

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.

Local Government Act 1993

CODE OF CONDUCT PANEL DETERMINATION REPORT

CODE OF CONDUCT COMPLAINT (C38652)

BURNIE CITY COUNCIL

BY MS CHRISTINA SCHLEICH AGAINST COUNCILLOR TRENT AITKEN

Code of Conduct Panel

- David Sales (Chairperson)
- David Hudson (Local Government Member)
- Craig Mackie (Legal Member)

Date of Determination: 3 December 2025

Content Manager Reference: C38652

Summary of the complaint

A code of conduct complaint was submitted by Ms. Christina Schleich to the General Manager of the Burnie City Council on 3 June 2025 (the Complaint).

The Complaint alleges that Cr. Trent Aitken breached the following parts of the Model Code of Conduct (the Code), by his action in making posts and public statements on social media and in the press which were allegedly either homophobic or racist over the period 2 January 2025 to 14 May 2025.

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

7.1 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

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

Initial assessment

Following receipt of the Complaint, Ms. Audrey Mills, a legal practitioner, conducted an initial assessment in accordance with the requirements of section 28ZA of the Act.

Ms. Mills assessed the Complaint against the provisions of sections 28ZB and 28ZC of the Act.

Ms. Mills determined pursuant to section 28ZA(1)(e) of the Act that the whole Complaint was to be investigated and determined by the Code of Conduct Investigating Panel (the Panel). She assessed the allegations concerning Cr. Aitken's conduct, specifically against each part of the Code that were nominated in the Complaint, namely Part 3(1), Part 7(1), (a), (b) and (c) and Part 8.6 and was satisfied on the material lodged with the Complaint, subject to the totality of material that may be put before the Panel, such Panel could find that Cr. Aitken was in breach of the Code of Conduct.

Material considered by the Panel

The following documents have been presented to the Panel to consider as evidence in this matter.

- The Model Code of Conduct.
- The complaint submitted by Ms Christina Schleich under cover of statutory declaration 3 June 2025 (PDF – 10 pages).
- The Determination of the Initial Assessor dated 30 July 2025 (PDF – five pages).
- The Respondent's response to the complaint, submitted under cover of a statutory declaration 1 September 2025 (MS Word document – six pages).

Investigation

In accordance with section 28ZE of the Act, the Panel investigated the Complaint.

The Complaint related to a series of statements made by Cr. Aitken during the period 2 January 2025 and 14 May 2025 either in the press, on radio or via social media platforms which the Complainant alleged were either homophobic or racist. Other than the sworn statement by the Complainant which formed part of the Complaint no other documentary evidence such as screen shots, video or tape recordings or witness statements were submitted to support the Complaint.

In responding to the Complaint, the Respondent did not deny he had made statements the same or similar to those that were alleged in the Complaint.

The Panel commenced its investigation when it received the Initial Assessor's determination on 18 August 2025.

The Complainant alleged that Cr. Aitken made a series of media statements which she alleged could be categorised as either homophobic or racist.

The statements in question can be summarised as follows:

Homophobic statements

1. January 2025 – Posted on social media criticising non-binary television personality Jonathan Van Ness for wearing a dress to the Golden Globes Award stating inter alia he was not right in the head.
2. 18 April 2025 – Posted on Facebook, - a trans woman is a man.....staying out of girls and women's' change rooms, toilets.....would be nice.....etc.
3. 22 April 2025 - Posted a photo of himself from the Advocate stating he was simply saying what others are too scared to say.
4. 25 April 2025 – A long post railing against gender dysphoria and puberty blockers inter alia.
5. 30 April 2025 – Explanation about why he was against raising a rainbow flag at the Council Chambers
6. 12 May 2025 – Stop trying to brainwash our kids with this Trans rubbish...
7. 14 May 2025 – Inter alia, I am being victimised by a group of people who are completely delusional.

Racist statements

1. 2 January 2025 – 2 days into the new year and Michael Mansell is already telling us we can't celebrate Australia Day.....
2. 26 January 2025 – Today is our day to celebrate. My land, Your land, Our land.
3. 15 February 2025 – Sam Kerr is paid millions to represent Australia..... Sam has not said anything racist because if the victim is white, it doesn't matter.....
4. 16 February 2025 – You're a terrible role model Sam
5. 23 March 2025 – Racist comments about Tasmanian Aboriginal people at Bartholomew Park, Cressy.
6. 18 April 2025 – Burnie was never Aboriginal land.....

It follows that, for the purpose of determining the Complaint, the Panel proceeded on the basis that the alleged homophobic and alleged racist statements were two separate complaints.

The Panel determined that while each individual statement may or may not breach the Code, it was more appropriate to consider each statement within the context of systemic homophobia and/or systemic racism in order to determine the full import of each statement's meaning.

As indicated above, Ms. Schleich's sworn Complaint was accompanied by no supporting evidence, however Cr. Aitken did not attempt to refute that he made the statements in question or at least words to the same effect.

The Panel therefore finds that Cr. Aitken made such statements or words to the same effect on the dates indicated.

Cr Aitken in his defence asserted that the statements he made were the truth and as such he was entitled to make these statements. The Panel's role is not to try to determine whether these statements are factual or otherwise. Its role is to characterise these statements and determine whether the Code has been breached.

On 9 September, the Panel wrote to both parties advising them that it believed it had sufficient evidence before it to determine the Complaint. The parties were offered the opportunity to participate in a hearing. Both parties responded by indicating that they were content for the matter to proceed without the need for a hearing.

