

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

**INVESTIGATING PANEL DETERMINATION REPORT
BURNIE CITY COUNCIL CODE OF CONDUCT**

Complaint brought by Councillor Kenneth Dorsey against Councillor Amina Keygan

Investigating Panel

- Jill Taylor (Chairperson),
- Greg Preece (Local Government Member)
- Graeme Jones (Legal Member)

Date of Determination: 26 May 2025

Content Manager Reference: C36247

Summary of the complaint

A code of conduct complaint was submitted by Councillor (Cr) Kenneth Dorsey to the General Manager – Burnie City Council on 18 November 2024.

The complaint alleges that Cr Anima Keygan breached the following part of the Code of Conduct for councillors made by the Minister for Local Government under section 28R of the *Local Government Act 1993* (the Act). The alleged breach occurred in relation to Cr Keygan's participation in the selection process for the General Manager vacancy, specifically an incident that the complainant states took place on 12 September 2024.

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.

Initial assessment

Following receipt of the complaint, an Initial Assessor was appointed to conduct 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 Initial Assessor determined that the complaint should be investigated and determined.

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

Investigation

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

1. Cr Dorsey's complaint of 18 November 2024 including a 2-page statement under cover of a statutory declaration dated 18 November 2024
2. Cr Keygan's 6-page response under cover of a statutory declaration dated 16 January 2025
3. Email from Mr Kons to Cr Dorsey dated 11 February 2025 with a statutory declaration from Mr Kons dated 19 February 2025
4. Two statements from Cr Dorsey dated 19 February 2025 and 18 March 2025 under cover of a statutory declaration dated 19 March 2025
5. Two-page witness statutory declarations dated 9 April 2025 by Councillor Simpson
6. Councillor Pease witness statement under cover of a statutory declaration dated 4 April 2025
7. Councillor Lynch witness statement under cover of a statutory declaration dated 7 April 2025
8. Statement from Mr Overland dated 9 April 2025 and a statutory declaration dated 17 April 2025 covering the 9 April 2025 statement
9. Three-page statement from Cr Keygan submitted under cover of a statutory declaration dated 17 April 2025
10. A 4-page statement from Cr Dorsey under cover of a statutory declaration dated 5 May 2025

Cr Dorsey alleged that Cr Keygan had a conflict of interest as a member of the selection committee to appoint a new General Manager to the Burnie City Council.

In accordance with section 28ZG(2)(b) of the Act, the Investigating Panel considered that a hearing would be unnecessary in the circumstances because the investigation could be determined on the basis of the written material provided, and in the Panel's view, neither party would be disadvantaged.

By letters dated 1 April 2025 the complainant and respondent councillor were notified of the Panel's intention to proceed to determine the complaint without a hearing. Both parties were invited to provide any objection in writing within 14 days. Cr Dorsey confirmed on 2 April 2025 that he had no objections to proceeding without a hearing. Cr Keygan confirmed on 17 April 2025 that subject to her witness statements being accepted into evidence, she had no objection.

The basis of Cr Dorsey's complaint is that Cr Keygan had a conflict of interest in the process by refusing to answer questions in relation to a perceived conflict of interest between her and an applicant for the position of General Manager. The applicant in question was an existing employee of the Council and was known to all the councillors. The specific allegation being that they were friends. The complainant alleged that Cr Keygan should have *"disclosed dealings outside of Council with the candidate in question"* without providing any evidence of any such dealings or relationship, and any reasons why Cr Keygan needed to do this. Further, as he stated in his complaint submission; *"Please note: meeting someone on a personal basis does not necessarily constitute a conflict of interest"*. The Panel agrees with this conclusion.

Cr Dorsey also acknowledged that other councillors had *"interactions with another candidate but advised it did not constitute a conflict of interest as the contacts were not personal, nor would they interfere with the decision-making process."* Furthermore, in his statement of 24 March 2025, Cr

Dorsey submitted that “*all members of the interviewing committee knew the applicant in a workplace setting*”. In the Panel’s view these statements by Cr Dorsey are his opinion which have not been supported by facts.

