



COUNCIL MINUTES

for the Special meeting

Wednesday 11 August 2021

in the Colonel Light Room,
Adelaide Town Hall



Present - The Right Honourable the Lord Mayor, Sandy Verschoor (Presiding)
Deputy Lord Mayor, Councillor Couros
Councillors Abrahamzadeh, Donovan, Hou, Hyde, Khera, Knoll, Mackie, Martin and Moran.

Acknowledgement of Country

At the opening of the Special Council Meeting, the Lord Mayor stated:

'Council acknowledges that we are meeting on traditional Country of the Kurna people of the Adelaide Plains and pays respect to Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kurna people living today.

And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.'

Acknowledgement of Colonel William Light

The Lord Mayor stated:

'The Council acknowledges the vision of Colonel William Light in determining the site for Adelaide and the design of the City with its six squares and surrounding belt of continuous Park Lands which is recognised on the National Heritage List as one of the greatest examples of Australia's planning heritage.'

Apologies and Leave of Absence

Nil

Exclusion of the Public

1. Item 4.1 – Exclusion of the Public [2018/04291] [C]

For the following Presiding Member's Report seeking consideration in confidence

5.1.1 CEO Update [section 90(3) (a) & (g) of the Act]

For the following Chief Executive Officer Report seeking consideration in confidence

5.2.1 Cultural Investigation [section 90(3) (a), (g) & (h) of the Act]

Resumption of debate, in response to Regulation 18 of the Local Government (Procedures at Meetings) Regulations 2013 (SA) invoked at the meeting of Council held on 10 August 2021.

Order to Exclude for Item 5.1.1

Moved by Councillor Hyde,
Seconded by Councillor Khera -

THAT COUNCIL

- Having taken into account the relevant consideration contained in section 90(3) (a) & (g) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this Special meeting of the Council dated 11 August 2021 resolves that it is necessary and appropriate to act in a meeting closed to the public for the consideration of Item 5.1.1 [CEO Update] listed on the Agenda.

Grounds and Basis

Consideration in confidence is sought because the item contains information that must be considered in confidence to ensure that Council does not breach any law, any duty of confidence, or other legal obligation or duty. Disclosure would involve the unreasonable disclosure of information concerning the candidates and preferred candidate prior to a resolution being determined by Council.

- Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this Special meeting of the Council dated 11 August 2021 orders that the public (with the exception of members of Corporation staff and any person permitted to remain) be excluded from this Special meeting to enable this meeting to receive, discuss or consider in confidence Item 5.1.1 [CEO Update] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in section 90(3) (a) & (g) of the Act.

Carried

Order to Exclude for Item 5.2.1

Moved by Councillor Abrahamzadeh,
Seconded by Councillor Mackie -

THAT COUNCIL

1. Having taken into account the relevant consideration contained in section 90(3) (a), (g) & (h) and section 90(2) & (7) of the *Local Government Act 1999 (SA)*, this Special meeting of the Council dated 11 August 2021 resolves that it is necessary and appropriate to act in a meeting closed to the public for the consideration of Item 5.2.1 [Cultural Investigation] listed on the Agenda.

Grounds and Basis

This Item is confidential as it contains matters that must be considered in confidence in order to ensure that the Council does not breach any law, any duty of confidence, or other legal obligation or duty, and preserves legal privilege.

The disclosure of this report would waive legal privilege and involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

The disclosure of information in this report could reasonably prejudice the identity of the persons named in the report and would prejudice the ability of the Chief Executive Officer to act as required by law. By maintaining the confidentiality of this report, procedural fairness will be observed.

Section 56 of the *Independent Commissioner Against Corruption Act 2012 (ICAC Act)* prohibits the publication of:

- information tending to suggest that a particular person is, has been, may be, or may have been, the subject of a complaint, report, assessment, investigation or referral under the Act;
- information that might enable a person who has made a complaint or report under the Act to be identified or located;
- the fact that a person has made or may be about to make a complaint or report under the Act;
- the fact that a person has given or may be about to give information under the Act.

Contravention of these provisions is a criminal offence. However, these provisions do not prevent the making of this confidential report to Council.

2. Pursuant to section 90(2) of the *Local Government Act 1999 (SA)* (the Act), this Special meeting of the Council dated 11 August 2021 orders that the public (with the exception of members of Corporation staff and any person permitted to remain) be excluded from this meeting to enable this meeting to receive, discuss or consider in confidence Item 5.2.1 [Cultural Investigation] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in section 90(3) (a), (g) & (h) of the Act.

Discussion ensued

The motion was then put and carried

There were no members of the public present when all members of Corporation staff (with the exception of the Chief Operating Officer, Amanda McIlroy - City of Adelaide & Managing Director, Phil Morton - Morton Philips) left the Colonel Light Room at 5.40pm.

The Acting Chief Executive Officer was not present to leave with all members of Corporation staff.

