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Local Government Act 1993

CODE OF CONDUCT PANEL DETERMINATION REPORT

WEST COAST COUNCIL CODE OF CONDUCT

Complaint brought by Councillors Shane Pitt and Robert Butterfield against Councillor Elizabeth Hamer

Code of Conduct Panel

- Jill Taylor (Chairperson),
- Greg Preece (Local Government Member)
- Frank Neasey (Legal Member)

Date of Determination: 13 May 2025

Content Manager Reference: C32813

Summary of the complaint

A code of conduct complaint was submitted by Councillors (Cr) Shane Pitt and Robert Butterfield to the General Manager of the West Coast Council on 16 January 2024. The General Manager confirmed the complaint was compliant with section 28Y (1) of the Act on 16 January 2024.

The complaint alleges that Councillor (Cr) Hamer breached the following parts of the West Coast Council's Code of Conduct, endorsed by Council on 24 January 2023.

PART 1 - Decision making

- 1. A councillor must bring an open and unprejudiced mind to all matters being decided upon in the course of his or her duties, including when making planning decisions as part of the Council's role as a Planning Authority.*
- 2. A councillor must make decisions free from personal bias or prejudgment.*
- 3. In making decisions, a councillor must give genuine and impartial consideration to all relevant information known to him or her, or of which he or she should have reasonably been aware.*
- 4. A councillor must make decisions solely on merit and must not take irrelevant matters or circumstances into account when making decisions.*

PART 2 - Conflict of interests that are not pecuniary

- 1. When carrying out his or her public duty, a councillor must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that he or she may have.*

PART 3 - Use of Office

- 1. The actions of a councillor must not bring the Council or the office of councillor into disrepute.*
- 3. In his or her personal dealings with the Council (for example as a ratepayer, recipient of a Council service or planning applicant), a councillor must not expect nor request, expressly or implicitly, preferential treatment for himself or herself or any other person or body.*

PART 5 - Use of information

4. *A councillor must only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.*

PART 7 - Relationships with community, councillors and Council employees

1. *A councillor –
 - (a) must treat all persons fairly; and
 - (b) must not cause any reasonable person offence or embarrassment; and
 - (c) must not bully or harass any person.*
2. *A councillor must listen to, and respect, the views of other councillors in Council and committee meetings and any other proceedings of the Council, and endeavour to ensure that issues, not personalities, are the focus of debate.*
5. *A councillor must not contact an employee of the Council in relation to Council matters unless authorised by the General Manager of the Council.*

PART 8 – Representation

1. *When giving information to the community, a councillor must accurately represent the policies and decisions of the Council.*
2. *A councillor must not speak on behalf of the Council unless specifically authorized or delegated by the Mayor or Lord Mayor.*
5. *A councillor's personal views must not be expressed publicly in such a way as to undermine the decisions of the Council or bring the Council into disrepute.*
7. *The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the Council.*

Initial assessment

Following receipt of the complaint, the Chairperson conducted an initial assessment of the complaint in accordance with the requirements of section 28ZA of the Act. Having assessed the complaint against the provisions of sections 28ZB and 28ZC of the Act, the Chairperson determined that:

- part of the complaint, namely those parts alleging a breach of Parts 7.2 and 8.3 of the Code be dismissed on the basis that they do not substantially relate to a contravention of the code of conduct in accordance with section 28ZB(1)(b) of the Act;
- the balance of the complaint should not be dismissed on the grounds that it was frivolous, vexatious or trivial. The reasons for this conclusion were that sufficient information was supplied by the complainants that, if proven would constitute a breach of the Code of Conduct;
- the complainant had made a reasonable effort to resolve the complaint. The Chairperson arrived at this conclusion based on information provided that Cr Pitt as Mayor had made attempts to speak with Cr Hamer regarding her performance as a councillor following advice from LGAT and Office of Local Government;
- the balance of the complaint substantially related to a contravention of West Coast Council's Code of Conduct, namely Parts 1.1, 1.2, 1.3, 1.4, 2.1, 3.1, 3.3, 5.4, 7.1 (a), (b) & (c), 7.5, 8.1, 8.5 and 8.7;
- the complaint does not disclose that an offence may have been committed or that it should more appropriately be dealt with by another person or authority;

- having made enquiries of the Code of Conduct Executive Officer, there was no relevant direction under section 28ZB(2) or 28ZI of the Act that would apply to the complainant and the complaint.¹

On this basis, the Chairperson determined to investigate those parts of the complaint as listed above.

