

COUNCILLOR CONDUCT PANEL

In the matter of an Application by Councillor Steven Hughes
concerning Councillor Kris Bolam
of the Frankston City Council

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

Applicant: Councillor Steven Hughes
Respondent: Councillor Kris Bolam
Date of Hearing: 27 May 2022
Panel Members: Mrs Jo-Anne Mazzeo (Chairperson)
Mrs Helen Buckingham (OAM)

DETERMINATION

Pursuant to section 167 (1)(d) of the *Local Government Act 2020* the Councillor Conduct Panel dismisses the Application.

Jo-Anne Mazzeo
Chairperson

Helen Buckingham
Panel Member

29 July 2022

STATEMENT OF REASONS FOR DECISION

The Application

1. The Application dated 1 December 2021 was made by the applicant seeking a finding of serious misconduct against the respondent relating to multiple allegations which are summarised below.
2. The grounds of the Application were listed as "bullying by a Councillor of another Councillor or a member of Council staff", in that the respondent has allegedly "...repeatedly behaved in an intimidating, harassing, offensive and disrespectful manner" towards the applicant, which has subsequently affected his mental and physical health and "...constitutes bullying".
3. The Application related to the following allegations:
 - (a) Allegation 1: The response by Cr Bolam to a social media post made by Cr Hughes on 24 November 2020
 - (b) Allegation 2: The response by Cr Bolam to a social media post made by Cr Hughes on 30 January 2021
 - (c) Allegation 3: Cr Bolam's conduct during the Ordinary Meeting of Council of 15 February 2021
 - (d) Allegation 4: Cr Bolam's comments in the Bayside News on 24 February 2021
 - (e) Allegation 5: The conduct of Cr Bolam in relation to the Arbitration process brought against Cr Hughes on 30 June 2021
 - (f) Allegation 6: The conduct of Cr Bolam in his capacity as Mayor at the Ordinary Meeting of 10 May 2021
 - (g) Allegation 7: The conduct of Cr Bolam in his capacity as Mayor in phone calls to Cr Hughes between 22-25 May 2021
 - (h) Allegation 8: The conduct of Cr Bolam at the Briefing Meeting on 26 July 2021
 - (i) Allegation 9: The conduct of Cr Bolam at the Briefing Meeting of 2 August 2021.

Evidence provided at hearing

4. Written evidence was submitted by both the applicant and the respondent prior to the hearing, including witness statements made by witnesses who gave evidence at the hearing.
5. Oral evidence was given at the hearing by both the applicant and the respondent.

6. Oral evidence was also provided by the following individuals:
 - i. Councillor Brad Hill
 - ii. Councillor Claire Harvey
 - iii. Deputy Mayor Suzette Taylor
7. Supplementary information was provided by both parties after the hearing supporting evidence submitted to the Panel prior to and during the Councillor Conduct Panel hearing.

The jurisdiction of the Panel in relation to this Application

8. Section 154 of the *Local Government Act 2020* (the Act) provides that a Panel may hear an Application that alleges serious misconduct by a Councillor.
9. Pursuant to s167 of the Act a Panel may determine whether a Councillor has engaged in misconduct (by way of breaching one or more of the prescribed standards of conduct) or serious misconduct.

Evidence of the Applicant

10. The applicant provided the Panel with an overview of the events that led to the Application being made. He did this by way of submission of written material and oral evidence given at the Panel Hearing.
11. In the Application, the applicant alleged that between November 2020 and August 2021 the respondent had repeatedly behaved in an intimidating, harassing, offensive and disrespectful manner. Furthermore, the applicant submitted that the behaviour of the respondent has adversely affected his physical and mental health and that the actions constitute bullying as defined in the Act.
12. The applicant told the Panel that the actions of the respondent were threatening in nature and so extreme that they adversely affected his self-esteem and confidence.
13. The applicant submitted that Council was aware of the alleged bullying and had not "acted against, or called out" the respondents' behaviour, therefore "leaving the door open for the bullying to continue unabated."
14. The applicant then provided the Panel with specific information relating to each of the incidents of alleged bullying.

