



# **COUNCILLOR CONDUCT REGISTER**

**(S150DX- Local Government Act 2009)**

The purpose of this register is to record the decisions/outcomes of investigations made against Councillors under Chapter 5A (sections 150DX, 150DY & 150DZ) of the Local Government Act 2009.

The local government must keep an up-to-date councillor conduct register about the following matters:

- Orders made about the unsuitable meeting conduct of councillors at local government meetings
- Decisions about suspected inappropriate conduct of councillors referred to the local government
- Decisions about whether or not councillors have engaged in misconduct made by the Councillor Conduct Tribunal
- Complaints about the conduct of councillors dismissed by the Independent Assessor
- Decisions to take no further action in relation to the conduct of councillors investigated by the Independent Assessor

Also note obligations required as per sections 150DY and 150DZ on entries to the register relating to names of councillors being published.

This Register is to be published on Council's website and available for inspection by the public at Council's office. An entry in the register may be able to be purchased from the Council office.

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision               | Reason for the Decision   | Decision Maker                           | Complaint Number           |
|-------------------|------------------|---------------------------------|--|-----------------------------------|---|--|----------------------------|
| 20/12/2018        | 08/01/2019       |                                 | Councillors permitted substantial increase in shooting activities at a local Club resulting in excessive and constant noise  | Dismissed (s150X(a)(ii))          | OIA only deals with inappropriate conduct and misconduct  | Office of the Independent Assessor (OIA) | F18/16221                  |
| 22/12/2018        | 14/01/2019       |                                 | Council voting to expend funds for declaration of vexatious litigants  | Dismissed (s150X(c)(i))           | OIA dismissed complaint under s150X(c)(i) as dealing with complaint would not be in the public interest   | OIA                                      | C/18/00391-393 & F18/16291 |
| 08/01/2019        | 18/02/2019       |                                 | Misconduct: Six (6) Councillors voting in favour of a reduction in infrastructure fees for a business in which a fellow councillor had a material personal interest, and in breach of Council Policy | No further action (s150Y(b)(iii)) | OIA decided to take no further action on the basis that further investigation would be an unjustifiable use of resources. The councillor with an alleged material personal interest declared and removed himself from the meeting. The decision of the remaining Councillors was made on the recommendation of Council employees and was consistent with similar decisions made on other like applications involving persons independent of Council and Councillors. Amendment of the relevant policy to reflect practice is recommended. | OIA                                      | C/19/00005 to C/19/00011   |

<sup>1</sup> Only to be included if the local government or conduct tribunal decided that the councillor engaged in inappropriate conduct or misconduct, or where the councillor agrees to their name being included in the register (Section 150DY(3) Local Government Act 2009)

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision             | Reason for the Decision   | Decision Maker | Complaint Number          |
|-------------------|------------------|---------------------------------|---|---------------------------------|---|----------------|---------------------------|
| 24/07/2019        | 21/03/2019       |                                 | Complaint related to the conduct of a single Councillor and alleged that the contents of an email sent by the Councillor constituted a threat of reprisal action against a Council employee | No further action (s150Y(b)(i)) | The Independent Assessor decided to take no further action about the conduct of the councillor pursuant to Section 150Y(b)(i) of the <i>Local Government Act 2009</i> on the basis that a review of the language used in the Councillor's email did not support the allegation that a threat had been made. | OIA            | C/19/00085                |
| 18/07/2018        | 01/04/2019       |                                 | Misconduct: It was alleged one or more of the Councillors had released information confidential to the Council without authorisation.   | No further action (S150Y(b)(i)) | The Office of the Independent Assessor decided to take no further action under s150Y(b)(i) on the basis, after an investigation, there is no evidence that the conduct of the Councillors in relation to the matters under investigation constitutes inappropriate conduct or misconduct.                   | OIA            | C/18/00236-<br>C/18/00242 |
| 19/11/2018        | 27/04/2019       | Cr Kremastos                    | Misconduct: Failed to declare conflict of interest at Council meeting held 08/11/2018 in relation to donation to Unity Alliance Team  | Disciplinary Action (s150AR)    | Councillor Conduct Tribunal ordered that Cr Kremastos make a public admission that the councillor engaged in misconduct, at an ordinary meeting of the Council within one month of the date of the Order and pay to Council \$100 within 60 days.   | CCT            | F19/2576                  |
| 12/06/2018        | 27/04/2019       | Cr Kremastos                    | Misconduct: Failed to maintain and update register of interests and declare conflicts of interest   | Disciplinary Action (s150AR)    | Councillor Conduct Tribunal ordered that Cr Kremastos make a public admission that the councillor engaged in misconduct, at an ordinary meeting of the Council within one month of the date of the Order.   | CCT            | F19/2576                  |

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| 19/11/2018        | 27/04/2019       | Cr Baines                       | Misconduct: Failed to declare conflict of interest at Council meeting held 08/11/2018 in relation to donation to Unity Alliance Team                     | Disciplinary Action (s150AR)      | Councillor Conduct Tribunal ordered that Cr Baines make a public admission that the councillor engaged in misconduct, at an ordinary meeting of the Council within one month of the date of the Order and pay to Council \$100 within 60 days.   | CCT            | F19/2575         |
| 19/11/2018        | 27/04/2019       | Cr Taylor                       | Misconduct: Failed to declare conflict of interest at Council meeting held 08/11/2018 in relation to donation to Unity Alliance Team                     | Disciplinary Action (s150AR)      | Councillor Conduct Tribunal ordered that Cr Taylor make a public admission that the councillor engaged in misconduct, at an ordinary meeting of the Council within one month of the date of the Order and pay to Council \$100 within 60 days.   | CCT            | F19/3139         |
| 12/06/2018        | 27/04/2019       | Cr Taylor                       | Misconduct: Failed to maintain and update register of interests and declare conflicts of interest  | Disciplinary Action (s150AR)      | Councillor Conduct Tribunal ordered that Cr Taylor make a public admission that the councillor engaged in misconduct, at an ordinary meeting of the Council within one month of the date of the Order and pay to Council \$100 within 60 days.   | CCT            | F19/3139         |
| 17/04/2019        | 09/05/2019       |                                 | It is alleged that confidential information was leaked in a Facebook post on 16 April 2019 and following a Council Information Session on 23 March 2019. | No further action (s150Y(b)(iii)) | The OIA decided to take no further action pursuant to section 150Y(b)(iii) on the basis that further investigation was an unjustifiable use of resources. It was noted that both councillors and council staff attended the Council Information Session on 23 March 2019 and the information session in question had been discussed within the community for an extended period of time. | OIA            | C/19/00412       |

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| 01/05/2019        | 13/05/2019       |                                 | Misconduct: It was alleged six of the Councillors had released information confidential to the Council without authorisation.  | Dismissed (s150X(a)(ii))              | OIA decided to dismiss the complaint under s150X(a)(ii) on the basis it was satisfied the conduct of the six Councillors in relation to the matter under investigation did not constitute inappropriate conduct or misconduct.  | OIA            | C/19/00467-<br>C/19/00472 |
| 20/12/2018        | 15/05/2019       |                                 | Misconduct: It was alleged that a councillor engaged in misconduct at a community event and made inappropriate comments towards members of the public and local indigenous groups. | Dismissed (s150X(c)(ii))              | Following investigation the OIA delegate made the decision to dismiss the complaint on the basis that further dealing with this matter would be unjustifiable use of resources as outlined in Section 150X(c)(ii) of the <i>Local Government Act 2009</i> . Some of the alleged comments were not substantiated and the Mayor had taken steps to counsel the councillor for other comments and required the subject councillor to apologise personally to a member of the public. | OIA            | C/18/00360                |
| 16/07/2018        | 16/05/2019       |                                 | It was alleged a councillor had released confidential council information on four occasions.   | No further action (s150Y(i) or (iii)) | The OIA decided to take no further action about the conduct of the councillor pursuant to section 150Y(i) and (iii) of the <i>Local Government Act 2009</i> on the basis that, following an investigation, the OIA did not consider the information allegedly released by the councillor was confidential to Council.   | OIA            | C/18/00345                |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision               | Reason for the Decision   | Decision Maker | Complaint Number                  |
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| 01/05/2019        | 17/05/2019       |                                 | It was alleged six councillors had voted in favour of two resolutions which were financially unsound and, in doing so, engaged in misconduct.   | Dismissed (s150X(c)(ii))          | The OIA decided to take no further action about the complaint against the councillors pursuant to section 150X(c)(ii) of the <i>Local Government Act 2009</i> after taking into account the nature of the allegations and the existence of other agencies whose jurisdictions may better respond to the allegations.              | OIA            | C/19/00456, C/19/00457, C19/00453 |
| 18/02/2018        | 03/06/2019       |                                 | It is alleged that a councillor disclosed confidential information regarding a council project which was ultimately subject of a media article. | No further action (s150Y(b)(iii)) | After an investigation the OIA decided to take no further action in relation to the complaint pursuant to Section 150Y(b)(iii) and on the basis that further action would not be a justifiable use of resources. All reasonable avenues of injury have been explored and no evidence was gathered to substantiate the allegation. | OIA            | C/19/00211                        |
| 29/01/2018        | 13/06/2019       |                                 | It was alleged a councillor attempted to intimidate or influence a council employee in an email sent on 2 December 2016.                        | No further action (s150Y(b)(i))   | The OIA decided to take no further action about the conduct of the councillor pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> on the basis that sending the email was not an attempt to intimidate or influence the council employee and therefore did not constitute inappropriate conduct or misconduct. | OIA            | C/19/00538                        |