The complainants, respondent councillor and the General Manager were notified of the initial assessment by letter dated 27 February 2024.

Investigation

In accordance with section 28ZE of the Act, the Code of Conduct Panel investigated the complaint.

The Panel determined that further information was required to investigate the complaint. The Panel wrote to the complainants on 3 April 2024 requiring the following information:

1. Any occasions where Cr Hamer has failed to declare a conflict of interest during Council business.
2. Any evidence of Cr Hamer asking private questions of proponents for the purchase of the Union Steamship Building.
3. Any evidence whereby Cr Hamer has released confidential information gained from a closed Council meeting.
4. Copy of email from Cr Hamer to ASU dated 24 December 2023.
5. Evidence relating to Cr Hamer contacting council employees on 13 December 2023.
6. Copy of email sent by Cr Hamer dated 3 January 2024 that was offensive to a councillor
7. Emails sent to councillors by Cr Hamer on 10 January 2024 regarding inappropriate questions of the proponents for the purchase of the Union Steamship Building.

The complainants responded to this request in a zip file sent 15 April 2024. The documents contained in the zip file were reviewed by the Panel and essentially fell into three categories; ones that were outside of the six-month period prior to complaint lodgement, ones that postdated the date of the complaint and others that were either included in the 19 folios accepted into evidence from the complainants zip file of 28 February 2024 or not accepted into evidence by the Panel.

When Cr Hamer sent her response to the complaint under cover of a statutory declaration dated 4 March 2024, it failed to specifically address the parts of the Code that the complainants alleged she had breached. The Panel wrote to her on 3 April 2024 requesting that she provide a response to the alleged breaches of the Code. In response to this request Cr Hamer submitted a further statement dated 19 April 2024. This statement was not submitted under cover of a statutory declaration. However, at the hearing all parties to the complaint swore that documentation submitted and accepted into evidence by the Panel was true and correct.

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

- West Coast Council Code of Conduct approved on 24 January 2023
- 11 January 2024 - Complaint statement signed by both complainants and submitted under cover of statutory declarations by Cr Pitt dated 12 January 2024 and Cr Butterfield dated 11 January 2024
- 28 February 2024 – Zip file containing 78 documents from complainants – an explanation of these documents is set out below
- 4 March 2024 - Statement in response to complaint from Cr Hamer under cover of statutory declaration signed on 4 March 24 with attachments -
 - USSB petition from 9/6/23 to 10/7/2023

¹ Section 28ZB(2) and 28ZI of the Act enable the Chairperson or the Panel (as applicable) to issue a direction to a complainant in prescribed circumstances not to make a further complaint in relation to the same matter unless the complainant provides substantive new information in the further complaint.

- Letter to Cr Hamer from Don Grining dated 20 June 2023
- Letter to Mayor and councillors from Mark McDermott dated 10 July 2023
- Copy of certificate of title dated 26 October 1970
- Undated petition to reject the sale of the Union Steamship Building, Strahan
- Submission dated 28 January 2024 by Zeehan Thrives Inc to the West Coast Council Annual Plan 2024-2025
- 3 April 2024 - Email from General Manager, West Coast Council (WCC), dated 3 April 2024 attaching a total of 11 pages being extracts from Council meetings relating to the USS Building
- 15 April 2024 - complainants response to questions asked by Panel contained in zip file send in seven different files
- 19 April 2024 - response from Cr Hamer to letter from Panel which was not supplied under cover of a statutory declaration.

On 25 July 2024, Cr Hamer wrote to the Panel providing details of a personal matter and requested that she not be contacted for a period whilst dealing with her personal matter. The Panel granted this request and resumed the investigation in mid-October 2024. It was at that time that the Panel reviewed the 78 folios provided by the complainants on 28 February 2024. Given the volume of documentation, the Executive Officer indexed these documents and prepared a schedule allocating numbers from 1 to 78. The Panel then reviewed all these documents, discovering that the complainants had not identified which documents related to the relevant part of the Code, i.e., the part they alleged Cr Hamer had breached. Additionally, the Panel noted that some documents were outside of the statutory period relating to the lodgement of a complaint.