Allegation 1:

15. The applicant submitted that the alleged bullying commenced a fortnight after he was sworn into office and was a direct result of social media posts the applicant made regarding the financial performance of Frankston City Council. Within days of posting his social media posts on Facebook, the respondent called the applicant and "demanded" he remove the posts and "threatened that he had the authority to remove the post" or the applicant could face potential disciplinary measures.
16. The applicant submitted that he "stood his ground" and did not remove the social media posts despite being a "...novice councillor who was unsure of his rights". When questioned by the Panel, the applicant stated that his social media posts were factual in nature and in line with his electoral campaign promises and that eventually the respondent "backed down". The applicant submitted that the interactions between himself and the respondent in relation to this issue left him feeling threatened and intimidated and "set the tone" for the behaviour that was to continue.
17. When questioned by the Panel about the respondent's approach towards other councillors using social media, the applicant stated that other councillors have posted to social media on many occasions and have not been asked to remove their respective posts. The applicant provided the panel with dates of posts made by other councillors that were not subject to the same level of scrutiny by the respondent.
18. The applicant did concede at the hearing that he has made numerous social media posts about non-financial topics and these posts were not subject to any scrutiny by the respondent.

Allegation 2:

19. This allegation related to interactions that occurred between the applicant and the respondent after the applicant made a social media post to Facebook on 30 January 2021 where the applicant posted his views about two decisions of Council (which he voted against) relating to Council spending.
20. The applicant submitted that he was accused of deliberately misleading Council and the public even though he "stated the facts as they were presented" and that this resulted in him being issued with a letter from the Chief Executive Officer and the respondent in his capacity as Mayor at the time. The matter was also raised by the respondent in his capacity as Mayor at a Briefing Meeting and all councillors were asked to discuss how the social media posts of the applicant impacted them.
21. In response to questions from the Panel, the applicant submitted that this approach by the respondent in his capacity as Mayor was distinctly different to how other councillors were treated when they communicated via social media.

22. The applicant went on to submit that both the respondent (in his capacity as Mayor at the time) and the Chief executive Officer should have had discussions regarding the applicant's conduct in private. The applicant told the Panel that this approach left him feeling attacked and disenfranchised from the other councillors and the Frankston community.

Allegation 3:

23. This allegation was in relation to the conduct of the respondent at the Ordinary Council Meeting of 15 February 2021 where the applicant alleged that the respondent "...made a Mayoral speech" about social media posts made by the applicant on 9 February 2021 regarding updates to the Frankston City Council Code of Conduct and Communications Policies. The applicant submitted that the respondent "spent over nine minutes discussing my post; attacking me and my motives in a public forum."
24. The applicant told the Panel that this was first time the respondent had discussed any problems with the particular social media posts rather than discussing them with him privately, and that in his 'speech' the respondent named all eight other councillors as providing amazing contributions to Council, listing them all by name and excluding only that of the applicant.
25. The applicant submitted that this behaviour, and the denial of him being given a right of reply made him feel embarrassed and humiliated. When questioned by the Panel about this issue, the applicant said there is a stark contrast between the way the respondent treated him compared to how the respondent himself has been treated by Council for his own actions.

Allegation 4:

26. Allegation 4 relates to comments made by the respondent on 24 February 2021 in the Bayside News. The applicant provided context by explaining that at the Ordinary Council Meeting of 15 February 2021 he and Cr Liam Hughes brought forward a Notice of Motion to Council regarding a proposed reduction in rates for residents in the 2021-2022 financial year. The Notice of Motion was not successful as it did not get the required support at Council.
27. The applicant submitted that the respondent "went on record in the local community newspaper, the Bayside News, discussing why he had voted against the rate reduction for Frankston residents" and that he claimed that the applicants Notice of Motion "...would decimate community services and listed the departments that would be impacted..." in a way that was misrepresenting what the Notice of Motion was seeking to achieve.
28. When questioned by the Panel about this incident in the context of a bullying allegation, the applicant submitted that the actions of the respondent in this instance "bring disrepute" upon his reputation, particularly when he ran for Council on a platform of reducing rates and improving services.

