

Councillor Conduct Tribunal decision

16 August 2019

Key issue – Social Media

Can comments made on a councillor's private social media account be inappropriate conduct or misconduct?

It was alleged that a councillor's comments on their private Facebook page constituted misconduct. The Facebook page identified the councillor by his first name and middle name only.

The councillor submitted that:

- the content in question was posted on his personal Facebook page;
- the page did not identify him as a councillor;
- the page contained only personal content;
- the page was 'mostly not visible to the general public'; and,

therefore, had no bearing on or relevance to his professional role.

The Councillor Conduct Tribunal accepted that the personal Facebook page was not in the councillor's name but also noted that:

- the councillor accepted it was his webpage;
- the councillor's acknowledgement that the page 'was mostly not visible to the general community', indicated there was at least some possibility of the page becoming known as that of the councillor;
- the complainant/s in the matter understood the Facebook page to be the councillor's;
- a breach of trust does not require that it be committed 'in the face of the public'; and [*Re Watson [1997] 1 Qd R 340 at p 344*]
- the councillor was responsible for the content on the page.

The Tribunal accepted that a councillor's personal behaviour is relevant to section 12(3)(b) of the Act requiring that, 'All councillors have a responsibility to provide high quality leadership to the local government and the community'.

Additionally, the conduct would appear inconsistent with the requirements of the council's Code of Conduct for Councillors which applied at the time of the allegations and which provided that councillors must:

- ensure that their personal conduct does not reflect adversely on council's reputation;
- demonstrate respect for fellow councillors, council employees and members of the community;
- commit to honest, fair and respectful engagement with the community;
- respect and protect the privacy and personal information of individuals.



Relevance of the conduct of the complainant to a councillor's social media activity

In response to allegations that a councillor's posts on Facebook constituted misconduct, the councillor submitted that the complainant/s in the matters had engaged in long term acrimonious exchanges on Facebook with the councillor and/or had harassed and/or goaded the councillor, and the councillor had a right to defend himself.

The Tribunal noted:

'Even if the councillor's perception of the past conduct of the complainant was that it was untoward, this could not excuse or justify an elected representative of the local government community resorting to the intimidatory and unfitting language used.'

And,

'To the extent that the councillor could be considered to have been goaded into making ill-considered responses - this was not a legitimate excuse for the councillor to indulge in the alleged conduct in response.'

Read the [Councillor Conduct Tribunal decisions](#).