

INTERNAL ARBITRATION PROCESS

In the matter of Applications concerning Councillor Ashleigh Vandenberg

HEARING PURSUANT TO PART 6 OF THE *LOCAL GOVERNMENT ACT 2020*

Applicants' Representative:	Cr Dr Phillip Zada
Respondent:	Cr Ashleigh Vandenberg, represented by Jane Coventry of Barry Nilsson
Date of hearing:	18 March 2026
Hearing location:	Melton City Council Library
Arbiter:	Diana Price
Date of decision:	16 June 2026

FINDINGS & DETERMINATIONS

By way of findings and sanctions, the Arbiter orders as follows. The Respondent:

1. engaged in misconduct;
2. is suspended from office for two (2) months commencing the day after the meeting of Council at which this decision is tabled; and
3. upon resumption of the role of Councillor undergo training about the Code and the Social Media Policy, to be arranged by the Council.

STATEMENT OF REASONS FOR DECISION

PART 1 – INTRODUCTORY MATTERS

The Applications

1. By application dated 22 April 2025, eight councillors applied for an internal arbitration process to make a finding of misconduct against Councillor Ashleigh Vandenberg pursuant to s 143 of the *Local Government Act 2020* (the **Act**).

2. By application dated 5 September 2025, the same councillors applied for a further internal arbitration process to make a finding of misconduct against Councillor Vandenberg.
3. The Applicants' representative in both applications is Cr Dr Phillip Zada. Cr Zada and Cr Vandenberg are both serving Councillors at Melton City Council (the **Council**). Both applications concern various Facebook posts made by Cr Vandenberg.
4. At an earlier directions hearing, I decided based on the subject matter of the second application to join that application to the first application pursuant to s 144A(2)(a) of the Act.

Procedural history and evidence at hearing

5. The matter was listed for a number of directions hearings prior to the final hearing. An overview of this procedural history is outlined at **Annexure A**.
6. On 18 November 2025, I granted leave pursuant to s 141(2)(c) of the Act that the Respondent is permitted to have legal representation for the purposes of the internal arbitration to ensure the process is conducted fairly. Ms Jane Coventry, of Barry Nilsson Lawyers, was engaged to act on the Respondent's behalf. Whist acting on her behalf, Ms Coventry filed statements of Crs Vandenberg and Verdon as well as thorough written submissions.
7. On 10 February 2026, I granted leave pursuant to s 141(2)(c) of the Act that the Applicants are permitted to have legal representation for the purposes of the internal arbitration to ensure the process is conducted fairly. The Applicants however chose not to engage legal representation, and Cr Zada attended the final hearing as the Applicants' representative. He relied on the content within the two applications, as well as a supplementary submission dated 15 December 2026. At the hearing he additionally relied on a procedural email from the Principal Conduct Registrar (**Registrar**) dated 30 April 2025 acknowledging the application and a community engagement panel booklet.
8. An arbitration hearing occurred on 18 March 2026. No witnesses were called at the hearing, although as and when necessary Ms Coventry asked Cr Zada several factual questions which he willingly answered. All parties engaged meaningfully in the hearing and made helpful oral submissions.

PART 2 – LEGISLATIVE FRAMEWORK

9. The internal arbitration process applies to any alleged breach of the Model Councillor Code of Conduct. The rules governing internal arbitration are found within Division 5 of Part 6 of the Act, which relates to council integrity.

10. Section 139 provides that Councillors must observe the prescribed Model Councillor Code of Conduct (the **Code**). The Code is prescribed in Sch 1 to the *Local Government (Governance and Integrity) Regulations 2020 (Regulations)*. The Code contains five standards.
11. The purpose of the Code to include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.
12. Section 147 provides that if after completing the internal arbitration process, the arbiter determines that a Councillor has failed to comply with the Code, the arbiter may make a finding of misconduct against the Councillor.
13. The Council has adopted the Code. From time to time in the arbitration hearing the parties referred to language within the City of Melton Councillor Code of Conduct adopted on 8 February 2021 (the **2021 Code**). The 2021 Code has been superseded by the model Code extracted above. I have not considered whether Cr Vandenberg's conduct contravened the 2021 Code and have focused my attention on the current model Code. In fairness to the parties, where they have used phrases or language within the 2021 Code, I have treated these arguments as made in reference to the model Code prescribed by the Act and Regulations.

PART 3 – PRELIMINARY ISSUES

14. On behalf of the Respondent, several preliminary issues were raised which require determination.

Preliminary issue – the Social Media Policy

15. The Respondent contends that I have no jurisdiction to consider Council's Social Media Policy as it is not a policy document captured by the terms of the Code.
16. The task of an arbiter is to consider whether a Councillor has failed to comply with the Code, and if so, make a finding of misconduct. The Code contains five standards of conduct. The Code incorporates certain policies, practices and protocols. Clause 2(3) provides that:

A Councillor must act in accordance with any policies, practices and protocols developed and implemented under section 46 of the Act that support arrangements for interactions between members of Council staff and Councillors.