Allegation 5:

29. Allegation 5 relates to the conduct of the respondent during an Arbitration brought by Council against the applicant in this matter, where the respondent in his role as Mayor was the applicant's representative during the Arbitration process.
30. In his Application, the applicant stated that within hours of completing the Arbitration hearing the respondent sent an email to all councillors (including the applicant) and the Frankston City Council Chief Executive Officer "mocking the performance" of the applicant during the process. The Applicant submitted that the Arbitration process was "meant to be confidential" and that the respondent used the process to further ostracise the applicant from the councillor group with his disrespectful attitude and false representations regarding attempts to meet and resolve the matter prior to commencing an Arbitration process.
31. The applicant submitted that no informal attempts to resolve the matter took place, that the respondent fabricated dates where he attempted to discuss the matter with the applicant and ultimately victimised him by denying him his right to a fair process.

Allegation 6:

32. Allegation 6 relates to the conduct of the respondent at the Ordinary Council Meeting of 10 May 2021 during a discussion regarding the Peninsula Leisure Financial Reports. The applicant alleged that the respondent bullied him whilst acting in his capacity as Mayor during this meeting by instructing the applicant to look directly at the respondent when speaking, which the applicant submitted is not a requirement of the relevant Governance Rules. Furthermore, the applicant told the Panel that the respondent had stated during the meeting that the respondent was being "overly adversarial", casting hurtful aspersions on him in a demeaning way.

Allegation 7:

33. Allegation 7 relates to numerous phone calls made by the respondent (whilst he was the Mayor) to the applicant between 22 and 25 July 2021. The applicant told the Panel that the respondent had called him on numerous occasions seeking support for an upcoming Mayoral election. The applicant told the Panel the request was "most unusual", particularly in the context of the Arbitration process that was also underway.
34. The applicant ultimately declined to provide the requested support and questioned whether the respondent would have continued to treat him in such a negative manner had he agreed to provide support for his Mayoral campaign.

Allegation 8:

35. Allegation 8 relates to the conduct of the respondent at the Briefing Meeting of 26 July 2021. In his Application, the applicant has alleged that during this meeting (where there were external invited guests in attendance) the Mayor interjected whilst he was speaking and then placed the applicant on mute so he could no longer talk or ask questions of the invited guests. At the Panel hearing the applicant told the Panel that this behaviour resulted in him feeling humiliated and angry as he was "singled out for asking a question that Frankston residents wanted answered" and that the respondent continued to treat him like a "second class councillor".

Allegation 9:

36. Allegation 9 relates to the conduct of the respondent at the Briefing Meeting of 2 August 2021 where the respondent, in his capacity as Mayor, proposed a change to the reporting periods for councillor attendance at Briefings and meetings from an annual report to a quarterly report.

37. The applicant submitted that this proposed change to reporting periods was a targeted attack on him as he does not attend all Briefings due to work commitments. He further submitted that this proposed change was an attempt to highlight his missed attendance on a more regular basis, embarrassing him in the eyes of the community and "bringing disrepute on his name".

Evidence of the Respondent

38. The respondent provided a significant amount of written and audio visual material in response to the allegations and also provided oral evidence at the Panel Hearing. In addition, he relied on the oral evidence given by three of his fellow councillors whom he called as witnesses at the Hearing.

39. All three of the respondents' witnesses gave evidence consistent with the respondents' own evidence. They all shared the view that:

- (a) the respondent had not acted in a way that amounts to bullying pursuant to the Act;
- (b) the applicant has an adversarial and combative approach to Council and fellow councillors in relation to certain matters; and
- (c) the applicant's behaviour is deeply troubling to the majority of his fellow councillors and can be described as disrespectful, inflammatory, aggressive and at times intimidating.

