KING ISLAND COUNCIL

Order

Local Government (Code of Conduct) Order 2024

Responsible Officer: GENERAL MANAGER

Date: 10 September 2024

I make the following order under section 28R(1) of the Local Government Act 1993 .

3 September 2024

N. STREET

Minister for Local Government

1. Short title

This order may be cited as the Local Government (Code of Conduct) Order 2024 .

2. Commencement

This order takes effect on the day on which its making is notified in the *Gazette*.

3. Interpretation

(1) In this order –
Act means the Local Government Act 1993 .
(2) The Acts Interpretation Act 1931 applies to the interpretation of this order as if this order were by-laws.

4. Code of conduct

For the purposes of section 28R(1) of the Act, the code of conduct set out in Schedule 1 is the code of conduct relating to the conduct of councillors.

5. Legislation revoked

The legislation specified in Schedule 2 is revoked.

SCHEDULE 1 - Code of conduct
PART 1 - Decision making
1. A councillor must bring an open and unprejudiced mind to all matters being decided in the course of the councillor's duties, including when making planning decisions as part of the council's role as a planning authority.
2. A councillor must make decisions free from personal bias or prejudgement in the course of the councillor's duties.
3. A councillor, in making decisions, must give genuine and impartial consideration to all relevant information known to the councillor, or of which the councillor should be reasonably aware.
4. A councillor must –
(a) make decisions solely on merit; and
(b) not take irrelevant matters or circumstances into account when making decisions.
PART 2 - Conflicts of interests that are not pecuniary
1. A councillor, in carrying out the councillor's public duty, must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that the councillor may have.
2. A councillor must act openly and honestly in the public interest.

3. A councillor must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the council and at any workshop or any meeting of a body to which the councillor is appointed or nominated by the council.

4. A councillor must act in good faith and exercise reasonable judgement to determine whether the councillor has an actual, potential or perceived conflict of interest.

5. A councillor must avoid, and withdraw from, positions of conflict of interest as far as reasonably possible.

6. A councillor who has an actual, potential or perceived conflict of interest in a matter before the council must –

(a) declare the conflict of interest and the nature of the interest before discussion of the matter begins; and

(b) act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the councillor to leave the room during any council discussion and remain out of the room until the matter is decided by the council.

7. This Part does not apply in relation to a pecuniary interest.

PART 3 - Use of office

1. The actions of a councillor must not bring the council or the office of councillor into disrepute.

2. A councillor must not take advantage, nor seek to take advantage, of the councillor's office or status to influence others improperly to gain an undue, improper, unauthorised or unfair benefit, or detriment, for the councillor, another person or a body.

3. A councillor, in the councillor's personal dealings with the council (for example as a ratepayer, recipient of a council service or planning applicant), must not expect or request, expressly or implicitly, preferential treatment for the councillor, another person or a body.

PART 4 - Use of resources

1. A councillor must use council resources appropriately in the course of the councillor's public duties.

2. A councillor must not use council resources for private purposes except as provided by council policies and procedures.

3. A councillor must not allow the misuse of council resources by another person or a body.

PART 5 - Use of information

1. A councillor –

(a) must only access or use council information as needed to perform the councillor's duties and functions; and

(b) must not access or use council information for personal reasons or non-official purposes.

2. A councillor must only release council information –

(a) in accordance with established council policies and procedures; and

(b) in compliance with relevant legislation.

PART 6 - Gifts and benefits

1. A councillor may accept an offer of a gift or benefit if it –

(a) directly relates to the carrying out of the councillor's public duties; and

(b) is appropriate in the circumstances; and

(c) is not in contravention of relevant legislation.

2. A councillor must avoid situations in which a reasonable person would consider that a person or body, through the provision of gifts or benefits, is securing, or attempting to secure, influence or a favour from the councillor or the council.

PART 7 - Relationships with community, councillors and council employees

1. A councillor must –

(a) treat all persons fairly; and

(b) not cause a reasonable person offence or embarrassment; and

(c) not bully or harass a person.

2. A councillor must –

(a) listen to, and respect, the views of other councillors in council and committee meetings and all other proceedings of the council; and

(b) endeavour to ensure that issues, not personalities, are the focus of debate.

3. A councillor must not contact or issue instructions to a council contractor or tenderer without appropriate authorisation.

4. A councillor must not contact an employee of the council in relation to council matters unless authorised by the general manager of the council.

5. A councillor must not, in the councillor's relationships with persons, other councillors, the council, employees of the council or other bodies, engage in conduct that is prohibited conduct.

PART 8 - Representation

1. A councillor must accurately represent the policies and decisions of the council when giving information to the community.

2. A councillor must not knowingly misrepresent information that the councillor has obtained in the course of the councillor's duties.

3. A councillor must not speak on behalf of the council unless specifically authorised or delegated by the mayor.

4. A councillor must clearly indicate if a view put forward by the councillor is a personal view.

5. A councillor's personal views must not be expressed publicly in such a way as to –

(a) undermine the decisions of the council; or

(b) bring the council into disrepute.

6. A councillor must show respect when expressing personal views publicly.

7. A councillor's personal conduct must not reflect, or have the potential to reflect, adversely on the reputation of the council.

8. A councillor appointed to represent the council on external bodies must strive to –

(a) understand the basis of the appointment; and

(b) be aware of the ethical and legal responsibilities attached to such an appointment.

SCHEDULE 2 - Legislation revoked

Clause 5

Local Government (Model Code of Conduct) Order 2016 (No. 23 of 2016)
Local Government (Model Code of Conduct) Amendment Order 2018 (No. 88 of 2018)

Displayed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 10 September 2024

This order is administered in the Department of Premier and Cabinet.