Confidential Item 5.1.1

CEO Update

Section 90 (3) (a) & (g) of the *Local Government Act (SA) 1999*

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Confidential Item 5.2.1

Cultural Investigation

Section 90 (3) (a), (g) & (h) of the *Local Government Act (SA) 1999*

Pages 4 to 6

The Special meeting re-opened to the public at 8.30 pm

Confidentiality Orders

Minute 2 - Item 5.1.1 – CEO Update [C]

Confidentiality Order

In accordance with Section 91(7) and (9) of the *Local Government Act 1999 (SA)* and because Item 5.1.1 [Presiding Members Report - CEO Update] listed on the Agenda for the Special meeting of the Council held on 11 August 2021 was received, discussed, and considered in confidence pursuant to Section 90(3) (a) & (g) of the *Local Government Act 1999 (SA)*, this meeting of the Council do order that:

1. The report, the discussion and any other associated information submitted to this meeting and the Minutes of this meeting in relation to the matter remain confidential and not available for public inspection until the person no longer resides in the State of South Australia for a period of at least 1 year.
2. The resolution become public information following the receipt of a signed agreed employment contract.
3. The confidentiality of the matter be reviewed in December 2022.
4. The Chief Executive Officer be delegated the authority to review and revoke all or part of the order herein and directed to present a report containing the Item for which the confidentiality order has been revoked.

Minute 3 - Item 5.2.1 – Cultural Investigation [C]

Confidentiality Order

In accordance with Section 91(7) and (9) of the *Local Government Act 1999 (SA)* and because Item 5.2.1 [Cultural Investigation] listed on the Agenda for the Special meeting of the Council held on 11 August 2021 was received, discussed and considered in confidence pursuant to Section 90(3) (a), (g) & (h) of the *Local Government Act 1999 (SA)*, this Special meeting of the Council do order that:

1. Part 1 of the resolution becomes public information and included in the Minutes of the meeting.
2. Parts 2 and 3 of the resolution, minutes of the Special meeting, both discussions and any other associated information submitted to this Special meeting in relation to the matter remain confidential and not available for public inspection until 31 December 2028.
3. The confidentiality of the matter be reviewed by December 2022.
4. The Chief Executive Officer be delegated the authority to review and revoke all or part of the order herein and directed to present a report containing the Item for which the confidentiality order has been revoked.

Part 1 of Resolution

THAT COUNCIL

1. Releases the EMA Cultural Investigation Final Report date 26 November 2020, as provided and signed off by EMA Legal and provided to the Chair of the Audit Committee, from confidence, effective immediately and be included in the minutes of the meeting with the redaction of any material that identifies staff members and with the inclusion of appendix 1 and 2.

Report released from Confidence

The EMA Cultural Investigation Final Report with appendix 1 and 2 referenced in Part 1 of the resolution of Council is hereunder.

EMA LEGAL

CONFIDENTIAL
CULTURAL INVESTIGATION
FINAL REPORT

Presented to: The Audit Committee of Adelaide City Council

Matter: Cultural Investigation for Adelaide City Council responding to the decision of Council on 14 April 2020

Dated: 26 November 2020

Liability limited by a scheme approved under Professional Standards Legislation

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INTRODUCTION

1. This report follows our investigation into the impact and extent of conduct and behaviours by current Council members upon the health and wellbeing of the Administration. The investigation is authorised by the decision of Council at its meeting on 14 April 2020.
2. We acknowledge the co-operation provided by staff participating in the cultural review, and by all Council Members who answered the invitation to respond to key themes communicated by staff in the course of the investigation.
3. As advised to the Audit Committee, we are grateful for the level of engagement and professionalism demonstrated by each participant, the time volunteered by them to assist the inquiry, and the preparedness to answer directly any questions asked of them.
4. Our consistent observation was that Council staff and Council Members were genuine and open in their responses. Employees and Members are committed to delivering outcomes for the benefit of the City of Adelaide, even at a cost to their own wellbeing at times. On the information reported to me, staff and Members have tolerated conduct and behaviours that have, at times, been very challenging.
5. Having listened also to the perspective of Council Members, it is apparent that behaviours in and out of the Chamber have been adversely impacting Members for some time. This is detracting from the efficient and orderly conduct of Council business. Poor conduct and behaviours are taking a toll upon the wellbeing of Council Members just as with staff. The environment in which Council Members are being called to work for the benefit of the community, has deteriorated to the point where every Member has acknowledged a level of dysfunction and the need for things to improve.
6. It is hoped that Council Members see this process as an opportunity:
 - a. to bring about improvements in the manner in which Council meetings and workshops are conducted;
 - b. to implement effective change to improve the confidence in the relationships between staff and Council Members.

SCOPE

7. The Terms of Reference are attached as [Appendix 1](#) to this report. The scope of work has been completed in two stages. The first independently assessed conduct and behaviours of

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current Council Members as identified by staff, and the potential consequential impact on Administration (including health and wellbeing impact). Stage two of the investigation took the themes that had been identified, and invited Council Member responses, experiences and perspectives. This report combines the Stage 1 and 2 process, in the form of a Final Report.