40. As a general response to the Application, the respondent submitted that the allegations were manifestly incorrect, that he had not bullied the applicant and that whilst he is not perfect, he "prides himself on professional conduct and treating others with respect."

41. The respondent also provided the Panel with contextual information regarding Frankston City Council more broadly and the role of the Mayor in that municipality given the challenges Council had faced in the recent past, with particular emphasis on the need to ensure that any councillor acting in the role of Mayor have a "steadfast devotion to defending and preserving the principles of good governance."
42. In relation to all nine allegations, the respondent submitted that every decision he made and every action he took in relation to the applicant was justified and supported by internal advice from Council, historical precedent and existing laws, policies and standards.
43. Furthermore, the respondent submitted that the Application was motivated by (among other things):
 - (a) a vendetta against the respondent because of his vigilance in performing the duties of Mayor;
 - (b) residual retribution for the outcome of the Arbitration process by Council against the applicant (for which the respondent was the Council's appointed representative); and
 - (c) an attempt to shield the applicant from further disciplinary action against him for inappropriate conduct.
44. In response to questions from the Panel, the respondent acknowledged that he was at times "direct and curt" with the applicant, and that it was always in response to the conduct of the applicant which had been "unbecoming of community expectation" and not in compliance with the Code of Conduct and other governing rules and regulations.
45. The respondent then went on to speak to each allegation in turn.

Allegation 1:

46. The respondent confirmed that there were telephone calls between himself and the applicant regarding this allegation, but strongly denied that his conduct was in any way threatening or unreasonable.
47. The discussions took place as a result of concerns raised by both other councillors and also the Chief Financial Officer of the Frankston City Council, who were concerned with the inaccuracy of the relevant social media post.
48. The respondent also confirmed that there was a joint letter written to the applicant regarding this incident from the Chief Executive Officer and the respondent in his capacity as Mayor. The respondent submitted that whilst the applicant may not have liked or agreed with the content of the letter, stating the factual position regarding approaches to disciplinary action does not amount to threatening or unreasonable behaviour.

49. The respondent also rejected the submission from the applicant that he treated him differently to other councillors, stating that the fundamental difference was the nature of the social media posts the applicant was making and the subsequent complaints regarding them meant the respondent had to address them in his capacity as Mayor due the nature of the posts and the likely breaches of the Code of Conduct that resulted from them being posted. The social media posts of other councillors had not generated the same unrest or breached the Code of Conduct.

Allegation 2:

50. In response to allegation 2, the respondent drew the Panel's attention to the duty of the Mayor pursuant to both the Act and the Code of Conduct, in particular the duty to ensure councillors understand *their* role and act in accordance with the Code of Conduct.
51. The respondent submitted that it was not unreasonable for him to raise a discussion at a Briefing Meeting where *all* councillors (including the applicant) were able to "...provide their opinion or outline how they have been affected by material being placed in the public domain."
52. The respondent went on to tell the Panel (and subsequently provide written evidence to support the claim) that he made numerous attempts to discuss various matters with the applicant, however the applicant did not avail himself of the opportunity.

Allegation 3:

53. In response to allegation 3, the respondent submitted that the Mayoral statement he made at the Ordinary Council Meeting of 15 February 2021 was delivered after seeking advice from Council, which included external legal advice from Maddocks Lawyers. It was also delivered following the unsuccessful group attempt at discussing the issues in a Briefing Meeting (refer to allegation 2 above) and attempts "to sway the applicant to comply with Council policies and procedures relative to social media."
54. In response to questions from the Panel, the respondent stated that his actions at the meeting in question were a "...final attempt to raise the issue with Cr Hughes and to seek some self-reflection about his social media posts and the harm they could cause, without necessitating the commencement of disciplinary proceedings." It was in this context that the respondent submitted that his actions in such a public forum were both reasonable and within the role of the Mayor espoused in the Act.

