and government in achieving the Bill's objectives while ensuring an appropriate balance with high standards of integrity and accountability for councillors.

The OIA has prepared this submission to highlight realistic scenarios and offer practical recommendations that uphold the intent of the Bill while reinforcing public confidence and accountability in the councillor conduct framework.

Our submission focuses on six key areas of the Bill within the OIA's jurisdiction:

1. Removal of conduct breaches and breaches of council policies and resolutions
2. Expanded definition of misconduct
3. Reintroduction of Material Personal Interest and conflicts of interest regime
4. Removal of the influence provision
5. Administrative discrepancy on when a councillor vacates office
6. Maintaining unsuitable meeting conduct provisions

We support reforms that streamline processes for councillors and strengthen conflicts of interest management, including clearer MPI requirements and stronger penalties for breaches of the *Local Government Act 2009*.

However, we remain concerned that removing conduct breaches could leave serious behavioural or policy breaches unaddressed. We also note risks associated with removing provisions that manage conflicts outside statutory meetings and significant personal associations.

The OIA is committed to working collaboratively with the Committee, the Department and stakeholders to ensure these reforms achieve their objectives and maintain public confidence in the integrity of local government.

Thank you for considering our submission. We look forward to supporting the Committee's work on this reform.

I would be pleased to discuss the submission at any further public hearing conducted in relation to the Bill.

Yours sincerely

Charles Kohn
Acting Independent Assessor
Office of the Independent Assessor

Office of the Independent Assessor – Submission

Inquiry into Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025

Local Government, Small Business and Customer Service Committee

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Executive Summary

The Office of the Independent Assessor (OIA) broadly supports the government's agenda of empowering councils and reducing unnecessary regulatory burden.

This submission on the *Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025* (the Bill) is provided to assist the Committee and government to achieve its objectives, while ensuring an appropriate balance with high standards of integrity and accountability for councillors.

As an integrity body dedicated to upholding trust and public confidence in the integrity of councillors, we welcome the opportunity to provide our insight into the conduct framework and offer feedback on the proposed changes from a unique operational perspective.

Since its inception in 2018, the OIA has assessed around 1,000 complaints each year.

We recognise that the vast majority of councillors strive to achieve the best outcomes for their communities and conduct themselves as civic leaders with high integrity.

Councillors consider development applications, approve infrastructure projects, award significant contracts for goods and services and make decisions about the allocation of Commonwealth and State funding and grants.

Councillors are involved in high-value, high-volume and high-frequency decision-making, more so than any other level of government. They are drawn from the communities where they live, bringing with them existing business, social, familial, volunteer and sporting experience and networks in those communities. This makes them great representatives for their communities but it can also place pressure and expectation on councillors to serve interests other than the overall public interest.

This combination of circumstances makes local government a high-risk area for councillor conduct and underscores the importance of an independent and effective councillor conduct system.

At the end of the 2023-24 financial year, Queensland's 77 councils managed $178 billion in assets. Collectively, councils invested more than $5.2 billion in infrastructure in 2023–24[1].

The OIA receives a wide range of complaints from members of the public and across the local government sector, ranging from minor issues such as not responding to emails through to allegations of serious misconduct or corruption.

Through various reforms, we have realigned our approach with each change in legislation.

With recent reforms allowing complaints to be dismissed in the public interest, considered personal conduct, or failing to meet the required threshold, the OIA currently dismisses or takes no further action on 87 per cent of complaints received. This enables us to remain focused on pursuing serious or repeated misconduct that fails to meet expected standards.

[1] Local Government Association of Queensland – State of the Assets Summary Report 2025.

The OIA has consistently embraced continuous improvement and remains committed to ensuring the councillor conduct framework achieves its intended purpose. We remain focused on targeting serious misconduct while also supporting capacity building efforts across the local government sector.

With consideration to the upcoming review and reform in the local government sector, such as the Committee's review of the operation of the councillor conduct framework, this submission limits itself to six key focus areas in the Bill from the perspective of the Office of the Independent Assessor's (OIA) jurisdiction and unique operational knowledge of the system, including:

1. **The removal of conduct breaches, breach of council policies, procedures and resolutions**
2. **The expanded definition of misconduct**
3. **The reintroduction of Material Personal Interest (MPI) and conflicts of interest regime**
4. **The removal of an influence provision**
5. **An administrative discrepancy around when a councillor vacates office**
6. **Maintaining unsuitable meeting conduct**

While the OIA acknowledges the challenges in managing conduct breaches under the current system and the pressures this process places on councillors, it remains concerned that the proposed removal of conduct breaches should not prevent serious breaches of behavioural standards or council policies to be independently addressed.

The OIA supports the reintroduction of MPIs and the real or perceived conflicts of interest regime, along with stronger penalties for councillors who fail to declare and properly deal with MPIs during meetings. We believe this proposed new regime is more straight-forward and allows for consistency for councillors.

However, the removal of certain provisions raises concerns about councillor's management of conflicts of interest outside statutory meetings and significant personal associations that are not familial in nature. These include the removal of an influence provision, the removal of a 'close personal relationship' provision and the expectations of councillors when declaring personal interests.

