

ARBITRATION PURSUANT TO DIVISION 5 OF PART 6 OF THE

LOCAL GOVERNMENT ACT 2020

Internal Arbitration Process

City of Kingston Council IAP 2026-5

Applicants:	Councillor Georgina Oxley (Mayor) and Councillor Sarah O'Donnell (Deputy Mayor)
Respondent:	Councillor Hadi Saab
Arbiter:	Ms Sarah Fowler
Date:	20 May 2026

DETERMINATION

The Arbiter has determined there is no breach of the relevant standards of conduct, and therefore no findings of misconduct have been made.

The Application is dismissed.

REASONS FOR DECISION

The Application

1. The Application, dated 19 February 2026, alleges the Respondent breached Clauses 2(1) and 4(1)(a) of the Model Councillor Code of Conduct in Schedule 1 of the *Local Government (Governance and Integrity) Regulations 2020* (the “Model Code”) and seeks a finding of misconduct against the Respondent.
2. The Application alleges the Respondent breached Clauses 2(1) and 4(1)(a) of the Model Code by:
 - a. liking a social media post by a constituent dated 30 November 2025 expressing disappointment and frustration at Council’s decision not to continue the operation of the Seasoul Sauna on the Mordialloc foreshore beyond its trial period; and
 - b. sharing a social media story by Soul Sauna Group regarding the same decision (also on 30 November 2025) and overlaying his own comments on the story.
3. The Application appended:
 - a. copies of the social media post and story (as shared); and
 - b. impact statements from both Applicants.
4. The social media post liked by the Respondent (and referred to in paragraph 2(a) above) was by a constituent with the social media handle “kateefoles” and identified in the supporting documents as Kate Foley. I will refer to it as “the Kate Foley post”. It includes a photograph of picket signs resting against what I assume is the Seasoul Sauna and reads as follows.

Today marks the last day for the Seasoul Sauna, our community is devastated and it leaves a gaping hole in many people’s daily lives. When the sauna first opened, many people said “Wow, I can’t believe this is actually on our little beach in Mordialloc”... it was such a contemporary and much needed initiative and Mordy was the pioneer. Allegedly, 1 local resident didn’t like the sauna as it was placed in their unofficial car park on our very public “precious” foreshore. This resident is influential with our council and no doubt also assisted with the most recent council election. We are still waiting for the freedom of information which will be released at some stage but conveniently not before the sauna closes. We’ve spent 6 months fighting this and the Mayor has refused to sit down with the owner EVER during the campaign, There has been NO meeting to discuss the business, the trial results or alternatives, she hasn’t even sent one email... in response to anyone. This elected Mayor has proven ratepayers do not matter and we do not deserve consultation. In fact, it’s on the public record the Mayor and deputy mayor believe the ratepayers have “gone too far!!” with our peaceful campaign. Your vote matters at election time and only then... when you vote in your next council election remember this. Remember the lies we were told from the council officers, Mayor, deputy Mayor and CEO. The closure of Seasoul is a stain on the City of Kingston. Small business and community health and well being means nothing to this ridiculous excuse for a council. Amy Salisbury is an incredible human and her community work will remain in Mordy but her business will thrive anywhere but not in our suburb. Thank you to Tess Law, Hardi Saab, Chris Hill and

Kiralee Ashworth Collette for your public support – to everyone else on council... well... it's not even worth it. @soulsaunagroup @kingstoncouncil.

5. The Applicants allege this post contains “imputations” of corruption and dishonesty by the Council, the Mayor, Deputy Mayor, CEO and Council officers. They cite the Arbiter’s decision in *Iwasaki & Yildiz* (IAP 2025-3) in support of their argument that by liking the post, the Respondent was endorsing these “imputations”.
6. The story the Respondent shared on social media (and referred to in paragraph 2(b) above) was by the Soul Sauna Group. I will refer to it as “the Soul Sauna Group story”. It is a video of the owner and operator of the Seasoul Sauna speaking to a group of supporters and expressing her disappointment that the Seasoul Sauna would not continue. The video was captioned “They promised transparency, no red tape and small business support but we got the opposite! @kingstoncouncil @crgeorginaoxley”. When sharing the story, the Respondent overlaid the following comments.

This whole saga and result has been nothing short of disappointing and despicable. I have really tried to make sure Council was accountable, actually listened to our community and to be fair and reasonable with their decisions. However, at nearly every turn and opportunity, a few of the Councillors and I were shut down.

I'll hopefully be able to say more soon

I am sorry for the process that followed and I wish you luck and success for whatever comes next.

7. The Applicants allege the Respondent’s comments need to be read in conjunction with the original caption that tags the Council and Mayor. They cite a decision made under defamation law (*Fairfax Media Publications Pty Ltd v Voller* (2021)) to support their argument that by sharing the story the Respondent has become the publisher of the whole story, including the original caption.