17. Section 46 relates to the functions of the Chief Executive Officer (**CEO**), whose responsibilities include ‘managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between members of Council staff and Councillors are developed and implemented’.¹
18. It was submitted on behalf of Cr Vandenberg that the Social Media Policy is not a policy that has been implemented by the CEO to manage interactions between Council staff and Councillors. I accept that submission. The Social Media Policy sets out its purpose as follows:
- The Councillors Social Media Policy sets out protocols for use of social media by the elected Councillors of Melton City Council.
- This Policy is intended to assist Councillors to use social media in a way that encourages two-way engagement with the community and minimises exposure of Council and Councillors to legal and reputational risk.
19. Therefore, Cr Vandenberg’s conduct is to be measured against the Code and not the Social Media Policy. However, this does not mean the Social Media Policy is irrelevant. The Social Media Policy is relevant in that it was a resource available to Councillors, including Cr Vandenberg, about effective but responsible use of social media when communicating with members of the public.
20. In a previous matter an arbiter found they did not have jurisdiction to consider an alleged breach of the Social Media Policy.² In that matter, a particular Facebook post was said to have breached good governance measures solely because it breached the Social Media Policy. However, the way in which the present applications are framed is different. Here the Applicants contend the Facebook posts breach the Code, the Good Governance Rules and the Social Media Policy. As outlined above, I will measure Cr Vandenberg’s conduct against the Code and not the Social Media Policy.

Preliminary issue – Requirement to take steps to resolve the matter

21. The Respondent submits that the Registrar erred in finding that the Applicants had taken sufficient or appropriate steps to resolve the matters raised in the Applications, as is required by s 144(1)(c) of the Act. Section 144 provides that the Registrar must examine an application and appoint an arbiter if they are satisfied:

¹ Section 46(3)(c) of the Act.

² Determination of Arbiter Louse Martin dated 17 April 2024 in the matter of Crs Julie Shannon, Kathy Majdlik, Goran Kesic, Sophie Ramsey, Bob Turner, Steve Abboushi and Justine Farrugia v Cr Ashleigh Vandenberg, IAP 2023-11 (Previous Decision), para [81].

- (a) the application is not frivolous, vexatious, misconceived or lacking in substance; and
- (b) there is sufficient evidence to support an allegation of a breach of the Model Councillor Code of Conduct as specified in the application; and
- (c) the Council—
 - (i) has taken sufficient or appropriate steps to resolve the matter and the matter remains unresolved; or
 - (ii) has not taken any steps to resolve the matter but the reason for that is adequate.

22. The Respondent submits that the Registrar could not have been satisfied of the matters contained in s 144(1)(c) of the Act, and therefore I should dismiss the Applications. The Act does not permit an arbiter to review a decision of the Registrar. I am not an appellate decision maker. Even if I had such a power, I would not exercise it in this case. The Applicants took sufficient steps to resolve the matters prior to the applications being made.

PART 4 – THE FACEBOOK POSTS

23. The applications both allege that Cr Vandenberg has breached the Code when making various posts to Facebook between 25 February to 28 August 2025. Each of the posts were made under the username ‘Ashleigh Vandenberg for Jackwood Ward’, further stating ‘Councillor, Wiradjuri, Nurse, Mother and passionate about my community. View and opinions expressed are my own’. The Respondent’s profile on the Council website contained a link to this Facebook page. It was uncontroversial that the Respondent used this Facebook page when communicating with the public about Council related matters. Save in respect of the St Patrick’s Day post, Cr Vandenberg accepted she was performing the role of Councillor in making the various posts.
24. The Applicants have grouped these messages together by topic as follows:
- a. Advocacy Shirt Post;
 - b. St Patrick’s Day Post;
 - c. Continued Tagging and Referencing of Cr Zada;
 - d. Insinuations of Corruption;
 - e. Misinformation and Misleading Commentary;
 - f. Targeting of Cr Zada and Mount Atkinson Ward;
 - g. Improper Conduct with Delivery Engagement Panel Member; and
 - h. Use of artificial intelligence.
25. For convenience, I have considered these topics in a different order. I consider first the posts which relate generally to Council. I then consider those posts relating more directly to Cr Zada and his Ward.

Facebook posts relating to Council more generally

Insinuations of corruption

26. A number of Facebook posts were grouped together and described as insinuating corruption. On 18 March 2025, Cr Vandenberg posted on Facebook the following:

When you meet with Ministers it is a requirement that their diary and list of meetings be published to the public as well as purpose.

This is to ensure transparency and accountability.

This requirement does not extend to senior office holders within Local Government and Residents don't know who the Mayor and Deputy Mayors meet with, why they're meeting or what's discussed.

With Millions of dollars or rate payer money on the line, we need to lift transparency, accountability and public trust.

I will have more to say on this and why it is important in the coming weeks with core examples and reasoning behind it.

#Melton #CityOfMelton #LocalGovernment #FightCorruption #Transparency
#PublicPersonPublicKnowledge #Healthy #Safe #Strong #CommunitiyAction
#PublicTrust #nothingtohidesoshareit #scrutiny

27. Cr Zada submitted that the words of this post, together with the hashtag #FightCorruption, implied there was corruption within Council.
28. Cr Vandenberg said in her statement that her post was factually true in that Ministers must publish summaries of their diaries on a quarterly basis, and she made the post to seek greater transparency of Councillors' activities. She said that the post did not state or infer any corruption in Council. Cr Vandenberg explained that her purpose of including the hashtags was to 'increase the visibility and reach of the post, to categorise the content of the post, and connect with specific audiences'. She states that the hashtags were not intended to be read together.

29. On 14 April 2025, Cr Vandenberg posted on Facebook the following:

Local Government's (sic) are responsible for a number of things but there appears to be a growing issue with business partners walking away from City of Melton Based on burdensome permit requirements pushing council responsibilities onto businesses. Westfield walked away.