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|---------------------------|------------------|---------------------------------|---|--|---|----------------|------------------|
| 11/04/2019                | 03/07/2019       |                                 | It is alleged that a councillor threatened a member of the public and directed a staff member in relation to council works. It was further alleged the councillor did not declare a personal interest in relation to those works. | Dismissed (S150X(a)(ii))                     | The OIA decided to dismiss the complaint pursuant to section 150X(a)(ii) on the basis that the conduct did not constitute inappropriate conduct or misconduct. The information provided in relation to the alleged threats made by the subject councillor did not raise a reasonable suspicion of inappropriate conduct or misconduct. Further, a council officer involved in the works in question, did not support the directing staff allegation. In relation to the failure to declare a conflict of interest, it was found that no relevant matter was before council at the relevant time and no interest had to be declared. | OIA            | C/19/00549       |
| 18/04/2016 and 15/08/2017 | 05/08/2019       | Cr Heath                        | Misconduct: Failed to maintain and update register of interests and declare conflicts of interest   | Disciplinary Action (s150AR(1)(b)(i) & (iv)) | Councillor Conduct Tribunal ordered that Cr Heath make a public admission that the councillor engaged in misconduct, at an ordinary meeting of the Council within one month of the date of the Order and pay to Council \$100 within 60 days.   | CCT            | F19/5894         |
| 18/11/2018                | 05/08/2019       | Cr Heath                        | Misconduct: Failed to declare conflict of interest at Council meeting held 08/11/2018 in relation to donation to Unity Alliance Team  | Disciplinary Action (s150AR(1)(b)(i) & (iv)) | Councillor Conduct Tribunal ordered that Cr Heath make a public admission that the councillor engaged in misconduct, at an ordinary meeting of the Council within one month of the date of the Order and pay to Council \$100 within 60 days.   | CCT            | F19/5894         |

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| 29/07/2019        | 05/08/2019       |                                 | Allegations that Councillors at a Council meeting on 7 December 2017 voted on a matter that committed Council to paying legal expenses that did not benefit Council or its rate payers and was corrupt.                                   | Dismissed (s150X(c)(ii))          | This matter was dismissed by the OIA pursuant to Section 150X(c)(ii) of the <i>Local Government Act 2009</i> . The complaint related to financial decision-making of Council and the subject matter of the complaint was more relevant to the jurisdiction of other agencies.  | OIA            | C19/00656;<br>C19/00661                |
| 02/05/2019        | 30/08/2019       |                                 | The complaint related to the conduct of a single councillor and raised concerns the councillor had failed to declare a personal interest at a council meeting and had released confidential council information to members of the public. | No further action (s150Y(b)(iii)) | The OIA decided to take no further action about the alleged conduct of the councillor pursuant to section 150Y(b)(iii) of the <i>Local Government Act 2009</i> on the basis taking further action would be an unjustifiable use of resources because there is insufficient information to raise a reasonable suspicion of corrupt conduct. | OIA            | C/19/00482                             |
| 30/08/2019        | 05/09/2019       |                                 | It was alleged three councillors had failed to include necessary information in their Registers of Interests in relation to benefits provided to them by the Council.   | Dismissed (s150X(a)(ii))          | The OIA decided to dismiss the complaint about the conduct of the three councillors pursuant to section 150X(a)(ii) of the <i>Local Government Act 2009</i> on the basis the councillors had not engaged in inappropriate conduct or misconduct as the benefits did not need to be listed in the Register of Interests.                    | OIA            | C/19/00746<br>C/19/00747<br>C/19/00748 |



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| 21/12/2018        | 20/09/2019       |                                 | It was alleged two councillors had failed to disclose particulars of their personal interests in relation to an agenda item at a council meeting. | Dismissed (s150X(a)(ii)) | The OIA decided to dismiss the complaint about the conduct of the two councillors pursuant to section 150X(a)(ii) of the <i>Local Government Act 2009</i> on the basis the councillors had not engaged in inappropriate conduct or misconduct as the councillors' interests were too remote from the matter being discussed at the council meeting. | OIA            | C/19/00132<br>C/19/00133 |
| 20/09/2019        | 24/09/2019       |                                 | The complaint alleged a councillor covertly recorded a conversation he was a party to and provided that recording to Council's solicitor and CEO. | Dismissed (s150X(a)(ii)) | The OIA dismissed the complaint pursuant to section 150X(a)(ii) as the conduct was lawful and not inappropriate conduct or misconduct within the meaning of the Act.  | OIA            | C/19/00800               |
| 01/05/2019        | 18/10/2019       |                                 | It was alleged two councillors had failed to disclose particulars of their personal interests in relation to an agenda item at a council meeting  | Dismissed (s150X(a)(ii)) | The OIA decided to dismiss the complaint about the conduct of the two councillors pursuant to section 150X(a)(ii) of the <i>Local Government Act 2009</i> on the basis the councillors had not engaged in inappropriate conduct or misconduct as the councillors' interests were too remote from the matter being discussed at the council meeting. | OIA            | C/19/00451<br>C/19/00459 |

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|-------------------|------------------|---------------------------------|---|----------------------------------|--|----------------|------------------|
| 18/10/2019        | 06/11/2019       |                                 | <p>It was alleged that a councillor made statements at a public rally that made direct reference to Council decision-making regarding legal proceedings.</p> <p>It was alleged that a councillor made statements where they were holding themselves out as being a councillor in circumstances where they were not authorised by the Mayor to speak on behalf of Council.</p> <p>It was alleged that the statements made by the councillor could be seen to influence future decisions outside of Council's proper decision-making processes, and had the capacity to bring Council into disrepute.</p> | No further action (s 150Y(b)(i)) | <p>The OIA delegate made the decision to take no further action in relation to the complaint pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> as it does not constitute inappropriate conduct or misconduct.</p> <p>The OIA was satisfied following a review of the audio recording that the councillor was expressing his personal views and did not disclose information that was confidential to Council.</p> | OIA            | C/19/00874       |

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|-------------------|------------------|---------------------------------|--|----------------------------------|--|----------------|--|
| 21/10/2019        | 07/11/2019       |                                 | <p>It was alleged that councillors had not declared a conflict of interest in relation to a development application and a donation received from the developer at council meetings held between 2016 and 26 September 2019;</p> <p>It was further alleged that at on-site meeting with residents at the development location, the councillors incorrectly advised residents that they did not have a conflict of interest.</p> | No further action (s 150Y(b)(i)) | The OIA delegate made the decision pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> that the conduct complained of does not constitute inappropriate conduct or misconduct. The donation made to a group of councillors totalled \$50.00 which equated to a benefit of \$8.33 per councillor. In these circumstances and taking into account the nature of the matter under council decision it was not considered that the councillors had a real or perceived conflict of interest. It follows that at the public meeting it was not incorrect of the councillors to advise that they did not have a conflict of interest. | OIA            | C/19/00881<br>C/19/00882<br>C/19/00883<br>C/19/00884 |

