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Local Government Act 1993

CODE OF CONDUCT PANEL DETERMINATION REPORT

LAUNCESTON CITY COUNCIL CODE OF CONDUCT

Complaint brought by Mr Michael Stretton against Councillor Joe Pentridge

Code of Conduct Panel

- Lynn Mason AM (Chairperson),
- Philip Cocker (Local Government Member)
- Don Jones (Legal Member)

Date of Determination: 4 July 2024

Content Manager Reference: C33037

Summary of the complaint

A code of conduct complaint was submitted by Mr Michael Stretton to the Manager Governance, of the Launceston City Council on 30 January 2024.

The complaint alleged that on 11 January 2024, Councillor (Cr) Joe Pentridge sent an email directly to Council's Customer Service Consultant, describing a response she had written to a member of the community as 'totally inadequate in terms of the action Council might take to solve the problem'.

The complaint alleged that Cr Pentridge breached the following part of the *City of Launceston Code of Conduct for Councillors*, approved on 25 January 2023:

Part 7 - Relationships with Community, Councillors and Council Employees

5. *A Councillor must not contact an employee of the Council in relation to matters of the Council unless authorised by the General Manager of the Council.*

Initial assessment

Following receipt of the complaint, the Chairperson of the Code of Conduct Panel (the Panel) 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:

- the complainant had made a reasonable effort to resolve the complaint. In reaching this assessment the Chairperson relied on information provided in the complaint, regarding a letter from the Mayor to all Councillors on 10 January 2024, reminding them of Council's *Communication between Councillors and Employees* Policy, and subsequently by a letter from the Mayor to Cr Pentridge advising him that his conduct in this matter was not aligned with Council's policy, nor with the Code of Conduct. The Chairperson was not advised of any response from Cr Pentridge to these communications.
- the complaint substantially related to a contravention of the *City of Launceston Code of Conduct for Councillors*;
- the complaint could not be dismissed on the grounds that it was frivolous, vexatious or trivial. The reason for this conclusion was that if upheld, the respondent councillor would be

found to have directly communicated with a member of Council's staff without the authority of the General Manager;

- 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 the complaint.

The complainant, respondent councillor and Council's Manager Governance were notified of the outcome of the initial assessment by letter dated 11 April 2024.

Investigation

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

Cr Pentridge was invited in the initial assessment to respond to the complaint by 25 April 2024. On his request he was granted an extension of time in which to respond. His response was received by the Panel on 13 May 2024, and the Statutory Declaration attesting the accuracy of his response was received on 15 May 2024. The response was sent to Mr Stretton on 15 May 2024, and he was invited to respond by 28 May 2024, if he wished to do so.

The Statutory Declaration dated 14 May 2024 received from Cr Pentridge included a copy of the email sent to the Customer Service Consultant, showing that the relevant email from Cr Pentridge was sent on 9 January 2024, not on 11 January 2024, as stated in the complaint.

The Panel met on 14 May 2024 and again on 3 June 2024. No response had been received from Mr Stretton at the time of this meeting. The Panel determined that the matter could potentially be concluded by reasonable consideration of the information provided, allowing for further information which might be provided by the complainant. In the event, no further information was provided by Mr Stretton.

On 11 June 2024 the parties were informed that the Panel considered that the matter could be investigated without a hearing on the basis of the written submissions received, and by examination of the documentary evidence available to it. Cr Pentridge and Mr Stretton were invited to make submission to the Panel if they considered that they would be disadvantaged if a hearing were not held. Neither Cr Pentridge nor Mr Stretton informed the Panel that they considered they would be disadvantaged if a hearing were not held. On this basis the Panel proceeded to its determination.

The Panel based its investigations on the following documentation:

- The complaint from Mr Stretton, accompanied by a Statutory Declaration dated 30 January 2024, 15pp;
- Response from Cr Pentridge via his legal representative, Mr Chris Groves, 13 May 2024, 2pp;
- Statutory Declaration to accompany the response from Cr Pentridge, 14 May 2024, 3pp;
- Submission on sanction from Cr Pentridge, sent by Mr Chris Groves, 19 June 2024, 1p;
- The City of Launceston Code of Conduct for Councillors, adopted 25 January 2023.

On 25 June 2024 the Panel received further information from Cr Pentridge, namely, a letter from a member of the public commending Cr Pentridge on his bringing the matter to the attention of the Council, and stating (in the accompanying note from Cr Pentridge) that *it is not an approach I (Cr Pentridge) would repeat should a similar situation arise again.*

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.

The Panel determined that this information did not materially affect the substance of the information on which it was already basing its investigation and determination.

Determination

The Panel upholds the complaint that Cr Pentridge breached Part 7(5) of the City of Launceston Code of Conduct for Councillors.

Reasons for determination

Cr Pentridge did not dispute that he had sent an email directly to Council's Customer Service Consultant, without authorisation from the Chief Executive Officer (General Manager of the Council). This was a clear breach of the code of conduct.

However, the Panel notes that the complainant, Mr Stretton, erred in stating that the email had been sent to the Customer Service Consultant on 11 January 2024. Subsequent examination of evidence provided later to the Panel indicated that the email had been sent on 9 January 2024, prior to the letter from the Mayor to all Councillors on 10 January 2024, and prior to a letter from the Mayor to Cr Pentridge advising him that his conduct in this matter was not aligned with Council's policy, nor with the Code of Conduct. It therefore became apparent that no attempt had been made prior to submission of the complaint to resolve the issue with Cr Pentridge.

In his response to the complaint, Cr Pentridge stated that had he been approached, he would have conceded his error and apologised. In his response he formally apologised for his actions in contacting a council officer directly, without authorisation from the Chief Executive Officer.

Sanction

The Panel considers that direct contact between elected members and council officers, in breach of both the Code of Conduct and council policies, is a serious matter, and warrants the imposition of a sanction.

Given Cr Pentridge's acceptance of his breach and his apology, the Panel imposes a caution on Cr Pentridge.

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.



Lynn Mason AM
Chairperson



Phill Cocker
Member



Don Jones
Legal Member

DATE: 4 July 2024