On 19 December 2024 the Panel wrote to the complainants attaching a copy of the schedule prepared by the Executive Officer, listing and numbering each of the documents. In that letter the complainants were requested to identify which of documents related to the relevant part of the Code they alleged Cr Hamer had breached. Following this process, the complainants identified several documents that they wished to withdraw. The Panel then considered the remaining documents.

In the final analysis the Panel identified 19 folios it would accept into evidence. The complainants and Cr Hamer were advised of this on 7 March 2025 with copies of those folios accepted by the Panel sent to Cr Hamer and the complainants. The contents of the folios are contained in the confidential addendum.

At the conclusion of this process, and in the overall context of the complaint, the Panel identified that there were essentially six separate matters raised by the complainants.

These were -

1. Councillor Hamer's relationship with the General Manager and Council staff
2. The sale of the Union Steamship Building (USSB) in Strahan and misrepresentation of decisions and unauthorised release of information in relation thereto:
3. The "Fill material" at the BP service station at Strahan
4. Recruitment of the new General Manager
5. Rumours in relation to Cr Kerry Graham
6. Alleged illegal excavation works on Cr Hamer's property

Hearing

As per section 28ZH of the Act the Code of Conduct Panel held a hearing on 4 April 2025 at the West Coast Council offices in Queenstown.

At the commencement of the hearing, the Chairperson read a preamble outlining how the hearing would be conducted and the process following the hearing.

Councillors Pitt, Butterfield and Hamer all swore that their oral evidence would be the truth and nothing, but the truth and all documentation submitted by them not covered by a statutory declaration was true and correct.

The Chairperson asked the complainants to address the specific incidents where they allege Cr Hamer breached the Code, citing relevant documents. Cr Pitt agreed to speak first, with Cr Butterfield adding information he considered relevant to the complaint.

Cr Hamer's relationship with the General Manager and Council staff

At the hearing, the complainants re-iterated that the basis of their complaint was the tone and content of Cr Hamer's emails distributed across many months constituting bullying of the General Manager and some staff, particularly the Executive Assistant, Samantha Eley. The complainants alleged that Cr Hamer regularly questioned the accuracy of the minutes of the meetings prepared by Ms Eley. In response to the Panel's question, Cr Pitt said that the appropriate place to make any amendments to the minutes was when they were presented at the subsequent meeting, and it was inappropriate for Cr Hamer to take issue with Ms Eley.

The complainants also provided evidence where Cr Hamer had approached a staff member, Ms Alison Shea, seeking a copy of the title for the USSB.

In relation to the significant amount of her emails sent by Cr Hamer the complainants alleged that they were often repetitive, and she had unrealistic expectations of the timing of responses from the General Manager. The complainants allege this demonstrated harassment and bullying of the General Manager. In response to a question from the Panel, Cr Pitt said that he had made an attempt to discuss her inappropriate behaviour with Cr Hamer, saying he would bring an independent person along, that being Cr Butterfield. Cr Hamer said she would only attend if she could have her lawyer or a LGAT representative present. The meeting did not take place.

Union Steamship Building

The Panel was told that the USSB had been the subject of discussion at Council for several years. In her submission of 4 March 2024, Cr Hamer advised that the building was first offered for sale in 2020. However, in an extract from Council minutes in November 2023 it was noted that the General Manager stated that a contract for sale *"is yet to be signed, and no decision has been made on the final contract"*.

Cr Pitt told the hearing that the Council had agreed *"seek expressions of interest"* from potential buyers for the USSB in May 2023. Despite this being a majority decision of Council, Cr Pitt alleged that Cr Hamer did not accept this decision and constantly sought to have it overturned. In their complaint they stated that she continually *"attempted to derail the process and the decisions made by Council"*. By taking this position, they alleged that Cr Hamer ignored what was in the best interests of the community. Cr Hamer defended her actions, in her submission dated 4 March 2024 stating, *"Once the process to sell commenced, I would ask for clarification and question the lack of professional commercial practices to make sure that the sale was the right fit, both sale price and purchaser"*. Cr Butterfield alleged Cr Hamer organized a petition, but she said she simply presented it to Council at the community's request.