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| 02/11/2019        | 13/11/2019       |                                 | <p>It was alleged that councillors had not declared a conflict of interest in relation to a development application and a donation received from the developer at Council meetings held between 2016 and 26 September 2019;</p> <p>It was further alleged that at an on-site meeting with residents at the development location, the councillors incorrectly advised residents that they did not have a conflict of interest.</p> | Dismissed (s 150X(a)(ii)) | <p>The OIA dismissed the complaint pursuant to section 150X(a)(ii) of the Act as the conduct does not constitute inappropriate conduct or misconduct.</p> <p>The donation made to a group of councillors totalled \$50.00 which equated to a benefit of \$8.33 per councillor. In these circumstances and taking into account the nature of the matter under Council decision it was not considered that the councillors had a real or perceived conflict of interest. It follows that at the public meeting it was not incorrect of the councillors to advise that they did not have a conflict of interest.</p> | OIA            | C/19/01048<br>C/19/01049<br>C/19/01050 |
| 04/02/2019        | 21/11/2019       |                                 | The complaint against the councillor raised concerns the councillor had failed to declare a personal interest at a council meeting held on 7 December 2017.   | Dismissed (s 150X(a)(ii)) | The OIA decided to dismiss the complaint about the councillor pursuant to Section 150X(a)(ii) of the <i>Local Government Act 2009</i> on the basis the alleged conduct does not constitute inappropriate conduct or misconduct because the councillor's association with the persons affected by the resolution was limited.  | OIA            | C/19/00129                             |

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|-------------------|------------------|---------------------------------|--|---|--|----------------|------------------|
| 20/06/2019        | 22/11/2019       |                                 | The complaint against the councillor alleged the councillor had improperly given directions to council staff and also breached the trust placed in the councillor by committing the council to hosting a conference without following correct processes. | No further action (s 150Y(b)(i) and (ii)) | <p>The OIA decided to take no further action in relation to the first allegation pursuant to section 150Y(b)(ii), and in relation to the second allegation pursuant to section 150Y(b)(i).</p> <p>The OIA decided to take no further action in relation to the first allegation as there was insufficient information to properly investigate the conduct or form an opinion concerning the conduct.</p> <p>In relation to the second allegation, after conducting investigations, the OIA decided to take no further action on the basis that the conduct did not constitute inappropriate conduct or misconduct.</p> | OIA            | C/19/00593       |

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| 01/05/2019        | 22/11/2019       |                                 | The complaint against the councillor raised multiple concerns the councillor had:- failed to declare personal interests which could raise a conflict of interest or a material personal interest at a council meeting held on 7 December 2017, failed to declare personal interests which could raise a conflict of interest or a material personal interest at a council meeting held on 6 December 2018, improperly confirmed, endorsed and adopted a prior decision at a council meeting, and failed to carry out his responsibilities conscientiously and in the best interests of the Council and the community, and, failed to ensure his conduct did not reflect adversely on the reputation of the Council. | Dismissed (s 150X(a)(ii) and (c)(ii)) | Following investigations the OIA decided to dismiss the complaint about the councillor pursuant to Section 150X(a)(ii) and Section 150X(c)(ii) of the <i>Local Government Act 2009</i> on the basis the alleged conduct either does not constitute inappropriate conduct or misconduct because the councillor's connection to the matters under consideration was too remote or it is an unjustifiable use of resources to conduct further investigations.  | OIA            | C/19/00454       |
| 30/08/2019        | 25/11/2019       |                                 | The complaint raised three allegations against a councillor in relation to the councillor's communications with community members.  | Dismissed (s 150X(a)(ii) and (c)(ii)) | The OIA decided to dismiss the complaint about the councillor pursuant to Section 150X(a)(ii) and Section 150X(c)(ii) of the <i>Local Government Act 2009</i> (the Act). The OIA determined the conduct described in the first two allegations did not constitute inappropriate conduct or misconduct as defined in the Act. The third allegation was dismissed after interviews with witnesses did not support the allegation and it was determined to be an unjustifiable use of resources to conduct further investigations. | OIA            | C/19/00741       |

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| 26/11/2019        | 29/11/2019       |                                 | It was alleged Councillors had a material personal interest or conflict of interest which they failed to disclose in relation to a vote on a Council policy at a Council meeting held on 28 February 2019.   | Dismissed (s 150X(c)(ii))      | The OIA decided to dismiss the complaint about the Councillors pursuant to Section 150X(c)(ii) of the <i>Local Government Act 2009</i> . The OIA determined investigating the complaint would be an unjustifiable use of resource considering other matters currently with the OIA.   | OIA            | C/19/01113<br>C/19/01114<br>C/19/01115<br>C/19/01116                                   |
| 17/10/2019        | 13/12/2019       |                                 | It was alleged councillors failed to declare conflicts of interest whilst acting as members of Council's Audit Committee.<br>It was alleged that the councillors failed to identify, notify and report conflicts of interests for other councillors relating to the Council's Audit Committee.                       | Dismissed (s 150X(c)(iii))     | The OIA dismissed this matter pursuant to Section 150X(c)(iii) of the <i>Local Government Act 2009</i> , ie that dealing any further with the complaint would be an unjustifiable use of resources. There was insufficient information available to determine whether a conflict of interest for the relevant councillors was required to have been declared. | OIA            | C/19/00875<br>C/19/00876<br>C/19/00877<br>C/19/00878                                   |
| 12/12/2019        | 02/01/2020       |                                 | It was alleged that Cassowary Coast Regional Council councillors had initiated several legal proceedings against the complainant as reprisal for a complaint made in 2017 regarding the conduct of councillors.  | Dismissed (s 150X(a)(ii))      | The OIA delegate made the decision to dismiss the complaint pursuant to section 150X(a)(ii) of the <i>Local Government Act 2009</i> on the basis that investigation would be an unjustifiable use of resources.   | OIA            | C/19/001167<br>C/19/001168<br>C/19/001169<br>C/19/001170<br>C/19/001171<br>C/19/001172 |
| 29/11/2019        | 08/01/2020       |                                 | The tribunal determined, on the balance of probabilities, that the allegation that on 26 July 2018 a councillor engaged in misconduct as defined in s176(3)(b)(ii) of the <i>Local Government Act 2009</i> in that the conduct involved a breach of the trust placed in him as a councillor, has not been sustained. | No further action (s 150AQ(1)) | The Councillor Conduct Tribunal decided that the councillor has not engaged in misconduct and no further action is to be taken in relation this matter.   | CCT            | F19/6635   |

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| 18/11/2019        | 13/01/2020       |                                 | <p>It is alleged there had been a conflict of interest relating to all of the councillors in relation to the approval of a development in the area.</p> <p>It is also alleged the Council have used ratepayers' funds to support a legal case.</p> | No further action (s 150Q(3)) | <p>The OIA had previously received a similar complaint and dismissed it as the circumstances did not reasonably give rise to a conflict of interest.</p> <p>The OIA sought further information from the complainant in relation to an alleged broader conflict. While the OIA received a response, this response did not raise a reasonable suspicion of a broader conflict.</p> <p>Consequently this matter will not be further investigated pursuant to section 150Q(3) of the <i>Local Government Act 2009</i>.</p> <p>The second part of the allegation, related to an administrative decision of the council, and was not within the jurisdiction of the OIA.</p> | OIA            | C/19/01085<br>C/19/01086<br>C/19/01087<br>C/19/01088<br>C/19/01089<br>C/19/01090<br>C/19/01091 |
| 03/03/2020        | 20/03/2020       |                                 | In relation to two Councillors, it was alleged they failed to correctly deal with their personal interests and the personal interests of other Councillors at Council committee meetings on 13 February 2020.                                      | Dismissed (s 150X(a)(ii))     | The OIA dismissed this matter pursuant to section 150X(a)(ii) as a review of all of the available information did not raise a reasonable suspicion of inappropriate conduct or misconduct within the meaning of the Act in the case of either Councillor.  | OIA            | C/20/00161<br>C/20/00162   |