The OIA supports the Bill's intention to maintain the management of conduct occurring in council meetings to remain as matters for each council to deal with under the unsuitable meeting conduct regime and be dealt with in a timely manner during council meetings.

The OIA is committed to working collaboratively with the Committee, the Department of Local Government, Water and Volunteers, and other stakeholders to provide further feedback on the Bill and support a smooth and effective implementation of the proposed reforms.

1. The removal of conduct breaches

The OIA acknowledges that the current process of referring conduct breaches to local governments to deal with, particularly where councillors must adjudicate the conduct of their fellow councillors is problematic in respect of councillors maintaining cohesive working relationships.

This concern was raised by the OIA during previous parliamentary committee inquiries.

Experience has shown that this approach often results in inconsistent and disproportionate outcomes that are often costly and undermine confidence in the councillor conduct framework.

Despite these challenges, the OIA maintains that there is a strong need for the Code of Conduct and council policies to remain enforceable when serious breaches of behavioural standards occur.

We further submit that the OIA was established specifically to assess conduct matters relating to councillors and remains the most appropriate mechanism to provide an independent, consistent, fair and timely approach to these issues.

Members of the public expect their elected representatives to demonstrate professionalism, integrity and respect. When councillors fail to meet these expectations, the community rightly expects the conduct framework to hold them accountable.

While the removal of conduct breaches under the proposed Bill may reduce regulatory burden and eliminate the need to process minor complaints, it also creates a significant risk: behaviours that amount to serious breaches of the Code of Conduct or council policies could go unchecked. This gap has the potential to erode public trust and confidence in the integrity of local government.

Examples of conduct no longer captured

Examples of conduct which may no longer be captured within the councillor conduct framework under this Bill include:

- Singular incidents of threatening, violent or aggressive behaviour towards council employees, councillors or members of the public
- Misusing a council vehicle or other council resources
- Representing the council at events whilst intoxicated or under the influence of drugs
- Using a personal email address to conduct official council business

In the 2024-25 financial year, the OIA received 499 complaints alleging conduct breaches. Of these, 471 matters (94 per cent) were dismissed or required no further action, and 22 matters (3 per cent) were referred back to seven councils for local resolution.

Our key concern relates to instances of serious misbehaviour by councillors that may no longer be captured under the Bill, along with diminishing the effects of policy and procedure in maintaining effective and transparent governance.

While the Bill expands the definition of misconduct to capture some serious conduct breaches, we

believe residual scenarios will remain that do not meet community expectations.

Councillor behaviour towards council staff

The unique workplace setting where elected councillors operate alongside council employees creates a complex power imbalance that can significantly impact employee wellbeing. Unlike council staff who are bound by strict policies, procedures and reporting structures, elected officials function with a high degree of autonomy and public visibility.

Councillors maintain direct and influential communication channels with their communities through live-streamed meetings, townhall meetings, media interviews and large social media audiences. This public platform amplifies their authority and heightens the risk of raising reputational issues of staff in a public domain.

Such actions can foster an environment of fear and uncertainty, where employees feel pressured to comply with unreasonable demands to avoid public criticism or damage to their professional standing.

These scenarios introduce significant psychological stress, undermine trust and can erode the integrity of workplace relationships, particularly in smaller local governments. It can lead to a high turnover in council staff at varying levels of experience, including senior managers and CEOs.

Approximately five per cent of complaints received by the OIA this financial year (July to November 2025) relate to councillors' conduct towards council staff members.

While the majority of councillors treat employees with respect and fairness, there have been serious complaints received from council employees who have been the subject of aggressive or threatening behaviour or where they have been the subject of unfair public ridicule.

Under the proposed Bill, the OIA is concerned serious behavioural breaches of this nature where council staff members are targeted may no longer be supported within the framework. It remains unclear how complaints of this nature will be dealt with and what oversight, if any, will be provided.

Example scenarios of conduct no longer captured

- *A councillor in a regional community makes several phone calls to a junior staff member on a public holiday before attending the employee's private residence unannounced and demands they unlock a council hall for an unscheduled community event. When the council officer declines, the councillor becomes abusive, shouting and threatens to cut the locks and break down the doors of the community hall if they do not assist. The incident happens in the front yard of the staff member's residence in full view of their family and neighbours.*
- *A councillor publishes highly critical and defamatory comments about a senior executive member of the council on their official councillor Facebook page. While not naming the council officer, followers quickly work out who the comments relate to and pile on with highly offensive, racist and threatening comments which the councillor fails to moderate or remove.*

- *A councillor is representing council at a Christmas community event when it becomes apparent that the councillor is intoxicated and starts abusing members of the public and council staff present who attempt to intervene. A parent at the event films the councillor swearing and being aggressive towards others and posts it on the local community Facebook page.*

Breach of council policies, procedure or resolution of council

The removal of conduct breaches as a category of conduct also eliminates the clear instrument to deal with contraventions of council policies, procedures and resolutions.

This change means complaints about contravening local government policies and procedures relating to issues such as security, information management, use of council resources, media and social media protocols may no longer be assessed and actioned by the OIA.

