

**ARBITRATION PURSUANT TO DIVISION 5 OF PART 6 OF THE
LOCAL GOVERNMENT ACT 2020**

**Internal Arbitration Process – City of Moonee Valley
(IAP 2025-26)**

Applicants: Councillor John Sipek

Respondent: Councillor Ava Adams

Arbiter: Yehudi Blacher

DECISION AND STATEMENT OF REASONS

Background

1. The applicant in this matter is Cr. John Sipek.
2. The respondent is Cr. Ava Adams.
3. On 1 December 2025 Cr. Sipek made an application under s 143 of the *Local Government Act 2020* for an internal arbitration process to make a finding of misconduct against Cr. Adam in relation to comments made by Cr Adams at a Council Briefing 9 September 2025.
4. Specifically, Cr. Sipek stated that, at the conclusion of the compulsory part of the Briefing, he left the meeting because of the need to pack before catching an early morning flight the next day. Cr. Sipek alleged that after he had exited the briefing room and in earshot of a number of council officers Cr. Adams “yelled at him loudly and aggressively” saying “don’t be such a baby and get back into the room.” After saying to Cr. Adams that he needed to leave, Cr. Sipek stated that Cr Adams further raised her voice and again yelled “Stop being such a baby.”

5. Cr. Sipek's application alleged that, in making these statements, Cr. Adams contravened numerous clauses of the Model Councillor Code of Conduct. These included:
 - Clause 2(1)(a) Demeaning, abusive and threatening behaviour.
 - Clause 2(1)(b) Aggressive behaviour that causes stigma or prejudice
 - Clause 2(2) Health and safety obligations
 - Clause 3 Good governance obligations
 - Clause 4(1)(a) Behaviour bringing discredit on the Council
 - Clause 4(1)(b) Misleading or inconsistent statements
6. Cr. Sipek acknowledged that the following day Cr. Adams sent him an email which said "I've been reflecting on what transpired last night and I want you to know that it was never my intention to upset you. I sincerely apologise. Ava"
7. In his application Cr. Sipek stated that he rejected this apology because he did not think it was a sincere way to deal with the matter.

Directions Hearing

8. A Directions Hearing on this complaint was held on 23 December 2025. At the Hearing the Arbiter explained to both Councillors the process going forward. The Arbiter explained, inter alia, that Cr. Adams could provide him with a submission responding to Cr. Sipek's complaint. The Arbiter also advised Cr. Sipek that he could submit additional information on condition that did not go beyond the specifics of the complaint. At the Hearing Cr. Adams said she was sorry for what she had said and hoped that Cr. Sipek would accept her apology. The Arbiter indicated that, if Cr. Adams apologised and the apology was accepted by Cr. Sipek there would be no need for this matter to proceed further. Cr. Sipek stated that he wanted the matter to proceed to a full hearing.

Cr Adams submission

9. In her submission to the arbiter Cr. Adams acknowledged that she said the words attributed to her by Cr. Sipek. She indicated that she was

profoundly sorry to have used those words and had sought to apologise on numerous occasions.

10. In her submission Cr. Adams included a copy of an email she sent to Cr. Sipek the day after the Directions Hearing. It stated as follows:

“Dear John

I have sought advice from (Council officer) if it is appropriate to email you directly whilst we are in a formal process and she said it was appropriate to do so.

I heard yesterday from you the hurt that was caused by my comment to you in front of people you respect and that you would like a public apology. I sincerely apologise for saying what I did and the hurt it has caused. I have learnt from this and will do better. I am sorry and truly remorseful and I genuinely want to make things right with you so we can continue to work together collegiately.

As this is the first time you have requested a public apology and being mindful of your boundaries and privacy and not wanting to cause more hurt, I’d like to extend an offer to send a written apology to you and all that were present at the time (council officers and external visitor). If this is not satisfactory, I’d be grateful if you could detail the form of public apology that would provide resolution. Please let me know if you accept my offer. I wish you and your family a wonderful and happy Christmas. Kind regards Ava”

11. Cr. Sipek did not respond to that email.

Cr Sipek’s submission

12. In his submission Cr. Sipek substantially repeated the points he had outlined in his application. However, in reference to the Mediation and Conciliation processes outlined below he disputed that he had never requested an apology. He also indicated that in the three months which had passed since the incident Cr. Adams had numerous opportunities to speak directly to him or write a proper apology.

