

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
GLAMORGAN SPRING BAY COUNCIL CODE OF CONDUCT

Complaint brought by Cr Carole McQueeney against Cr Michael Symons

Code of Conduct Investigating Panel

- Lynn Mason AM (Chairperson),
- David Sales (Local Government Member)
- Steve Bishop (Legal Member)

Date of Determination: 11 August 2025

Content Manager Reference: C36248

Summary of the complaint

A code of conduct complaint was submitted by Cr Carole McQueeney to the Glamorgan Spring Bay Council General Manager on 24 September 2024.

The complaint alleged that Cr Symons breached the following parts of the *Local Government (Code of Conduct) Order 2024* (the Order):

PART 1 - Decision making

3. *A councillor, in making decisions, must give genuine and impartial consideration to all relevant information known to the councillor, or of which the councillor should be reasonably aware.*

PART 2 - Conflicts of interests that are not pecuniary

1. *A councillor, in carrying out the councillor's public duty, must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that the councillor may have.*

2. *A councillor must act openly and honestly in the public interest.*

3. *A councillor must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the council and at any workshop or any meeting of a body to which the councillor is appointed or nominated by the council.*

4. *A councillor must act in good faith and exercise reasonable judgement to determine whether the councillor has an actual, potential or perceived conflict of interest.*

5. *A councillor must avoid, and withdraw from, positions of conflict of interest as far as reasonably possible.*

6. *A councillor who has an actual, potential or perceived conflict of interest in a matter before the council must –*

(a) declare the conflict of interest and the nature of the interest before discussion of the matter begins; and

(b) act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the councillor to leave the room during any council discussion and remain out of the room until the matter is decided by the council.

7. *This Part does not apply in relation to a pecuniary interest.*

PART 3 - Use of office

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

PART 6 - Gifts and benefits

1. *A councillor may accept an offer of a gift or benefit if it –*

(a) directly relates to the carrying out of the councillor's public duties; and

(b) is appropriate in the circumstances; and

(c) is not in contravention of relevant legislation.

2. *A councillor must avoid situations in which a reasonable person would consider that a person or body, through the provision of gifts or benefits, is securing, or attempting to secure, influence or a favour from the councillor or the council.*

PART 7 - Relationships with community, councillors and council employees

3. *A councillor must not contact or issue instructions to a council contractor or tenderer without appropriate authorisation.*

The complaint also indicated that Cr Symons may have breached Parts 7.2(b), 7.5, and all of Part 8 of the Code of Conduct (the Code). These alleged breaches were dismissed by the Initial Assessor (the Assessor) on the basis that they were frivolous.

Initial assessment

Following receipt of the complaint, the Assessor conducted an assessment of the complaint in accordance with the requirements of section 28ZA of the *Local Government Act 1993* (the Act). Having assessed the complaint against the provisions of sections 28ZB and 28ZC of the Act, the Assessor determined that:

- he was satisfied on the material he had seen that, subject to the totality of material that might be put before the investigating Panel, such Panel could find that Cr Symons was in breach of the relevant parts of the Code of Conduct, as alleged by Cr McQueeney;

- 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

Following his assessment, the Assessor exercised his discretion to dismiss the parts of the complaint in which it is alleged the respondent acted in breach of the following parts of the Code of Conduct; - Part 7(2)(b), Part 7(5), and (any part of) Part 8. He further determined that Part 1.3, Part 2, Part 3.1, Part 6 and Part 7.3 of the Code of Conduct should be referred to the Panel for investigation.

The complainant and the respondent councillor were notified of the outcome of the initial assessment by letter dated 24 December 2024.

Summary of the complaint

Background

In 2023, the Glamorgan Spring Bay Council contracted with an organisation called cohealth for 3 years (with an option for another 2) to manage and deliver medical services through two medical practices owned by the Council, namely the practices at Bicheno and Triabunna. cohealth contract payments (annually about \$500,000) were paid by a medical levy until mid-2024, after which they were paid from general rates income.