Serious contraventions are not adequately captured within the definition of misconduct, however, do raise significant integrity and governance risks. For example, the use of a personal email to conduct council business, using a council vehicle for personal use or showing disregard to workplace health and safety policies and procedures may no longer be dealt with following the amendments in the Bill.

It remains unclear how complaints of this nature will be actioned in the future and whether there will be any oversight measures in place.

Example scenarios of conduct no longer captured

- *A councillor is found to have used a council vehicle for personal use on numerous occasions, including a family road trip holiday where other family members were reported to be driving the vehicle, clearly breaching council's vehicle use policy.*
- *A councillor breaches the local government's gifts and benefits policy by giving away two $600 gala tickets to family friends, purchased for the purpose of representing council at the event.*
- *A councillor is found to be continuously sending confidential council documents containing constituents private information to their personal Gmail account in clear breach of the council's information security policy.*
- *A councillor writes a highly subjective and offensive article on a sensitive topic unrelated to council matters and publishes it in the council newsletter, contrary to the council's policy on publishing newsletters.*
- *A councillor uses a council-owned vehicle to block a street as part of a protest, preventing normal traffic flow, in breach of the council's vehicle use policy.*
- *A councillor breaches council's information management policy by dealing with council matters using the resources and staff of their private company to draft internal council documents requiring endorsement and decision by the council.*

Reporting of councillor conduct

Currently, all councillor conduct within the categories of conduct breach and misconduct is assessed by the OIA. Under section 150R, local government officials must notify the assessor about conduct of this nature. Further, under section 150P, all complaints about councillor conduct received by a government entity, including councils, must be referred to the OIA for preliminary assessment.

Under the Bill, section 150R has been amended so that local government officials only need to notify the OIA when they receive information indicating a councillor may have engaged in misconduct.

This places councillors and other local government officials in a predicament where they must make their own assessment of what they believe would constitute misconduct and what remains unreported.

The OIA believes this has the potential to create unintended issues where councillors are mistakenly withholding complaints or information on the understanding they believe the conduct does not equate to misconduct. An example of where this may be problematic is when you consider the bullying provisions added to misconduct under the Bill. To meet this definition, it must be demonstrated that a councillor has engaged in behaviour that is repeated unreasonable behaviour directed at another person that causes a risk to the health or safety of the other person. If the first or second instances of behaviour which could amount to a course of bullying are not reported on the belief it does not constitute misconduct, this may prove difficult to later investigate or deal with properly.

The removal of a positive obligation to report breaches of the Code of Conduct and council policies will significantly reduce the OIA's visibility of councillor conduct issues.

Currently, the OIA assesses lower-level complaints relating to conduct breaches including contraventions of council policies with a strong preference for proportionate responses such as statutory recommendations and providing advice aimed at capacity building for lower-level conduct issues. This approach allows the OIA to intervene early, preventing escalation, and reducing the likelihood of further complaints.

Capturing and collating complaint data and recommendations enables the OIA to provide high level emerging trend data to the Department of Local Government, Water and Volunteers and local governments to assist with targeted training and general capacity building.

If the intention of the Bill is to shift the responsibility of Code of Conduct related complaints about councillors entirely to local governments to manage, an unintended consequence could result in councils having to deal with complaints against councillors – something the OIA currently does efficiently, consistently and independently. There is the potential for this to create resourcing issues for councils and potentially place unfair pressure on council CEOs and staff.

2. The definition of misconduct

The Bill acknowledges that a portion of conduct breaches should be considered serious and dealt with as misconduct. While the OIA supports the expansion of the definition for the purpose of capturing serious misbehaviour, and seeks to expand the definition further, we do wish to raise certain legal complexities with the Bill in its current form in relation to section 150L.

The Bill amends the definition of 'misconduct' to the conduct of a councillor that:

- is or involves repeated unreasonable behaviour directed at another person that causes a risk to the health or safety of the other person;
- is or involves harassment of a sexual nature, including, for example, unwelcome behaviour of a sexual nature and making a remark with a sexual connotation; or
- 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.

The OIA supports the government's intent to strengthen behavioural standards for councillors, particularly in areas relating to bullying and sexual behaviour. While these serve important purposes in their own legislative contexts, they are not naturally aligned with the governance and accountability focus of councillor misconduct.

Adopting them without adaptation risks operational complexity, evidentiary challenges, and uncertainty for both complainants and councillors, while potentially exposing investigative material to unintended legal use outside the disciplinary framework.

The behavioural concepts, particularly bullying and sexual behaviour, closely mirror wording and thresholds established in other statutory frameworks, such as the *Industrial Relations Act 2016* (Qld), the *Fair Work Act 2009* (Cth), the *Anti-Discrimination Act 1991* (Qld), and the *Human Rights Act 2019* (Qld).

While these statutes are designed to regulate workplaces, civil rights, and human rights, their standards are not naturally aligned with the governance and accountability focus of councillor misconduct. Importing these external behavioural standards introduces significant interpretive, operational, and evidentiary complexity, creating practical challenges for investigations and prosecutions in the context of an overall protective and educative councillor conduct framework.

Evidence and assessment approaches common in employment, industrial, or human rights disputes are unfamiliar in councillor misconduct proceedings, increasing investigative timelines, resource demands and uncertainty for complainants and councillors.

