

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
HOBART CITY COUNCIL**

C36121 - Complaint brought by Councillor (Cr) Ryan Posselt against Cr. Marty Zucco

Code of Conduct Panel

- David Sales (Chairperson)
- Matt Evans (Local Government Member)
- David Palmer (Legal Member)

Date of Determination: 1 July 2025

Content Manager Reference: C36121

Summary of the complaint

A code of conduct complaint was submitted by Cr. Ryan Posselt to the General Manager of the Hobart City Council on 23 September 2024 (the Complaint)

The Complaint alleges that Cr. Marty Zucco breached the following parts of the Model Code of Conduct (the Code), by his action at the Council Meeting of the Hobart City Council on 16 September 2024.

PART 3 -Use of office

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

PART 7 - Relationships with community, councillors and council employees

1. A councillor must –

(a)

(b)

(c) not bully or harass a person.

2. A councillor must –

(a) listen to, and respect, the views of other councillors in council and committee meetings and all other proceedings of the council; ...

Initial assessment

Following receipt of the Complaint, Mr. Frank Neasey, a legal practitioner, conducted an initial assessment in accordance with the requirements of section 28ZA of the Act. Mr.

Neasey assessed the Complaint against the provisions of sections 28ZB and 28ZC of the Act.,

Mr. Neasey 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). He assessed the allegations concerning Cr. Zucco's conduct, specifically against each part of the Code that were nominated in the Complaint, namely Part 3(1), Part 7(1)(c) and Part 7(2)(a), 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. Zucco was in breach of the Code.

Investigation

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

The Complaint related to Cr. Zucco's behaviour at a Hobart City Council Meeting held on 16 September 2024, specifically, during discussion of an agenda item which was proposing to appoint Councillors as members of the Hobart City 'Planning Authority Committee' (the Committee). The Complainant alleged that during debate on this item, the Respondent displayed disrespect for the Chair and meeting procedures which gave the appearance of a dysfunctional Council and which resulted in significant subsequent media coverage which brought the Council into disrepute. In addition, it was alleged that the Respondent referred to a fellow Councillor by using a disparaging term. Subsequently because of the unseemly behaviour of a number of Councillors including the Respondent, the Lord Mayor adjourned the meeting for a short period to enable Councillors to cool off.

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.
- Sworn Code of Conduct Complaint (C36121) by Cr. Ryan Posselt against Cr. Marty Zucco dated 23/9/24. (Attachments include reference to a video a copy of the Council meeting as well as a video recorded by the Complainant of part of the meeting both of which have been made available to Cr. Zucco)
- A copy of the initial assessment in relation to the Complaint prepared by Mr. Frank Neasey dated 14/12/24
- Sworn Response from Cr. Zucco to Cr. Posselt's Complaint dated 22.1.25

Copies of all documentary evidence were supplied to both parties.

The Panel after considering all the evidence submitted, determined that a hearing would be held into the Complaint and by letter of 5 May 2025 the parties were advised of this decision.

The Hearing

The hearing took place on 22 May 2025. Neither party requested either an advocate or a support person and no witnesses were called. Both parties provided an affirmation in accordance the Evidence Act section 21 (4).

The Complainant opened by briefly outlining the substance of his Complaint and indicating that he believed that the Respondent by his actions and words had breached the Code.

The Respondent responded by saying that his actions and words had to be judged in the context of what had happened at the meeting, and what he perceived to be historical problems with the conduct and governance of meetings in Hobart City Council at which he has been present, and that he had become extremely frustrated by the debate and the manner in which the Lord Mayor, as the Chairperson, had controlled the meeting held on 16 September 2024

The Panel and both parties then watched a video recording of part of the Hobart City Council meeting held on 16 September 2024 commencing during discussion regarding appointment of members of the Committee until the Lord Mayor adjourned the meeting for a brief recess.

It was during this period that it was alleged that the Respondent had breached the Code

The video recording showed during this period after nominations had been sought from Councillors to fill the positions on the Committee, the Deputy Lord Mayor spoke of her disappointment as to why only four Councillors had originally nominated and said among other things words to the effect that that it was “telling” that they had not nominated. This speech provoked a number of Councillors who had not so nominated to be members of the Committee to take objection to the comments made. There were several points of order raised with the Lord Mayor in relation and objecting to the Deputy Lord Mayor’s comments, which were rejected by the Lord Mayor. The Respondent clearly became frustrated and upset during the Deputy Lord Mayor’s speech and at a point in the debate called the Deputy Lord Mayor an ‘upstart’. The Lord Mayor requested the Respondent to withdraw the remark which he refused to do and there was a verbal interchange between the Lord Mayor and the Respondent before the Respondent resumed his seat.

Subsequently, there was a verbal aside between the Respondent and another Councillor which was not part of the debate, which came to the Lord Mayor’s attention, and she endeavoured to establish the words actually spoken. Soon after, the other Councillor rose from his chair and approached and spoke to the Respondent. The Respondent had pushed his chair as far back as possible to separate himself from the other Councillor but the other Councillor came quite close to the Respondent and which appeared to inflame Cr. Zucco. After the Councillor resumed his seat. The meeting then continued and following a further point of order which became rather heated and during which there were both Councillors and staff moving about the Chamber, the Lord Mayor adjourned the meeting.