In her response to the complaint, Cr Hamer said that she had never stated verbally or in writing that she had an interest in the USSB. However, in evidence tendered at folio 68, in an email to the General Manager sent on 20 November 2023, Cr Hamer requested that a motion be put to the next Council meeting calling for a public meeting. The General Manager replied on the same day saying the motion was misleading and that the petition had already been acted upon. Not accepting the General Manager's decision, Cr Hamer replied again requesting that the motion be put. The complainants pointed to this as an example of Cr Hamer continually harassing the General Manager with her constant emails about the same matter. Minutes of a Council meeting in July 2023 also records Cr Hamer saying that she is "very emotional and attached to that building".

Council held a workshop on 10 January 2024 at which representatives of the 7469 Holdings, who had expressed interest in the USSB were invited by Council to make a presentation. Crs Pitt and Butterfield stated in their complaint that Cr Hamer had *“engaged in inappropriate behaviour in the questioning of the financial viability of the proponents in the purchase of the USSB.”*

When asked by the Panel whether a decision to sell the USSB had been taken by Council prior to the workshop held on 10 January 2024, Cr Pitt responded by saying *“Council was still working through it.”*

At the hearing Cr Pitt, said that following the workshop several councillors had emailed him expressing concern and embarrassment at Cr Hamer’s behaviour. The complainants provided copies of emails circulated between some councillors following the workshop in response to the request for further information by the Panel. These emails show that some councillors said they were *“gobsmacked and absolutely embarrassed”* by Cr Hamer’s behaviour.

BP Service Station, Strahan

The complainants alleged that Cr Hamer had involved herself in an operational matter relating to “fill material” at the BP service station Strahan. While it is part of a councillor’s role to raise matters at Council on behalf of their community, it is alleged that Cr Hamer went beyond this role taking on the role of an advocate for the proprietors of the Service Station.

Cr Hamer continued her involvement in this operational matter when she sent an email on 14 December 2023 at folio 70 to the General Manager, Ms Eley and Cr Pitt requesting details of the status of the matter.

Recruitment of the new General Manager

Evidence was provided at folio 32, of an email Cr Hamer sent to all councillors regarding the impending appointment of a new General Manager stating that the appointee was *“tardy and if she wanted the position, she should get on with it or Council should look for someone else”*. The complainants said that this was an unfair comment in relation to the appointee who, at the time, was negotiating a starting date with the Mayor. Cr Hamer’s email followed an email by the Mayor to all councillors providing a status report on the recruitment process and explaining the reasons for the later starting date for the incoming General Manager. Cr Pitt contended that this was unfair treatment of the appointee.

Rumours in relation to Cr Kerry Graham

On 3 January 2024, Cr Hamer circulated an email (folio 66) to her fellow councillors saying that she heard a rumour that Cr Graham would be running a whisky bar in Zeehan. Cr Graham responded by saying it was a personal attack on his credibility and demanded that Cr Hamer cease and desist. The Mayor also cautioned Cr Hamer on this behaviour saying that she should not spread rumours. Cr Pitt contended that this was offensive and embarrassing to Cr Graham.

Alleged illegal excavation work on Cr Hamer’s property

A further allegation by the complainants of conflict of interest by Cr Hamer was in relation to a problem on her property allegedly caused by her neighbour. There were email exchanges between Cr Hamer and the General Manager relating to “illegal work” on her property that she submitted as a councillor and not a resident. One such example was on 1 September 2023, where Cr Hamer sent three emails to the General Manager (folio 67 refers) using her Council email in relation to alleged illegal excavating work on her property. In that email she stated - *“As a councillor I am very upset that no further action has been taken to resolve the complaint about Batchelor’s illegal excavating works on my property....”*. Cr Pitt alleged that Cr Hamer had approached Council staff directly in relation to this matter. Cr Pitt asserted not only was this harassment but also a form of intimidation as well. The General Manager had point out to her that it was inappropriate for her to pursue as a councillor, especially as she was using the Council email and, in some instances,

copying in other councillors. Cr Hamer, when questioned by the Panel, said she made a mistake in relation to this matter and would behave differently now.