A further risk arises from the potential evidentiary consequences of these new provisions. Investigative material collected under the new misconduct grounds, while gathered solely for councillor disciplinary purposes, could be subpoenaed or otherwise compelled for use in proceedings under the originating statutes, such as the *Industrial Relations Act 2016* (Qld), the *Fair Work Act 2009* (Cth), the *Anti-Discrimination Act 1991* (Qld), and the *Human Rights Act 2019* (Qld).

This blurs the boundary between disciplinary regulation and private litigation, risks compromising

the privacy and confidentiality of complainants and witnesses and may place the OIA in a position of being required to disclose materials gathered under its specific statutory powers outside the intended disciplinary framework.

OIA Recommendation

The OIA proposes a pragmatic alternative to achieve the policy intent without importing external jurisdictional language. Specifically, the same conduct could be effectively captured through the existing misconduct limb of "non-compliance with an Act" (s 150L(1)(b)(i)).

To provide greater clarity and certainty, a legislative note could explicitly confirm that "non-compliance" encompasses obligations under sections 4 and 12 of the *Local Government Act 2009* (the Act) and sections 4 and 14 of the *City of Brisbane Act 2010*, which set out the general principles and councillor conduct with respect to their responsibilities.

Framing non-compliance in this way also allows for the inclusion of relevant breaches of other legislation, such as the *Anti-Discrimination Act 1991*, *Fair Work Act 2009*, *Industrial Relations Act 2016*, or *Human Rights Act 2019*, but only where such conduct directly relates to a councillor's expected standard of conduct.

This approach ensures the misconduct framework is both comprehensive and appropriately focused on governance and accountability, while avoiding the unintended application of external legislative standards in contexts for which they were not designed.

This approach avoids importing complex, external statutory tests and precedent into the councillor misconduct framework while maintaining the original purpose of the misconduct definition, being providing timely, proportionate disciplinary responses to councillor behaviour.

It also reduces operational complexity, resource burdens and the risk of subpoena or evidentiary complications. Legislative notes or explanatory material could make it explicit that relevant breaches of other Acts are included only where they relate to councillor conduct obligations, preventing overextension into unrelated civil or employment matters.

Clear guidance could further define thresholds and provide examples to support consistent interpretation and proportional enforcement.

This change also removes all lower-level behaviours or policy breaches that currently are captured as conduct breaches, but allows conduct that is serious enough to be contrary to the local government principles and the responsibilities of councillors listed in the Act to be dealt with.

As it currently stands, there is an interpretative risk that section 150L(1)(b)(i) could be construed as being confined to contraventions of acts other than the Local Government Act 2009. If that construction were adopted, contraventions of the Local Government Act 2009 would be taken to constitute misconduct only where they are expressly identified elsewhere in the definition.

Because section 150L(1)(c)(iv) and (v) expressly list certain the Local Government Act 2009 breaches as misconduct, this may give rise to an argument that the legislation intended only those listed expressly to be covered by the definition of "misconduct". This creates a risk that other important obligations in the Local Government Act, including key provisions such as sections 4 and

12, could be read to fall outside the misconduct framework simply because they are not expressly referenced.

If this occurs, the misconduct regime could operate more narrowly than intended, leaving gaps in accountability and creating uncertainty about when serious non-compliance can be addressed. This would weaken the effectiveness of the framework and complicate enforcement of core governance and significant conduct standards.

For these reasons, clarification or amendment is recommended to make it clear that breaches of the Act can constitute misconduct more broadly, and that the specific examples listed in section 150L(1)(c) are not intended to limit the overall scope of the misconduct definition.

This change would also be applicable to the *City of Brisbane Act 2010*.

Clarifying misconduct provision – 'honest and impartial'

The current drafting of the misconduct provision referring to honest and impartial has created unnecessary interpretive complexity for the OIA and with the removal of conduct breaches from the framework in the Bill, creates further reason to address the issue through this reform process.

The OIA recommends that section 150L(1)(a) of the Act be amended so that the phrase "honest **and** impartial" is replaced with "honest **or** impartial." In other words, the conduct of a councillor would amount to misconduct if it "adversely affects, directly or indirectly, the honest or impartial performance of the councillor's functions, or the exercise of the councillor's powers."

This relatively minor change would provide crucial clarity and avoid a construction that requires the conduct to be a cumulative failure of both honesty and impartiality.

The need for this amendment arises from the difficulty and confusion generated by the recent decision of the Councillor Conduct Tribunal (CCT). In that case, the Tribunal treated "adversely affects" as a separate, free-standing element of misconduct. The Tribunal required proof that the conduct had more than a trifling but less than significant adverse effect, in essence, elevating the "adverse effect" into a distinct criterion rather than simply as the negative impact on the expectations of honesty or impartiality placed on the councillor. In practice, that shifts the focus away from whether honesty or impartiality was compromised, to whether the adverse effect meets some undefined threshold of significance, which is neither grounded in the statutory text nor helpful for coherent application.

Further, the Tribunal held that the provision required proof of both a negative impact on honesty and a negative impact on impartiality, concluding that the legislation deliberately intended a cumulative test. Under that interpretation, conduct which is plainly dishonest but not partial, or partial but not dishonest, may escape the misconduct provision entirely.