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|--------------------------|------------------|---------------------------------|---|---------------------------|--|----------------|--------------------------|
| 15/03/2020               | 26/03/2020       |                                 | It is alleged a Councillor disclosed the name of a complainant as being the source of complaints and therefore breached privacy laws  | Dismissed (s 150X(a)(ii)) | The OIA dismissed this matter pursuant to section 150X(a)(ii) of the Local Government Act 2009 (the Act) as the conduct did not raise a reasonable suspicion of inappropriate conduct or misconduct as defined in the Act.   | OIA            | C/20/00177               |
| 14/12/2018<br>01/05/2019 | 28/04/2020       |                                 | Two complaints alleged the same Councillor had failed to declare his personal interests at a Council meeting held on 6 December 2018. | Dismissed (s 150X(c)(ii)) | The OIA dismissed this matter pursuant to section 150X(c)(ii) as further dealing with these complaints would be an unjustifiable use of resources given that the Councillor has ceased to be a Councillor, and his personal interests and level of responsibility within Council were of a lesser nature in comparison to other elected officeholders. | OIA            | C/19/00142<br>C/19/00449 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision       | Reason for the Decision  | Decision Maker | Complaint Number                                     |
|-------------------|------------------|---------------------------------|--|---------------------------|--|----------------|--|
| 03/03/2020        | 28/04/2020       |                                 | It was alleged four Councillors had failed to declare personal interests at Council Committee meetings held on 13 February 2020.   | Dismissed (s 150X(c)(ii)) | The OIA dismissed this matter pursuant to section 150X(c)(ii) as further dealing with these complaints would be an unjustifiable use of resources because the allegations raised relate to similar interests as those in matters already referred to the Councillor Conduct Tribunal or the OIA's legal team and/or the relevant Councillor has ceased to be a Councillor. | OIA            | C/20/00157<br>C/20/00158<br>C/20/00159<br>C/20/00160 |
| 26/03/2020        | 01/05/2020       |                                 | It was alleged that the register of interests of a Councillor contained particulars that should no longer be included in the register, namely their membership in an association that had allegedly been "wound up". | Dismissed (s 150X(c)(ii)) | The OIA dismissed this matter pursuant to section 150X(c)(ii) of the <i>Local Government Act 2009</i> , as further dealing with the complaint would be an unjustifiable use of resources, particularly as the individual no longer holds a position as a Councillor.   | OIA            | C/20/00215   |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision       | Reason for the Decision   | Decision Maker | Complaint Number  |
|-------------------|------------------|---------------------------------|---|---------------------------|---|----------------|---|
| 07/04/2020        | 07/05/2020       |                                 | <p>It was alleged that a group of four Councillors that had declared a conflict of interest in a matter relating to a development application, delegated the matter to a Delegated Decision Committee Meeting and attempted to influence the decision of the non-conflicted Councillors. It was further alleged that the conflicted Councillors listened in to the Delegated Decision Committee Meeting whilst the matter was discussed and voted on, and worked with one of the non-conflicted Councillors to pressure the other Councillors of the Delegated Decision Committee into approving the application.</p> | Dismissed (s 150X(a)(ii)) | <p>The OIA dismissed this matter in respect of each of the five councillors, pursuant to section 150X(a)(ii) of the <i>Local Government Act 2009</i> (the Act) as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.</p> <p>It is noted that the decision to delegate the development application to a standing committee was in accordance with Sections 175E(6) and 257(1)(c) of the Act.</p> <p>As the Councillor on the Delegated Decision Making Committee did not have a conflict of interest or material personal interest in the matter the Councillor did not breach Section 175I of the Act by attempting to influence the other two Councillors to vote on the matter in a particular way.</p> <p>As the group of conflicted Councillors declared a conflict of interest in the matter in accordance with Section 175E of the Act at the meeting, the fact they could overhear what was occurring during the Delegated Decision Committee Meeting does not in itself raise a reasonable suspicion of inappropriate conduct or misconduct within the meaning of the Act.</p> | OIA            | <p>C/20/00239<br/>C/20/00243<br/>C/20/00244<br/>C/20/00245<br/>C/20/00246</p> |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision                | Reason for the Decision   | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|---|------------------------------------|---|----------------|------------------|
| 27/08/2020        | 02/06/2020       |                                 | Multiple allegations of misconduct were made against a Councillor. The matters primarily related to the Council's involvement in litigation and alleged failures by the Councillor to take various actions.   | Dismissed (s 150X(c)(ii))          | The OIA dismissed this matter pursuant to section 150X(c)(ii) as the allegations were either lacking in supporting information or related to matters already referred to the OIA or related to ongoing litigation.  | OIA            | C/20/00375       |
| 16/08/2019        | 03/06/2020       | Cr B Heath                      | The Tribunal determined, on the balance of probabilities, that the allegation that, between 18 April 2016 and 15 August 2018 Cr Heath engaged in misconduct as defined in s 176(3)(b)(ii) of the <i>Local Government Act 2009</i> in that his conduct involved a breach of trust placed in him as a councillor. | Disciplinary Action 150AR(1)(b)(i) | The Tribunal orders that Cr Heath make a public admission at a Council meeting that he engaged in misconduct in breach of the Act and the principles that underpin the Act. That this admission is to be made at a date arranged by the CEO and within 90 days from the date of the decision.   | CCT            | F19/6510         |
| 15/05/2020        | 04/06/2020       |                                 | A councillor self-referred to the OIA that he had inadvertently failed to declare a conflict of interest in relation to a property which was referenced in a planning report, tabled at Council meeting on 14 May 2020.   | No further action (s 150Y(b)(iii)) | The OIA decided to take no further action pursuant to section 150Y(b)(iii) of the <i>Local Government Act 2009</i> on the basis that taking further action would be an unjustifiable use of resources. This decision was made consistent with the OIA's short term amnesty policy for first time councillors. The matter was not considered a serious conflict of interest, on the basis that the report tabled at the meeting provided details of applications which had already been approved by council officers under delegated authority. Also noting that there were no deliberations or further Council decisions made on the item during the meeting. | OIA            | C/20/00339       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision                | Reason for the Decision   | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|---|------------------------------------|---|----------------|------------------|
| 02/06/2020        | 08/06/2020       |                                 | A councillor self-referred to the OIA that he had inadvertently failed to declare a conflict of interest in relation to a property which was referenced in a planning report, tabled at Council meeting on 14 May 2020. | No further action (s 150Y(b)(iii)) | The OIA decided to take no further action pursuant to section 150Y(b)(iii) of the <i>Local Government Act 2009</i> on the basis that taking further action would be an unjustifiable use of resources. This decision was made consistent with the OIA's short term amnesty policy for first time councillors and the fact that the councillor self-reported the matter at the earliest opportunity. Also, of relevant was that the relevant agenda item recorded decisions already made by council staff and was provided to council for noting. The Councillor had included the interest in their register of interests. | OIA            | C/20/00388       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision              | Reason for the Decision   | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|---|----------------------------------|---|----------------|------------------|
| 26/05/2020        | 30/06/2020       |                                 | It is alleged a Councillor has not delivered on an election promise. It is alleged a Councillor invited only some of the councillors to a meeting with the state member for Hinchinbrook Mr Nick Dametto MP, and purposely excluded the others. | Dismissed (s 150X(a)(ii))        | The OIA dismissed this matter pursuant to section 150X(a)(ii) of the Local Government Act 2009 (the Act) as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.<br>The nature of the alleged election promise was a decision that must be legitimately made by the whole of Council, not just one councillor and would be based on legal advice.<br>In relation to the meeting with the state member Mr Dametto MP, there was no information to confirm that the Councillor only invited some councillors and deliberately excluded the others. | OIA            | C/20/00373       |
| 11/06/2020        | 01/07/2020       |                                 | It is alleged a Councillor influenced the decisions of other Councillors to vote against a matter that was before Council at its ordinary meeting on 11 June 2020.  | No further action (s 150Y(b)(i)) | The OIA decided to take no further action pursuant to section 150Y(b)(i) of the Local Government Act 2009 (the Act) on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.<br>The matter was an ordinary business matter as defined in the Act and therefore any conflicts of interest and potential offence of influence would not apply.   | OIA            | C/20/00401       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision              | Reason for the Decision   | Decision Maker | Complaint Number         |
|-------------------|------------------|---------------------------------|--|----------------------------------|---|----------------|--------------------------|
| 25/05/2020        | 07/07/2020       | Cr Farinelli<br>Cr Millwood     | It was alleged two councillors had disclosed confidential Council information to a Council employee who was not authorised to receive the information. | Dismissed (s 150X(a)(ii))        | The OIA dismissed this matter pursuant to section 150X(a)(ii) as following an investigation the information obtained did not raise a reasonable suspicion of inappropriate conduct or misconduct. Evidence obtained did not support the allegation.   | OIA            | C/20/00374<br>C/20/00376 |
| 27/05/2020        | 09/07/2020       | Cr Farinelli<br>Cr Millwood     | It was alleged two councillors had disclosed confidential Council information to a Council employee who was not authorised to receive the information. | No further action (s 150Y(b)(i)) | Following an investigation, the OIA decided to take no further action pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> on the basis that the information obtained did not raise a reasonable suspicion of inappropriate conduct or misconduct.  | OIA            | C/20/00379<br>C/20/00380 |
| 09/07/2020        | 10/08/2020       | Cr Farinelli                    | It is alleged a Councillor may have shared confidential information on social media when responding to a question from a member of the public.         | No further action (s 150Y(b)(i)) | The OIA decided to take no further action pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> , on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.<br>The OIA was not satisfied the information was confidential due to the circumstances in which the Councillor was provided the information through informal conversations with other Councillors. | OIA            | C/20/00488               |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision      | Reason for the Decision  | Decision Maker | Complaint Number                                     |
|-------------------|------------------|---------------------------------|--|--------------------------|--|----------------|--|
| 04/08/2020        | 10/08/2020       |                                 | It was alleged multiple councillors had failed to declare a Material Personal Interest at a Council meeting during the 2016-2020 term. | Dismissed (s150X(c)(ii)) | The OIA dismissed this matter pursuant to section 150X(c)(ii) as it was considered to be an unjustifiable use of resources to conduct further investigations as the OIA had already investigated the factual basis of the allegations due to previous related complaints.  | OIA            | C/20/00555<br>C/20/00556<br>C/20/00557<br>C/20/00558 |
| 18/08/2020        | 21/09/2020       |                                 | It was alleged that a councillor had failed to maintain an accurate register of interests.   | Dismissed (s150X(c)(i))  | The OIA dismissed this matter pursuant to section 150X(c)(i) of the <i>Local Government Act 2009</i> on the basis that further dealing with the complaint was not in the public interest.<br>The councillor had advised the OIA that, at the time of being declared a councillor, the business interest was not operating due to COVID-19 and had since been sold.<br>The councillor was a new councillor and had since updated the register of interest.<br>The councillor was advised by the OIA that any repeat failure to maintain an accurate register of interests will be progressed as misconduct. | OIA            | C/20/00601   |



| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision             | Reason for the Decision  | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|--|---------------------------------|--|----------------|------------------|
| 09/09/2020        | 29/09/2020       |                                 | It is alleged a Councillor breached the trust in him to behave honestly and transparently when he made a public statement, with words to the effect, that Council would not be funding the cleaning of the Rainforest & Reef Tourist Information Centre's (RRTIC) toilets, despite having not brought the matter before Council after making a commitment that they would bring the matter to Council for consideration. | Dismissed (s150X(a)(ii))        | The OIA dismissed this matter pursuant to section 150X(a)(ii) as the information obtained does not give rise to a reasonable suspicion of inappropriate conduct or misconduct. Evidence obtained by the OIA indicates that the councillor made reasonable efforts to enquire about Council funding for the cleaning of the RRTIC toilets.  | OIA            | C/20/00652       |
| 12/02/2020        | 16/10/2020       |                                 | It was alleged a councillor had engaged in misconduct by making two false or misleading statements to a media outlet in the lead up to the 2020 local government election.   | No further action (s150Y(b)(i)) | The OIA decided to take no further action pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> on the basis that the information obtained during the investigation does not raise a reasonable suspicion of inappropriate conduct or misconduct. The investigation obtained multiple conflicting accounts of what had been said at a meeting and, in relation to the other alleged false statement, the evidence obtained by the OIA indicated the councillor had a reasonable basis for making the statement. | OIA            | C/20/00105       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)      | Summary of Decision               | Reason for the Decision  | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|---|-----------------------------------|--|----------------|------------------|
| 27/07/2020        | 22/10/2020       | Mayor M Nolan                   | Mayor Nolan self-referred to the OIA advising that he forwarded an email to external third parties. | Disciplinary Action (s150AH(iii)) | <p>The Council at its meeting held 22 October 2020 resolved that:-</p> <ul style="list-style-type: none"> <li>• given the Mayor's self-referral and acceptance of the allegation of inappropriate conduct</li> <li>• no further investigation is necessary</li> <li>• the Mayor accepts the facts</li> <li>• Council has determined that the Mayor has engaged in inappropriate conduct as per s150K(1)(a) of the <i>Local Government Act 2009</i>; and</li> <li>• the appropriate disciplinary action is for the Chief Executive Officer to provide counselling to the Mayor addressing the Mayor's conduct.</li> </ul> | Council        | C/20/00534       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision              | Reason for the Decision   | Decision Maker | Complaint Number         |
|-------------------|------------------|---------------------------------|---|----------------------------------|---|----------------|--------------------------|
| 03/11/2020        | 30/11/2020       | Cr Farinelli<br>Cr Millwood     | <p>It is alleged that during council's ordinary meeting on 22 October 2020, a Councillor made comments about locally employed workers from another country workers, to which the complainant took great offence.</p> <p>It is further alleged that a councillor is heavily involved with a local radical fringe faction. That the councillor has attended public meetings and pledged to support this group which comprises of a number of xenophobic rednecks that promote supremacy and anarchy at every level. That the councillor is a regular contributor to their social media pages sharing their xenophobic right to power.</p> | No further action (s 150Y(b)(i)) | <p>The OIA decided to take no further action pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.</p> <p>The OIA assessed the complaints and noted that the meeting conduct described related to potential unsuitable meeting conduct, which is the responsibility of the chairperson of the meeting, during which the conduct occurred, to deal with. The OIA, generally, does not have jurisdiction to deal with unsuitable meeting conduct.</p> <p>In relation to the councillor's involvement in a 'local radical fringe faction', the complaint was general in nature and did not contain sufficient reasonable detail to be assessed.</p> | OIA            | C/20/00765<br>C/20/00766 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision             | Reason for the Decision   | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|--|---------------------------------|---|----------------|------------------|
| 06/11/2020        | 03/12/2020       | Cr K Farinelli                  | <p>It was alleged that a councillor:</p> <ul style="list-style-type: none"> <li>• ventilated matters confidential between the complainant and the OIA, in their emails sent amongst councillors and the Chief Executive Officer (CEO) on 24 and 25 October 2020. The emails related to a councillor conduct matter for another councillor, which was referred by the OIA for a decision by council;</li> <li>• made comments that were reasonably expected to intimidate the complainant and potentially prejudice future decisions; and</li> <li>• strongly implied a close relationship between the councillor and the OIA in a manner which would allow them to “weaponise” the OIA improperly, given the office is impartial and objective.</li> </ul> | No further action (s150Y(b)(i)) | <p>The OIA decided to take no further action pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.</p> <p>The information used by the subject councillor was readily available to other councillors, as it was detailed in a document available to all. The subject councillor was not found to have used abusive or threatening language and were not seen to be prejudicial to future decisions.</p> | OIA            | C/20/00771       |
| 25/05/2020        | 14/12/2020       |                                 | It was alleged a Councillor had failed to properly manage interests arising from the employment of their relatives by the Council and had improperly decided to publicly discuss matters about individual council employees in open session.   | Dismissed (s 150X(c)(ii))       | The OIA dismissed this matter pursuant to section 150X(c)(ii) as following an investigation, information had not been obtained to support the allegations.  | OIA            | C/20/00370       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup>  | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision       | Reason for the Decision   | Decision Maker | Complaint Number |
|-------------------|------------------|----------------------------------|---|---------------------------|---|----------------|------------------|
| 03/12/2019        | 26/11/2020       | (Former) Mayor Cr John Kremastos | It is alleged that on 7 December 2017, Councillor John Kremastos, the Mayor and a Councillor of Cassowary Coast Regional Council, engaged in misconduct as defined in section 176(3)(b)(ii)2 of the <i>Local Government Act 2009</i> (the Act), in that his conduct involved a breach of trust placed in him as a councillor, in that it was inconsistent with local government principles 4(2)(a), 'transparent and effective processes and decision-making in the public interest' and/or 4(2)(e), 'ethical and legal behaviour of councillors and local government employees', in that Councillor John Kremastos did not deal with a real or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act. | No Action (s 150AR(1)(a)) | The Tribunal has determined, on the balance of probabilities, that the allegation, that on 7 December 2017, Councillor John Kremastos, the Mayor and a Councillor of Cassowary Coast Regional Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the <i>Local Government Act 2009</i> (the Act), in that his conduct involved a breach of trust placed in him as a councillor, in that it was inconsistent with local government principles 4(2)(a), 'transparent and effective processes and decision-making in the public interest' and/or 4(2)(e), 'ethical and legal behaviour of councillors and local government employees', in that Councillor John Kremastos did not deal with a real or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act, has been sustained. | CCT            | F19/9836         |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision              | Reason for the Decision   | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|--|----------------------------------|---|----------------|------------------|
| 11/11/2020        | 24/12/2020       | Cr Millwood                     | It is alleged that a councillor attended a community meeting in November 2020 about a particular service requested of council and the councillor kept interjecting and having heated exchanges with members of the community group and made inappropriate remarks. | No further action (s 150Y(b)(i)) | <p>The OIA decided to take no further action pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> [the Act] on the basis that the conduct did not reach the threshold of inappropriate conduct in the circumstances.</p> <p>The OIA's initial assessment was that the comments made by the councillor did not reflect positive community engagement on the face of them. The OIA complied with the requirement in section 150AA of the Act, and provided an opportunity to the councillor to comment on the allegations.</p> <p>The councillor's response indicated that a councillor manager who was also in attendance at the meeting was being unfairly treated by some members of the community group and the councillor's actions and comments were in response to this and in support of the manager.</p> | OIA            | C/20/00848       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision                | Reason for the Decision  | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|---|------------------------------------|--|----------------|------------------|
| 09/12/2020        | 08/01/2021       |                                 | It is alleged a councillor provided false information in a meeting with a community organization about a matter.  | No further action (s 150Y(b)(i))   | The OIA decided to take no further action pursuant to section 150Y(b) (i) of the <i>Local Government Act 2009</i> [the Act] on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct. The OIA considered the complaint and reviewed the minutes of the meeting where the Councillor attended. The minutes indicated that it was not the councillor who had addressed the meeting about the matter. | OIA            | C/20/00904       |
| 13/01/2021        | 10/02/2021       | Cr Farinelli                    | It is alleged that a councillor made an inappropriate comment in an email to a senior council officer. The subject of the emails related to a request from a member of the public to open the toilets at an information centre. | No further action (s 150Y(b)(iii)) | The OIA decided to take no further action pursuant to section 150Y(b)(iii) of the <i>Local Government Act 2009</i> . The OIA considered that the conduct was borderline inappropriate conduct and further dealing with the matter would not be a justifiable use of resources.   | OIA            | C/21/00015       |
| 17/02/2021        | 22/02/2021       |                                 | It was alleged that a councillor's conduct breached a behavioural standard when the councillor twice interjected during a presentation by a council officer during an informal meeting of council.                              | No further action (s 150Y(b)(iii)) | The OIA decided to take no further action pursuant to section 150Y(b)(iii) of the <i>Local Government Act 2009</i> on the basis that taking further action would be an unjustifiable use of resources. This decision took into account both the alleged comments made and the fact that the Mayor raised the conduct with the councillor at the time.  | OIA            | C/21/00109       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision       | Reason for the Decision  | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|--|---------------------------|--|----------------|------------------|
| 07/02/2021        | 25/02/2021       |                                 | It is alleged a councillor provided false information to council about the source of advice he had obtained when Council was considering a matter before council that influenced all other councillors as to how they voted on the matter. | Dismissed (s 150X(a)(ii)) | <p>The OIA dismissed this matter pursuant to section 150X(a)(ii) of the <i>Local Government Act 2009</i> (the Act) as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct within the meaning of the Act.</p> <p>In considering the complaint the OIA undertook a review of the livestream video recording of the meeting and sought information from Council as to the report presented to Council by a Council Officer on the proposal. The OIA noted that the Councillors opposition to the project was based on a summary of arguments for and against the project presented by a council officer. Having regard to the identified risks the councillors that spoke to the resolution were against Council accepting the proposal.</p> <p>The legal advice referred to by one of the councillors was relevant to the matter under consideration and properly raised. An error made in identifying who had provided this advice did not change the nature of the advice and the source of the advice was subsequently clarified in a media release.</p> | OIA            | C/21/00077       |



| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision       | Reason for the Decision  | Decision Maker | Complaint Number   |
|-------------------|------------------|---------------------------------|---|---------------------------|--|----------------|--|
| 07/02/2021        | 25/02/2021       | Cr Farinelli<br>Cr Millwood     | It is alleged a councillor provided false information to council about the source of advice he had obtained when Council was considering a matter before council that influenced all other councillors as to how they voted on the matter.<br>It was further alleged that other councillors made misleading statements about the matter that influenced the vote of others. | Dismissed (s 150X(a)(ii)) | The OIA dismissed this matter pursuant to section 150X(a)(ii) of the Local Government Act 2009 (the Act) as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct within the meaning of the Act.<br>In considering the complaint the OIA undertook a review of the livestream video recording of the meeting and sought information from Council as to the report presented to Council by a Council Officer on the proposal. The OIA noted that the Councillors opposition to the project was based on a summary of arguments for and against the project presented by a council officer. Having regard to the identified risks the councillors that spoke to the resolution were against Council accepting the proposal.<br>The legal advice referred to by one of the councillors was relevant to the matter under consideration and properly raised. An error made in identifying who had provided this advice did not change the nature of the advice and the source of the advice was subsequently clarified in a media release. | OIA            | C/21/00076<br>C/21/00082<br>C/21/00083<br>C/21/00084<br>C/21/00085<br>C/21/00086<br>C/21/00087 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision                               | Reason for the Decision   | Decision Maker | Complaint Number        |
|-------------------|------------------|---------------------------------|--|---|---|----------------|-------------------------|
| 21/12/2018        | 15/02/2021       | Cr Baines                       | That a Councillor on 7 December 2017 engaged in misconduct by failing to declare a conflict of interest in relation to an agenda item 13.5 Council Indemnity Approval – Ongoing Legal Matters. | Not sustained – no further action (s 150AR(1)(a)) | The Tribunal has determined, on the balance of probabilities, that the allegation, that on 7 December 2017, Councillor Jeffrey Baines, a Councillor of Cassowary Coast Regional Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Local Government Act 2009 (the Act), in that his conduct involved a breach of trust placed in him as a councillor, in that it was inconsistent with local government principles 4(2)(a), 'transparent and effective processes and decision-making in the public interest' and or 4(2)(e), 'ethical and legal behaviour of councillors and local government employees', in that Councillor Jeffrey Baines' did not deal with a real or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act, is not sustained. | OIA<br>CCT     | C/19/00128<br>F/20/1108 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision                | Reason for the Decision  | Decision Maker | Complaint Number       |
|-------------------|------------------|---------------------------------|--|------------------------------------|--|----------------|------------------------|
| 16/10/2020        | 05/03/2021       |                                 | A Councillor self referred that they may have released information that was confidential to the local government.  | No further action (s 150Y(b)(iii)) | The OIA decided to take no further action pursuant to section 150Y(b)(iii) of the <i>Local Government Act 2009</i> on the basis that taking further action would be an unjustifiable use of resources.<br>In making this decision, the OIA considered that the comment that formed the basis of the allegation did not clearly identify any information that was confidential to the local government. | OIA            | C/20/00729             |
| 23/09/2020        | 11/03/2021       | Cr B Barnes                     | It was alleged that on 9 September 2020 Cr Barnes behaved inappropriately during a Councillor Information Session, when, after another councillor made a comment while he was speaking, he responded that he had had enough of that councillor butting in and that she was nothing but a 'rude woman'. | Disciplinary Action (s 150AH)      | That Council has determined, on the balance of probabilities, that the allegation on 9 September 2020 Cr Barnes behaved inappropriately and that an order be made that Cr Barry Barnes had engaged in inappropriate conduct and that the subject Councillor reimburse the local government for 25% of the costs arising from the investigation of the Subject Councillor's inappropriate conduct.      | CCRC<br>OIA    | C/2/2021<br>C/20/00681 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision                                   | Reason for the Decision  | Decision Maker | Complaint Number       |
|-------------------|------------------|---------------------------------|--|---|--|----------------|------------------------|
| 17/09/2020        | 11/03/2021       |                                 | It was alleged that on 4 June 2020, prior to the commencement of a Councillor Information Session a Councillor behaved inappropriately when another councillor asked if it was true that the councillor was telling people that the councillor was going to 'shut up' two other councillors and the councillor responded that the councillor had told a few people and the councillor would 'do it.' | Not sustained<br>No further action<br>(s 150AR(1)(a)) | That Council has determined, on the balance of probabilities, that the allegation, that on 4 June 2020 a Councillor engaged in inappropriate conduct as defined in the Local Government Act 2009 is not sustained.   | CCRC<br>OIA    | C/20/00673             |
| 18/09/2020        | 11/03/2021       | Cr B Barnes                     | It was alleged that in or around September 2020, Cr Barnes behaved inappropriately when, in relation to the prospective employment of ██████████ (a councillor's spouse) by Tully Sugar Limited (TSL), he told ██████████ TSL to 'be careful' regarding ██████████ and/or that he had 'had a lot of trouble' with him.   | Disciplinary Action<br>(s 150AH)                      | That Council has determined, on the balance of probabilities, that the allegation in or around September 2020 Cr Barnes had engaged in inappropriate conduct and that:- <ul style="list-style-type: none"> <li>• an order reprimanding the Subject Councillor for the conduct;</li> <li>• an order that the Subject Councillor attend training or counselling addressing his conduct;</li> <li>• an order that the Subject Councillor reimburse the local Government for 35% of the costs arising from the investigation of the Subject Councillor's inappropriate conduct.</li> </ul> | CCRC<br>OIA    | C/1/2021<br>C/20/00678 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision                                | Reason for the Decision   | Decision Maker | Complaint Number       |
|-------------------|------------------|---------------------------------|--|--|---|----------------|------------------------|
| 18/09/2020        | 11/03/2021       |                                 | It was alleged that in or around September 2020, a Councillor behaved inappropriately when the councillor misused information received within Council to seek to influence the prospective employment of [REDACTED] with TSL.  | Not sustained<br>No further action (s 150AR(1)(a)) | That Council has determined, on the balance of probabilities, that the allegation in or around September 2020 a Councillor engaged in inappropriate conduct as defined in the Local Government Act 2009 is not sustained.   | CCRC<br>OIA    | C/1/2021<br>C/20/00678 |
| 12/02/2021        | 17/03/2021       |                                 | <p>It is alleged:</p> <ul style="list-style-type: none"> <li>• A councillor disclosed information to a member of the public during a community meeting in January 2021. That a councillor told a resident that other councillors had supported a matter that was considered by Council.</li> <li>• That the information was considered to be confidential to the local government as council had only considered the at a confidential Councillor Information Session but not formally considered in an open meeting and the councillor breached confidentiality by going out and pre-empting a decision of Council before it had been made.</li> <li>• That the councillor's alleged conduct was seen an act of reprisal due to the councillor's knowledge of a previous complaint being made against them by the other councillors.</li> </ul> | No further action (s 150Y(b)(i))                   | <p>The OIA decided to take no further action pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> [the Act] on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.</p> <p>The OIA considered whether the information given by the councillor to a member of the public would come within the definition of information that is confidential to the local government. For example, whether the publication of such information would prejudice council in any way, including commercially and whether it would cause some detriment to Council.</p> | OIA            | C/21/00108             |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision       | Reason for the Decision  | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|--|---------------------------|--|----------------|------------------|
|                   |                  |                                 |  |                           | <p>Although the Councillor Information Session was a closed meeting, advising a member of the public that other councillors were or were not supportive of a particular matter at an information session or workshop is not considered disclosing information that is confidential to council.</p> <p>It was also taken into account that the complaint related to fourth-hand information that the councillor had shared the information.</p> <p>In circumstances where the councillor is not considered to have shared information that is confidential to council, it would be difficult to argue that it was done as an act of reprisal.</p> |                |                  |
| 18/03/2021        | 07/04/2021       |                                 | It was alleged a councillor had acted inappropriately by declining to meet with a resident in relation to a town planning application. | Dismissed (s 150X(c)(ii)) | The OIA dismissed this matter pursuant to section 150X(c)(ii) on the basis dealing further with the complaint would be an unjustifiable use of resources. The OIA decided the Councillor's position of declining to meet with the resident was not unreasonable given the submission period for the town planning application had concluded.   | OIA            | C/21/00196       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision              | Reason for the Decision   | Decision Maker | Complaint Number       |
|-------------------|------------------|---------------------------------|--|----------------------------------|---|----------------|------------------------|
| 08/02/2021        | 08/04/2021       | Mayor Cr M Nolan                | <p>It is alleged that Mayor Mark Nolan engaged in inappropriate conduct when he attended the Annual General Meeting of the Tropical Coast Tourism (TCT) Board on 3 December 2020 and advised the TCT Board about Council's replacement representative to the Board.</p> <p>It is alleged that by advising the TCT Board about Council's replacement representative to the Board, that it contravened a resolution of the local government by communicating a decision about a matter which required a council resolution before council had considered the matter.</p> | Disciplinary Action (s 150AH)    | That Council has determined, on the balance of probabilities, that the allegation on 3 December 2020 Mayor Cr M Nolan had engaged in inappropriate conduct and that Council has considered the contents of the investigation report and<br>1) Determined that Council agrees that Mayor Mark Nolan has engaged in appropriate behaviour; and<br>2) Council has decided that under section 150AH that Mayor Mark Nolan be reprimanded for engaging in inappropriate behaviour. | CCRC<br>OIA    | C/3/2021<br>C/20/00903 |
| 31/03/2021        | 22/04/2021       | Cr N Pervan                     | It is alleged a councillor made an inappropriate comment about a council decision on a matter in a Council meeting.  | No further action (s 150Y(b)(i)) | The OIA decided to take no further action pursuant to section 150Y(b) (i) of the <i>Local Government Act 2009</i> on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.   | OIA            | C/21/00205             |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision           | Reason for the Decision   | Decision Maker | Complaint Number    |
|-------------------|------------------|---------------------------------|---|-------------------------------|---|----------------|---------------------|
| 22/02/2021        | 22/04/2021       | Cr K Farinelli                  | <p>It is alleged that on the 9th September 2020 Cr Farinelli behaved inappropriately towards Cr Barnes during a Councillor Information Session when she:</p> <ul style="list-style-type: none"> <li>• interrupted him while he was speaking; and/or</li> <li>• commented that he was an 'ignorant pig' after he had commented that she was a rude woman.</li> </ul> | Disciplinary Action (s 150AH) | <p>That Council has determined, on the balance of probabilities, that the allegation on 9 September 2021 Cr Farinelli had engaged in inappropriate conduct and that:-</p> <ul style="list-style-type: none"> <li>• an order reprimanding the Subject Councillor for the conduct; and</li> <li>• an order that the Subject Councillor reimburse the local Government for 25% of the costs arising from the investigation of the Subject Councillor's inappropriate conduct.</li> </ul> | CCRC OIA       | C/4/2021 C/21/00089 |



| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision       | Reason for the Decision  | Decision Maker | Complaint Number         |
|-------------------|------------------|---------------------------------|---|---------------------------|--|----------------|--------------------------|
| 23/04/2021        | 10/05/2021       |                                 | <p>C/21/00277<br/>It is alleged a councillor made deceptive and misleading comments to council about the source of advice he had obtained when Council.</p> <p>C/21/00278<br/>It is further alleged another councillor made deceptive and misleading comments to council and implied that residents of part of the council area deserved their current situation.</p> | Dismissed (s 150X(a)(ii)) | <p>The OIA dismissed this matter pursuant to section 150X(a)(ii) of the <i>Local Government Act 2009</i> (the Act) as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct within the meaning of the Act.</p> <p>C/21/00277<br/>In considering the complaint the OIA undertook a review of the livestream video recording of the meeting and sought information from Council as to the report presented to Council by a Council Officer on the proposal. The advice referred to by one of the councillors was relevant to the matter under consideration and properly raised. An error made in identifying who had provided this advice did not change the nature of the advice and the source of the advice was subsequently clarified in a media release.</p> <p>C/21/00278<br/>The OIA's review of the livestream video recording of the meeting did not support that the councillor had implied residents living in part of the council area deserved their current situation.</p> | OIA            | C/21/00277<br>C/21/00278 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup>             | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision      | Reason for the Decision  | Decision Maker | Complaint Number                       |
|-------------------|------------------|---|---|--------------------------|--|----------------|--|
| 07/05/2021        | 11/05/2021       | Mayor M Nolan<br>Cr N Pervan<br>Cr T Tschui | <p>It was alleged that three Councillors made decisions in a biased and discriminatory manner in deciding on an inappropriate conduct matter and subsequent disciplinary action against another councillor</p> <p>It was further alleged that one councillor had denied another councillor the opportunity to speak on the same matter.</p> | Dismissed (s 150Y(b)(i)) | <p>The OIA dismissed this matter pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> (the Act), on the basis that the conduct does not constitute inappropriate conduct or misconduct within the meaning of the Act.</p> <p>The decision in relation to whether a councillor has engaged in inappropriate conduct and the sanction that should be imposed is an administrative decision of Council and is not reviewable.</p> <p>The decision made was consistent with another decision which arose in like circumstances.</p> <p>A review of the relevant streamed meeting indicated that a councillor may not have seen another councillor's hand raised prior to the motion being moved. It was noted however, that this councillor was given another opportunity to raise their hand and make comment before the matter was voted on and did not do so.</p> | OIA            | C/21/00294<br>C/21/00295<br>C/21/00296 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision              | Reason for the Decision  | Decision Maker | Complaint Number |
|-------------------|------------------|---------------------------------|--|----------------------------------|--|----------------|------------------|
| 13/05/2021        | 24/05/2021       |                                 | It is alleged a councillor breached a policy of Council when they asked the administrators of a community social media account to consider removing a negative comment about the councillor.   | Dismissed (s 150X(a)(ii))        | <p>The OIA dismissed this matter pursuant to section 150X(a)(ii) of the <i>Local Government Act 2009</i> as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.</p> <p>It was not a Council social media page; and the administrators of that page were under no obligation to act on the request.</p>   | OIA            | C/21/00309       |
| 01/12/2020        | 30/06/2021       | Cr K Farinelli                  | It was alleged that a Cr Farinelli engaged in misconduct when she failed to declare a conflict of interest in a matter related to Council's organisational structure, which was before Council at its ordinary meeting on 20 May 2020, under agenda item 1.1 'Organisational Structure Review'. The nature of the interest related to a Council employee, who was occupying a position that was allegedly affected by the restructure. The Council employee was alleged to have been in a relationship with a member of the Councillor's immediate family. | No further action (s 150Y(b)(i)) | <p>The OIA decided to take no further action pursuant to section 150Y(b)(i) of the <i>Local Government Act 2009</i> (the Act) following an investigation on the basis that the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct.</p> <p>The Council employee was employed in a temporary fixed term contract and the cessation of that officer's employment was not as a result of Council's structural review, but because the period of the officer's temporary employment came to an end. The Councillor therefore did not have a conflict of interest in relation to the matter.</p> | OIA            | C/20/00884       |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision | Reason for the Decision  | Decision Maker | Complaint Number        |
|-------------------|------------------|---------------------------------|--|---------------------|--|----------------|-------------------------|
| 07/12/2017        | 21/06/2021       | former Cr W Kimberley           | It is alleged that on 7 December 2017, Councillor Wayne Kimberley, the Deputy Mayor and a councillor of Cassowary Coast Regional Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Local Government Act 2009 (the Act), in that his conduct involved a breach of trust placed in him as a councillor, that was inconsistent with local government principles 4(2)(a), 'transparent and effective processes and decision-making in the public interest' and or 4(2)(e) 'ethical and legal behaviour of councillors and local government employees', in that Councillor Wayne Kimberley did not deal with a real or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act . | Not sustained       | The Tribunal found, on the balance of probabilities, that the allegation of misconduct including the particulars (d)(i) of the alleged conduct that referred to the Respondent's interest in agenda item 13.5, recommendation (i) <i>That pursuant to section 9 of the Local Government Act 2009, Council resolves to indemnify Mr James Gott, Chief Executive Officer in the matter of D169 of 2017 District Court, and Cr Rick Taylor's immediate family in respect of criminal matter QPS Occurrence #:QP1701075677 being ongoing legal proceedings;</i> <b>has not been sustained.</b> | OIA<br>CCT     | C/19/00130<br>F19/10039 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)   | Summary of Decision  | Reason for the Decision  | Decision Maker | Complaint Number        |
|-------------------|------------------|---------------------------------|--|--|--|----------------|-------------------------|
| 21/12/2018        | 21/06/2021       | former Cr W Kimberley           | It is alleged that on 7 December 2017, Councillor Wayne Kimberley, the Deputy Mayor and a councillor of Cassowary Coast Regional Council, engaged in misconduct as defined in section 176(3)(b)(ii) of the Local Government Act 2009 (the Act), in that his conduct involved a breach of trust placed in him as a councillor, that was inconsistent with local government principles 4(2)(a), 'transparent and effective processes and decision-making in the public interest' and or 4(2)(e) 'ethical and legal behaviour of councillors and local government employees', in that Councillor Wayne Kimberley did not deal with a real or perceived conflict of interest in a transparent and accountable way as required by section 173(4) of the Act . | Sustained<br><br>Disciplinary Action<br>(s 150AR(1)(b)(i)) | <p>The Tribunal determined, on the balance of probabilities, that the allegation of misconduct with respect to an interest in agenda item 13.5, recommendation <i>(ii) Extend Council's brief to its lawyers to appear on behalf of the Chief Executive Officer and other Council officers and Councillors and their direct families as necessary as determined by the Chief Executive Officer at the trial of the criminal proceeding QPS Occurrence #:QP1701075677 and for the limited purpose of ensuring that the proceedings are not used to examine the Councillors, Officers and immediate families in respect of any other proceedings involving the parties.</i></p> <p><b>has been sustained.</b></p> <p>The Tribunal orders that the respondent make a public admission that he has engaged in misconduct, within 90 days of the date a copy of this order is provided to him by the Registrar.</p> | OIA<br>CCT     | C/19/00130<br>F19/10039 |

