

**INTERNAL ARBITRATION PROCESS – City of Greater Bendigo  
(IAP 2025-23)**

**Applicants:** Councillor Andrea Metcalf, Councillor John McIlrath, Councillor Shivali Chatley, Councillor Karen Corr, and Councillor Thomas Prince.

**Respondent:** Councillor Owen Cosgriff

**Arbiter:** Noel Harvey OAM

**DETERMINATION.**

Pursuant to s 147(1) of the Local Government Act 2020, I determine that Cr. Owen Cosgriff has engaged in misconduct.

Allegation 1 is not established and does not constitute a breach of the Model Councillor Code of Conduct.

Allegations 2, 3 and 4 are established and variously constitute breaches of clauses 1, 2, and 4, of the Model Councillor Code of Conduct set out in *Schedule 1 to the Local Government (Governance and Integrity) Regulations 2020*.

**SANCTION.**

Pursuant to section 147(2)(b) of the *Local Government Act 2020*, I direct Cr. Cosgriff to provide an apology to the Council and Council staff in relation to each of the behaviours or actions I have found to be in breach of the *Model Code*.

The apology must be provided in writing and read aloud by Cr Cosgriff at the Council meeting immediately following the meeting at which my determination and reasons are tabled. The apology must acknowledge Cr Cosgriff's responsibility for the conduct and must not include any explanation, qualification, or justification. The apology is to be recorded in the minutes of that meeting.

## The Application

1. The Application dated 25 September 2025 made by the Councillors Andrea Metcalf (appointed representative) John McIlrath, Shivali Chatley, Karen Corr, and Thomas Prince, sought a finding of misconduct against Councillor Owen Cosgriff relating to various statements and actions by the Cr. Cosgriff between 11 August 2025 through to 15 September 2025.
2. The standards of conduct applicable to councillors are prescribed by the *Local Government (Governance and Integrity) Regulations 2020* and are set out in Schedule 1 - Model Councillor Code of Conduct (the *Model Code*) of the regulations.
3. A Directions Hearing was conducted on-line on 20 November 2025. In accordance with the directions made, both parties filed all materials and supporting evidence by 15 December 2025. The Hearing was subsequently held (in-person) in a Bendigo GovHub meeting room on 18 December 2025.
4. The Hearing was attended by Cr. Metcalf and Cr. Cosgriff. Mr. Andrew Cooney, CEO of Bendigo City Council (Council CEO) attended as a witness for relevant parts of the Hearing.

## Allegation 1 - Failure to attend meetings of an external board

5. This allegation concerns the conduct of Cr. Cosgriff in relation to his appointment as Council's representative on the Bendigo Heritage Attractions Board.
6. Cr. Cosgriff was appointed by resolution of Council as its representative on the Bendigo Heritage Attractions Board (BHAB) at the commencement of the Council term. The evidence provided indicates that this was the only external committee or board to which Cr. Cosgriff was appointed.
7. In August 2025, Cr. Metcalf, who was Mayor at that time, became aware through external sources that Cr. Cosgriff had failed to attend three consecutive meetings of BHAB. It was alleged that no apologies had been received by the BHAB in respect of those absences.
8. Cr. Metcalf met with Cr. Cosgriff to raise these concerns. During the discussion, Cr. Cosgriff indicated that he had contacted the Acting Chief Executive Officer of BHAB to arrange a follow-up meeting in order to familiarise himself with matters discussed during his absence. Subsequently, the Acting Chief Executive Officer advised Cr. Metcalf that Cr. Cosgriff did not attend the scheduled follow-up meeting and that no apology had been provided for that absence. Cr. Metcalf stated that she apologised to the Acting Chief Executive Officer on behalf of Council.
9. Cr. Metcalf submitted that the failure to attend multiple meetings, together with the absence of formal apologies or prior notification, raised issues of integrity and governance under the *Model Code*. She characterised this conduct as a breach of clauses 4(1) and 4(1)(a). She further noted that, following these events, the BHAB amended its governance arrangements so that councillors no longer sit as board members, and Council is represented by an officer.
10. In response, Cr. Cosgriff did not dispute that he failed to attend the meetings in question. He stated that he believed BHAB met on a quarterly basis and that this misunderstanding contributed to his non-attendance. He further stated that no concerns were raised with him for several months, which reinforced that belief.
11. Cr. Cosgriff referred to extenuating personal circumstances, including caring responsibilities and the early evening timing of meetings, which he found difficult to attend. He stated that he had communicated these matters to the Chief Executive Officer of BHAB and that he understood a leave of absence had been accepted, although he acknowledged that documentary evidence of this was not included in the material he filed for the Hearing.