In late 2023 cohealth was proposing to expand its services in the municipality, undertaking a project called PRIMM (Primary Care Innovative Multidisciplinary Model of Care). PRIMM did not involve Council managerially or financially, at least initially. The evolving PRIMM model envisaged cohealth becoming the single, fund-holding entity for the expanded operations and its expanded services, taking on responsibility for the Swansea Medical Practice (SMP)², which was an issue for Council in any discussion on funding for medical services.

The Council was aware from late 2022 when cohealth secured some Commonwealth funding for its PRIMM design work, that the successful implementation of PRIMM would depend on successful requests to Government, including to Glamorgan Spring Bay Council, for financial and/or infrastructure resources, possibly by the end of 2024. Council was expecting to consider the issue of any ongoing medical services funding for SMP (the annual allowances) at some point in 2024 and the legality of continuing payments to SMP was on the agenda for discussion at the meeting of 27 August 2024.

In March 2024 cohealth advertised 5-8 paid advisory roles to assist in the design and implementation of its PRIMM model. This group was the Community Advisory Group (CAG), and Cr Symons applied for a position on that committee, and was duly appointed.

The complaint alleged that Cr Symons had:

- Failed to inform Council that he had taken a role with cohealth, an organisation which was contracted to Council to deliver some medical services in the municipality;
- At the council meeting on 27 August 2024, Cr Symons failed to declare his non-pecuniary interest in a confidential item regarding medical services funding;

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.

² At this time the SMP was privately owned and operated, and Council paid the practice an annual allowance.

- Failed to give impartial consideration to the matter of medical services funding, given his role with cohealth;
- Brought the council and/or the office of councillor into disrepute by taking on his role with cohealth;
- Breached Part 6 of the Code (Gifts and Benefits) by taking on the role with cohealth, given that the role was advertised as a paid position;
- Failed to focus on the issue of participation with cohealth, but rather concentrated on conflict with Cr McQueeney following the council meeting on 27 August 2024;
- Contacted a council contractor (cohealth) without appropriate authorisation from the Council.

Investigation

In accordance with section 28ZE of the Act, the Code of Conduct Investigating Panel (the Panel) investigated the complaint. Following the Initial Assessment, the Panel investigated whether Cr Symons breached several sections of the Code, specifically, Part 1.3, Part 2, Part 3.1, Part 6, and Part 7.3.

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

- The complaint from Cr McQueeney, accompanied by a Statutory Declaration dated 24 September 2024, 47 pp;
- Response from Cr Symons, undated, with handwritten Statutory Declaration, 4pp, received 25 February 2025, with link to *Building a Connected System of Health Care*, 19 pp;
- Answer to Cr Symons' response, from Cr McQueeney, Part 1 5pp, Part 2 9 pp; with attachments 1-3 and attachments A and B, accompanied by a Statutory Declaration dated 13 March 2025;
- Further response from Cr Symons, received by the Panel 15 March 2025, undated, without Statutory Declaration, 3 pp;
- witness statement from Mr Greg Ingham, ex General Manager Glamorgan Spring Bay Council, 1 p, with Statutory Declaration, 27 June 2025;
- *Local Government (Code of Conduct) Order 2024*.

In accordance with section 28ZG of the Act, the Panel determined to conduct a hearing into the matter.

Hearing

As per section 28ZH of the Act, the Code of Conduct Panel held a hearing on 25 July 2025 in the Glamorgan Spring Bay Council Chambers at Triabunna. Cr Symons was attended by Mr David Reed as his support person, and Cr McQueeney was attended by Cr Steve McQueeney (a member of the Tasman Council) as her support person. Mr Greg Ingham, immediate past General Manager of the Council, appeared by video link as a witness for Cr McQueeney.

The Chairperson opened the hearing with a statement about the procedures to be followed, and a summary of those parts of the complaint being investigated.

