

Councillor Aid – Duty to Report

Under section 150EW of the *Local Government Act 2009* (Qld) (LGA) or section 177T of the *City of Brisbane Act 2010* (CoBA) you have an obligation to raise concerns about other councillor's conflicts of interest, when that councillor does not declare it.

If your belief or suspicion about another councillor arises in a council meeting, you have a duty to immediately bring your concerns to the attention of the person who is presiding over the meeting.

If your belief or suspicion arises at another time you have a duty to inform the council chief executive officer (CEO) as soon as practicable.

As well as raising your concerns, you need to provide the facts and circumstances that support your beliefs or suspicions.

You don't have to prove that the other councillor has a conflict of interest. You simply need to explain why you have concerns so that the facts can be considered.

The following questions might be useful reference points for reflection about your concerns and whether to raise them.

- What is the matter before council?
- Is the matter an ordinary business matter?
- Do you believe or suspect that another councillor (or their close associate/related party) has a personal interest in relation to that matter?
- What type of interest is it?
- Is it potentially a prescribed or a declarable conflict of interest?
- Is it captured by the possible exceptions to prescribed or declarable conflicts of interest?
- Is the interest of the councillor (close associate or related party) unique or limited to a small proportion of the population – or is it shared with a significant proportion of the local government area?
- Do you believe, or suspect that the outcome of the decision might either benefit or cause a detriment to the councillor (or their close associate/related party)?
- Do you believe, or suspect that the councillor might influence the decision in a way that could benefit them or their close associate or related party?

If you are uncertain, err on the side of caution and raise your concerns. A failure to do so could result in disciplinary action being taken against you.

It is important to remember that raising another councillor's suspected conflict of interest does not have to be confrontational, and it may help to prevent another councillor from making a mistake.

If you raise your concerns at a meeting there are a number of steps that must be taken.

If the subject councillor does not agree that they have a prescribed or declarable conflict of interest they must inform the meeting of that belief, including their reasons.

You must inform the meeting about the particulars of your belief or suspicion, and eligible councillors at the meeting must then decide whether the subject councillor has a prescribed or declarable conflict of interest in the matter.

If the eligible councillors decide a prescribed conflict of interest (PCOI) exists, the subject councillor must leave the meeting and stay away while the matter is discussed and voted on.

If the eligible councillors decide a declarable conflict of interest (DCOI) exists, the subject councillor must stop participating in a decision relating to the matter and allow the eligible councillors to decide by resolution how the DCOI will be handled.

For example, they may allow the subject councillor to continue participating in the decision, or they may impose conditions on that participation, such as allowing the subject councillor to take part in the discussion but not vote on the matter.

Alternatively, eligible councillors may resolve that the subject councillor must leave the meeting and stay away while the matter is discussed and voted on.

The subject councillor may voluntarily decide not to participate in the decision.