Arbitration Process

1. The parties attended a Directions Hearing on 13 April 2026. The following directions were made and circulated to the parties in writing on 17 April 2026.
 - a. *The hearing is scheduled for Wednesday 6 May 2026 in the Councillor Lounge at City of Kingston municipal offices.*
 - b. *The Respondent will provide the following information to the Councillor Conduct Officer (for provision to the Arbiter and Applicant) by Friday 1 May 2026:*
 - i. *a written response to the allegations in the Application, including (without limitation) his argument for why the alleged conduct does not constitute a breach of Clauses 2(1) and 4(1)(a) of the Model Councillor Code of Conduct; and*
 - ii. *short written witness statements from any relevant witnesses.*

- c. *Also by Friday 1 May 2026, the Respondent will advise whether he plans to call any witnesses at the hearing and provide their names and contact details to the Councillor Conduct Officer.*
2. On 1 May 2026, the Respondent provided a comprehensive written response to the allegations (“the Response”) and supporting documents including:
 - a. a document titled *Conciliation Opening Statement* (prepared for an unsuccessful mediation between the parties);
 - b. emails relating to both the Seasoul Sauna generally, and the unsuccessful mediation;
 - c. a timeline of events relating to the discontinuing of the Seasoul Sauna;
 - d. a letter from the CEO of Kingston City Council in response to a petition relating to the closure of the Seasoul Sauna; and
 - e. an anonymous witness statement allegedly authored by another Kingston Councillor.
3. On Tuesday 6 May, the Applicants provided a further written response to the Response and a response to the *Conciliation Opening Statement*.
4. The hearing took place on Wednesday 7 May at the Kingston City Council’s municipal offices. In addition to verbal submissions by the Applicants and the Respondent, the Respondent read out a response he had written to the Applicants’ written response to his Response and on the following day, 8 May, submitted that document via email.
5. At the start of the hearing, I informed the parties that I would not be taking the Respondent’s *Conciliation Opening Statement* (or the Applicants response to this Statement) into consideration as it was prepared for a purpose other than the arbitration and included allegations and commentary that was not relevant to the matter before me. I further advised the Respondent that I would also not be taking the anonymous witness statement into consideration during my deliberations as it lacked sufficient detail to enable a response from the Applicants. The Respondent subsequently submitted the same witness statement signed by Councillor Tony Anthanasopoulos on Thursday 8 May and the Applicants provided a response to the witness statement via email on Friday 9 May.
6. On 13 May 2026, the Respondent attempted to submit a response to the Applicants response to the witness statement, however I instructed the Councillor Conduct Officer to inform the parties that I would not be accepting any more submissions.
7. Not including attachments and supplementary documents, the Applicants provided a total of 21 pages of written submissions and the Respondent, 43 pages. Further, the hearing ran for close to 3 hours, with verbal submissions and responses. Given the sheer volume of submissions, I do not intend to summarise them here. However, all have been taken into consideration, and I will refer to each party’s arguments as they apply to my decision below.

FINDINGS AND REASONS

8. Before outlining my findings and reasons, I would like to acknowledge the impact of the community heat surrounding the closure of the Seasoul Sauna on the Applicants. I acknowledge and accept the Applicants were personally impacted by the frustrations of those members of the community who were upset by the decision not to continue the Seasoul Sauna. I also acknowledge that the decision was not made by the Councillors but by the CEO, and that those community frustrations were misdirected towards them as “the face” of Council.
9. Similarly, I acknowledge the Respondent’s disappointment in the outcome regarding the Seasoul Sauna. The emotion associated with this community issue was apparent throughout both parties’ submissions and during the hearing. However, as I pointed out to the parties in the hearing, my role is discrete and limited to deciding whether the two “Acts” of social media activity (to use the terminology of the Application) amounted to a breach of either or both Clause 2(1) and 4(1)(a) of the Model Code by the Respondent.

“Act 1” – “liking” Kate Foley’s post

10. The Respondent did not breach either Clause 2(1) or Clause 4(1)(a) by liking the Kate Foley post on 30 November 2025. As noted above, the Applicants cited *Iwasaki & Yildiz* (IAP 2025-3) to support their argument that a “like” is an endorsement that expresses support for the “ideas, opinions and sentiments expressed” in the post. I disagree with the Applicants’ suggestion that “liking” a post affords as much weight as the original authoring of a post. Rather, I agree with the Respondent’s argument that his liking of the Kate Foley post is distinguishable from the facts in *Iwasaki & Yildiz* for the following reasons.
 - a. In *Iwasaki & Yildiz*, the Councillor in question had authored a derogatory post and “liked” the comments to his post. The Respondent in this matter did not author any of the words in the Kate Foley post.
 - b. The Kate Foley post was long and while it did include *her* views on Council, the Mayor, Deputy Mayor and Council officers, its overarching message was of frustration with the process and disappointment with the outcome. The Respondent shared this overarching sentiment. As he argued, a crude indicator such as “liking” a post cannot suggest the “liker” endorses every word, “imputation” and opinion expressed in a lengthy and passionate post – and certainly not with the same or similar level of intensity as if he had written the comments himself.
 - c. The Respondent was named and tagged in the post. His “liking” of the post was also an acknowledgment of the thanks communicated to him through the post.
11. One of the Respondent’s most compelling arguments was a caution against interpreting the Arbiter’s reasoning in *Iwasaki & Yildiz* as meaning that a “like” of any social media activity signals a blanket endorsement of everything in the post. That interpretation is affording the “like” more power than it can meaningfully convey. Rather, a “like” should be considered within the context of the post and particular facts in which it arises. A “like” can also be an acknowledgement of a tag or “thank you” and/or an endorsement of the overarching sentiment of a post, as I find it was in this matter. By “liking” the post, the

