



Policy Name	Councillors Investigation Policy		
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This an official copy of the **Councillors Investigation Policy** of **Mornington Shire Council**, made in accordance with the provisions of Local Government Act and Regulations, Public Records Act, Mornington Shire Council's Local Laws, Subordinate Local Laws and current Council Policies.

This policy meets the exact requirements of Sec 150AE of the Local Government Act 2009.

Strategic Policies comply with a strategic requirement; the **Councillors Investigation Policy** is approved by the Mornington Shire Council for the operations and procedure of Council.



1 Purpose

This is Mornington Shire Council's Investigation Policy for how complaints about the inappropriate conduct of Councillors will be dealt with as required by the section 150AE of the Local Government Act 2009 (the LGA). However, this policy does not relate to more serious Councillor Conduct.

2 Application of the Policy

This Policy applies to investigations and determinations of a complaint about the alleged inappropriate conduct of a Councillor/s which has been referred by the Independent Assessor.

3 Definitions

For the purposes of this policy, the following definitions apply:

Term	Definition
Assessor	Means the Independent Assessor appointed under Sec 150CY of the LGA 2009
Behaviour Standard	Means a standard of behaviour for Councillors set out in the Code of Conduct approved under Sec 150E of the LGA 2009
Conduct	Includes – a) Failing to act; and b) A conspiracy, or attempt, to engage in conduct
Councillor Conduct Register	Means the register required to be kept by Council as set out in Sec 150DX of the LGA 2009
Inappropriate conduct	Refer Sec 150K of the LGA 2009
Investigation Policy	Refers to this Policy, as required by Sec 150AE of the LGA 2009
Investigator	Means the person responsible under this investigation policy for carrying out the investigation of the suspected inappropriate conduct of a Councillor or Mayor



LGA	Means the Local Government Act 2009 [Qld]
Local Government Meeting	Means a meeting of – a) A local government b) A committee of a local government
Misconduct	Refer Sec 150L of the LGA 2009
Model Procedures	Refer Sec 150F of the LGA 2009
Natural Justice	Means a set of principles to ensure fair and just decision making, including a fair hearing, and absence of bias, decisions based on evidence, and the proper examination of all issues.
Referral Notice	Refer Sec 150AC of the LGA 2009
Tribunal	Means the Councillor Conduct Tribunal as established under Sec 150DK of the LGA 2009
Unsuitable Meeting Conduct	Refer Sec 150H of the LGA 2009

4 Confidentiality

Matters of suspected inappropriate conduct of a Councillor are confidential except as otherwise specifically provided for either in the LGA or this investigation policy.

Note: It must be kept in mind that the matter is an allegation only and not yet proven. Further, there will be circumstances where the detail of the referral will need to remain confidential to the local government. Any release of confidential information that a Councillor knows, or should reasonably know, to be confidential to the local government may be contrary to section 171(3) of the LGA and dealt with as misconduct.

5 Natural Justice

Any investigation of suspected inappropriate conduct of a Councillor/s must be carried out in accordance with natural justice. An overview of the principles of natural justice follows.

A fair hearing means the Councillor who is the subject of the suspected inappropriate conduct matter must be told of the case against them including any evidence and be provided, with an opportunity to put their case in writing at least two business days before the investigation report is provided to the Councillors as part of the meeting agenda.



An absence of bias means that any investigation must not be biased or be seen to be biased in any way. This principle embodies the concept of impartiality.

Decisions based on evidence require that the investigation should not be based on mere speculation or suspicion but instead must be based upon logical proof or evidence material.

A proper examination of all issues means the investigation must give a proper and genuine consideration to each party's case.

6 Assessor's Referral

The Council may from time to time receive from the Assessor a referral notice about the suspected inappropriate conduct of a Councillor/s. Council may also receive referrals directly.

7 Receipt of Assessor's Referral

On receipt of a referral notice about the suspected inappropriate conduct of a Councillor/s from the Assessor, the Council's Chief Executive Officer will forward a copy of that referral notice to the Mayor and all Councillors.