12. Cr. Cosgriff also expressed the view that his discussion with Cr. Metcalf had been undertaken candidly and in good faith, and that he had understood the response at the time to be supportive. He further questioned the appropriateness of councillor membership on a skills-based board, suggesting that Council staff representation was sufficient.

### **Finding**

13. It is not in dispute that Cr. Cosgriff failed to attend a number of meetings of the BHAB to which he had been appointed as Council's representative.
14. The question for determination is whether that non-attendance constituted a failure to act with integrity under clause 4(1) of the *Model Code* or was conduct capable of bringing discredit upon Council under clause 4(1)(a).
15. The evidence indicates that Cr. Cosgriff's non-attendance arose from a misunderstanding as to the frequency of Board meetings, together with personal circumstances affecting his capacity to attend meetings held in the early evening. I am satisfied that the conduct was not deliberate, wilful, or undertaken in disregard of known obligations.
16. In view of this, I am not satisfied that the conduct reached the threshold required to constitute a breach of the *Model Code*.

### **Allegation 2 - Conduct at the Council Meeting on 18 August 2025**

17. This matter concerns allegations regarding Cr. Cosgriff's conduct during a confidential Council meeting held on 18 August 2025 which was convened to consider the performance review and remuneration of the Chief Executive Officer.
18. The meeting followed a formal CEO performance review process undertaken with the assistance of an independent consultant. All councillors were afforded the opportunity to participate in that process, and a report was provided for Council's consideration.
19. During the meeting, Cr. Corr made comments to the effect that councillors had been kept informed during the Bendigo Writers Festival (The Festival) and expressed the view that this demonstrated responsiveness by the CEO to earlier feedback about avoiding "surprises". The Festival itself was not the substantive agenda item under consideration.
20. Cr. Metcalf submitted that Cr. Cosgriff, reacted strongly to Cr. Corr's comments and that his conduct during the meeting exceeded the bounds of robust debate.
21. It was alleged that Cr. Cosgriff:
  - Persistently redirected discussion away from the CEO performance review to criticism of the festival.
  - Failed to comply with rulings of the Mayor.
  - Spoke over the Mayor and other councillors in an aggressive manner.
  - Displayed visible anger, including striking the table with his fist.
  - Abruptly left the meeting and slammed the door, returning to slam it again when it did not initially close.
22. It was submitted that several councillors were distressed by this conduct, and simultaneous notes were made following the meeting. At least one councillor reported feeling intimidated and unable to participate fully in the discussion as a result.

23. Cr. Metcalf contended that this behaviour had the capacity to undermine respectful decision-making, compromise councillor wellbeing, and breach the behavioural, integrity, governance, and workplace safety standards set out in clauses 1(e)(i), 2(1)(a), 2(2) and 4(a) of the *Model Code*.
24. Cr. Cosgriff denied that his conduct constituted misconduct or a breach of the *Model Code*.
25. He submitted that:
- He did not initiate the discussion regarding the Writers Festival and responded only after it was raised by another councillor.
  - He was speaking when recognised and was himself interrupted, rather than speaking over others.
  - His tone and persistence reflected the seriousness of governance and leadership issues arising from the Writers Festival controversy.
  - His comments were relevant to assessing CEO performance and leadership.
  - Any forceful expression fell within the scope of robust political debate protected under the clause 5 of the *Model Code*.
26. Cr. Cosgriff disputed aspects of the characterisation of his conduct, including the manner in which he spoke, whether he failed to comply with rulings, and whether his departure from the meeting occurred in the manner alleged.
27. The issue arising from this allegation is whether the conduct that occurred during the meeting, exceeded the limits of robust debate and constituted conduct inconsistent with the standards of behaviour, integrity, governance, and workplace safety required under the *Model Code*.
28. In determining this issue, my concern is not the Bendigo Writers Festival controversy itself, but the manner, and impact of the conduct during the meeting, including its effect on other councillors and on the conduct of Council business.

## Finding

29. I am satisfied that during the course of the 18 August 2025 meeting, Cr. Cosgriff:
- Persisted in pursuing criticism of matters outside the agenda item under consideration, despite repeated attempts by the Mayor to return the discussion to the CEO performance review.
  - Failed to comply with the rulings of the Mayor concerning the orderly conduct of the meeting.
  - Engaged in behaviour that was visibly and audibly forceful, including striking the table and speaking in an elevated and confrontational manner.
  - Left the meeting abruptly, slamming the door.
30. I accept the evidence that this conduct caused distress to other councillors and had the effect of inhibiting participation in the discussion. The notes made by councillors and the consistency of accounts regarding the impact of the conduct support this conclusion.
31. While the *Model Code* expressly recognises and protects robust political debate, that protection is not unlimited. I am satisfied that the manner in which Cr. Cosgriff pursued his concerns, having regard to tone, persistence, and non-compliance with meeting procedures, exceeded what could reasonably be characterised as robust debate.
32. I further find that, irrespective of the strength or sincerity of Cr. Cosgriff's views regarding governance issues, the balance and manner of his conduct were such that they undermined the respectful and orderly conduct of Council business.