Such a reading is overly narrow, imposes a cumulative burden that undermines the integrity-protection purpose of the provision, and does not reflect the intention to safeguard public trust in government, by capturing conduct that undermines integrity, whether through lack of honesty or partiality.

The OIA considers that the insertion of "or" in lieu of "and" restores the proper meaning and

function of the provision. It aligns with the purpose of the Act to regulate integrity, ensures that misconduct can be established on a single ground of impairment to integrity, and avoids unnecessary or unduly technical stacking of elements.

The “adverse effect” should simply refer to the negative impact on honesty or impartiality, not a further separate element of proof.

Accordingly, adopting the amendment would better serve both clarity and effectiveness: misconduct would turn on whether there was a negative effect on the honesty or impartiality expected of a councillor in their position of trust and not whether multiple independent standards were breached. This would ensure that the provision captures real threats to integrity without imposing unhelpful or unintended barriers to enforcement.

3. Reintroduction of Material Personal Interest and conflict of interest concept

The OIA generally supports the new conflict of interest regime outlined in the Bill where a reintroduction of the MPI and conflict of interest provisions would also apply.

The OIA has observed that some councillors have experienced difficulties in applying the concepts of prescribed and declarable conflict of interests.

We support the intention to simplify the process, however, the OIA has concerns about several aspects of the proposed changes including:

- **The definition of a MPI**
- **The removal of close personal relationships**
- **Significant gift or loans not clearly captured**
- **Clarity around official council engagements**
- **Conflicts of interest declarations**

The OIA believes some minor amendments to the Bill could add clarity and strengthen integrity measures which have previously led to findings of councillor misconduct.

Definition of a Material Personal Interest

The Bill proposes under the new section of 150EE of the Act, a councillor has a MPI in a matter if the councillor or an associate of the councillor stands to gain a benefit or suffer a loss, either directly or indirectly, depending on the outcome of the consideration of the matter at a local government meeting.

We suggest the definition of MPI should be:

A councillor has a material personal interest in a matter if the councillor or an associate of the councillor could reasonably stand to gain a benefit or suffer a loss, either directly or indirectly, depending on the outcome of the consideration of the matter by a local government.

The OIA believes these additions (in underline above) to the definition would provide a clearer interpretation and explicitly capture concerning conduct more broadly and in line with community expectations.

It would also enable local government decisions made under delegation such as a planning officer conducting development approvals to be captured. This would ensure councillors cannot avoid declaring interests simply because they are not the final decision-maker.

The OIA contends that MPIs inherently bring a greater need for transparency for the benefit of the public trust. Therefore, councillors who have a MPI should be required to properly deal with their

conflict on any occasion whether it be within a meeting or at any stage of processing the matter by council staff either as decision-makers under delegation or involved in making recommendations to council about the matter.

This definition allows for such instances to be captured when a councillor has an MPI and provides for the continuation of an influence provision strictly in relation to MPI.

The removal of close personal relationships

Currently, section 150EP(1)(d) of the Act includes "a person who has a close personal relationship with the councillor" as a related party. The Bill omits this provision, narrowing the express definitions to a limited set of familial and business relations.

The OIA believes the removal of this component could create uncertainty for councillors leading to misunderstanding the broader range of relationships that may lead to decisions being contrary to the public interest. For example, intimate personal relationships or financial relationships that are outside the express definitions for associates or related parties.

It is not unreasonable to assume that these relationships could influence decision-making even more than some of the familial connections currently outlined in the Bill.

To address these concerns, the OIA suggests providing additional categories that captures both intimate relationships and significant financial ties.

Examples of relationships not expressly captured

- *A large development company has made a development application to the council to approve a 15-storey building within the local government area. A councillor is involved in an ongoing intimate relationship with the CEO of the applicant company (not sufficient to be deemed a de-facto relationship).*
- *A resident makes application to the local government for a $30,000 grant to assist their personal business that is located within the community. A councillor is a friend of the applicant and had previously been in a business partnership with the applicant (partnership ending 12 months prior). The councillor and the applicant regularly holiday together with their respective families, the applicant worked on the councillor's election campaign and their personal relationship is widely known throughout the community.*
- *A person was the campaign manager for a councillor during the 2024 local government elections; they are also a personal friend and former business partner. The person has no experience in local government but applies in response to an advertised vacancy for the council's CEO position in mid-2025.*

Significant gifts or loans not clearly captured

Significant donors are not clearly captured under the proposed framework.

The Bill defines an associate of a councillor in section 150EG of the Act, however, significant donors are not included in this list.

Financial influence can undermine impartiality, and the OIA believes that significant donors should also be captured within the definition of an associate and related party.

The OIA's view is that councillors who have been the beneficiary of significant gifts, loans or donations within a specified timeframe should be expressly captured as MPIs or conflicts of interest for the purpose of clarity. This would also provide clarity for councillors in determining whether they have a conflict of interest in matters before council.

We recommend that anyone who has given a gift or loan of $2,000 or more within four years of a decision be defined as an associate to enliven the MPI category.