Allegation 4:

55. The respondent submitted that his conduct in providing a statement to the Bayside news was consistent with his role as Mayor at the time – in that he was the official spokesperson for Council. The respondent provided the Panel with copies of the relevant legislative provisions and Code of Conduct clauses to support this contention. The respondent further submitted that the statement he did make was representative of the views and consensus of Council, where the elected Council had voted to reject the motion raised by the applicant.

Allegation 5:

56. The respondent submitted that his role in the Arbitration Hearing process was as the applicant's appointed representative because he was the Mayor at the time of the commencement of the process and it made sense that the Mayor was Council's representative given the Application for Arbitration was made by the whole of Council.

57. The respondent explained that at the completion of the Arbitration the Arbiter indicated his decision would be some weeks away, and as such thought it prudent to update his fellow councillors as they too were applicants. The respondent submitted that his email was an overview of the session without revealing the specific details of what was said, and he included the applicant to ensure full transparency. Furthermore, an offer of employee assistance was provided to all councillors due to the ongoing distress certain councillors were feeling because of the applicant's conduct.

58. In relation to the allegations that the respondent did not try and informally resolve matters before the Arbitration, the respondent submitted that the office of the Mayor did try to organise meetings between the applicant and the respondent, but the applicant either did not respond, declined or attempted to re-schedule the meetings. The respondent also tried to catch up informally with the applicant, but he did not respond to these offers either. The respondent provided evidence to the Panel to this effect in emails dated Friday, 9 April 2021 and Monday, 24 May 2021.

Allegation 6:

59. In response to allegation 6, the respondent submitted that his conduct at the Ordinary Meeting of 10 May 2021 was:

- (a) in compliance with the Governance Rules;
- (b) consistent with advice from Council's Governance team obtained during a break in the Meeting to clarify this specific issue;
- (c) consistent with approaches of previous Frankston City Council Mayors;
- (d) discussed and explained further with the applicant directly after the Ordinary Council Meeting at the Councillor Debrief session.

60. The Respondent also submitted video footage of both the Ordinary Council Meeting and the Councillor Debrief that occurred immediately after the conclusion of the Ordinary Council Meeting. The respondent drew the Panel's attention to the body language and hand gestures of the applicant at the Ordinary Council Meeting which the respondent described as "hyperbolic and unnecessary". In response to questions from the Panel, the respondent submitted that he requested the applicant direct his discussion to him in his capacity as Mayor so as to avoid other councillors feeling threatened, intimidated or bullied by the applicant's approach and apparent grand standing.

Allegation 7:

61. The respondent agreed with the applicant that a phone call took place on 25 June 2021 after several attempts were made by the respondent to reach the applicant, and that this conversation included discussion regarding the upcoming Mayoral election. The respondent submitted that the conversation was respectful and uneventful and in no way amounted to bullying.

Allegation 8:

62. In response to allegation 8, the respondent submitted that his behaviour was again consistent with the Governance Rules and the Code of Conduct, and that it was required due to the unfortunate behaviour of the applicant who refused to stop asking a particular line of questions that were making the external guests visibly uncomfortable and reluctant to answer.

63. In response to questions from the Panel, the respondent submitted that he had the following options available to him to manage the conduct of the applicant at the time:

- (a) allow him to continue asking unfair and unwelcomed questions of the external guests;
- (b) mute the applicant;
- (c) eject the applicant from the session;
- (d) issue the applicant with a monetary fine; or
- (e) any combination of options (b), (c) and (d) above.

64. The respondent also noted that the applicant is not the only person he was muting during a Meeting, and that previous Mayors had used this same approach in virtual Meetings they had chaired.

65. The respondent went on to provide the Panel with an email exchange between himself and the external guests where he was thanked for his intervention and management of the incident.