5 Coles sites about to walk away

Telstra having issues getting towers up

Childcare Centres falling through

Petrol Stations Walking Away

Melton is fast becoming a 3rd world state and major investors walking away. While I finances are in the hundreds of Millions.

And yes, I've spoken to many developers and big businesses. They're not happy.
#Melton #CityOfMelton #notright #weresuffering #permits #permit #healthy #safe
#strong #community action

30. Cr Vandenberg said her statement that she had heard from Cr Verdon that Coles has experienced some issues obtaining a permit to open a shop in the Council area, although a Coles store was subsequently built and opened by a third-party developer. She also relied on a statement from Cr Verdon in which he said he had been in communication with a representative of Coles, who expressed some difficulty in obtaining permits. Cr Vandenberg states that reference to Melton becoming a third world state was in reference to large developers such as Westfield deciding not to build in the municipality.
31. A resident then posted in reply to the 14 April 2025 post that 'permits open up council to being exposed to behaviour like large businesses offering bribes and other political game play to achieve their commercial interests'. Cr Vandenberg posted in reply 'oh don't even get me started. I've seen and hear some things'. Cr Vandenberg said in her statement that she was referring to her time in local government as a whole and was not inferring bribery or political interference in Council matters.
32. I do not accept Cr Vandenberg's explanation and submissions. On 18 March 2025 she posted '[r]esidents don't know who the Mayor and Deputy Mayors meet with, why they're meeting or what's discussed'. The accompanying hashtags included #Melton, #FightCorruption, #Transparency, #PublicPersonPublicKnowledge, #PublicTrust, #nothingtohidesoshareit and #scrutiny.
33. The same insinuation of corruption was contained in posts made on 14 April 2025. When a resident raised concern about large businesses offering bribes and other political 'game play' to achieve their interests, Cr Vandenberg wrote 'oh don't even get me started. I've seen and heard some things'. Given the subject matter of the post was development within the Council area, the reasonable inference to be drawn is that Cr Vandenberg was stating she had seen and heard bribery or political 'game play' within Council. Even if that was not her intention, it was nevertheless the way in which her comment would be understood by any reader.
34. I therefore find that the post breached Standard 4 in that it was misleading, brought discredit upon the Council and undermined public trust and confidence in the integrity of local government. In making this finding I am cognisant of Standard 5, which provides that the Code is not intended to limit, restrict or detract from robust public debate of issues in a democracy. The benefits of political transparency can be discussed without unfounded accusations of corruption, bribery and game play.

Allegedly misleading posts

35. The Applicants contend that between 21 February and 14 April 2025, Cr Vandenberg made several Facebook posts which contained inaccurate, exaggerated, or misleading claims about Council decisions and infrastructure matters. During the oral hearing Cr Zada no longer pressed for any finding that the Facebook post made on 3 April 2025 regarding Ferris Road was misleading.

Budget matters

36. On or about 21 February 2025, Councillors participated in a confidential strategic budget workshop. These discussions are confidential, and do not become the formal position of Council until so resolved at a council meeting. After the workshop, Cr Vandenberg posted that '[a]ll councillors agreed that roads need to be a focus and we need to get in front of developers, even if it means taking on some additional debt'.
37. Cr Zada submitted that Cr Vandenberg's post misrepresented the consensus at the meeting and incorrectly framed Cr Vandenberg's views as the collective direction of Council. Cr Vandenberg said in her statement that there are no notes of the meeting on 21 February 2025, but her recollection was that all councillors had agreed that roads were to be a focus moving forward.
38. Cr Vandenberg ought not to have made this post if it did suggest a consensus which had not yet been reached at Council and might never be reached. However, I do not find the post breached the Code as I am not sufficiently aware of what was discussed in the confidential strategic budget workshop.

Temporary carpark near Rockbank Station & cars numbers on an adjacent road

39. On 25 February 2025, Cr Vandenberg made a Facebook post relating to temporary car parking near Rockbank Station. This issue had been discussed in Council meetings in late 2024. In advance of a Council meeting in December 2024, Cr Vandenberg sent an email to the governance team proposing a notice of motion for 'council to provide a report inclusive of costings on available council land within 5kms of Rockbank station with the intention of use for a temporary car park for Rockbank station, including clearing of land, leveling and crash [sic] rock and a report provided back to the next ordinary meeting of council'. She asked for assistance with the wording of the motion, and with her agreement, the notice of motion ultimately read '[t]hat Council to receive a report at a future Council Meeting, outlining available Council land options within a 5km radius of Rockbank Station for use as a temporary car park, with the report to include the costing for any remediation or construction costs'.
40. On 25 February 2025, Cr Vandenberg posted that she had 'sought council to find land to use crushed rock as an interim measure but all councillors expect Cr John Verdon voted against it'. Cr Zada submitted that this post was inaccurate or misleading, as the motion as presented to Council said nothing about crushed rock, and in any event the

suggested temporary carpark was not supported by the majority of Councillors as there was no suitable location proximate to the train station.