Example of gifts or loans not expressly captured

- *A personal friend of a councillor provides a $50,000 loan to the councillor's failing business and while this loan appears on the councillor's Register of Interests, council deliberates a decision relating to a company in which the creditor is a principal, this category of relationship is not expressly captured within the framework.*

In respect of perceived or real conflicts of interest, we also recommend that the definition of related party under section 150EH expressly identifies that councillors who have been the beneficiary of more than $500 but less than $2,000 are subject to the conflict of interest provisions, an obligation that already exists but is not explicitly identified.

Clarity around official council engagements

The OIA recommends adding greater clarity around what constitutes an official council engagement.

Section 150EF(2)(a)(i) of the Bill provides an exception to what is a conflict of interest in a matter where "the councillor undertakes an engagement in the capacity of councillor…".

The OIA is concerned that without a clear definition, both councillors and decision-makers may incorrectly assume an engagement is in their "capacity of councillor" based on subjective self-assessment rather than authorised council endorsement.

A recent Tribunal matter illustrates the issue. In that case, a councillor received an invitation to an event directly from the event organiser, accepted it, and attended. The councillor later characterised their attendance as being in their "official capacity" simply because the invitation was sent to the councillor's email address and because they personally regarded the event as connected to their role. The Tribunal, in turn, accepted this characterisation despite there being:

- no formal approval by the local government that the event constituted an official council

engagement;

- no resolution or delegation authorising attendance; and
- no conduct by the councillor at the event that involved performing or discharging any statutory responsibilities.

The matter demonstrates how, in the absence of a statutory definition, "official capacity" can be inferred from a councillor's unilateral decision to attend an event and self-identify the attendance as official. This creates uncertainty and exposes councillors to conduct risks where the distinction between personal and official roles becomes blurred without any objective, council-endorsed criteria.

To address this, the OIA proposes a minor amendment to new section 150EF(2)(a)(i) of the Act, inserting the word "official" (capacity) and defining "official capacity" to mean "an engagement approved by resolution of the local government". The proposed terminology of "official capacity" would also be aligned with the terminology used under paragraph 12 of Schedule 5 of the *Local Government Regulations 2012* with respect to the exemption grounds for what constitutes "Gifts totalling $500 or more" for the purpose of financial and non-financial particulars for registers of interests.

This amendment provides a clear and objective test for when a councillor is acting in an official capacity. It ensures that official engagements are those that the council has formally approved, not those that a councillor independently designates as official, nor those inferred from the mode of invitation or the councillor's personal perception of their role. This clarity will protect councillors from inadvertent conflict of interest issues and ensure consistency in the application of the scheme.

It is noted that a resolution of the local government could specify ongoing arrangements for what constitutes approval. For example, a local government may sponsor a sporting team that provides annual tickets to the local government for distribution amongst councillors to attend on behalf of council.

Conflicts of interest declarations

The Bill seeks to place the onus on individual councillors to consider whether they have a conflict of interest in a matter, placing significant trust on councillors in managing any conflicts in the public interest.

While the OIA generally supports the concept of empowering councillors to manage their own conflicts of interest, we believe there should be a minimum standard in the level of detail declared at meetings to safeguard the transparency of this process. This would be consistent with what is currently in place when councillors declare a conflict of interest.

New section 150EJ of the Act (councillor's conflict of interest at a meeting) applies if a matter is to be discussed at a local government meeting, and a councillor at the meeting has a conflict of interest in the matter (a 'real conflict') or could reasonably be taken to have a conflict of interest in the matter (a 'perceived conflict').

Section 150EJ(2) provides that the councillor must deal with the real conflict or perceived conflict in

a transparent and accountable way.

Section 150EJ(3) provides that, without limiting subsection (2), the councillor must inform the meeting of: (a) the councillor's personal interests in the matter, and (b) if the councillor participates in the meeting in relation to the matter—how the councillor intends to deal with the real conflict or perceived conflict.

The OIA holds the view that this provision requires further clarity and should specifically prescribe minimum particulars that need to be openly declared rather than leaving it to a subjective interpretation of what constitutes a "transparent and accountable" approach to managing conflicts.

Currently, under Section 150EQ(4) of the Act, councillors must declare the following particulars:

- the nature of the declarable conflict of interest
- if the conflict arises from a relationship with a related party
- if the conflict stems from a gift or loan to the councillor or related party.

The OIA is concerned that removing this minimum standard would provide inadequate guidance to councillors and could undermine transparency and accountability, potentially allowing significant conflicts of interests to be obscured through a lack of detail.

Councillors should disclose the full nature of their interest, the names of related parties or entities, the value of gifts or donations and any prior discussions in relation to the matter.

The OIA believes councillors should be required to clearly demonstrate transparently that they have seriously turned their mind to how they propose to deal with their conflict. For example, a councillor may have unique expertise in a matter before council and they articulate how their contribution through their expertise is driven more toward the benefit of the local government area than confined to their personal interest.

These details should be recorded in the meeting minutes to ensure transparency and accountability.

