

COUNCILLOR CONDUCT PANEL

In the matter of an application by Councillor Josh Gilligan
concerning Councillor Jasmine Hill of Wyndham City Council
(CCP 2022–15)

HEARING PURSUANT TO PART 6 OF LOCAL GOVERNMENT ACT 2020

Applicant: Cr Josh Gilligan

Respondent: Cr Jasmine Hill
(represented by Mr Tinashe Makamure)

Dates of Hearing: 22 June 2023 and 10 August 2023

Panel members: Mr Thomas Lynch (Chairperson)
Ms Helen Buckingham

DETERMINATION

Pursuant to section 167(1)(a) of the *Local Government Act 2020* (the Act), the Councillor Conduct Panel on the Application of Cr Josh Gilligan makes a finding of serious misconduct against Cr Jasmine Hill.

The Panel suspends Cr Hill from office for a period of four months commencing the day after the meeting of the Wyndham City Council at which this decision and the statement of reasons are tabled pursuant to section 168(2) of the Act.

Tom Lynch
Chairperson

Helen Buckingham
Panel Member

7 December 2023

STATEMENT OF REASONS FOR DECISION

The Application

1. The application dated 26 October 2022, made by Cr Josh Gilligan contained 19 allegations relating to the respondent Cr Jasmine Hill's conduct. It was alleged that on 19 separate occasions Cr Jasmine Hill behaved unreasonably towards staff of the Wyndham City Council.

These incidents were alleged to have occurred on the following dates:

Allegation	1	February 2021
	2	July 2021
	3	October 2021
	4	October 2021
	5	October 2021
	6	October 2021
	7	October 2021
	8	November 2021
	9	November 2021
	10	December 2021
	11	21 February 2022
	12	24 March 2022
	13	April 2022
	14	April 2022
	15	14 April 2022
	16	24 April 2022
	17	April 2022
	18	20 May 2022
	19	May 2022

Evidence provided at hearing

2. Written statements were submitted by both the applicant and the respondent prior to the hearing, including witness statements made by the witnesses who gave evidence at the hearing. Further written submissions were made by the applicant and respondent following the second day of the hearing.
3. Oral evidence was given at the hearing by witnesses called by both the applicant and the respondent.

The jurisdiction of the panel in relation to this application

4. Section 154(1) of *the Local Government Act 2020 (the Act)* provides that a Councillor Conduct Panel may hear an application that alleges serious misconduct by a Councillor.
5. Pursuant to section 167(1)(a) of the Act a Panel may make a finding of serious misconduct against a Councillor.
6. "Serious misconduct" is defined in section 3 of the Act, including:
“(f) bullying by a Councillor of another Councillor, or a member of the Council staff”.

7. "Bullying" is defined in section 3 of the Act:

"bullying by a Councillor means the Councillor repeatedly behaves unreasonably towards another Councillor or a member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor or member of Council staff".

8. Allegations 1 to 7

These allegations of unreasonable behaviour by the respondent are said to have occurred on dates outside the 12 months before the application for the formation of a Councillor Conduct Panel was made on 26 October 2022. As a consequence, allegations 1 to 7 could not be heard by the Panel and were not considered (see section 154(3)).

9. Allegation 8

██████████ (Witness 1), ██████████ at the time (who has since left the Wyndham City Council), stated that in November 2021 Cr Hill telephoned her concerning an invitation sent to all Councillors to attend a pre-briefing on the Library Infrastructure and Asset Plan. Councillor Hill did not want the pre-briefing to go ahead. During the conversation Cr Hill said that Witness 1 was undermining her and stated 'why was I setting her up'.

Further, Witness 1 stated Cr Hill raised her voice and yelled and screamed at her repeatedly. Witness 1 stated that Cr Hill became hysterical to the extent that she said to Cr Hill that her behaviour was unacceptable and the call must end. The call lasted about 15 minutes. Witness 1 advised the CEO of the interaction.

Witness 1 stated that this sort of reaction and behaviour happened to her on multiple occasions.

Witness 1 said that she had been working for three years in local government, and this is now my fourth year working at ██████████, and I would say in my entire career I've never been spoken to like that. She said further that "I felt very threatened".

Witness 1 said it was a job that she loved and that it was a very unsafe work environment when it came to Cr Hill. She said she felt unwell in that environment and sought employment elsewhere.

In cross-examination it was put to Witness 1 that Cr Hill did not speak to her on the phone during the period November 2021 until June 2022. Witness 1 stated that that was "totally incorrect".

It was never put to Witness 1 in cross-examination that Cr Hill did not yell and scream at Witness 1.