Cr Dorsey alleges in his complaint that the incident the subject of the alleged breach occurred on 10 September 2024. Evidence provided by the parties to this complaint (witness statements) confirm that a meeting of the selection committee took place at the Council premises on that date. It was a Closed Meeting. According to the evidence before the Panel, Cr Kons (who was not a member of the selection committee) interrupted the selection committee meeting on 10 September 2024, despite (having withdrawn from participation in the process on 24 August 2024), because he had a conflict of interest.

Having interrupted the meeting, Cr Kons levelled his accusations at Cr Keygan. He alleged Cr Keygan had a conflict of interest in relation to a candidate who was an employee of the Council. Cr Keygan says she denied any conflict. Cr Kons continued with his allegations saying, inter alia: “.....*because I have been told that you have*”. Cr Keygan responded by saying that Cr Kons’ aggressive behaviour was inappropriate and once again denied any conflict of interest. Cr Kons’ intrusion to the meeting was supported by fellow councillors who were present, namely Cr Simpson, Cr Pease and Cr Lynch. All three councillors support Cr Keygan’s submission that she denied any conflict of interest when challenged by Cr Kons. Cr Simpson who was chairing the meeting requested Cr Kons to leave the meeting which he eventually did.

Cr Dorsey’s complaint was referred by the initial assessor on the basis that Cr Keygan did not offer a response when challenged by Cr Kons that she had a conflict of interest. Having considered the evidence the Panel is of the view that Cr Keygan made several clear denials to the allegations of a conflict of interest. Further, having considered the evidence before it, the Panel concludes that there was nothing substantive put to Cr Keygan requiring her to respond to the allegation of a conflict of interest. The allegations put by Cr Kons were without foundation and based entirely on hearsay i.e. “*I have been told*”.

In one of his submissions (5 May 2025) Cr Dorsey states: “*I have refrained from providing testimony regarding the conversation between Cr Kons and Cr Keygan, as I did not hear it in its entirety. I am unsure of all that was said.*” Despite this and having no proper foundation that would enable him to form a view on whether Cr Keygan had a conflict of interest, he made this complaint, without any direct evidence, and based on the allegations of another, namely Cr Kons. By his own admission the applicant was known to all the councillors on the selection committee. In the circumstances as detailed in this Determination the Panel finds that by making this complaint Cr Dorsey has displayed a considerable lack of judgement.

Determination

As per section 28ZI of the Act the Investigating Panel determines that Cr Amina Keygan has not breached the Code of Conduct, and therefore the Investigating Panel dismisses the complaint.

Reasons for determination

The Investigating Panel considered the information provided by Cr Dorsey and the response by Cr Keygan, along with supporting statutory declarations presented by Crs Simpson, Pease, Lynch and Mr Overland. The Investigating Panel concludes that Cr Amina Keygan did not breach Part 2 of the Code of Conduct on 10 September 2024.

Part 2 of the Code requires a councillor not to be unduly influenced by personal or private interests. No evidence was provided to the Panel that Cr Keygan was influenced by her working relationship with the internal applicant. As there was no evidence established by the complainant underpinning his allegation of a conflict of interest that Cr Keygan needed to address, the Panel concluded that she proceeded in the selection process in good faith and was free to exercise reasonable judgment.

Timing of the Determination –

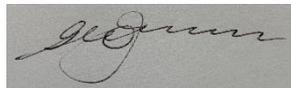
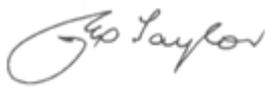
In accordance with section 28ZD(1) the Investigating Panel is to make every endeavour to investigate and determine a code of conduct complaint within 90 days of the Initial Assessor's determination that the complaint is to be investigated.

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

- The intervention of holiday periods at Christmas/New Year and Easter and unavailability of Panel members for short periods
- The need to provide documentation submitted to the Panel and permitting 14 days period for responses.

Right to review

A person aggrieved by the determination of the Investigating 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



Jill Taylor

Graeme Jones

Greg Preece

Chairperson

Member

Member

DATE : 26 May 2025