When Cr Hamer was invited at the hearing to respond to the allegations made against her, she provided a hard copy of her statement of 19 April 2024, which had already been received by the Panel and copied to Crs Pitt and Butterfield. Cr Hamer also provide to the Panel and Crs Pitt and Butterworth the following statement

“Code of Conduct Panel

04 April 2025

RE: C32813 Code of Conduct Panel complaint by Crs Shane Pitt & Robert Butterfield

My name is Elizabeth Joyce Hamer and for the past two and a half years I have held the position of Councillor for the West Coast Council.

During my tenure I have fiercely applied and advocated the terms and conditions of the Local Government Act 1993, Code of Conduct West Coast Council and my defined role under Section 28 of the Local Government Act.

I refer to my correspondence of the 19 March 2024 and can clearly identify that the mass of documents provided by the complainants has had no bearing nor effect upon by position. Therefore, I stand resolute and continue to refute any and all allegations raised by Crs Pitt and Butterfield.

Without prejudice

Councillor Elizabeth Joyce Hamer, West Coast Council”

Cr Hamer then said that “she was done” as she had responded to all the allegations. To clarify, the Chairperson asked whether she had anything further to add, Cr Hamer said “no”.

When asked by the Panel whether she had made any attempt to discuss her concerns with the General Manager as opposed to continually sending emails, Cr Hamer said that she tried once but when she started asking questions about the USSB the communication chain broke down. Cr Hamer said she did not go ahead with a meeting with Cr Pitt as he intended to bring “*his best mate along*” referring to Cr Butterworth. Cr Butterworth told the hearing that whilst he and Cr Pitt are Council colleagues they are not “best mates”.

In the statement handed out at the hearing Cr Hamer referred to S28 of the *Local Government Act 1993*. The Panel asked her whether she understood the difference between her role as a councillor and “*having duty collectively*” to which she responded that she did. Cr Hamer agreed that Council had voted to call for expressions of interest in respect of the USSB, but she had voted against this, as is her right.

When asked by the Panel whether she had continued to speak out against this decision as alleged by the complainants, Cr Hamer said that she continued to speak out because she did not have the same information as other councillors. When pressed by the Panel for more specific detail it was established that the information she referred to was prior to her appointment as a councillor.

The Panel asked Cr Hamer if she had seen the emails sent by other councillors following the workshop on 10 January 2024 and what she thought prompted those emails. Cr Hamer said that she had not seen them until they were provided with the complaint documents. She said that she had ten questions to put to the proponent and did so in a quiet, polite manner and was not rude or aggressive. Cr Hamer told the hearing that it was she who was embarrassed by words spoken to her by one of the proponents who walked out of the meeting saying they had heard enough.

The Panel asked Cr Hamer whether she could understand that some members of the community may not be able to distinguish between her role as a councillor and a ratepayer, especially on occasions when she is not accurately portraying the decision of Council, in this instance calling for

expressions on interest in relation to the USSB. Cr Hamer said that she always states what capacity she is fulfilling, saying that she is always “black and white”.

Referring to the email Cr Hamer sent on 1 September 2023 (referred to previously) regarding her property issue, the Panel asked what she meant by saying “*Council has failed me as both resident and councillor*”. Cr Hamer said that she had become frustrated and angry because Council wasn’t responding to her situation. Cr Hamer added that she was an inexperienced councillor at that time and would deal with the situation differently now.

The Panel questioned Cr Hamer further about whether she had complied with Part 2 which *requires a councillor, in carrying out her public duty, to not be unduly influenced nor be seen to be unduly influenced, by personal or private interests she may have*. Cr Hamer said that she had made a mistake by using her Council email.

The Panel asked Cr Hamer if she was aware that councillors should not get involved in operational matters to which she replied “yes”. She was then asked why she had involved herself in the soil issue at the BP Service Station. Cr Hamer replied that she was asked to speak to the mayor about it and at his request got authorization from the owners.