41. Cr Vandenberg returned to the same topic in a post on 9 April 2025. She made a post stating that 50,000 to 80,000 vehicles travel daily on a single-lane road near Rockbank Station. Cr Vandenberg then said my 'motion to provide support at Rockbank Station for interim car parking space defeated that would have helped A LOT of people?'
42. Cr Vandenberg said in her statement that she reached this figure by considering recorded data from level crossings at Coburns, Exford, Ferris and Hopkins Roads. According to these statistics, about 73,000 vehicles travel through these single-lane level crossings each day, i.e. it is a statistic reflecting road usage across four level crossings combined.
43. Cr Zada states that these figures in the Facebook post are exaggerated and not supported by data from Council or another credible source. He said that multi-road statistics should not be used to support road use numbers on a single road.
44. I find that the post on 25 February 2025 contravened the Code in that it misled the public as to the nature of the motion which was presented to Council in December 2024, and more particularly as to the reasons why the motion was not passed. The land in the immediate vicinity of Rockbank Station was State land, upon which the Council could not build. There were no feasible alternative sites within a radius of Rockbank Station. There was no easy 'crushed rock' fix that the Council turned down. I therefore find that the post breached Standard 4 in that it was misleading, brought discredit upon the Council and undermined public trust and confidence in the integrity of local government.
45. I make the same finding with respect to the post on 9 April 2025. I do not find that the possibly inflated numbers of cars travelling on a road near Rockbank Station to be in and of itself deliberately misleading, but the post as a whole reinforced Cr Vandenberg's erroneous narrative about her defeated motion regarding temporary carparking at Rockbank. I do not consider that either post is immune from criticism by the facilitation of robust debate.

Bus services

46. On 26 February 2025, Cr Vandenberg made a post about public transport in Jackwood Ward. The post visible on the Thornhill Park Residents page, being a suburb in Cr Zada's ward. The post said, in part:

Previously a briefed was provided that identified the lack of bus services in Jackwood Ward is causing a locked in suburb... Department of Transport has advised they do not have budge to provide the bus services in Jackwood ward.

I moved a notice of motion to write to Natalie Hutchins MP and Luba Grigorovitch MP to inform them of the information we have to seek budget inclusion in their budget submissions to provide funding to these bus services can be funded.
The motion was defeated.

47. In her statement, Cr Vandenberg stated that this post was in fact true as her motion for Council to write to members of parliament to request the inclusion of bus stops in their state budget submissions to address public transport issues in Jackwood Ward was defeated.
48. Cr Zada said that the post was nonetheless misleading as it omitted to mention that at the same meeting Council passed a broader motion that Council would continue to advocate for better bus services across the whole of City of Melton to all local members of parliament and relevant ministers.
49. Cr Zada submitted Cr Vandenberg's failure to reference this alternative motion was misleading. I agree. Selectively mentioning her defeated motion regarding bus stops in Jackwood Ward and omitting to mention that Council passed a motion to improve bus services across the whole of the City of Melton was misleading. I therefore find that the post breached Standard 4 in that it was misleading, brought discredit upon the Council and undermined public trust and confidence in the integrity of local government.

Westfield

50. Cr Zada also relied upon the Facebook post discussed at paragraph 34 above, stating that it too was misleading. In this post Cr Vandenberg said that businesses such as Westfield, five Coles sites and petrol stations had walked away from establishing businesses in the City of Melton, risking it becoming a third world state.
51. Cr Zada submitted that these posts placed considerable pressure on Councillors based on misinformation or misleading information. He explained that it contributed to breakdown in public understanding, increased hostility towards Councillors and made the work of Council more difficult to do.
52. Cr Vandenberg relied on the statement of Cr Vernon, summarised above, that there were some issues with one Coles store obtaining the necessary permits for one shop. She also relied upon a map of available spaces for supermarket to be constructed. It was submitted that the posts were not misleading and were advocacy pieces about matters of concern to residents.
53. I accept that encouraging businesses to open and operate in the City of Melton is important. Public discussion of how to achieve that goal is appropriate, including how Council can facilitate more investment. However, Cr Vandenberg without adequate

foundation, made a wide-ranging claim that many large businesses are ‘walking away’ because of ‘burdensome permit requirements pushing council responsibilities onto businesses’ such that Melton is ‘fast becoming a 3rd world state’. It was irresponsible to make such a post. It was both an exaggeration and oversimplification of the issue of attracting businesses to the area. I therefore find that the post breached Standard 4 in that it was misleading, brought discredit upon the Council and undermined public trust and confidence in the integrity of local government.

The prior arbitration hearing

54. On 27 February 2025, Cr Vandenberg made a Facebook comment which related to her participation in a prior arbitration hearing. Cr Vandenberg tagged a person, and said ‘did you read the arbitration report? I was blamed for what you said [rolling on the floor laughing emoji] oh my’. Cr Vandenberg said in her statement that she felt she had been blamed for what this person had said during a speech at a Sorry Day event. She said that contrary to Cr Zada’s submission, she was not suggesting the prior arbiter was unjust or politically motivated. I do not propose to revisit the facts considered in the prior arbitration hearing and the connection between Cr Vandenberg and the relevant individual and I make no adverse findings against Cr Vandenberg with respect to this Facebook post.

Improper Conduct with Delivery Engagement Panel Member

55. On 13 March 2025, Cr Vandenberg posted a picture of herself with Jade Carberry, who was a participant in Council’s deliberative engagement panel. The post states ‘Great catching up with Jade Carberry a fierce advocate for #Melton’.

56. Cr Zada explained that deliberative engagement panels are designed to ensure participants provide unbiased input into the Council’s strategic planning processes. Councillors are instructed not to engage with panel members during the deliberation period to avoid undue influence of the perception of bias.

57. On 30 April 2025, Cr Vandenberg emailed Ms Carberry stating:

Please keep the matter confidential for now but a number of councillors have raised issue with me meeting with you as you hold a committee position. I was wondering if you could help by providing a statement that we did not discuss matters outside of local issues and that we did not breach any items. I am sorry I had no knowledge you were on a committee.