Both Cr Symons and Cr McQueeney took the oath or read the affirmation statement prior to giving their evidence or making statements to the Panel. Mr Ingham also took the oath before giving his evidence.

Cr McQueeney told the Panel that cohealth was not the 'lead agency' when the PRIMM project commenced, but shortly afterwards cohealth did become the Council's contractor with the task of managing the medical services in Triabunna and Bicheno. Cr McQueeney stated that Cr Symons had been aware that cohealth was *one of council's largest contractors*, and knew that cohealth was involved in the PRIMM project which was a costed health services plan. She stated that Cr Symons was aware that questions of conflict of interest had been raised, and reiterated that the General Manager had advised Cr Symons that he considered that Cr Symons had a conflict of interest in the item regarding medical services funding, to be debated in closed council on 27 August 2024.

The Panel notes in material submitted by Cr Symons (*Building a Connected System of Health Care*) that the role of the CAG was to:

- Prioritise the key challenges facing residents in accessing primary health care services, as outlined in the PRIMM Consultation Report;
- Develop consumer driven solutions to selected identified challenges;
- Provide advice to the development of an action plan to address the key identified challenges;
- Contribute to advocacy efforts with relevant stakeholders regarding resourcing for implementation of solutions;
- Promote discussion of community primary health ideas within community networks;
- Communicate the aims and limitations of the PRIMM project within community networks.

Cr Symons denied that he had ever been part of any discussions within CAG related to funding. He noted to the Panel that he had never received any remuneration for his work with CAG, and that from his perspective, he had applied for the position as a private individual. When it was brought to his attention that some concerns about his role could conflict with his decision making role as a councillor, he took advice from the Mayor and one of the senior staff of the Council, both of whom told him that they did not consider he had a conflict of interest by his membership of CAG. Cr Symons said in the hearing, however, that he thought it possible that the senior staff member later took a different view on whether or not the role could result in a conflict of interest for Cr Symons.

Mr Ingham informed the Panel that he had talked briefly with Cr Symons immediately before the item regarding medical funding was to be taken at the meeting on 27 August 2024. He had advised Cr Symons that in his view, Cr Symons was conflicted in the matter of medical funding, particularly with regard to the SMP, and that he should declare said interest. He said that Cr Symons had not taken his advice. He said that very soon after that council meeting, he had sent an email to all councillors suggesting a training session on conflict of interest. While Mr Ingham was unable to recall the exact wording of the response he received from Cr Symons, Cr McQueeney located the relevant email in her files and read it out to the hearing. Cr Symons had declined to attend such training, on the grounds that he was *comfortable with my understanding and obligations under the Act*. These words were confirmed by Cr Symons.

Mr Ingham also told the Panel that when he learned that Cr Symons had taken a role with CAG, he had telephoned him to suggest that he had a conflict of interest by working with a council contractor. Cr Symons said that he did not recall that conversation. Cr Symons reiterated that he did not consider that he had a conflict of interest because *CAG is separate to cohealth*.

When questioned by the Panel about his failure to declare a conflict of interest, Cr Symons replied that he had 'missed' the Mayor's call for declarations of interest in the items on the

closed agenda, including the item on medical services funding, because at that point *the Mayor had lost control of the meeting*.

Cr McQueeney questioned Cr Symons about a CAG meeting held three weeks before the August 2024 council meeting, which she alleged had included a discussion on applications for funding for the delivery of medical services. Cr Symons said he had not attended that meeting but that he had read the minutes. However, he said that he had not read the relevant paper in the agenda of that meeting, and therefore had no knowledge of funding proposals.

Cr Symons said that it had not occurred to him to inform the Mayor or the General Manager that he had taken on the role with CAG, and told the hearing that he now considered it was 'remiss' of him, but that it had not occurred to him that he should have done so.

In closing Cr McQueeney said that she agreed with the Initial Assessment and requested the Panel to consider a stronger sanction than a reprimand. She requested that more training be prescribed for Cr Symons.