When asked about the email she sent regarding the appointment of the new General Manager (folio 32) Cr Hamer said the Council needed a new General Manager immediately and she did not know what was happening. However, as noted above the mayor had provided a status report on the situation prior to Cr Hamer’s email.

Cr Pitt asked Cr Hamer whether she availed herself of the information session offered by Council for those intending to run for office and whether she participated in follow up sessions following her induction. Cr Hamer responded by saying she wasn’t aware of either of those options.

In his summary Cr Pitt said that the complaint could have been avoided if Cr Hamer had come to speak with him on any issues. He also said that he had spoken to LGAT and a person at the Office of Local Government regarding Cr Hamer’s behaviour. Cr Pitt added that he had given a lot of thought before lodging this complaint which he did as a last resort.

Cr Butterfield said that he had made the joint complaint with Cr Pitt as he could see how Cr Hamer’s behaviour was affecting other councillors. He added that whilst Cr Hamer says she is “black and white” this approach by her can at times be intimidating.

When given her opportunity to sum up, Cr Hamer said that at times she had to seek advice from police about councillor behavior, indicating that they had only provided her with advice. She said that at times she felt very unsafe, and there is currently a workplace safety complaint in progress. Cr Hamer said at times it had been “horrendous” but that she had got along with the General Manager who was in place after the complaint was lodged. Cr Hamer said she has never been approached by any councillors regarding her behaviour.

Determination

In considering the written material provided by Councillors Pitt and Butterfield and Councillor Hamer prior to the hearing, as well as the oral presentations at the hearing, this Panel determined the following.

As per section 28ZI of the Act the Code of Conduct Panel determines that Cr Elizabeth Hamer has breached Parts 1.1, 1.2, 2.1, 3.1, 3.3, 7.1 (b) and (c), 7.5 and 8.5 of the West Coast Council Code of Conduct approved on 24 January 2023 and therefore upholds the complaint in respect of those parts. The Panel dismisses the complaint in relation to the remaining alleged breaches of Parts 1.3, 1.4, 5.4, 7.1 (a), 8.1, and 8.7 of the Code.

Reasons for determination

Part 1- Decision Making

The Panel heard that Cr Hamer had voted against the motion for Council to call for expressions of interest in the sale of the USSB at its meeting on 23 May 2023, which was her right to do so. However, at that meeting of 25 July 2023 the records show that Cr Hamer stated that “she was very emotional and attached to that building”. In evidence presented to the Panel, it was clear that Cr Hamer continued to seek to have this decision overturned by seeking to put further motions to Council meetings. The Panel concluded from the evidence that Cr Hamer did not bring an open and unprejudiced mind to the meeting of the 25 July 2023 and was not free from personal bias. The Panel upholds the complaint in relation to Parts 1.1 and 1.2 of the Code.

Cr Hamer claimed that she did not receive the same information as some of her other councillors, although could not identify the information she had not received. The complainants advised that Cr Hamer had access to all the information provided to all councillors. The Panel concludes that Cr Hamer did have access to all relevant information when making her decision in relation to the expression of interest and that in her view, she made it in good faith. The Panel dismisses the complaint in relation to Parts 1.3 and 1.4.

Part 2 – Conflicts of Interest that are not pecuniary

The Panel noted Cr Hamer’s statement at the July 2023 Council meeting relating to her personal attachment to the USSB and her continued attempts to bring motions to Council meetings for public hearings in relation to the USSB. Cr Hamer was asked by Cr Pitt at that meeting if she wanted to declare a conflict of interest and she said no. Nevertheless, the Panel finds that Cr Hamer, in carrying out her public duty, was unduly influenced by her personal interest in the USSB.

Furthermore, evidence was produced showing that Cr Hamer had identified an issue relating to excavation works on her property that she had raised with Council. When she failed to have the matter progressed through normal channels as a resident, she pursued it as a councillor. These actions involved Cr Hamer using her Council email and copying in other councillors. Cr Hamer did admit at the hearing that “she made a mistake” in relation to this matter and said that she now has a clearer view of the distinction between that of councillor and property owner. The Panel upholds this part of the complaint in relation to Part 2.1 of the Code.