58. Ms Carberry replied:

I’m not on a committee? I was removed from the community forum as I had working commitments and could not attend the last two sessions. I’m slightly confused. Are

you saying that if I was in the community forum I can't meet with a councillor to discuss anything? That seems strange! I have met with more than just you in that time to discuss local issues.

59. Separation between councillors and panel members is critical to prevent any undue influence or perception of bias. However, I do not make any finding adverse to Cr Vandenberg with respect to her meeting with Ms Carberry in early 2025 and the associated Facebook post. There is insufficient evidence that Ms Carberry was on the deliberative engagement panel as of 13 March 2025. Even if she was, there is insufficient evidence Cr Vandenberg was aware of that appointment or the bar on communication.

AI post

60. The second application relates to a Facebook post made by the Respondent on 27 August 2025 regarding artificial intelligence. It read as follows:

Should the City of Melton implement the use of Artificial Intelligence to monitor residents on Social Media?

Artificial intelligence is here and it is reforming many sectors. But as it continues to clash with our current way of life, ethical and moral questions arise.

How would residents feel if the City of Melton implemented the use of AI tools to monitor residents online activity? Would you be supportive of it or, would you feel uneasy that your local government was keeping an eye on you? Please keep in mind, no notice of motion or public communications have been announced to enable this or to notify residents this is occurring.

I am simply reaching out to undertake some community consultation to see if you would be supportive of such a move. Let me know in the comments section below.

#Melton #CityOfMelton #AI #Privacy #Ethical #Monitoring

#ArtificialIntelligence #Local Government #bigbrother #health #safe #strong

61. Many people did indeed make comments. For example, one person said '[d]idn't realise we were living in Nazi Germany. How very totalitarian of the MCC! I love a good class action lawsuit or pushing for a solid IBAC investigation'. The Respondent replied to this post 'I think there might be one coming to be honest'.
62. The second application contained a letter from the Head of Governance explaining the extent to which Brandwatch, and other artificial monitoring tools were being used by the Council. It explained that Council is not monitoring residents using artificial intelligence. It does however use Brandwatch to track references to Council and Council-related matters in public social media posts. Brandwatch looks at content posted on social media but does not access information on social media profiles. I accept that evidence.

63. Cr Zada submitted that whilst Brandwatch may look at mentions of Council and Council-related matters, this is very different to monitoring of residents. He submitted that the post implied that the Council was in fact monitoring residents. He emphasised parts of the post, such as ‘[p]lease keep in mind, no notice of motion or public communications have been announced to enable this or to notify residents *this is occurring*’ (emphasis added). He submitted that the post contravened Standard 4 within the Code, as it diminished public trust and confidence in local government, brought discredit upon the Council and misled the public about the use of artificial intelligence.
64. In her statement, Cr Vandenberg said that the post sought to convey that Council was not considering the use of artificial intelligence to monitor residents. She said there was no notice of motion or public communications because the introduction of artificial was not being considered by Council. She said her subsequent comment about an IBAC investigation was because she was planning to make a complaint to IBAC herself.
65. Submissions were made on Cr Vandenberg’s behalf that the post, taken as a whole, made it clear that Council was not using artificial intelligence to monitor residents on social media. For example, Ms Coventry emphasised that the post contained a series of questions for discussion, such as ‘*[s]hould the City of Melton implement the use of Artificial Intelligence...*’ (emphasis added). It was submitted that the use of artificial intelligence is a matter of public concern, and the post prompted robust debate and discussion among Facebook users. In the alternative, it was submitted that Council was engaging in a form of monitoring residents by the use of Brandwatch.
66. Upon careful reading of the post, I do not accept that the post conveyed that the Council was not considering the use of artificial intelligence to monitor residents. Some portions of the post suggested that Council was in fact using artificial intelligence to monitor residents, whilst other parts of the post suggested that the Council was planning to do so without any notice of motion or public announcement. This dual reading of the post is reflected in the comments which followed.
67. I find that by making the post Cr Vandenberg breached Standard 4 of the Code. The post misled the public to think that Council was monitoring residents using artificial intelligence or was planning to do so. Further, the post created unwarranted alarm and distrust. Cr Vandenberg asked within the post ‘would you feel uneasy that your local government was keeping an eye on you?’ The post was accompanied by an ominous picture of face in shadow and bore hashtags such as #bigbrother, #privacy and #monitoring. This brought discredit upon the Council and diminished the public’s trust and confidence in the integrity of local government.

68. In making this finding I am cognisant of Standard 5, which provides that the Code is not intended to limit, restrict or detract from robust public debate of issues in a democracy. The benefits and risk of the use of artificial intelligence is a worthy topic of public discussion. However, such robust debate can readily occur without breaching the Standards.

Facebook posts relating to Cr Zada and Mount Atkinson Ward

69. In the following section I address the various Facebook posts which relate to Cr Zada or his ward, being Mount Atkinson Ward. I will then separately consider whether Cr Vandenberg breached any Standard or Governance rule by making these posts.

Advocacy Shirt Post /Leakes Needs Lights

70. Cr Zada is a member of community group ‘Leakes Needs Lights’, which advocates for State Government to install traffic lights at offramps between Leakes Road and the Western Freeway in Rockbank. He sought and received permission from the Chief Executive Officer to wear a ‘Leakes Needs Lights’ t-shirt at a Council meeting on 24 February 2025. A number of residents asked questions regarding the installation of traffic lights at Leakes Road and at other roads intersecting with the Freeway. The minutes of the meeting reflect the following responses to some of these questions:

The interchange of the Western Highway and Leakes Road is under the care and management of the Victorian Government’s Department of Transport and Planning.

