

**MINUTES OF
CONFIDENTIAL ITEM**

**10.46pm Code of Conduct - Preliminary Report - matter 2
Reference: GC180911F08**

Moved Councillor Hutchinson, Seconded Councillor Crossland that Council:

1. Pursuant to section 90(2) and (3)(a) of the Local Government Act 1999 the Council orders that all person present, with the exception of the following, Adrian Skull, Chief Executive Officer, Kate McKenzie, Manager Corporate Governance, Victoria Moritz, Acting Governance Quality Coordinator, be excluded from the meeting where the Council receive and consider information pertaining to the item Code of Conduct, upon the basis it is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential on the grounds that the report contains information relating to personnel matters.

Carried

10.46pm the meeting went into confidence

The Mayor asked Councillor Kerry if he wished to make a personal explanation before leaving the meeting due to his conflict of interest in the item.

Councillor Kerry gave a personal explanation in relation to the item claiming:

- The report is an abusive process
- He won't be gagged and will continue to campaign
- This is beyond his control and that he was unable to access legal advice
- He has been denied natural justice
- The allegations were not put to him by the investigator, therefore he could not reply
- The code of conduct complaint was outrageous
- There are elements of both matters that are factually incorrect
- The matter should be deferred
- He hasn't been given the opportunity to respond to the issue
- The process has been rushed through before caretaker for the Elections commences
- He has made is position clear and believes that the evidence is not beyond reasonable doubt
- It is his word against [REDACTED] and he completely denies [REDACTED] allegations
- Point 7 of [REDACTED] statement is rubbish and contradictory
- Point 8 is incorrect
- It is now up to the Council what culture they want for the next term of Council

Councillor Pfeiffer declared an actual conflict of interest in the item as he has nominated as a candidate in the upcoming Local Government Elections. He indicated that since Councillor Kerry had not yet nominated and they currently share the same ward that it is fair to assume that he is likely to nominate for the same ward, thus leading to the actual conflict.

10.54pm Councillor Pfeiffer left the meeting

10.54pm Councillor Kerry left the meeting and did not return

10.57pm Councillor Telfer left the meeting

11.00pm Councillor Telfer re-entered the meeting

Moved Councillor Hutchinson, Seconded Councillor Crossland that Council:

1. Determines that Councillor Kerry has breached section(s) 2.11 and 2.14 of the Code of Conduct for Council Members.

Carried

Councillor Veliskou called a Division:

The vote was set aside

Those for: Councillor Telfer, Hutchinson, Prior, Byram, Veliskou, Appleby and Crossland

Those against: Councillors Hull and Westwood

Moved Councillor Crossland, Seconded Councillor Prior that Council:

2. Determines the following actions be applied in accordance with section 5 of the Elected Member Code of Conduct Procedure for Investigating Complaints:
 1. Councillor Kerry be censured.
 2. Councillor Kerry write a letter of apology to [REDACTED].
 3. Councillor Kerry be advised that all communication from himself to staff be through either the Chief Executive Officer or Manager Corporate Governance until otherwise advised by the CEO.

11.14pm Councillor Westwood left the meeting and did not return

Carried

11.20pm Mayor Hanna indicated that he had a conflict of interest regarding what information was included within the final report as he was named in Councillor Kerry's statement and left the meeting and did not return.

11.20pm In the absence of the Mayor, Deputy Mayor Byram resumed the chair

Moved Councillor Crossland, Seconded Councillor Telfer that Council:

4. Provides the following feedback regarding the Preliminary Report to EMA consulting with the following amendments:
 1. Redact staff names and any identifying information
 2. Remove witness statements
 3. Remove the statement of evidence – Part 2 in the investigation report
 4. Remove details of any unsubstantiated claims.
5. Refers the Final Report and recommendations to the next public meeting of the Council
6. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, any attachment to this report and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(a) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council meeting in December 2018.

Carried

11.25pm meeting out of confidence