Four days prior to the hearing, Cr Symons submitted three witness statements, including one from Mr Ashley Nind, Director Primary & Community Care, cohealth. The Panel determined that none of these statements was relevant to the complaint because they concerned facts extraneous to the core factual issues. These were whether Cr Symons was a member of the Community Advisory Group and whether that Group advised cohealth. Both of these facts were admitted by Cr Symons, and no further proof was required.

The Panel informed Cr Symons of its decision. However, during the hearing, when cross examining Cr McQueeney, Cr Symons quoted from the statement by Mr Nind, a statement which Cr McQueeney had not seen. He asked her whether she maintained her position despite that quotation. A copy of the statement was forwarded to Cr McQueeney. She said that she did not resile from her previous evidence.

At the closing of the hearing, when asked by Cr McQueeney if she could respond to the witness statement from Mr Nind, the Chairperson told her that the Panel would consider whether any additional relevant matters had arisen as a result of Cr Symons's reference to the letter at the hearing and would ask her for more information if deemed necessary. It did not consider that any additional relevant matters arose.

However, without contact from the Panel, some days after the hearing Cr McQueeney submitted a further statement (with attachments) contradicting the statement from Mr Nind. Just as the Panel rejected Mr Nind's statement as irrelevant, it has rejected the supplementary statement from Cr McQueeney contradicting it as irrelevant.

In answer to a question from the Panel, Cr Symons said that he was not sure if he had had any training in conflict of interest. When asked for his submission on sanction in the event that the Panel upheld all or any part of the complaint, Cr Symons requested a few days in which to consider this, and this was granted. On 28 July 2025, Cr Symons submitted a further statement seeking to readdress issues canvassed in the hearing. There was nothing novel, or indeed relevant in the statement, and it did not justify re opening the case. The Panel has taken no account of it.

In answer to the Panel's request, Cr Symons responded that he would leave the matter of sanction to the Panel's discretion.

Determination

In accordance with section 28ZI(c) of the Act, the Panel determines that Cr Symons has breached Part 1.3, Part 2, Part 3.1, Part 6.2, and Part 7.3 of the Code of Conduct. The Panel dismisses the complaint that Cr Symons has breached Part 6.1 of the Code of Conduct.

Reasons for determination

That Cr Symons breached Part 1.3 of the Code, viz.,

PART 1 - Decision making

3. A councillor, in making decisions, must give genuine and impartial consideration to all relevant information known to the councillor, or of which the councillor should be reasonably aware.

The Panel determines that Cr Symons failed to consider the relationship between Glamorgan Spring Bay Council and cohealth, the organisation contracted to the council to provide medical services in Bicheno and Triabunna, a relationship of which he must have been aware, given the annual payments made to that organisation by the Council. The significance of this failure is that he decided to apply for a paid position on a committee formed by cohealth, failed to inform the Council of his acceptance of the position, and decided not to declare his non-pecuniary interest when an item concerning medical services was to be debated in closed council at the council meeting on 27 August 2024.

In making all of these decisions Cr Symons failed to give impartial consideration to the facts that as a Councillor he was a decision maker, while as a member of the Community Advisory Group he was an advisor. He was an advisor to an organisation that was partially funded by Council and was reasonably likely to be seeking decisions from the Council of which he was a member.

The Panel notes that Cr Symons was advised by the General Manager immediately before the council meeting on 27 August 2024, that in the view of the General Manager, Cr Symons had a conflict of interest in the item, advice which Cr Symons chose to ignore.

Therefore the Panel determines that Cr Symons breached Part 1.3 of the Code of Conduct.

That Cr Symons breached Part 2 of the Code, viz.,

PART 2 - Conflicts of interests that are not pecuniary

1. A councillor, in carrying out the councillor's public duty, must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that the councillor may have.