| Date of Complaint | Date of Decision | Name of Councillor <sup>1</sup> | Summary & type of Conduct<br>(unsuitable meeting conduct, inappropriate conduct or misconduct)  | Summary of Decision       | Reason for the Decision   | Decision Maker | Complaint Number                                     |
|-------------------|------------------|---------------------------------|---|---------------------------|---|----------------|--|
| 20/07/2021        | 28/07/2021       | Mayor Cr M Nolan                | The complaints expressed dissatisfaction with the same decision of council and or alleged at a meeting of Council the councillors were misled about an issue when they voted on a matter and the resolution should be made null and void. | Dismissed (s 150X(a)(ii)) | The OIA dismissed this matter pursuant to section 150X(a)(ii) of the <i>Local Government Act 2009</i> (the Act) as the conduct does not raise a reasonable suspicion of inappropriate conduct or misconduct within the meaning of the Act by a councillor. The OIA noted that the complainants' concerns were about the decision made by Council about a matter. Concerns about the administrative decisions of Council are not within the jurisdiction of the OIA to deal with. The OIA had previously considered the question of whether Council had been misled and found no evidence to support that assertion. | OIA            | C/21/00463<br>C/21/00465<br>C/21/00469<br>C/21/00470 |

<sup>1</sup> Only to be included if the local government or conduct tribunal decided that the councillor engaged in inappropriate conduct or misconduct, or where the councillor agrees to their name being included in the register (Section 150DY(3) Local Government Act 2009).