

**CODE OF CONDUCT PANEL REPORT**  
**DEVONPORT CITY COUNCIL COUNCILLOR CODE OF CONDUCT**  
(ref C19383)

Complaint brought by Ms Jennie Claire against Councillor Peter Hollister

Date of Determination: 3 October 2019

**Code of Conduct Panel:**

Sue Smith (Chairperson), Lynn Smith (community member with experience in local government), Anthony Mihal (legal member)

**THE COMPLAINT**

A Code of Conduct Complaint was lodged by Ms Jennie Claire to the General Manager – Devonport City Council on 2 August 2019.

The Complaint alleges that by interjecting and calling Ms Claire a liar during Public Question Time at the Ordinary Council Meeting held on 25 March 2019 Councillor (Cr) Peter Hollister breached the following provisions of the Devonport City Council Code of Conduct which was adopted by Council in January 2019:

*Part 7 – Relationships with community, councillors and Council employees*

1. *A Councillor-*
  - (b) must treat all persons fairly and*
  - (c) must not cause any reasonable person offence or embarrassment and*
  - (d) must not bully or harass any person.*

**INVESTIGATION**

In accordance with section 28ZE of the *Local Government Act 1993* (the Act), the Code of Conduct Panel conducted an investigation of the complaint.

In her Statutory Declaration lodged in support of the complaint, Ms Claire explained that whilst she was asking a question during question time of the Council Meeting Councillor Hollister interrupted her question by shouting out “You’re a liar”.

Councillor Hollister did not deny this allegation in his response to the complaint.

Both the Complainant and Cr Hollister received all relevant correspondence on the issue.

In dealing with the complaint the Panel reviewed the Devonport City Council Code of Conduct Policy, the Public Question Time Policy, the minutes of the Council Meeting of 25 March 2019 and the audio recording of the meeting in question.

- Section 28ZK (7) of the *Local Government Act 1993* requires that any person who receives a determination report must keep the determination report confidential until the report is included within an item on the agenda for a meeting of the relevant council. Failure to do so may result in a fine of up to 50 penalty units.

As per Section 28ZG (2) (b) of the Act, the Code of Conduct Panel determined that a hearing was unnecessary in the circumstances because the investigations could be adequately conducted by means of written submission and examination of documentary evidence.

## **DETERMINATION AND REASONS**

The Code of Conduct Panel considered the information provided by Ms Claire and the response provided by Cr Hollister along with their statutory declarations.

The Panel concludes that Cr Hollister did breach Part 7 1 (a), (b), and (c) of the Devonport City Council Code of Conduct Policy. The recording of the Council Meeting held on 25 March 2019 clearly indicates that Cr Hollister interrupted the proceedings of Public Question Time by interjecting to call the complainant a liar, and was in fact named by the Mayor as a warning for having done so. Cr Hollister's words were clearly audible and would have been heard by other Councillors, Council staff and members of the public who were present at the meeting. Elected Councillors hold a responsible position in the Community and it is expected that they show leadership and restraint, especially at times when tension is high.

The Public Question Time Policy of the Devonport City Council is quite clear and appears in the Agenda of the Council Meeting. It is clear from the audio recording that at the meeting on 25 March 2019 the policy was not adhered to, especially the section that states "Questions are to be succinct and not contain lengthy preamble." It is clear from the audio recording that at the time of the breach the Complainant was twice interrupted by the Mayor in attempts to control the process, but the Complainant raised her voice and continued the lengthy and querulous preamble to her question, making it difficult to ensure fairness to those members of the public who respect the rules. Cr Hollister intervened at a time when Councillors' role was to rely on the Mayor to control the process.

The Councillor's behaviour towards the Complainant was unfair to her, in breach of Part 7.1 (a) of the Code, because Ms Claire had no proper standing at the meeting to enable her to respond to the very serious allegation made by the Councillor against her in that forum.

Calling someone a liar in that manner was clearly offensive and embarrassing to the Complainant and it was reasonable for her to feel so aggrieved, which is why the Panel finds that the Councillor breached Part 7.1 (b) of the Code.

The Panel finds that the Councillor descended to offensive name-calling in an attempt to intimidate the Complainant into desisting from continuing her criticism of council during the preamble to her question. For that reason, the Panel finds that the Councillor's behaviour amounted to bullying and harassment in breach of Part 7.1 (c) of the Code.

## **SANCTION**

The Panel, upon reaching a determination that a Code of Conduct Complaint is upheld, may impose the following sanctions on the Councillor against whom the complaint is made:

- . a caution
- . reprimand
- . requirement to apologise to the complainant or other persons affected by the contravention of the code of conduct
- . suspension from performing the function and powers of his or her office for a period not exceeding 3 months

As per Section 28ZL(2) of the Act the Code of Conduct Panel imposes the following sanction on Cr Hollister:

Cr Hollister is required to apologise in writing to Ms Claire for breaching Part 7.1 (a), (b) and (c) of the Devonport City Council Code of Conduct by interjecting and calling her a liar during public question time at the meeting of the Devonport City Council held on 25 March 2019.

This apology is to be sighted by the General Manager of the Devonport City Council before it is sent to the Complainant and is to be delivered to the Complainant within 28 days of the receipt of this report by Cr Hollister.

### **RIGHT TO REVIEW**

Under s28ZP 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.



Sue Smith  
(Chairperson)



Lynn Mason  
(Community Member with  
experience in local government)



Anthony Mihal  
(Legal Member)