Part 3 – Use of Office

After questioning by the Panel at the hearing, it concluded that Cr Hamer has difficulty in distinguishing between her role as a councillor and that of a resident of the West Coast community. Cr Hamer’s conduct as the workshop on 10 January 2024 when questioning the proponents on the sale of the USSB, has been described as “gobsmacking and embarrassing”. The proponents attended the meeting to discuss their proposal and to take questions from councillors. Evidence presented to the Panel confirms that Cr Hamer went far beyond participation in keeping with her role as a councillor and as such brought the role of councillor into disrepute. There was no evidence to suggest that other councillors behaved inappropriately and therefore Cr Hamer’s behaviour would not have brought the Council, as a collective, into disrepute. The Panel upholds this part of the complaint in relation to Part 3.1 of the Code.

In relation to the “illegal works” on her property, in pursuing this matter Cr Hamer used her position as a councillor in relation to what was essentially a personal matter but expecting preferential treatment. Furthermore, she used her Council email to communicate with the General Manager, Council staff and other councillors. The Panel upholds this part of the complaint in relation to Part 3.3 of the Code.

Part 5-Use of Information

In their complaint, Crs Pitt and Butterfield alleged that Cr Hamer released Council information from a closed Council session at the workshop on 10 January 2024. Cr Hamer denied this saying she

had only named another proponent. No further evidence was provided by the complainants. The Panel dismisses this part of the complaint in relation to Part 5.4 of the Code.

Part 7 – Relationships with community, councillors and Council employees

7.1 (a) – The complainants submitted that Cr Hamer had breached this part of the Code but did not provide substantive evidence in their documentation nor at the hearing. The Panel dismisses this part of the complaint.

7.1 (b) – The Panel found that Cr Hamer had caused offence and embarrassment to her colleague Cr Graham by circulating unfounded information she referred to as a rumour about him. Cr Hamer’s behaviour at the workshop held on 10 January 2024 was embarrassing to her fellow councillors and offensive to the proponents of the expression of interest. Furthermore, the tone of the emails Cr Hamer was sending to the General Manager, the Mayor and other councillors was offensive on occasions. The Panel upholds this part of the complaint. For the purposes of this paragraph the Panel is satisfied that all persons caused offence or embarrassment were reasonable persons.

7.1 (c) – The Panel found that Cr Hamer had engaged in a pattern of behaviour where she constantly sent emails to the General Manager, often repetitive and with expectation of prompt responses which demonstrated that she gave no consideration of the many issues a General Manager has to deal with. On occasions she refused to accept the opinion of the General Manager and continued with an issue. The Panel determined that the tone and the regularity of emails Cr Hamer sent to the General Manager were evidence of bullying and harassment. The Panel upholds this part of the complaint.

7.5 – The Panel found that Cr Hamer had made contact directly with staff members in relation to Council matters without the authority of the General Manager. Examples of this include Cr Hamer requesting the title of the USSB from a staff member and the Executive Assistant in relation to minutes of Council meetings. The Panel upholds this part of the complaint.

Part 8 – Representation

There was no evidence presented in relation to Cr Hamer giving information to the community that did not align with the policies of decisions of Council. The Panel dismisses this part of the complaint as it relates to Part 8.1 of the Code

Cr Hamer voted against the motion to seek Expressions of Interest in the sale of the USSB at the Council’s May 2023 meeting, which was within her right to do so. However, she clearly had dealings with some members of her community where she, maybe passively, encouraged them to lodge a petition and she called for a public meeting post this decision. This action demonstrated that Cr Hamer did not accept the collective decision of Council and therefore undermined its decision. The Panel upholds this part of the complaint in relation to Part 8.5 of the Code.

Whilst the Panel found that Cr Hamer had breached Part 3.1 of the Code in relation to her behaviour at the Council workshop held on 10 January 2024, no evidence was presented that she made public representations that had the potential to reflect badly on Council. The Panel dismisses this part of the complaint as it relates to Part 8.7 of the Code.

Sanctions

On 11 April 2025, the Panel wrote to Cr Hamer saying that in the event of the whole or part of the complaint being upheld, she was invited to make a submission as to what, if any, sanction should be applied.