Internal actions by the Council

13. The 9 September 2025 incident was formally reported to the Council by Cr. Samantha Bryne. The incident was comprehensively assessed by the relevant Council senior officer. In accordance with the Council's requirements, there were attempts to undertake mediation and conciliation processes with the Councillors, neither of which were successful.

Hearing of the Complaint

14. The Hearing of the complaint was held on 11 February 2026. Before the Hearing formally began the Arbiter advised the Councillors that, under the relevant legislation, the Arbiter would prepare a report to the Council which would need to be included in the minutes of the next Council meeting after the receipt of the report. As such the Arbiter's report would be public.
15. At the Hearing the Arbiter sought confirmation from the Councillors regarding the relevant facts of the matter.
 - i) It was agreed that Cr. Adams had said the words attributed to her in Cr. Sipek's application.
 - ii) It was also agreed that Cr. Adams had sought to apologise on, a number of occasions; the first was by email the day after the incident and the most recent after the Directions Hearing for this application. All these apologies were not accepted by Cr. Sipek.
16. In a document provided to the Arbiter by the Council on the unsuccessful conciliation process, Cr. Sipek stated the following:- "My clear intention throughout the process has been to seek a *restorative outcome* – in the true sense of the word. As is well established in restorative practice and law, the objective is to restore the affected person, as far practical, to the position they were in prior to the events that caused harm."
17. The Arbiter asked Cr. Sipek what he was seeking as a redress. Cr. Sipek did not request a specific redress but indicated that he would accept whatever decision the Arbiter determined.

Arbiter's determination

18. Section 147(1) of the Local Government Act (2020) states:

“If after completing the internal arbitration process, the arbiter determines that a Councillor has failed to comply with the prescribed standard of conduct, the arbiter may make a finding of misconduct against the Councillor”
19. The Arbiter is satisfied that Cr. Adams conduct, when Cr. Sipek was leaving the meeting of 9 September 2025, fell below that required by the Model Councillor Code of Conduct.
20. However, it is unclear why, during the almost 5 months between the meeting of 9 September 2025, when the Cr. Adams made her abusive comments and the date of this Hearing, the two Councillors could not have found a way to resolve this matter. The failed mediation and conciliation processes suggest that Cr. Adams did not address the matter seriously enough. Equally however, as recently as the Hearing itself, Cr. Sipek was not clear about what he wanted. In his subsequent submission to the Arbiter, he indicated that he was looking for a “a sincere apology”. When apologies by Cr. Adams were made in various forms, they were not accepted by Cr. Sipek.
21. This is particularly disappointing, given that the most recent apology was made by Cr. Adams immediately after the Directions Hearing of 23 December 2025. Had it been accepted or responded to by Cr. Sipek this Hearing and subsequent cost to the Council may not have been necessary.
22. This matter is one which should have been dealt with directly by the Councillors themselves or through internal Council processes. It reflects poorly on both Councillors.
23. Whilst Cr. Adams clearly breached the Council Code of Conduct, both Councillors must share the responsibility for this matter not being resolved except through an Arbitration process.

24. Accordingly, have determined not to make a finding of misconduct in this instance.
25. I would however recommend that Cr. Adams should:
- a) undergo a prescribed training program on appropriate conduct consistent with the Model Council Code of Conduct and;
 - b) write a letter of apology to Cr. Sipek which makes the following points:
 - convey her sincere apology for her comments and the hurt caused to him.
 - indicate that she wants to make things right so that they can work together in the future.
 - offer to meet personally with him to discuss how they can improve their relationship.
 - offer to provide a copy of the letter to others who witnessed what occurred.

Yehudi Blacher

Arbiter

17 March 2026