Improvements including the provision of traffic signals, either permanent or temporary, at this location is the responsibility of the Victorian Government.

Council continues to advocate for improvements to this interchange via its transport advocacy campaign, Moving Melton.

71. The following day, on 25 February 2025, Cr Vandenberg made a Facebook post referencing Western Freeway and then said:

I have written to Emily, our governance officer and will be speaking with the Mayor as I believe it brings council into disrepute.

Last night was not professional nor was it acceptable.

I want to thank the state and federal governments for supporting our community and express my personal sincerest apologies. (Please keep funding it we all need it)

72. One Facebook user commented to ask what was unprofessional or acceptable, to which Cr Vandenberg replied recommending the person watch the video recording of the Council meeting. The same Facebook user then said, ‘if it’s in regards to a certain protest tshirt being worn, it had pre-approval’. Cr Vandenberg replied again saying she

fears residents are being misled and ‘I know more about behind the scene issues and I want it to stop as it has no place in local government’.

73. Cr Zada submitted that the Facebook posts by Cr Vandenberg were about his decision to wear a Leakes Needs Lights advocacy t-shirt. He submitted that the post implied he had engaged in misconduct by wearing the t-shirt, was disrespectful to him and brought discredit upon the Council.
74. In her statement, Cr Vandenberg said that her Facebook post was not about the advocacy t-shirt. She said it was about a question asked during the Council meeting by a member of the community who, like Cr Zada, was a member of Leakes Needs Lights. Cr Vandenberg thought that Cr Zada must have requested the question to be asked by the Leakes Needs Lights member, and it was this that she found to be unacceptable and unprofessional. She said her latter comment that she knows what is going on behind the scenes was in reference to Cr Zada being a member of the Australian Workers Union, which had previously voted against upgrade to the Western Freeway at an Australian Labour Party state conference.
75. Irrespective of whether Facebook post on 25 February 2025 was about Cr Zada’s advocacy t-shirt or his connection with a fellow Leakes Needs Lights member, Cr Vandenberg’s post was about Cr Zada and his stance with respect to the infrastructure upgrade in the Leakes Road area. She described his actions, be it wearing a t-shirt or being affiliated with a member of the community, as unprofessional and unacceptable. Cr Vandenberg subsequent comment that ‘I know more about the behind the scenes issues and I want it to stop as it has no place in local government’ was also about Cr Zada. The issue behind the scenes was nothing more than a tenuous link between Cr Zada’s membership of a union, and that union’s position at a Labour Party state conference at some undefined point in time.

Continued Tagging and Referencing of Cr Zada

76. On 14 March 2025, Cr Zada emailed Cr Vandenberg and asked that she refrain from tagging or referencing him in social media posts. The email stated, in part:

As I have mentioned, it is my preference to discuss any Council related issues directly with my Council colleagues rather than dialogue via social media.

I again extend the offer to meet and discuss any issues you would like to raise, however in the meantime I respectfully request that you do not tag or mention me in any social media posts or reference matters that could reasonably be associated with me.

77. On 15 March 2025 Cr Zada made a Happy Sikh New Year post on his Facebook page. A resident replied thanking Cr Zada for his post. Cr Vandenberg responded to this

resident, stating ‘I’d recommend not listening to people misleading you. Always happy to meet and discuss what council, my colleagues and myself have achieved and continue to’.

78. On 16 March 2025, Cr Vandenberg referenced Cr Zada in separate Facebook posts relating to Hindu and Sikh celebratory events. Cr Vandenberg also tagged or referenced Cr Zada in posts relating to precinct structure plans, budget discussions and child maternal health services.
79. Cr Zada submitted that Cr Vandenberg breached the Code, as her continued tagging and referencing of him on Facebook was bullying, harassing and disrespectful.
80. In her statement, Cr Vandenberg acknowledged receipt of Cr Zada’s request not to be tagged or mentioned in her social media posts. In respect of all the tagging and mentioning of Cr Zada, she says she did so to clarify Council and community matters or to ensure he was not excluded. She did not remember what she meant when she commented on his Happy Sikh New Year post, ‘I’d recommend not listening to people misleading you’.
81. I do not accept Cr Vandenberg’s explanation. Cr Zada had expressly requested not to be tagged or referenced. The very next day Cr Vandenberg posted a comment to his Facebook page suggesting he was misleading a resident. The day afterwards she tagged him twice in posts about Hindu and Sikh celebratory events. She further tagged or referenced him in other posts. It was not necessary to do so to clarify Council matters, for the purposes of advocacy or to ensure he was not excluded.