Cr Hamer submitted the following response by email on 13 April 2025 at 8.36pm –

“I acknowledge your correspondence of the 11th of April 2025.

I find the contents confusing and to be perfectly honest, alarming that you are asking me to choose a penalty that I would prefer to have imposed upon me dependent upon the determination of the panel, which is yet to be handed down.

Given that I stand firm by my refusal to accept any and all culpability in this matter and to comply with your ridiculous request, formally advise the penalty I require will be:

a. An official apology from councillors Pitt and Butterfield

b. Impose a 3-month suspension on these individuals as they are both unfit to hold any such position in council.

Should your role as code of conduct panel not afford you with jurisdiction to do so, I sincerely recommend that you escalate this matter to someone who can.

Yours respectfully and without prejudice

Councillor Elizabeth hamer”

The Panel considered the matter of sanction, taking into account Cr Hamer’s response.

Where a code of conduct complaint or part of it is upheld, the Code of Conduct Panel may impose one or more of the sanctions referred to in section 28ZI(2) of the Act on the respondent councillor. These include

- A caution;
- A reprimand;
- A requirement to apologise to the complainant or other person affected by the contravention of the code of conduct;
- A requirement to attend counselling or a training course;
- A suspension from performing and exercising the functions and powers of his or her office as a councillor for a period not exceeding 3 months.

Cr Hamer was first appointed to the West Coast Council in October 2022 and as advised by Cr Pitt was invited along with other candidates to an information session prior to the elections. Cr Hamer did not attend this session. Cr Hamer did, however, participate in an induction session once she was elected but despite further information sessions being offered to newly elected members, she did not avail herself of any of these. In considering the evidence before it and Cr Hamer’s presentation at the hearing, the Panel is of the view that Cr Hamer has still not fully understood her role as a councillor.

This lack of understanding is demonstrated on one level by the continuous stream and inappropriate tone of emails to the General Manager and the Mayor in particular, that a reasonable person would consider extreme under any circumstances. Additionally, Cr Hamer was found to have breached several parts of the Code of Conduct. In arriving at a decision as to what would be an appropriate sanction for Cr Hamer the above facts were taken into account by the Panel. In its consideration, the Panel were of a mind to impose a suspension on Cr Hamer but considered that the following sanctions would be adequate and provide her with an opportunity to reflect on her behaviour going forward.

Whilst the Panel has determined not to impose a suspension at this time, in accordance with section 28ZI (2) it gives Cr Hamer a stern reprimand. Furthermore, the Panel determines that Cr Hamer must undergo training in the following areas –

- Awareness of the requirements of the Code of Conduct
- Distinguishing between the role of councillor and that of a resident
- Effective and courteous communication in relation to her fellow councillors and Council staff.

- Mechanisms for bringing matters identified by constituents to the attention of Council without involving herself in operational matters
- Relationship management

Arrangements for this training should commence within 2 weeks of the Panel’s determination report being tabled at an open council meeting and completed within a three-month period, unless Council provides reasons for an extension of this period.

Timing of the Determination

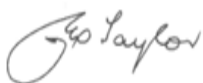
In accordance with section 28ZD (1) a Code of Conduct Panel is to make every endeavour to investigate and determine a code of conduct complaint within 90 days of the chairperson’s determination that the complaint is to be investigated.

Finalization of this determination has well exceeded that statutory 90-day period for the following reasons -

- Requests for extension to response dates
- A period of three months granted to Cr Hamer for personal reasons
- The extraordinary amount of documentation submitted by the complainants which required an extended period of time for liaison between them and the Panel to determine those documents accepted as evidence.
- Other commitments by Panel members who had anticipated that this complaint would be resolved much earlier
- The 2024/2025 Christmas/New Year holiday period.
- Significant material to consider in putting the final determination together and the intervention of the Easter holiday period.

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 Magistrates Court (Administrative Appeals Division) for a review of that determination on that ground. In accordance with section 17 of the *Magistrates Court (Administrative Appeals Division) Act 2001*, an appeal must be lodged within 28 days of the date of receipt of this determination.



Jill Taylor
Chairperson



Frank Neasey
Member



Greg Preece
Member

DATE 13 May 2025