2. A councillor must act openly and honestly in the public interest.

3. A councillor must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the council and at any

workshop or any meeting of a body to which the councillor is appointed or nominated by the council.

4. *A councillor must act in good faith and exercise reasonable judgement to determine whether the councillor has an actual, potential or perceived conflict of interest.*

5. *A councillor must avoid, and withdraw from, positions of conflict of interest as far as reasonably possible.*

6. *A councillor who has an actual, potential or perceived conflict of interest in a matter before the council must –*

(a) declare the conflict of interest and the nature of the interest before discussion of the matter begins; and

(b) act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the councillor to leave the room during any council discussion and remain out of the room until the matter is decided by the council.

7. *This Part does not apply in relation to a pecuniary interest.*

The Panel determines that non-pecuniary interests are interests that are not financial in nature. They can include relationships with family, friends, or affiliations with organizations. A conflict of interest arises when these interests could be perceived by a reasonable person as influencing a decision, even if there is no financial benefit involved.

The PRIMM project was a project undertaken under the auspices of cohealth. The CAG role was to *contribute to a needs analysis, highlight challenges and confirm ideas and contribute to the overall conclusions of the project*³, which had the potential to affect Council's financial relationship with the Swansea Medical Practice, and Council's contractual relationship with cohealth. In effect, Cr Symons in his role on the CAG would have been taking part in discussions and decisions which could conflict with his capacity to make unbiased decisions as a councillor about a council contractor.

The Panel notes also that the description of the role of the CAG, as above, includes the statement: *Contribute to advocacy efforts with relevant stakeholders regarding resourcing for implementation of solutions.* The Panel determines that this effectively shows that one of the roles of the CAG members was to advocate for resources to deliver the *Connected System of Healthcare*. The Panel determines that this presents an actual and a perceived conflict of interest for Cr Symons.

Cr Symons failed to understand that merely being on the two bodies gives rise to a conflict because it could affect his impartiality (an actual conflict) and could reasonably be seen to be a conflict by a fair minded observer (a perceived conflict).

As an advisor to cohealth he helps craft what he thinks is the best possible solution to medical service delivery. As a decision maker on Council he is required to be impartial but having crafted a cohealth proposal he would have a natural inclination to support it.

This inclination, this predisposition towards a particular outcome, strikes at the heart of impartiality.

³ Statement in a letter provided by the Director, Primary & Community Care, cohealth.

The Panel determines that Cr Symons did not act openly and honestly in the public interest by accepting the conflicting position with the CAG. He failed to declare this interest, either to the Mayor or the General Manager, or in the council meeting of 27 August 2024.

The Panel accepts that while the advertisement calling for applications for positions on the cohealth Community Advisory Group (CAG) described it as a 'paid opportunity', Cr Symons had not accepted any payment for the role at the time of the council meeting on 27 August 2024.

However, the waiver of payment does not negate the conflict. The conflict is inherent in the relationship situation, whether or not the Councillor is paid to be in that situation. If a conflict of interest exists, none of good intentions, high motives, or good faith remove that taint.

The Panel determines that Cr Symons should have realised that notwithstanding his waiver of the payment available to CAG members, the community of Glamorgan Spring Bay may not have been aware of that and could reasonably consider that their Deputy Mayor was being paid by cohealth, a Council contractor, to provide advice to that contractor.

In answer to questioning from the Panel, Cr Symons said that in the closed session of the council meeting of 27 August 2024, it was not necessary for him to declare any conflict of interest as there had been no debate on the motion before the council. The Panel accepts that this it was correct to say that there had been no debate on the motion. However, declarations of conflict of interest are called before any debate on an item starts and should not be withheld when it is apparent from the context of the item in the agenda that a councillor will be conflicted in any debate or decision. Cr Symons failed to do this.

Therefore the Panel determines that Cr Symons breached Part 2 of the Code of Conduct.