Targeting of Cr Zada and Mount Atkinson Ward

82. It is alleged that Cr Vandenberg breached the Code by engaging in a pattern of conduct specifically targeting Cr Zada and his ward, being Mount Atkinson Ward. The Applicants contend that these posts misrepresented Council decisions and implied that Cr Zada was not adequately representing his ward.
83. Three of the posts relied upon are considered elsewhere in the decision, being:
 - a. the post on 26 February 2025 concerning bus services;
 - b. comment on 15 March 2025 relating to Cr Zada’s Happy Sikh New Year post; and
 - c. the post on 9 April 2025 regarding the number of cars travelling near Rockbank Station.
84. In addition, the Applicants rely on a post made on 11 March 2025 in which Cr Vandenberg stated:

There seems to be quite a few issues in Mount Atkinson so I'll be reaching out to Cr Dr Phillip Zada – Mount Atkinson Ward – Melton City Council To see what shared works we can work together on such as:

Rockbank Station Car Park

Bus and public transport

Connector roads

Leakes Road as the Priority for Western Freeway upgrade

And more

85. Cr Zada submitted that Cr Vandenberg has engaged in a sustained pattern of conduct that specifically targeting him and the Mount Atkinson Ward through repeated public posts that criticise local infrastructure, misrepresent Council decisions, and insinuate individual failure. He said these actions go beyond political disagreement and amount to a deliberate attempt to undermine Cr Zada's leadership and standing in the community. He further said it sows division and undermines the public's confidence in local government.
86. Cr Vandenberg represents Jackwood Ward. Jackwood Ward abuts six other wards, including Mount Atkinson Ward. She submitted that she is not restricted to making comments only about Jackwood Ward but may comment on any issue in the Melton area. She further said that the posts were advocacy pieces to address issues affecting residents.
87. I do not find that the post on 26 February 2025 concerning bus services unfairly targeted Cr Zada or his representation of Mt Atkinson Ward. Although the post was visible on the Facebook page of a residents' group within Mt Atkinson Ward, the post was primarily about buses in Jackwood Ward. I have however found above that it breached the Code for other reasons.
88. In respect of the posts relating to Rockbank Station made on 11 March and 9 April 2025, I do not find these breach the Code because they referenced Mount Atkinson Ward or areas within that ward. I have however found the post on 9 April 2025 nonetheless breached the Code for other reasons.
89. I have already found that the comment on 15 March 2025 relating to Cr Zada's Happy Sikh New Year post contravened the Code.

St Patrick's Day

90. On 17 March 2025 Cr Zada wished everyone a Happy Saint Patrick's Day on Facebook. He said '[t]oday we celebrate the luck of the Irish, the rich culture, and the spirit of togetherness'. Later that day, Cr Vandenberg also made a Happy Saint Patrick's Day post but said she would not refer to the luck of the Irish 'because it's a racist terminology'.

91. Cr Zada submits that her post was disrespectful to him as someone with Irish heritage and was a thinly veiled personal attack upon him. Cr Vandenberg says in her statement that she was unaware of Cr Zada's Irish heritage. She says that she did not see his post and her post was not in response to his. I note with respect to this particular post that Cr Vandenberg did not tag or refer to Cr Zada. I am therefore not satisfied to the necessary standard that the post was referable to Cr Zada or otherwise breached the Code.
92. Cr Vandenberg further submitted that she was not 'performing the role of a Councillor' when making the St Patrick's Day post. It is not necessary for me to decide this argument, as I am not sufficiently satisfied the post was referable to Cr Zada's earlier St Patrick's Day post. I make no findings adverse to Cr Vandenberg about this post.

Conclusion re Facebook posts relating to Cr Zada and Mount Atkinson Ward

93. I have considered the arguments made by the Applicants' representative and the Respondent, including those not summarised in this written decision. I find that Cr Vandenberg breached Standard 2 of the Code, in that she did not treat Cr Zada with dignity, courtesy and respect of the Advocacy Shirt Post /Leakes Needs Lights post on 24 February 2025 and by continuing to tag and reference Cr Zada after his express request not to do so.

Robust political debate

94. In making the above findings, I have had regard to the principle that nothing in the Code is intended to limit, restrict or detract from robust debate of issues in a democracy. Robust debate of issues such as public transport, parking, business investment and the like are warranted. Such debate may encompass criticisms of Council or Councillors.
95. However, I adopt the rationale of Arbiter Louse Martin in the matter of Crs Julie Shannon & Ors v Cr Ashleigh Vandenberg, IAP 2023-11 (the **Previous Decision**) at paragraphs 98 - 100 and the cases cited therein. The right of a Councillor to engage in robust political debate should not be interpreted to deprive the other standards of the Code of utility.
96. For each issue Cr Vandenberg wished to share with residents via Facebook, this could have been achieved in a way that was not misleading, did not bring discredit upon the Council, did not undermine public trust and confidence, and did not fail to treat her fellow Councillor with dignity and respect.

PART 5 - SANCTIONS

97. Section 147 of the Act provides that if after completing the internal arbitration process the arbiter determines a Councillor has failed to comply with the Code, the arbiter may make a finding of misconduct.
98. As outlined above, I have found that various posts contravened the Code. I therefore find that Cr Vandenberg engaged in misconduct. Having made that finding, s 147(2) provides that I may impose any one or more of a number of sanctions, which are:
- a. direct the Councillor to make an apology in a form or manner specified by the arbiter;
 - b. suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding 3 months;³
 - c. direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter;
 - d. direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter;
 - e. direct a Councillor to attend or undergo training or counselling specified by the arbiter;
 - f. direct that the Councillor is not to attend or participate in a Council meeting specified by the arbiter that occurs after the meeting at which the decision and statement of reasons are tabled under subsection (4); and/or
 - g. direct that the Councillor is ineligible to hold the office of Mayor or Deputy Mayor for a period specified by the arbiter not exceeding 12 months.
99. Cr Zada queried whether it was possible, from a legal perspective, for Cr Vandenberg to be suspended from the office of Councillor for two periods not exceeding 3 months, i.e. a period not exceeding 6 months, given two separate applications had been filed. In my view, where two applications are joined pursuant to s144A(2)(a) of the Act, those applications become one such that the maximum duration of suspension remains 3 months. That is so because joinder of one application to another is akin to consolidation of the two applications, as opposed to two applications remaining separate proceedings but being heard at the same time.