Allegation 9:

66. In response to allegation 9, the respondent agreed that reporting of councillor attendance at both Briefing Meetings and Ordinary Council Meetings and the frequency of such attendance had been modified, with reporting quarterly rather than annually.
67. The respondent submitted that the reporting change had nothing to do with the applicant and was actually a good governance measure, and that it was also consistent with the approach taken by Council in previous Council terms.
68. The respondent denied this conduct in any way constituted bullying.

Findings of the Panel

69. Pursuant to s167(1)(d) of the Act the Panel dismissed the Application.

Reasons for the Panel's Decision

70. The Panel accepted the submission of the respondent that his actions towards the applicant during the period of November 2020 to August 2021 were consistent with the role and functions required of him in his capacity as Mayor, and that none of his conduct during that period fell within the definition of bullying in the Act.
71. The Panel was provided with written and visually recorded evidence from the respondent demonstrating a consistent and fair approach to the applicant that included affording him the same approach, opportunities and experiences as other councillors including:
 - (a) media opportunities;
 - (b) offers of professional development;
 - (c) rulings on Points of Order in his favour; and
 - (d) when in disagreement with the applicant, explaining his position or view in an appropriate and respectful manner.
72. In relation to allegation 1, the Panel was not provided with any evidence by the applicant to demonstrate bullying behaviour by the respondent. Both parties agreed that a phone call took place, and a letter was sent to the applicant jointly from the Chief Executive Officer and the respondent in his capacity as Mayor - however the applicant failed to provide the Panel with any evidence to demonstrate that the conduct of the respondent was threatening or unreasonable in any way.
73. In relation to allegation 2 and the respondent's approach to dealing with the applicant's social media posts, the Panel was again of the view that the behaviour of the respondent was not only appropriate, but a sound attempt at trying to work as a team and resolve matters as a councillor group. The Panel was not satisfied that the approach of the respondent amounted to bullying in any way.

74. In relation to allegation 3 and in particular with regard to the respondent's conduct in all of the meetings subject to this Application, the Panel was satisfied that the respondent acted in a reasonable manner consistent with the duties bestowed upon him in the role of Mayor at that point in time. The Panel watched the Ordinary Council Meeting of 15 February 2021 and noted the respondent to have been measured, appropriately engaged, respectful and fair in his approach.
75. In relation to allegation 4, the Panel reviewed the statement by the respondent in the Bayside News and was satisfied that the statement was in compliance with the relevant Code of Conduct requirements and in no way constituted bullying behaviour. As the elected spokesperson of Council, it is the Mayor's role to speak to the media about Council business and decisions. It is the Mayor's role to clarify and inform as the respondent did in this instance.
76. The Panel was satisfied that there had been no inappropriate conduct by the respondent regarding his participation in the Arbitration process that formed part of allegation 5. As the Application for Arbitration was made by the whole of Council, his fellow councillors were entitled to be privy to any information relevant to the process. The Panel does note it would have been useful to avoid providing commentary on the performance of the parties to an Arbitration during any such update given by the respondent in this current matter, who was the applicant's appointed representative in the Arbitration.
77. The Panel also accepted the written evidence submitted by the respondent demonstrating at least 3 separate attempts to meet with the applicant to discuss his conduct (emails dated 9 April 2021, 20 May 2021 and 24 May 2021).
78. In relation to allegation 6, the Panel accepted the evidence of the respondent that he sought advice from Council Officers (specifically the governance team) regarding his request to have the applicant direct his debate through him as the meeting Chair, and that this approach was consistent with his authority pursuant to the relevant Governance Rules. The respondent was also able to provide supporting evidence confirming he had on occasions asked numerous other councillors to direct their debate through him as the Mayor.
79. The Panel had the benefit of reviewing the video footage of the Ordinary Meetings in question as part of the Application. The Panel's direct observation was that the respondent acted in a calm, respectful and diligent manner during all meetings observed by the Panel, noting that his treatment of all councillors was consistent and appropriate and in compliance with his duties as Mayor at the time.
80. In relation to allegation 7, there was agreement between the parties that these phone calls occurred, but the applicant was not able to provide any evidence to support an allegation of bullying.