The Complainant stated that on the days following there was considerable adverse comment in the media regarding the conduct at the meeting. No actual evidence of this adverse comment was submitted to the Panel but the fact that it occurred was not in dispute.

It did however appear to be one factor that resulted in the Acting Director of Local Government writing to the Council on 7 October 2024 (a copy of this letter had been submitted as evidence by Cr. Zucco) and stating inter alia;

“In my view, the behaviour displayed was sufficient to warrant the ejection of some members from the council meeting. Regulation 40 of the Meeting Procedures provides the chairperson with the authority to suspend a councillor from part or all of the meeting if the councillor:

- 1 *Makes a personal reflection about another councillor or an employee of the council and refuses to apologise;*
- 2 *Interjects repeatedly: or*
- 3 *Disrupts and disobeys a call to order by the chairperson.*

It would appear, that the behaviour of some councillors in the chamber would not have occurred, however had debate been more constructive in the first place. The commentary regarding the motivations of certain elected members to nominate for committees was perceived as inflammatory and not furthering debate. It is clear from the inferences being made about the matter were perceived as offensive and antagonistic. I note a point of order to this effect was raised at the relevant time, in accordance with regulation 23 (1)(e) of the Meeting Procedures that the comments were offensive. In my view it would be appropriate to deal with a point of order in a manner that demonstrates vigilance towards respectful and orderly debate of issues.”

The Panel agrees with this characterisation; however, the Panel has before it a Complaint against Cr. Zucco and can only consider that Complaint. Cr. Zucco's behaviour was only part of a broader picture and in this context, the other events which occurred at the meeting may provide grounds to mitigate Cr. Zucco's behaviour.

Determination

Pursuant to section 28ZI of the Act the Code of Conduct Panel determines that Cr. Marty Zucco has breached parts 3 (1) and 7.2 (a) of the Code. The Panel dismisses the Complaint in relation to part 7.1 (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 Respondent agreed, unsurprisingly, that the video recording was a true record of proceedings of the Council Meeting. It appears from the subsequent media coverage and also the letter from the Acting Director of Local Government that the behaviour of some Councillors brought the Council and the office of Councillor into disrepute, and the Panel is independently of the view, after assessing the evidence and hearing submissions from the parties, that it did so. It is this Panel's task to determine whether Cr. Zucco was one of the Councillors who participated in this "behaviour". Cr. Zucco was clearly upset and angered by the comments of the Deputy Lord Mayor. Cr. Zucco however, is a Councillor of many years' experience and should have been well aware of the need to accept the rulings of the Lord Mayor, as Chairperson of the meeting, in a temperate manner however unpalatable those rulings may have been and regardless of the provocation. The Panel is of the opinion that Cr. Zucco was an active participant in the heated behaviours and events which led the Lord Mayor to adjourn the meeting and resulted in the subsequent adverse publicity.

The Panel upholds this part of the Complaint

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

1 A councillor must

(a).....

(b).....

(c) not bully or harass any 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). The evidence before the Panel, showed the alleged incident was confined to a single meeting and did not occur over a prolonged period.

The Panel dismisses this part of the complaint.

2. A councillor must –

(a) listen to, and respect, the views of other councillors in council and committee meetings and all other proceedings of the council; ...

Judging by his reaction, Cr. Zucco had clearly listened to the views of other Councillors. However, the Panel believes however, Cr. Zucco calling the Deputy Lord Mayor an “upstart” was disrespectful. Cr. Zucco used the term ‘upstart’ to describe the Deputy Lord Mayor in a derogatory and disrespectful manner, and there was no submission or dispute from the Respondent about the interpretation of this term.

The Panel upholds this part of the Complaint.

However, the Panel does not determine that the exchange between Cr. Zucco and the Lord Mayor where Cr Zucco pressed points of order was a breach of this part of the Code because as pointed out at page 3 of this Determination, the Lord Mayor had powers under the Meeting Procedures to deal with Cr Zucco’s behaviour had she so wished.

Sanctions

In accordance with section 28 ZI (2) the Panel may impose one of the sanctions listed.

During the course of the hearing both parties were asked whether they wished to make a submission as to an appropriate sanction should all or part of the Complaint be upheld.

Cr. Posselt indicated that he believed that a sanction between a caution and a suspension (exclusive of these two sanctions) would be appropriate.

Cr. Zucco indicated that he did not wish to make a submission regarding a sanction.

The Panel felt that a sanction was warranted. It took into account mitigating factors namely the involvement of other Councillors in creating the unfortunately heated circumstances which led to the adjournment of the meeting. In the absence of mitigating circumstances concerning Cr. Zucco’s conduct, the Panel would have taken a far more serious view.

The Panel imposes a sanction of a caution.

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 -

- Delays owing to the Christmas/New Year holiday period.
- Prolonged illness of one of the Panel Members.
- Availability of a mutually convenient time for Panel members to meet.
- Panel members involved in several other complaints.

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.



David Sales

Chairperson



Matt Evans

Member



Frank Neasey

Member

DATE: 1 July 2025