Should the Mayor or a Councillor/s (other than the subject of the complaint or the complainant) disagree with any recommendation accompanying the Assessor's referral notice or form the opinion that the complaint should be dealt with in a way other than under this policy, the Mayor or Councillor may request the matter be placed on the agenda of the next Council meeting to decide on the appropriate process to investigate the complaint. Such a request must be made in accordance with the Council's meeting procedure requirements.

8 Investigator

Unless otherwise resolved by Council, the Mayor will manage the investigation of suspected inappropriate conduct of other Councillors. If the suspected inappropriate conduct involves an allegation about the conduct of the Mayor, involves the Mayor as the complainant or the Mayor believes in the circumstances it is in the best interests of the investigation, then the Chief Executive Officer must refer the suspected inappropriate conduct to the president of the Tribunal for investigation.



9 Early Resolution

Before any investigation of suspected inappropriate conduct is commenced, the investigator must consider whether it is appropriate for the parties to attempt to resolve the matter informally. This consideration includes any recommendation made by the Assessor. Early resolution must only be undertaken if the parties to the matter consent.

The investigator may engage an independent person with suitable qualifications or experience to facilitate this process.

If the matter cannot be informally resolved, the matter will then be investigated as outlined in this investigation policy.

If the matter is resolved, the investigator will advise the Chief Executive Officer of this outcome. In turn, the Chief Executive Officer will advise the Mayor and all Councillors that the matter has been resolved. The Chief Executive Officer will also update the Councillor Conduct Register to reflect this.

10 Timeliness

It is expected that the investigator will complete the investigation and provide a report for inclusion on the agenda of a Council meeting no more than eight weeks after the receipt of the complaint.

Note: If the investigator is of the opinion that it may take longer than eight weeks to complete the investigation, the matter should be raised at the next Council meeting to seek an extension of time.

11 Assistance for Investigator

If the Mayor is the investigator of a matter of suspected inappropriate conduct, the Mayor may use section 170A of the LGA to seek assistance during the investigation.

The Mayor is authorised by Council to expend money as reasonably needed to engage contractors from the Council's preferred supplier list.



12 Possible Misconduct or Corrupt Conduct

If, during the course of an investigation the investigator obtains information which indicates a Councillor/s may have engaged in misconduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Assessor of the possible misconduct.

If, during the course of an investigation, the investigator obtains information which indicates a Councillor/s may have engaged in corrupt conduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Crime and Corruption Commission of the possible corrupt conduct.

13 Completion of Investigation

On the completion of an investigation, the investigator will provide a report to the Council outlining the investigation process, the investigation findings, any recommendations about dealing with the conduct and a record of the investigation costs.

The Council will consider the findings and recommendations of the investigator's report and decide whether the Councillor has engaged in inappropriate conduct and, if so, what action it will take under section 150AH of the LGA.

Provisions for internal and external review of decisions are set out in sections 150CO to 150CS of the LGA.

14 Notice about the outcome of Investigation

After an investigation is finalised, the Council must give notice about the outcome of the investigation to the person who made the complaint about the Councillor/s' conduct that was the subject of the investigation.

15 Councillor Conduct Register

The Chief Executive Officer of the respective Council must ensure decisions about suspected inappropriate conduct of a Councillor/s must be entered into the Councillor conduct register.

Where a complaint has been resolved under section 10 of this policy, the Chief Executive Officer will update the register to reflect that the complaint was withdrawn.



16 Expenses

Council must pay any reasonable expenses of Council associated with the informal early resolution or investigation of suspected inappropriate conduct of a Councillor including any costs of:

- the president of the Tribunal in undertaking an investigation for Council
- a mediator engaged under this investigation policy
- a private investigator engaged on behalf of or by the investigator
- travel where the investigator needed to travel to undertake the investigation or to interview witnesses
- seeking legal advice
- engaging an expert.

Note: Council may order the subject Councillor reimburse it for all or some of the costs arising from the Councillor's inappropriate conduct.

Any costs incurred by complainants or the subject Councillors will not be met by Council.