81. In relation to allegation 8, the Panel accepted the evidence of the respondent that his conduct at the Briefing Meeting of 26 July 2021 amounted to reasonable management of the meeting process and councillor conduct. The Panel directly observed the behaviour in question and noted the respondent made attempts to stop the applicant in his line of questioning of the external invited guests, and the applicant ignored this request - leaving the respondent no option but to make use of the mute function in the virtual meeting.
82. In relation to allegation 9, the Panel accepted the evidence of the respondent that quarterly reporting on councillor attendance at meetings is a practice of good governance and does not amount to unreasonable or bullying behaviour.
83. The Panel examined the conduct of the respondent in the context of the definition of bullying as outlined in the Act. Based on the definition of bullying in the Act, the Panel was not satisfied that the applicant provided evidence of repeated unreasonable conduct and behaviour towards another Councillor or member of Council staff that creates a risk to the health and safety of that other Councillor or member of Council staff.
84. During the hearing the applicant showed a lack of awareness of the impact of his actions and a lack of insight into his behaviour and the impact it has on others around him. He used the Panel hearing process as an opportunity to attempt to justify his own conduct and approach and in doing so (and as stated directly above) failed to provide any evidence of conduct by the respondent that amounted to bullying as defined in the Act.
85. The Panel was concerned with the applicant's lack of awareness of various key components of the role of a councillor. The applicant commenced his criticism of Council by his own admission two weeks after he was elected. He stated he "...was a novice councillor". Individual councillors are elected not only to represent their ward but also the entire municipality. They are jointly responsible for the finances and capital works and planning decisions amongst other things. The decision making process is a team effort. The Panel notes that when first elected to Council, it is often difficult and daunting to gain an understanding of how a large municipality is managed. It is extremely important for all councillors but particularly new councillors, to attend meetings, briefing sessions and participate in committee meetings where management is discussed in more detail. These meetings are an opportunity to interact with fellow councillors and Council Officers to gain a greater understanding of the complexities of managing a large municipality. Knowledge gained at these meeting allows Council as a whole to function more efficiently.

86. The role of a councillor as a conduit of community expectations is challenging and above all else a difficult balancing act between the community's expectations and the reality of financially responsible management in a large municipality where often these expectations are unrealistic. Like Council, the Panel encourages councillors, and in particular, new councillors to participate in professional development that broadens their understanding of their role as a councillor.
87. The applicant was zealous about his commitment to represent what he sees as the desires and expectations of the Frankston community. Good governance is best served when the whole of Council jointly makes decisions for the management and future of the Frankston Community.

APPENDIX: Definitions

Misconduct is defined in section 3 of the Act as:

“misconduct by a Councillor means any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct”

Serious misconduct by a Councillor is defined in section 3 of the Act and means any of the following—

- “(a) the failure by a Councillor to comply with the Council's internal arbitration process;
- (b) the failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147;
- (c) the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor;
- (d) the failure of a Councillor to comply with a direction of a Councillor Conduct Panel;
- (e) continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b);
- (f) bullying by a Councillor of another Councillor or a member of Council staff;
- (g) conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff;
- (h) the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information;
- (i) conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff;
- (j) the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision making process when required to do so in accordance with this Act”

Bullying is defined in section 3 of the Act as:

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

The standards of conduct are defined in Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020 as:

1 Treatment of others

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor—

- (a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the **Equal Opportunity Act 2010**; and
- (b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and
- (c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- (d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

2 Performing the role of Councillor

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor—

- (a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- (b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- (c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

3 Compliance with good governance measures

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following—

- (a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- (b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;
- (c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;
- (d) any directions of the Minister issued under section 175 of the Act.

4 Councillor must not discredit or mislead Council or public

- (1) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
- (2) In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

5 Standards do not limit robust political debate

Nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.”