33. I find that Cr. Cosgriff's behaviour during the meeting did not acknowledge and support the Mayor in the performance of the role of Mayor and did not respect or comply with the Mayor's rulings as Chair of the meeting and breached clause 1(e)(i) of the *Model Code*. Further, I find that the conduct was disrespectful, demeaning and threatening, constituting a breach of clauses 2(1) and 2(1)(a). I am also satisfied that the behaviour brought discredit upon the Council and breached clause 4(1)(a).

### **Allegation 3 - Conduct relating to briefing regarding lead up to Bendigo Writers Festival**

34. This matter concerns alleged conduct by Cr. Cosgriff during and following a councillor briefing session held on 1 September 2025. During the briefing session, Council officers provided a briefing regarding the circumstances and concerns that had arisen in the lead up to the Bendigo Writers Festival and the actions taken to resolve them. The briefing was provided at Cr. Cosgriff's request.
35. A few days after the briefing session, on 5 September 2025, Cr Cosgriff sent an email to councillors and relevant Council officers (including the Director of Strategy and Growth) in which he questioned and criticised decisions and actions taken by officers in the lead-up to the Festival, including the level of professional skill and care exercised in making those decisions. In particular, the email challenged officers' handling of a complaint from an external organisation that alleged antisemitism. The issues were raised without sensitivity, and the overall tone of the email was disrespectful.
36. After receiving Cr. Cosgriff's email, the Council's Director of Strategy and Growth emailed the Council's CEO (on 5 September 2025) raising concerns regarding the email, including that:
- "The tone and content of the message are inappropriate and appear to question the credibility of our team without justification ..."
- and
- "This communication builds upon a pattern of similar behaviour observed in recent emails and Council briefings. The cumulative effect is contributing to an increasingly unsafe and uncomfortable working environment."
37. On 6 September 2025 the Council CEO, Mr. Andrew Cooney, wrote to the Mayor raising his concerns about Cr Cosgriff's conduct and actions towards Council staff, including his sending the email on 5 September 2025.
38. At the hearing, the CEO gave evidence that the information provided to councillors at the 1 September 2025 briefing session was to be treated as confidential, in accordance with usual practice when senior Council officers share detailed operational material, and it was being provided prior to a formal review process.
39. The CEO indicated that subsequent to the briefing session, Council staff became aware of public commentary and representations attributed to Cr. Cosgriff that appeared to draw directly on information available only through that briefing.
40. The CEO stated Council staff involved in the briefing had worked under high-pressure and in emotionally difficult circumstances. They accepted responsibility for aspects of the Festival outcome; however, the tone, accusations, and commentary associated with Cr. Cosgriff's conduct had caused significant distress to staff, and a reluctance on the part of some staff to participate in Festival related work.
41. The question of whether confidential information has been disclosed is not a matter I am able to consider. "Confidential information" is a defined term under the *Local Government Act 2020* and complaints relating to the disclosure of confidential information are heard and determined by Councillor Conduct Panels, not arbiters conducting internal arbitration processes.

42. Having said this, I note that in his evidence Cr. Cosgriff denied misusing information shared with councillors during the briefing session and stated that his public statements were based on information already known, inferable, or obtained through other means.
43. The issue for determination in relation to this allegation is whether the email sent by Cr Cosgriff on 5 September 2025 breached the *Model Code*. I am satisfied that it did. The accusations and comments concerning Council officers' actions and their handling of the matters raised were disrespectful, and the tone of the email was insensitive. Accordingly, the conduct breached clause 2 of the *Model Code*.