Examples of deficient declarations

- *A councillor has a real or perceived conflict of interest in a matter (a multi dwelling development application) during a Council meeting because the applicant is a grandparent of the councillor. The councillor declares that their grandparent is the applicant, but the councillor believes that they can participate in the decision because their personal interest would not affect their ability to make a decision that is contrary to the public interest. The councillor failed to also declare that a project manager for the application was a close personal friend and former business partner of the councillor.*
- *A councillor has a real or perceived conflict of interest in the awarding of a multi-million-dollar road resurfacing contract to their uncle's company during a meeting. This interest was declared and the councillor also declared that they would participate despite their*

uncle's interest because they felt that they could still make a decision that was in the public interest. The councillor failed to also declare that they own and operate a heavy machinery maintenance business that could (not certain) receive extra work if the contract was awarded to the uncle's company.

Managing conflicts of interest for selection panels

The OIA accepts that under the Bill, councillors will only need to declare and manage their conflicts of interests during statutory meetings, however, we submit that this requirement should extend to selection panels.

The appointment of senior executives in local government carries significant weight in council's overall operations and resources. Consequently, any issue of potential impropriety, if not properly vetted may undermine public confidence in the process. For this reason, the same level of transparency that applies to decisions of local government, should equally apply to selection panels.

Given that the Bill makes councillors members of recruitment panels for senior executive officers, and CEOs are required to declare and manage conflicts of interest under council policy, it is reasonable that councillors should also be required to declare and manage their own conflicts when serving on these panels. This requirement should likewise extend to councillors involved in CEO selection panels.

4. The removal of an influence provision

The removal of the influence provision in the Bill creates a significant integrity gap.

Currently, section 150EZ of the Act prohibits councillors with a prescribed or declarable conflict of interest from attempting to influence or discuss decisions. However, the proposed amendments do not address situations where councillors may seek to influence or discuss the matter with participants in the decision-making process outside statutory meetings, such as in workshops, briefing sessions or informal discussions.

The OIA believes this omission presents a serious risk. Transparency should apply across all forums, not just in the council chamber where final decisions are made.

The CCT has previously sustained findings of misconduct for influencing others while having a declarable or prescribed conflict of interest. These cases demonstrate the need for clear legislative safeguards.

To address this, specifically for the MPI category, the OIA recommends inserting a new section into the Bill, mirroring the intent of the current section 150EZ, expressed as follows:

(1) This section applies to a councillor of a local government who has a material personal interest in a matter.

(2) The councillor must not direct, influence, attempt to influence, or discuss the matter with another person who is participating in a decision of the local government relating to the matter.

Additionally, analogous with ethical standards for State Members of Parliament (Code of Ethical Standards, Part 3.2.4), the Bill should contain a mechanism that ensures proper management of serious conflicts of interest outside chambers as well as within. Therefore if a councillor has a MPI, the obligations which currently apply during council meetings should, equally be extended to beyond the confines of a meeting.

Example of conduct no longer captured

- *A councillor has a development application that requires a decision of the Council. The councillor would have a MPI in the matter if it came to a meeting. The councillor approaches a planning officer to influence their recommendation report to Council. Before the Council meeting, the councillor also discusses the upcoming decision with other councillors who would be eligible to participate in the Council decision.*

CCT Case Study: Influencing a matter

In 2024, a councillor was ordered to make a public admission following a CCT decision (F23/3042) found that the councillor engaged in misconduct by influencing others while having a declarable conflict of interest.

The councillor was selling a commercial property when they directly approached a council staff member and requested the premises be reassessed as part of proposed flood mapping amendments to the local planning scheme.

The proposed flood mapping indicated the property would be affected by flooding and when reassessed by council staff, the property was removed from the flood zone area.

While the councillor had declared a conflict of interest in the property, the Tribunal found they contravened their obligation under s 150EZ of the Act.

5. Administrative Discrepancy (vacating office)

The proposed amendment to section 162 of the Act introduces a new circumstance in which a councillor's office becomes vacant, namely where the councillor "is elected or appointed as mayor of the council" (proposed s 162(1)(fa)).

It is noted that, under the existing framework, sections 150T(2) and 150AKA(2) require the Assessor to discontinue an investigation, or withdraw a CCT application, if the subject councillor's office becomes vacant. Section 150M(2) then allows the Assessor to recommence the matter if the person is subsequently elected or appointed as a councillor within 12 months.

In light of these provisions, the proposed addition of section 162(1)(fa) may, on its face, result in a circumstance where a councillor who becomes mayor is technically taken to have vacated their office, thereby enlivening the Assessor's discontinuance and withdrawal obligations. This could lead to matters being discontinued or withdrawn only to be recommenced immediately once the person assumes mayoral office.

To avoid this potential for unnecessary administrative steps and duplication of process, it is recommended that consideration be given to clarifying in the Bill that the operation of section 162(1)(fa) is not intended to trigger the Assessor's obligations under sections 150T(2) and 150AKA(2).

Such clarification would help ensure continuity in the management of misconduct matters and reduce avoidable administrative burden for all parties.

6. Maintaining unsuitable meeting conduct

Under the Bill, local governments will continue to deal with the poor behaviour of councillors in local government meetings as 'unsuitable meeting conduct', consistent with how the Queensland Parliament deals with the behaviour of its members.