Accordingly, and in accordance with section 28ZG of the *Local Government Act* 1993, the Panel determined that the Complaint would proceed directly to a determination without a hearing being held.

Determination

It is the Panel's determination that there were statements made by Cr Aitken that, when considered in the context as outlined above, were respectively homophobic and racist.

Pursuant to section 28ZI of the Act, the Code of Conduct Panel determines that Cr. Trent Aitken has breached parts 7.1 (b) and 8.6 of the Code.

The Panel dismisses the Complaint in relation to parts 3.1, 7.1 (a) and (c) of the Code.

Details of the determination

PART 3 -USE OF OFFICE

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

The Complainant alleges that the actions of Cr. Aitken brought the council or the office of councillor into disrepute.

No evidence has been adduced to support such a finding.

To support an allegation such as this the Panel would expect to see independent evidence such as newspaper articles, witness statements or screen shots of responses to Cr. Aitken's posts. The Complainant has provided no such evidence, and the Panel can only determine the Complaint on the basis of evidence before it.

The Panel dismisses this part of the Complaint

PART 7 - RELATIONSHIPS WITH COMMUNITY, ELECTED MEMBERS AND COUNCIL EMPLOYEES

*7.1 A councillor must –
(a) treat all persons fairly; and*

Again, similarly to 3.1, no documented evidence has been introduced by the Complainant that any person has been treated unfairly by Cr. Aitken in making these statements. The Panel would expect supporting independent evidence would have been provided to demonstrate how a person or group of persons have been treated unfairly. This is not evident in the submission of the Complainant.

The Panel dismisses this part of the Complaint

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

The Panel is required to determine whether an objective bystander, the “reasonable person”, would have been caused offence or embarrassment by these posts.

The Panel is of a view that a reasonable person would find comments such as “trans Rubbish”, “perverts got locked up”, and “I wouldn’t let him anywhere near kids” are offensive and embarrassing to some members of the Community.

Further, the Panel considers that comments such “you’re not 100% aboriginal but won’t accept that you are probably English”, “apparently Sam has not said anything racist because if the victim is white it doesn’t matter”, and “Burnie was never Aboriginal land” would be viewed by a reasonable person as deeply offensive to an aboriginal person, especially one who lived in the Burnie region.

The Panel finds that, as a whole, both sets of statements are respectively homophobic and racist and would be viewed by a reasonable person as both offensive and embarrassing.

The Panel upholds this part of the Complaint

(c) not bully or harass a person

The basis of determining that bullying and harassment has occurred is a demonstration of ongoing, unwarranted behaviour against another person (or group of people). There is no evidence before the Panel that would indicate that any bullying or harassment of a person has occurred.

The Panel dismisses this part of the complaint

PART 8 – REPRESENTATION

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

The Panel, for the reason outlined in part 7.1 (b), finds that the posts when taken as a group are both disrespectful to the Aboriginal and LGBTQI+ Communities respectively. It also is possible they breach both Federal and State Legislation.

The Panel is of a view that Cr. Aitken in making these posts publicly behaved in a way which did not show respect to those groups.

The Panel upholds this part of the Complaint

Sanctions

In accordance with the section 28ZI of the Local Government Act, the Panel having considered the evidence provided to it, may:

- (a) uphold the complaint; or
- (b) dismiss the complaint; or
- (c) uphold part of the complaint and dismiss the remainder of the complaint.

If the complaint or part of the complaint is upheld, the Panel may impose one or more of the following sanctions:

- (a) a caution;
- (b) a reprimand;
- (c) a requirement to apologize to a person affected by the failure to comply with the code of conduct;
- (d) a requirement to attend counselling or a training course, or
- (e) a suspension.

The Panel may also determine not to impose a sanction despite upholding the complaint.

Ms. Schleich indicated in her Complaint that she believed that Cr. Aitken should be suspended and be required to issue an apology to the Aboriginal and LGBTQI+ Communities.

Cr. Aitken was advised of the Panel's Determination and invited to make a submission regarding a possible sanction. Mr. Aitken responded by repeating that all the statements that he had made were true and that in the circumstances he believed there should be no sanction.

The Panel finds that a sanction is warranted.

The Panel imposes a sanction of:

- A suspension of 14 days to commence on the day following the day on which this Report is tabled at a Council Meeting; and
- A requirement to attend a training course as directed by the General Manager of the Burnie City Council, to be completed within three months of the day on which this Report is tabled at a Council Meeting.

The Panel considered whether the sanction should include a requirement for Cr. Aitken to issue an apology to the Aboriginal and LGBTQI+ Communities.

The Panel felt that Cr. Aitken's views on this matter were so strongly held that any apology he might proffer would not be made genuinely and, in the circumstances, considered it better not to impose a requirement to apologise.

Timing of the Determination

In accordance with section 28ZD (1), a Code of Conduct Panel is to make every endeavour to investigate and determine a code of conduct complaint within 90 days of the Initial Assessor's determination that the complaint is to be investigated.

The Panel has been unable to determine the complaint within 90 days, owing to -

- The unavailability of one of the Panel for a period of time during the investigation.

Right to review

A person aggrieved by the determination of the Code of Conduct Panel, on the ground that the Panel failed to comply with the rules of natural justice, is entitled under section 28ZP of the Act to apply to the Tasmanian Civil and Administrative Tribunal for a review of the determination on that ground. An appeal must be lodged within 28 days of the date of receipt of this determination.



David Sales
Chairperson



Craig Mackie
Member



David Hudson
Member

DATE: 3 December 2025