

# Local Government Legislation (Councillor Code of Conduct) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 52

made under the

*City of Brisbane Act 2010*  
*Local Government Act 2009*

## General Outline

### Short title

*Local Government Legislation (Councillor Code of Conduct) Amendment Regulation 2020*

### Authorising law

Sections 169 and 252 of the *City of Brisbane Act 2010*  
Sections 150E and 270 of the *Local Government Act 2009*

### Policy objectives and the reasons for them

Chapter 5A of the *Local Government Act 2009* (LGA) provides a framework for making, investigating and determining complaints about Councillor conduct. A policy objective of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019* (the Belcarra Stage 2 Act) was to amend the *City of Brisbane Act 2010* (COBA) and the LGA to apply the Councillor complaints framework under the LGA to Brisbane City Council (BCC) Councillors. These amendments commenced on 30 March 2020.

Under the LGA Councillor complaints framework, section 150D of the LGA provided the Minister must make a Code of Conduct that sets out standards of behaviour for Councillors in performing their functions as Councillors under the LGA. Section 150E of the LGA provides that the Code of Conduct does not take effect until approved by a regulation. Contravention of a behavioural standard may amount to unsuitable meeting conduct, inappropriate conduct or misconduct under the LGA Councillor complaints framework.

The Belcarra Stage 2 Act amended section 150D of the LGA to require the Minister to make a Code of Conduct that sets out standards of behaviour for Councillors in performing their functions as Councillors under COBA, as well as under the LGA.

Section 169 of the COBA provides a BCC Councillor must not act in office until the Councillor makes the declaration of office and the declaration of office is prescribed under a regulation. The declaration of office is prescribed in section 241 of the *City of Brisbane Regulation 2012* (CBR) and requires that Councillors must declare, before acting in office, that they will faithfully and impartially fulfil their duties as a Councillor in accordance with local government principles under the COBA, to the best of their judgment and ability.

As part of the implementation of the LGA Councillor complaints framework, the declaration of office prescribed by regulation under section 169 of the LGA was amended to include a statement that a Councillor will abide by the Code of Conduct.

The objective of the *Local Government Legislation (Councillor Code of Conduct) Amendment Regulation 2020* is to amend the *Local Government Regulation 2012* (LGR) and the CBR to ensure the Councillor complaints framework is fully operational for BCC Councillors, by:

- approving a new *Code of Conduct for Councillors in Queensland* under the LGR to apply to BCC Councillors as well as Councillors of other local governments
- modifying the declaration of office prescribed under the CBR to require BCC Councillors to declare that they will fulfil their duties in accordance with the Code of Conduct.

## **Achievement of policy objectives**

The regulation commences on notification and achieves the policy objectives as follows.

### *Approval of Code of Conduct for Councillors*

Under amended section 150D of the LGA, on 7 April 2020, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs made a Code of Conduct that sets out the standards of behaviour for Councillors in performing their functions as Councillors under the LGA or COBA.

Section 5 of the Regulation amends section 239A of the LGR to approve the Code of Conduct made by the Minister on 7 April 2020, in accordance with section 150E of the LGA. The new Code of Conduct ensures that the same standards of behaviour apply to all Councillors in Queensland.

### *Declaration of office to include additional statement*

Section 3 of the Regulation amends section 241 of the CBR so that Councillors must declare, before acting in office, that they will faithfully and impartially fulfil their duties as a Councillor in accordance with the Code of Conduct and the local government principles under the COBA, to the best of their judgment and ability. This is consistent with the declaration of office prescribed for the LGA in section 254 of the LGR.

## **Consistency with policy objectives of authorising law**

The Regulation is consistent with the policy objectives of the *City of Brisbane Act 2010* and the *Local Government Act 2009*.

## **Inconsistency with policy objectives of other legislation**

The Regulation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The Regulation will ensure the Councillor complaints framework under the LGA is fully operational for BCC Councillors. The new Code of Conduct ensures that the same standards of behaviour apply to all Councillors in Queensland.

Any costs to Government for implementing the Regulation will be met through normal budgetary processes.

## **Consistency with fundamental legislative principles**

The Regulation is consistent with the fundamental legislative principles.

## **Consultation**

The BCC and the Office of the Independent Assessor were consulted on the amendments in the regulation and are supportive.

A self-assessment by the Department of Local Government, Racing and Multicultural Affairs has determined that further regulatory impact analysis is not required as the regulatory proposals are excluded under exclusion category (c) of the *Queensland Government Guide to Better Regulation* – ‘regulatory proposals for the internal management of the public sector or statutory authority’.