The OIA supports this framework and agrees that unsuitable meeting conduct should be addressed by councillors within the meeting.

We also endorse the proposed amendments requiring councillor conduct registers to record the name of any councillor who engages in unsuitable meeting conduct.

Currently, approximately 10 per cent of complaints received by the OIA relate to councillor behaviour in meetings. Under existing arrangements, three rulings of unsuitable meeting conduct can escalate to a conduct breach. The Bill removes this escalation process, except where a councillor refuses to leave the meeting when directed by the chairperson with this behaviour being treated as misconduct.

While limiting escalation may present challenges for some councils, overall, the OIA considers this level of conduct best managed locally.

The strengthened requirement for conduct register entries will support accountability.

Additionally, targeted training for chairpersons on managing unsuitable meeting conduct would further enhance the effectiveness of dealing with these matters.

To allow chairpersons to adequately deal with repeated or more serious instances of unsuitable meeting conduct, the Committee may wish to consider expanding the types of orders available to chairpersons.

7. OIA Recommendations

While the OIA generally supports the intent of the Bill, we recommend the Committee consider the following to ensure the reform adequately addresses issues raised in our submission including integrity and accountability concerns, legal application and operationalising complaint management to align with community expectations.

1	**Non-compliance with an act clarification** To adequately address serious breaches of behavioural standards or council policies including bullying and sexual harassment within a disciplinary framework, the OIA recommends inserting a legislative note confirming that "non-compliance with an Act" expressly encompasses obligations under sections 4 and 12 of the *Local Government Act 2009*, which set out the general principles and councillor conduct with respect to their responsibilities.
2	**Not honest or not impartial** Section 150L(1)(a) of the Act be amended so that the phrase "honest **and** impartial" should be replaced with "honest **or** impartial." This relatively minor change would provide crucial clarity from a legal perspective to properly capture the intent of the new framework.
3	**Definition of MPI** Change definition of MPI slightly in Section 150EE of the Act to include the following underlined insertions: *A councillor has a material personal interest in a matter if the councillor or an associate of the councillor could reasonably stand to gain a benefit or suffer a loss, either directly or indirectly, depending on the outcome of the consideration of the matter by a local government*. This change recognises the seriousness of the category MPIs and therefore enables the application of an influence provision that will apply to councillors with MPIs inside and outside statutory meetings (*See Recommendation 8*).
4	**Close personal relationships** Currently, section 150EP(1)(d) of the Act includes "a person who has a close personal relationship with the councillor" as a related party. The Bill omits this provision, narrowing the express definitions to a limited set of familial and business relations. The OIA suggests both intimate relationships and financial relationships should be explicitly captured due to the significant nature of these types of relationships.
5	**Significant gift or loan not clearly captured** The Bill defines an associate of a councillor in section 150EG of the Act, however, significant donors are not included in this list. For the purpose of clarity, we recommend that anyone who has gifted or loaned $2,000 or more within four years of a decision be defined as an associate to enliven the MPI category. We also recommend that the definition of related party expressly includes councillors who

	have been the beneficiary of more than $500 but less than $2,000 to make it clear to councillors that this would enliven the conflict of interest provision.
6	**Clarifying official councillor engagements** The OIA recommends adding greater clarity around what constitutes an official council engagement. The OIA recommends a small amendment to new section 150EF(2)(a)(i) in the Bill, inserting the word "official" (capacity) and a definition of the term "official capacity" to mean "an engagement approved by resolution of the local government". This amendment will prevent confusion, provide clarity for councillors and protect them from inadvertent conduct issues.
7	**Clarify information provided during declarations** *Section 150EJ(2) provides that the councillor must deal with the real conflict or perceived conflict in a transparent and accountable way.* The OIA recommends amending this to maintain current obligations and uphold a minimum standard of declaration. The OIA recommends councillors disclosing the full nature of their interest, the names of related parties or entities, the value of gifts or donations and any prior discussions in relation to the matter.
8	**Managing conflicts of interest for selection panels** The OIA recommends a suitable provision be inserted to ensure councillors are required to declare and manage their conflicts of interests when serving on selection panels, including for the recruitment of CEOs and senior executive officers.
9	**Reinserting influence provision (MPIs only)** The Bill omits an influence provision enabling situations where councillors may seek to influence or discuss the matter with participants in the decision-making process outside statutory meetings, such as in workshops, briefing sessions or informal discussions. To address this, the OIA recommends inserting a new section into the Bill, replicating the current section 150EZ of the Act, expressed as follows: *(1) This section applies to a councillor of a local government who has a material personal interest in a matter. (2) The councillor must not direct, influence, attempt to influence, or discuss the matter with another person who is participating in a decision of the local government relating to the matter.*
10	**Administrative Discrepancy (vacating office)** Under section 162 of the Bill, a councillor's office becomes vacant if they are elected as mayor. It is recommended that the Bill clarifies that the operation of section 162(1)(fa) is not intended to trigger the Assessor's obligations under sections 150T(2) and 150AKA(2) to discontinue/withdraw ongoing matters. Such clarification would help ensure continuity in the management of misconduct matters and reduce avoidable administrative burden for all parties.