³ Note: in the hearing the arbiter incorrectly referred to suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding 1 month. The correct maximum duration of suspension was conveyed to the parties by email immediately after the oral hearing, and neither sought to raise any further issue with respect to sanctions.

The Applicants' submissions

100. Cr Zada submitted that any sanction should be fair, proportionate and designed to protect council's integrity, restore public trust, deterring further misconduct and to support compliance with the Code. He noted that Cr Vandenberg is not a first-term councillor and has undergone training with respect to the Social Media Policy. He emphasised the repeated nature of the breaches.

The Respondent's submissions

101. Ms Coventry submitted on Cr Vandenberg's behalf that her Facebook posts were made in good faith whilst advocating for transparency in local government. She also submitted that Cr Vandenberg was seeking to represent residents, and public advocacy was part of that representation. She submitted that were I to make a finding of misconduct, it would appropriate to require Cr Vandenberg to undergo training regarding the use of social media.

Analysis

102. Cr Vandenberg is a passionate Councillor, who contributes to her Ward and the City of Melton as a whole. Councillor Vandenberg is a member of the Intercultural Advisory Committee, the Melton Weir Development Committee and the Youth Advisory Committee. She is also a mother, partner, nurse and proud Wiradjuri/Nari Nari woman.
103. However, Cr Vandenberg has repeatedly breached the Code by making social media posts. I highlight some aspects of those breaches. Without foundation, she made various posts implying corruption within Council. She posted misleading material relating to the Council and issues within the municipality. She used social media to unfairly target a colleague. These are serious matters, and in my view a period of suspension is required.
104. In reaching this conclusion I regard general deterrence as an important consideration. It is necessary to convey to all local Councillors that conduct of this type is not acceptable and, if engaged in, will result in similar sanction. In addition, regard must be made to maintaining public confidence in Councillors, the system of local government and the arbitration process. This public confidence is best achieved when Councillors who breach the standards reasonably expected of them are properly held to account.
105. Specific deterrence is a very relevant consideration. The conduct in these applications is not a one-off occurrence but was persistent. I note that the AI post was made after the Respondent had received the first application and was on notice that her use of social media may be in breach of the Code.

106. Specific deterrence is also particularly important in circumstances as the Respondent has previously been found to have engaged in misconduct relating to her use of social media. On 17 April 2024, Arbiter Martin found that Cr Vandenberg had engaged misconduct, directed her to make certain apologies and suspended her from Council for a period of 14 days.
107. Regard has been had to the maximum possible period of suspension, being 3 months. Further, that pursuant to s 37 of the Act during such period of suspension Cr Vandenberg would cease to be a Councillor, not be entitled to receive allowances, and that if the suspension were greater than two months she would be required to return all council equipment and materials.
108. For the above reasons, I determine that a period of suspension of two months is appropriate. I further direct that upon resumption of her role as Councillor, Cr Vandenberg undergo training about the Code and the Social Media Policy to be arranged by the Council.

Diana Price
Arbiter

Annexure A: Procedural history overview

12 August 2025	• A directions hearing is scheduled to be conducted by Teams • Application by the Respondent to adjourn the directions hearing made on the morning of the directions hearing • The directions hearing was adjourned administratively to 19 August 2025
13 August 2025	• The Respondent said she has a medical certificate, and requested further postponement of the direction hearing listed on 19 August 2025 • Respondent also seeks leave to be legally represented at the arbitration hearing
18 August 2025	• Respondent provides a medical certificate for 12 August 2025
19 August 2025	• A directions hearing is scheduled to be conducted by Teams • Adjourned administratively at the Respondent's request
22 August 2025	• The Respondent provides further material relating to listing of a directions hearing including a medical certificate for 19 August 2025 and a letter from a health practitioner that the Respondent needed more time to attend an arbitration session
28 August 2025	• Parties advised of new directions hearing date of 10 September 2025 • Respondent replies that she was not medically fit to attend a directions hearing
5 September 2025	• Parties advised of new directions hearing date of 14 October 2025
10 October 2025	• The Respondent provides material relating to the listing of the directions hearing
14 October 2025	• Directions hearing takes place • Matter listed for a further directions hearing on 18 November 2025
10 & 17 November 2025	• The Respondent provides further material relevant to her application to be legally represented at the arbitration hearing
18 November 2025	• A directions hearing takes place • The Arbiter rules that pursuant to s 141(2)(c) of Act, the Respondent is permitted to have legal representation for the purposes of the internal arbitration to ensure the process is conducted fairly • The matter is listed for a final hearing of the Applications on 29 January 2026
17 December 2025	• The Applicants' representative applies for the final hearing date to be changed

23 December 2025	• The Applicants seek leave to be legally represented at the arbitration hearing
22 December 2025	• The Respondent's solicitor advises that she consents to an adjournment of the arbitration hearing
10 February 2026	• A directions hearing takes place • The Arbiter rules that pursuant to s 141(2)(c) of Act, the Applicants are permitted to have legal representation for the purposes of the internal arbitration to ensure the process is conducted fairly • The matter is listed for final arbitration hearing on 18 March 2026
18 March 2026	• The final arbitration hearing takes place