Respondent did not fail to treat the Applicants or Council officers with dignity, fairness, objectivity, courtesy and respect (Clause 2(1)); he was merely signalling his support for the frustrations of a constituent.

12. The Applicants argue that using a handle that identified him as a Councillor at Kingston City Council “amplifies the significance of that endorsement” and implies that he agrees with Kate Foley’s “imputations” of corruption and dishonesty and thereby brings discredit upon Council. Again, I find this assigns more significance to a “like” than is reasonable to infer. Further, the Applicants did not provide any evidence that Council has in fact been discredited by the actions of the Respondent – or indeed, by the decision to discontinue the Seasoul Sauna more broadly. The Applicants provided examples of personal impact when confronted by members of the community on the issue and spoke to a potential for discredit, but no evidence was provided that there have been long term implications for Council beyond some short-lived constituent frustrations and displeasure. By “liking” the post, the Respondent did not “diminish the public’s trust and confidence in the integrity of local government” or “bring discredit upon Council”.

“Act 2” – sharing Soul Sauna Group’s story and adding commentary

13. The Respondent did not breach either Clause 2(1) or Clause 4(1)(a) by sharing Soul Sauna Group’s story and overlaying it with his own commentary. As submitted by the Respondent, his commentary was contained to expressing concern regarding the process and outcome – “the saga and result”, to use his words. He did not personally attack or denigrate the Applicants or Council.
14. I agree with the Respondent that his comments constitute “robust public debate of issues in a democracy” which Clause 5 of the Model Code seeks to protect. His comments expressed disappointment in the outcome of the “saga” and referenced his advocacy for a different outcome and attempts to make the process more transparent. The Model Code does not prohibit expressions of dissent or disagreement between Councillors or require solidarity. In short, there is nothing in the text he added that would constitute a breach of Clause 2(1).
15. The Applicants pointed out that the Mayor was personally tagged in the original caption to the story and that by resharing the story, the Respondent became “the publisher of all text in this post”. As noted above, the Applicants cite a finding in defamation law to support this argument. They allege that the Respondent’s comments read in conjunction with the original caption in the story suggests that the Mayor acted in a “despicable” manner, did not listen to the community and was not fair and reasonable in her decision making – and therefore constituted a personal attack.
16. The Applicants’ argument is a stretch. I do not accept their argument that by resharing the post the Respondent assumed the role of “publisher” of the story. I think any application of the principles or precedents of defamation law to the interpretation of the Model Code is a slippery slope and should be avoided. Regardless, the original caption was generic and focused on the process and outcome. The tagging of the Mayor is not sufficient in my view to make the comments “personal”.

17. Neither the caption in the original story nor the Respondent's additional comments constitute a breach of Clause 2(1). They are not demeaning, abusive, threatening or obscene; they do not intentionally cause or perpetuate stigma, stereotyping, prejudice or aggression; they are not discriminatory and do not vilify nor meet any of the other sub-clauses of Clause 2(1). The original caption and the added comments by the Respondent were public statements of disappointment in a Council decision.
18. For the same reasons, the Respondent did not breach Clause 4(1)(a) by resharing Soul Sauna Group's story. By making a public statement of disappointment in a Council decision he was engaging in legitimate public debate.

Conclusion

19. It is quite confounding how two relatively benign interactions with others' social media activity managed to generate such voluminous written submissions in what started to feel like an endless game of response ping-pong between the parties. It was not in dispute that the closure of the Seasoul Sauna was a passionate community issue. I do not doubt the Applicants "copped" some community outrage for the decision (to use their own word), however the Respondent was not responsible for that. Further, he did not conduct himself in a manner that failed to treat the Applicants with dignity, fairness, objectivity, courtesy and respect or brought discredit upon Council. Rather, he subtly signalled his support for aggrieved members of the community he represents and queried the process and outcome of the decision to close the Seasoul Sauna, as is appropriate in a democracy.
20. It is disappointing this matter was not resolved through mediation and that so much time and effort have been expended on this process. I sincerely hope this decision will enable the Applicants and Respondent to all move on from this grievance now.