**Allegation 4 - Objectionable language/conduct during Council meeting on 15 September 2025.**

44. This allegation concerns remarks made by Cr. Cosgriff during his ward report to the Council meeting on 15 September 2025. The comments were delivered in a recorded and livestreamed forum and related primarily to matters arising from the Bendigo Writers Festival. I have viewed the relevant section of the meeting recording.
45. Cr. Metcalf alleges that Cr. Cosgriff's conduct during the ward report involved objectionable and inappropriate language, particularly in relation to Council staff. She claimed Cr. Cosgriff exceeded the bounds of robust democratic debate and failed to comply with meeting procedures and expectations of respectful conduct; and his behaviour had the potential to undermine staff wellbeing and public confidence in Council governance.
46. The evidence presented included the public meeting recording, written accounts from councillors present, and two complaints from members of the public received following the meeting.
47. Cr. Metcalf submitted that Cr. Cosgriff used his ward report to revisit matters already dealt with through other Council processes, and the language and tone used were inappropriate for a public Council meeting, particularly where references were made to staff. Cr. Cosgriff maintained that "council staff were hellbent to ruin the festival", it was asserted that this conduct contravened clauses 1(e)(i), 2(1)(a) and 4(a) of the *Model Code*.
48. Councillors present reported feeling concerned about the manner in which the comments were delivered, and the receipt of public complaints indicates the comments were perceived as unacceptable by members of the community. Cr. Metcalf suggested that taken together, the conduct had the capacity to undermine professional standards, staff confidence, and public trust.
49. Cr. Cosgriff submitted that the ward report is a legitimate forum for raising issues of community concern and his remarks were directed at systems, governance and decision-making, not at individual staff members. He claimed the comments were made in the context of robust political debate on matters of public interest and the descriptions of his language and behaviour are overstated.
50. Acknowledging the subject matter was contentious, Cr. Cosgriff claimed his comments were justified in the circumstances.

**Finding**

51. I am satisfied that the allegation concerning Cr. Cosgriff's conduct during the ward report on 15 September 2025 is established.
52. While councillors are entitled to scrutinise decisions and processes the *Model Code* draws a clear distinction between robust criticism of policy and conduct that involves disrespectful or disparaging references to staff. I am satisfied that elements of the ward report crossed that boundary. Clause 5 of the *Model Code*, which protects robust public debate, is not unlimited. In this instance, the manner and tone of the comments, exceeded what could reasonably be characterised as robust debate.

53. I find that Cr. Cosgriff's actions in repeatedly speaking over the mayor and ignoring directions from the mayor during his ward report did not acknowledge and support the Mayor in the performance of the role of Mayor and did not respect or comply with the Mayor's rulings as Chair of the meeting and breached clause 1(e)(i) of the *Model Code*.
54. Further, I find that Cr Cosgriff's statements that "these choices have done great reputational harm to the city as they have placed it firmly in the company of war criminals like Benjamin Netanyahu," and that he did not know why the city had "decided, without consultation of councillors, to hitch themselves to an extremist definition of anti-Semitism, which would label Amnesty International an anti-Semitic organisation" implied that Council was acting at the direction of others rather than exercising independent judgment.
55. These remarks were disrespectful, in breach of clause 2(1) of the *Model Code*, and brought discredit upon the Council, in breach of clause 4(1)(a).

### **Sanction**

56. Pursuant to section 147(2)(b) of the *Local Government Act 2020*, I direct Cr. Cosgriff to provide an apology to the Council and Council staff in relation to each of the behaviours or actions I have found to be in breach of the *Model Code*.
57. The apology must be provided in writing and read aloud by Cr Cosgriff at the Council meeting following the Council meeting at which my determination and reasons for decision in this matter are tabled. The apology must acknowledge Cr Cosgriff's responsibility for the behaviours and actions and must not be accompanied by any explanation, qualification, or justification.
58. In determining the sanction, I have considered the seriousness of the breaches in their full context. While the conduct did breach the *Model Code*, it falls at the lower end of the scale of severity. Councillors are entitled to advocate strongly on behalf of their communities, but this must always be done respectfully, particularly where Council staff are involved, given the inherent power imbalance.
59. Although Cr Cosgriff failed to show appropriate respect for the office of the Mayor, the conduct appears to have been driven by passion and frustration rather than a deliberate disregard for the *Model Code*. In these circumstances, a public apology is a proportionate and appropriate sanction.

### **Procedural Fairness - Respondent's Submission**

60. In a document submitted prior to the hearing Cr. Cosgriff raised broader concerns relating to procedural fairness in the circumstances giving rise to this application. Cr. Cosgriff was given the opportunity to raise his concerns. The matters were not advanced as responses to any particular allegation but were provided as a background submission.
61. Cr. Cosgriff put forward that certain issues had been raised with him in an informal or pastoral context, and that he was not aware at the time that those matters would later form part of a formal misconduct application.
62. He also raised concerns regarding his opportunity to participate fully in relevant processes, the availability of certain records, and the reference to possible sanctions prior to any finding being made.
63. Having reviewed Cr. Cosgriff's comments, I am not satisfied that they have any relevance to the hearing of this matter. I am satisfied that the hearing was conducted in accordance with the requirements of the *Local Government Act 2020*, including the obligation to act with as little formality as possible while ensuring that each party was afforded a reasonable opportunity to be heard.

64. I am also satisfied that my determinations have been made impartially, that no adverse finding has been made other than on the basis of the information provided to me. My consideration has been confined to whether the alleged conduct constitutes a breach of the standards of conduct set out in the *Model Code*.

**Noel Harey OAM**  
**Arbiter**  
**4 February 2026**