

CODE OF CONDUCT PANEL REPORT
CENTRAL HIGHLANDS COUNCIL CODE OF CONDUCT FOR
COUNCILLORS

Complaint against the Mayor, Loueen Triffitt

Date of Determination: 27 June 2017

Code of Conduct Panel:

Lynn Mason (Chairperson), David Sales, Richard Grueber

Summary of the Complaint

The complaint, submitted on 9 May 2017 by Mesdames Ann Jones and Trudy Murphy, alleged that at the Central Highlands Council meeting on 6 December 2016, Mayor Triffitt breached the Code of Conduct (the Code) during Public Question Time (PQT). The sections of the Code which Mayor Triffitt was alleged to have breached are

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

7.1 A councillor-

- (a) must treat all persons with courtesy, fairness, dignity and respect; and*
- (b) must not cause any reasonable person offence or embarrassment; and*
- (c) must not bully or harass any person.*

8.5 A councillor's personal views must not be expressed in such a way as to undermine the decisions of the council or bring the council into disrepute.

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

8.7 The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the council.

Preliminary Procedure

The complaint was referred to the Code of Conduct Panel (the Panel) on 18 May 2017. The Chairperson of the Panel informed the Respondent on 19 May 2017 that she had assessed the complaint as a whole, and as per section 28ZA (1) (e) of the Act, determined that the complaint was to be investigated and determined by the Code of Conduct Panel for the following reasons:

1. The complaint substantially related to the alleged contraventions of the Central Highlands Council's Code of Conduct;
2. The complaint alleged that at the Council meeting on 6 December 2016, Mayor Triffitt breached Clauses 3.1, 7.1 (a), (b), and (c), and 8.5, 8.6, and 8.7 of the Code;
3. The complaint did not appear to be frivolous or vexatious in nature.

On 25 May 2017, after considering the complaint, the Panel determined under S.28ZG (2) (b) of the Act that it would conduct a hearing into the complaint.

The Panel asked Mayor Triffitt to respond to the complaint by 8 June 2017. On receiving Mayor Triffitt's request for an extension of time, the Panel allowed her until 14 June 2017 to respond to the complaint.

The Hearing

The Panel conducted the hearing in Hobart on 27 June 2017. The hearing was attended by the Mayor Loueen Triffitt, and her advocate, Ms Angela Triffitt. Mrs Ann Jones and Mrs Trudy Murphy also attended. Mrs Jones acted as the principal spokesperson for the complainants. No witnesses were called. Mayor Triffitt, Ms Angela Triffitt, Mrs Jones and Mrs Murphy all took the oath as provided in the *Evidence Act s 21(4)*. The complainants also confirmed under oath that the written complaint they had submitted was the truth, the whole truth, and nothing but the truth.

A solicitor acting for Mayor Triffitt had previously submitted to the Panel that this complaint, and a further complaint submitted by Mesdames Jones and Murphy regarding events which took place after the council meeting on 6 December 2016, should be dealt with as a single complaint. The Panel considered this request and determined that while the second complaint dealt with events which resulted from the matters raised in the first complaint, the complaints themselves were separate matters and would be heard separately.

Documents submitted to the Panel were:

- The complaint (9 May 2017);

- A letter from the complainants to the Minister for Planning and Local Government (the Minister) (undated);
- Item 6.1 from the minutes of the council meeting of 6 December 2016
- An email from Mrs Murphy to Mrs Jones (18 January 2017);
- Mayor Triffitt's response to the complaint (14 June 2017);
- Notes used by the complainants in speaking in support of their complaint at the hearing on 27 June 2017;
- The respondent's 'Position Summary' submitted at the hearing (27 June 2017);
- An email from Mr Ian McMichael to Mrs Ann Jones (22 June 2017).

Under s 28ZE (4) of the *Local Government Act 1993*, the Panel required the Mayor to provide a copy of the *Independent Internal Review of Council* undertaken in May 2017. The Panel determined that the information contained in the Review was not material to its determination of the complaint and its contents were not taken into consideration in the Panel reaching its determination.

The Panel determined that an email from Mr Ian McMichael, tabled by the complainants at the hearing on 27 June, would not be considered in reaching its determination. The Panel based this decision on the facts that the email was not submitted with a Statutory Declaration, and that Mr McMichael could not be questioned under oath by either the Panel or the respondent.

The Complaint and Response

The complainants stated that at the council meeting on 6 December 2016, in response to a question from Mrs Dierdre Flint, ex-mayor of the Council, the Mayor *treated Mrs Dierdre Flint, OAM, with complete disrespect, bullied with her shouting at and waving her finger at Mrs Flint – refusing to answer Mrs Flint's two questions because they had not been tabled for the agenda....During the verbal outrage Councillors Cassidy and Allwright tried to attract the Mayor's attention by raising their arms and signalling for the Mayor to calm down – all to no avail. Mrs Flint was visibly upset and hurt by the attack.* The Panel noted that following the council meeting in August 2016, Mrs Flint had retired from her position as Mayor of the Council; her ill health resulted in her death in February 2017.

During the hearing the Panel asked whether the Mayor had shouted at Mrs. Flint. Mrs Jones replied that the Mayor had raised her voice. Mrs Jones said that both the Mayor and Mrs Flint talked simultaneously, and that no points of order were called by any councillor present. Mrs Jones asserted that the interchange between the Mayor and Mrs Flint was *more than robust, it was a personal attack* by the Mayor.

In responding to the complaint, the Mayor agreed that she may have raised her voice to be heard *over the barrage of comment and continuous talking* (by Mrs Flint). She said she did not see any attempted interventions by Crs Allwright and Cassidy, and that her objective throughout the exchange was to keep control of the meeting, which she considered to be her primary task.

Determination of the Code of Conduct Panel

The Code of Conduct Panel dismisses the complaint.

Reasons for the Determination

The Panel concluded that on the evidence presented, the actions of the Mayor in dealing with Mrs Flint's questions during the council meeting did not bring the council into disrepute; did not constitute failure to treat Mrs Flint with courtesy, fairness, dignity and respect; would not have caused any reasonable person offence or embarrassment; and did not constitute bullying or harassment. The Panel did not consider that in answering Mrs Flint's questions, and managing PQT on 6 December 2016, the Mayor had acted in a personal capacity; rather, her behaviour was that of the Mayor as chairperson of a council meeting. The Panel therefore found no breach of Parts 8.5, 8.6, and 8.7.

Right to Review

Under S.28ZJ of the Act, a person aggrieved by the determination of the Panel is entitled to apply to the Magistrates Court (Administrative Appeals Division) for a review of the determination on the ground that the Panel has failed to comply with the rules of natural justice.

Lynn Mason (chairperson)



David Sales



Richard Grueber