That Cr Symons breached Part 3.1 of the Code, viz.,

PART 3 - Use of office

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

The Panel determines that a reasonable community member outside of both the Council and the CAG could consider that Cr Symons was conflicted by his simultaneous roles as a councillor and a member of the cohealth advisory committee. Additionally, given that it was advertised as a paid position, it could appear that Cr Symons was receiving a financial benefit from both his role as a councillor and his role as a CAG member. Such perceptions by reasonable persons within the community bring the office of councillor into disrepute.

Therefore the Panel determines that Cr Symons breached Part 3.1 of the Code of Conduct.

That Cr Symons breached Parts 6.1 and 6.2 of the Code, viz.,

PART 6 - Gifts and benefits

1. *A councillor may accept an offer of a gift or benefit if it –
 - (a) directly relates to the carrying out of the councillor's public duties; and
 - (b) is appropriate in the circumstances; and
 - (c) is not in contravention of relevant legislation.*

2. *A councillor must avoid situations in which a reasonable person would consider that a person or body, through the provision of gifts or benefits, is securing, or attempting to secure, influence or a favour from the councillor or the council.*

The Panel considers that Part 6.1 is permissive, rather than prohibitive, meaning that a councillor cannot breach a provision which allows him or her to accept a gift or benefit. Therefore, the Panel determines to dismiss the allegation that Cr Symons breached Part 6.1 of the Code.

The Panel notes the sworn statement from Cr Symons that he had not received any remuneration for this role with the CAG.

However, the Panel is of the view that Cr Symons made no attempt to avoid a situation in which a reasonable person could consider that a council contractor, cohealth, was attempting to secure influence within the Council.

Therefore the Panel determines that Cr Symons breached Part 6.2 of the Code of Conduct.

That Cr Symons breached Part 7.3 of the Code, viz.,

PART 7 - Relationships with community, councillors and council employees

3. *A councillor must not contact or issue instructions to a council contractor or tenderer without appropriate authorisation.*

Cr Symons was not authorised by the elected Council nor by the General Manager nor the Mayor, to apply for a position with the cohealth advisory committee. Cohealth is a council contractor.

Therefore the Panel determines that Cr Symons breached Part 7.3 of the Code of Conduct.

Sanction

The Panel takes into account that Cr Symons has had no previous Code of Conduct complaints brought against him.

However, Cr Symons is now the Deputy Mayor, with the added responsibility which that role carries to ensure that his conduct as a councillor is beyond reproach. He has been a councillor since 2018. His failure to understand both outright conflict of interest, and perceptions of conflict of interest, has led to his participation in a community group, the purpose of which was to provide advice to a significant council contractor. Clear reading of the role of that group, as stated by cohealth, includes advocating to stakeholders for funding. Glamorgan Spring Bay Council is a primary stakeholder in the provision of health services in the municipality. Cr Symons failed to understand that conflict and how it could be perceived within Council and within the wider community when it should have been quite apparent.

The Panel takes into account the number of breaches upheld, and Cr Symons's unwillingness to attend conflict of interest training when offered in 2024, and his inability to remember whether he had ever had any training in conflict of interest provisions.

It also takes into account that he was warned by the former General Manager and the Complainant that he was in a conflict situation but ignored that and chose to accept other clearly erroneous advice.

The Investigating Panel imposes the following sanctions on Cr Symons:

- A reprimand;
- A requirement to attend training. An appropriate training provider is to be advised by the Office of Local Government to the General Manager of the Glamorgan Spring Bay Council.
- A suspension from performing and exercising the powers and functions of his office as a councillor for a period of seven days. The suspension is to commence on the day following the date of the Council meeting in respect of which the determination report is included within an item on the agenda, in accordance with section 28ZK of the Act.

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 granting extension for responses and appearances, intervening holiday periods, and other commitments by members preventing preparation of the final report.

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.



Lynn Mason
Chairperson



Steve Bishop
Member



David Sales
Member

DATE : 11 August 2025