The panel finds the raised voice and yelling in the telephone conversation and context as described occurred and was unreasonable behaviour to the member of Council staff and created a risk to the health and safety of that member of Council staff.

10. Allegation 9

The Panel dismissed this allegation as there was insufficient material upon which to make any other finding.

11. Allegation 10

The Panel dismissed this allegation as there was insufficient material upon which to make any other finding.

12. Allegation 11

██████████ (Witness 2) was, between December 2019 and October 2022, ██████████ ██████████ at Wyndham City Council. He said that on 21 February 2022 Cr Hill rang him to say that the calendar included an event which she attended, but she found, when she attended that the organisers of the event had not invited her. Witness 2 investigated the complaint and found that the entry into Cr Hill's diary was made in error by a Council officer. He contacted Cr Hill and apologised for the error.

Subsequently Cr Hill contacted him and screamed and shouted at him for about 39 minutes. She believed that the officers of the Council had intentionally tried to exclude her from the event. Cr Hill said to him in a very aggressive tone if Councillor Support can't handle basic things like this we have an issue and "Councillor Support needs to drive the invitations and if you don't agree, we need to have a chat."

The panel finds that the screaming and shouting as described by Witness 2 did occur and was unreasonable behaviour and such behaviour created a risk to the health and safety of Witness 2, a member of Council staff.

13. Allegation 12

Witness 2 stated that Cr Hill on 24 March 2022, contacted him to discuss rebooking a meeting. Witness 2 explained that a clash of the meeting times could easily be resolved as he had contacted the person involved in one meeting who was quite relaxed about a change in the meeting date.

However, in response, Cr Hill started to scream at him over the phone saying "Why can't you manage my calendar properly?" "This is ridiculous." "The way staff do this job is awful", and "I can do this all by myself much better".

Councillor Hill threatened to speak to the CEO and continued to scream at him. Witness 2 warned her that the way she was speaking to him, was not appropriate and that he would terminate the call if she did not stop screaming.

The conversation then ended abruptly with Cr Hill hanging up on him.

Witness 2 stated that he felt "flat" and "really fragile" for two or three days after these incidents with Cr Hill and thought why am I allowed to be "screamed at....."

Further he said the screaming at him by Cr Hill had had a deleterious effect on his health, made him feel unsafe at his place of employment and wanting to leave that employment. He said that ultimately he did leave his employment at Wyndham City Council and a major contributing factor in that decision was the unreasonable behaviour of Cr Hill towards him.

In cross-examination Witness 2 in answer to a question replied "Oh 100% you can get annoyed. You can get irritated. But can you tell me the difference between getting annoyed and getting frustrated and calling up a junior officer and screaming at them because I can".

It was never put to Witness 2 in cross-examination that Cr Hill had not screamed at Witness 2 as he described.

The Panel finds the screaming as described occurred and was unreasonable behaviour to a member of Council staff and created a risk to the health and safety of that member of staff.

14. Allegation 13

The Panel dismissed this allegation as there was insufficient material upon which to make any other finding.

15. Allegation 14

The Panel dismissed this allegation as there was insufficient material upon which to make any other finding.

16. Allegation 15

██████████ (Witness 3) ██████████, stated that there was an email exchange between Cr Hill and herself on 13 April 2022 concerning Cr Hill's request that all Councillors be invited to a particular event. Cr Hill was not happy with Witness 3's responses.

At about 9 am on 14 April 2022 Cr Hill telephoned Witness 3 regarding the same matter and Witness 3 restated that the request was outside the standard protocols of Council. Councillor Hill became more and more agitated during the conversation. She would not accept Witness 3's answer. After a while Cr Hill started screaming at Witness 3. Councillor Hill said "why can't you do your job properly?" "You should hire new staff from culturally diverse backgrounds because the staff you have won't accommodate other cultures." She screamed over and over "I am not a communist". Witness 3 said to Cr Hill you cannot speak to staff like this. The conversation lasted about 40 minutes. Witness 3 had just parked in the Civic Centre car park and had to turn the volume down on her Bluetooth as Cr Hill was screaming so loudly.

Councillor Hill in written submissions stated (at para 105), "I did not raise my voice or use any abusive language towards her."

It was put to Witness 3 that "Cr Hill denies that she ever yelled at you" and that "she denies that she's ever yelled at you or anyone else". Witness 3 replied that Cr Hill had yelled and screamed. The Panel rejects the assertion that Cr Hill has never yelled at Witness 3 or anyone else.

