

**CITY OF MARION  
GENERAL COUNCIL MEETING  
27 September 2005**

**CONFIDENTIAL**

**REPORT RELATING TO:  
Employer of Choice**

**Originating Officer:** Mark Searle, Chief Executive  
**Subject:** Occupational Health, Safety and Welfare  
**Ref No:** GC270905F01  
**File No:** 9.33.3.13, 9.24.1.1

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**RECOMMENDATION:**

If the Council so determines, this matter may be considered in confidence under Section 90(2) and (3)(a) of the Local Government Act 1999 on the grounds that it relates to the personal affairs of a person (living or dead).



**Mark Searle**  
Chief Executive

1. That Pursuant to Section 90(2) and (3)(a) of the Local Government Act, 1999 the Council orders that all persons present, with the exception of the following Council officers (*name officers present*), be excluded from the meeting as the Council considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider information pertaining to possible Occupational Health, Safety and Welfare issues.

Note that in considering whether the matter should be discussed in confidence, Council might like to take into account the views of the person to whom the matter relates. Where the person has no objection to the matter being considered in public, it would be consistent with the Freedom of Information Act to consider the matter in public.

**CORPORATE OBJECTIVES:**

*Ensure the system for managing occupational health, safety and welfare is performing in accordance with best practice.*

**REPORT OBJECTIVE AND EXECUTIVE SUMMARY:**

To seek Council's input on the manner in which to proceed with addressing an occupational health safety and welfare matter concerning Councillor Hull and certain staff of the Corporation.

**RECOMMENDATIONS:**

**That:**

- 1. Council provide support to staff and Councillor Hull through a process to restore trust, promote "good faith" working relationships and provide a safe workplace in accordance with Council's commitment to and obligations under the Occupational Health, Safety and Welfare Act.**

**DUE DATES:**

Recommendation 1

Due Date 27/9/05

**BACKGROUND:**

On 29 July 2005, it was brought to my attention that in a letter to a public body, Councillor Hull indicated his disappointment with a certain City of Marion staff member.

The matter was brought to my attention as an expression of concern on the part of staff that Councillor Hull had misused the information and assistance provided to him, and publicly criticised a member of staff. In turn, this caused me to consider Council's duty of care as an employer from an occupational health, safety and welfare perspective.

As a result of the above, I wrote to Councillor Hull advising that I was concerned about the incident and in particular with his public criticism of staff given the impact that such criticisms have on staff after they have, in good faith, sought to assist him. At this time, and consistent with the terms of a Council resolution passed on 25 January 2005, I restricted Councillor Hull's access to staff of the relevant Department. That is, I restricted access to only the Manager of the Department thereby ensuring that Councillor Hull would not be denied assistance, but that it would only be through the managerial level.

Subsequent to my letter, Councillor Hull asked me to review the restriction, which I agreed to undertake. However, as I was drawing near to completing this review, Councillor Hull raised the matter publicly at the Council meeting held on 13 September 2005. I am therefore now seeking Council's input on the manner in which to solve this matter, consistent with Council's occupational health, safety and welfare commitment and obligations.

**DISCUSSION:**

Council will recall that earlier this year, Dr Josephine Tiddy finalised her report regarding the occupational health, safety and welfare implications of Councillor Hull's November 2003 email. In that report, Dr Tiddy highlighted that with hindsight and further advice, Councillor Hull had recognised that the tone of his email was inflammatory and offensive to Corporation Staff, and that his allegations did not convey the message he had intended.

If required, I can provide additional information drawn from Dr Tiddy's report that illustrates the impact that inflammatory comments can have on staff. However, this information can only be provided in confidence given it relates to personal information from staff.

I draw Council's attention to the above comments in the context of the current circumstances and the need for Council to be aware of all relevant considerations.

Whilst I understand that Councillor Hull is committed to achieving outcomes for the people of the City of Marion, the manner in which he approaches his work as an Elected Member can sometimes have a negative effect on the welfare of staff.

For example, staff are aware of the comments he made in his recent letter, and as mentioned previously, staff are concerned that he has misused the information and assistance provided to him, and resorted to public criticism. Once again, and if required, I can provide additional information on a confidential basis that illustrates the impact that Councillor Hull's letter has had on staff.

In a letter that Councillor Hull wrote to the Mayor apologising for the November 2003 email, he "accepted that any denigration of staff is personally damaging to individual staff, impairs morale and is counter productive to achieving our Corporate objectives". The acceptance of this principle has equal relevance to this particular incident as it did to the November 2003 incident.

I am committed to exploring options to establish a relationship of 'good faith' and am seeking Council's input to a process that should be adopted. For example:

- What process can be undertaken to support staff and assist Councillor Hull adopt behaviours, when dealing with staff, that are consistent with our duty of care in terms of occupational health, safety and welfare and in alignment the principles outlined in his letter to the Mayor?
- Who should be consulted during the review e.g. staff member(s), Elected Member(s)?

**INTERNAL ANALYSIS:****Consultation:**

At this stage, I have consulted with some of the staff that raised the concerns.

The process of review should include consultation with the staff themselves, as well as their designated support people.

**Organisational Culture Impact:**

Council is continuing to build a constructive culture that has a strong focus on delivering outcomes and respects all individuals.

The relationship between Elected Members and staff is important for the achievement of Council's objectives, and must be founded on trust and relationships of good faith. Attempts to publicly (or privately) undermine the reputation of any individual can undermine the level of trust and good faith and as such, the level of safety of the workplace.

**Legal / Legislative and Risk Management:**

Council has made a commitment that the interactions between Elected Members and Corporation staff will conform to the principles underpinning Occupational Health, Safety and Welfare legislation.

Staff have a right to work in an environment that is free from intimidation and humiliation, and Council, being the employer has a duty of care and accountability to ensure that a safe working environment is maintained.

**Financial Implications:**

The cost of providing support for this process will depend on the choice of the designated support person. If staff select union representation, there will be no cost to Council. However, if staff prefer a professional mediator, the anticipated cost should be no more than \$5,000.

**CONCLUSION:**

The recent concerns expressed by staff that Councillor Hull has misused information and assistance provided to him in "good faith" has occupational health, safety and welfare implications for Council.

Accordingly, and as a responsible employer, strategies need to be developed to review the current restriction on Councillor Hull's access to the staff concerned and to work towards restoring a constructive relationship where both staff and Councillor Hull can work together for the benefit of the community.

Supporting staff and Councillor Hull to find a solution to this problem that restores trust promotes a good faith relationship and provides a safe workplace is recommended.

**REF NO: GC270905**

**CONFIDENTIAL ITEMS**

**Occupational Health, Safety and Welfare**

**Ref No: GC270905F01**

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**Councillor Hull provided a personal explanation regarding the circumstances around his comments made in the letter of appeal he forwarded to the ERD Court.**

**Councillor Hull declared a conflict of interest on the basis that the matter relates issues arising from the letter of appeal he forwarded to the ERD Court and left the meeting at 10.58pm.**

**11.10pm Councillor Veliskou left the meeting**

**Moved Councillor Cole, Seconded Councillor Moorman that:**

1. Council provide support to staff and Councillor Hull through a process to restore trust, promote "good faith" working relationships and provide a safe workplace in accordance with Council's commitment to and obligations under the Occupational Health, Safety and Welfare Act.
2. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, the minutes arising from this report and any other information distributed at the meeting having been considered in confidence under Section 90(2) and (3)(a) of the Act 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 2005.

**Carried Unanimously**

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