Witness 3 told the Panel that she had worked for local government for 20 years and that for about 10 years had worked in the area of governance. She said "so for me, the reason I chose to participate in this process purely is because for a couple of reasons. I'm concerned that if things change and we go back to where its free rein for Councillor Hill, we going to back to where we were, and I love my job. I love working at Wyndham Council, but I can't work there under those conditions." Witness 3 described her situation as being "awful".

The panel finds that the screaming by Cr Hill at Witness 3 did occur and was unreasonable behaviour and such behaviour created a risk to the health and safety of Witness 3 a member of Council staff.

17. Allegation 16

Witness 3 stated on 24 April 2022, 10 days after the telephone call referred to in Allegation 15, Cr Hill was yelling at her on the telephone about the quality of a document being tabled at the Council meeting that morning. Cr Hill wanted the document pulled from the meeting.

Councillor Hill in her written submission (at para. 107) believed that this telephone discussion was on 26 April 2022 and said that she had never raised her voice or used abusive language towards anyone.

The Panel finds that the yelling by Cr Hill at Witness 3 over the phone did occur and was unreasonable behaviour and such behaviour created a risk to the health and safety of Witness 3, a member of Council staff.

18. Allegation 17

This relates to alleged behaviour towards another Councillor. The other Councillor did not provide a statement or give oral evidence to support the allegation. The panel makes no finding in relation to this allegation.

19. Allegation 18

Witness 3 stated that on Friday 20 May 2022 Cr Hill was emailing her to have a full presentation from a consultant included in the minutes for the Council meeting. Witness 3 had replied that this was not the procedure of the Council. However, no agreement could be reached, and Witness 3 telephoned Cr Hill. Councillor Hill was hostile to her and commenced yelling at her for not doing what she wanted done and just kept yelling "how hard is this? How hard is this? I can do it myself just change the minutes". She yelled that Witness 3 was not doing her job properly and stated that she would just go to Stephen Wall (the CEO). Witness 3 became flustered at this point. Witness 3 told Cr Hill that she did not care and was sick of being threatened all the time. The conversation then ended.

Councillor Hill in written submissions (at para. 120) stated "I denied that I yelled at [REDACTED]" and said "how hard is this?" during a conversation about the consultants report for the Council Ordinary Meeting.

The Panel find the behaviour of Cr Hill and her yelling at Witness 3 did occur and was unreasonable behaviour and such behaviour created a risk to the health and safety of Witness 3 a member of Council staff.

20. Allegation 19

The Panel dismissed this allegation as there was insufficient material upon which to make any other finding.

Finding and determination

21. The Panel makes a finding of serious misconduct against Councillor Jasmine Hill of the Wyndham City Council.

The Panel finds that Cr Hill engaged in bullying of two members of Council staff. Councillor Hill repeatedly behaved unreasonably towards Witness 2 (behaving unreasonably towards him on at

least two occasions) when he was a member of Council staff creating a risk to Witness 2's health and safety on each occasion, and repeatedly behaved unreasonably towards Witness 3 (behaving unreasonably towards her on at least two occasions) when she was a member of Council staff creating a risk to her health and safety on each occasion.

Councillor Hill denies any screaming and shouting has ever occurred. However [REDACTED], [REDACTED] and [REDACTED] have all given evidence that Cr Hill screamed and shouted at them on the occasions set out above, and this evidence is accepted by the Panel.

Clearly staff of the Council should not be shouted or screamed at. Further Cr Hill has shown no remorse or understanding of her actions. Witness 1 and Witness 2 ended their employment with the Wyndham City Council. A major factor in their decisions was the unreasonable behaviour of Cr Hill towards each of them.

The Panel does not consider any remedial action is available, nor an apology as Cr. Hill denies that the behaviour as described occurred.

The Panel considers that this serious misconduct effects the health of Council staff and undermines the efficient and effective operation of local government.

Councillor Hill in her outline of submissions (at para. 109) wrote "I acknowledge that I may sometimes use assertive language when communicating with members of Council staff, but I do not shout or yell at them. I do not scream at members of Council staff, nor do I tolerate anyone who does. Screaming is unprofessional, disrespectful, and counterproductive. It creates a hostile and unhealthy work environment that harms the well-being and performance of everyone involved. I value members of Council staff and I always strive to maintain a positive and supportive relationship with them".

The Panel recommends that Cr Hill reflect on her behaviour as the Panel has found, and takes steps to change the manner of her contacts with Council staff, especially in light of her words in the paragraph above.

The Panel suspends Cr Hill from office for a period of four months commencing the day after the meeting of the Wyndham City Council at which this decision and the statement of reasons are tabled pursuant to section 168(2) of the Act.