APPROACH

8. 'Council staff' may be referred to in this report interchangeably with references to 'staff', 'staff participant', and 'the Administration'. All are intended to mean those persons employed by the City of Adelaide, and none are references to elected Council Members.
9. Staff participants were limited to employees with direct Council Member experiences. Those employees provided information on a confidential basis and completed a survey on an anonymous and confidential basis. That survey provided an important opportunity to allow a considered 'safe' opportunity to express views¹. This survey tool also mitigated the potential for the report to reflect an unbalanced view of staff if only those staff with grievances participated in the survey. The survey comprised a list of questions in two parts with a scale of '1' (strongly disagree) to '7' (strongly agree) or '0' unable to comment. The first part raised questions for answer by staff about his or her relationship with the organisation. The second part proposed questions relating to Council meetings². The time at which staff engaged with the investigation was in June and July 2020.
10. Participation was high with only 12% of the group of participants failing to return survey questions. The strong level of engagement assisted in providing a more rounded and insightful basis for an assessment of the information.
11. Council Members provided their own responses and perspectives to the investigation also on a confidential basis. That process was valuable in understanding the individual experience of Members. It informed an understanding of their own reactions and counter-behaviours toward others in and out of the Chamber, and how the behaviours of other Members were impacting their own wellbeing. The Members provided honest, forthright and genuine feedback for consideration.

¹The results were provided by double-envelope system and opened so as not to identify any participant. Sixteen staff participated in the survey.

² Appendix 3

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12. As will be apparent from the findings, the grievances expressed to our investigation by staff were directed at a minority of Council Members. It is important for all Members however to appreciate the impact that the whole of the Council is having upon staff, and take steps to support the CEO. It is the CEO who is responsible to ensure the health and safety of staff at work and who must, as far as reasonably practicable, adopt measures to protect against risks to wellbeing.

FINDINGS

13. It is intended to report information given to the author at a high level, and provide where possible, findings and recommendations. Findings are based on information objectively assessed by the author as far as possible, and with due regard to the surrounding circumstances. In some instances, I have been assisted by recordings of relevant Council meetings.
14. Findings or conclusions drawn should be understood in the context that it is not the role of this process to investigate particular decisions of Council or actions of specific Council Members, and I have not done so.

LEGAL LANDSCAPE

15. I have had regard to the following legislative instruments:
- a. The *Local Government Act 1999* and Regulations, noting section 63 of the *Local Government Act* which provides:
 - 63 Code of conduct for members**
 - (1) *The Governor may, by regulation, prescribe a code of conduct to be observed by the members of all councils.*
 - (2) *Council members must observe the code of conduct.*
 - b. Code of Conduct for Council Members (**the Code**), in particular Part 2 of the Code and relevant extracts I have identified at Appendix 2 attached.

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- c. The *Independent Commissioner against Corruption Act 2012 (ICAC Act)* which defines misconduct in public administration as including contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer. Note however that it is not the role of this investigation to identify whether breaches of the Code have occurred by Council Members – that would be beyond the scope of our review.
16. The *Work Health and Safety Act 2012 (WHS Act)* which has application to the workplace where staff carry on their work. The main objects of the WHS Act are expressed to secure the health and safety of workers and workplaces by, among other things:
- (a) 'protecting workers and other persons against harm to their health, safety and welfare'³ and
 - (b) 'providing a framework for continuous improvement and progressively higher standards of work health and safety'⁴;
- It is noted that in furthering the main aspect object at (a) above, the WHS Act requires that regard be had to the principle that workers and other persons should be given the highest level of protection against harm to their health, safety and welfare from hazards and risks arising from work, as is reasonably practicable.⁵
17. A reference to someone's health is a reference to the person's physical and psychological health. Duties under the Act do not depend on whether harm occurs to a person's psychological health, since the Act is directed to the prevention and control of safety risks and harm so far as is reasonably practical.
18. To the extent it may be known or assumed that certain staff, have participated in the investigation, the WHS Act affords protection from having raised 'issues' relative to their health in this process. This is separate from, and in addition to, any other protections staff may have through other legislative instruments or policies applying to his or her employment.

APPLICATION OF THE CODE OF CONDUCT

19. Council Members are required to comply with the Code in carrying out their functions. The Behavioural Code (Part 2) is intended to manage conduct that does not meet the reasonable

³ Section 3(1)(a) WHS Act

⁴ Section 3(1)(g) WHS Act

⁵ See section 3(2) of the WHS Act.

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community expectations of the conduct of Council Members, but appreciates and allows for 'robust' debate within Councils, that is conducted in a *respectful manner*. I have taken note of that qualification which is to be applied in a practical sense to the workings of Council. The Code does not oblige a Councillor to change a view they hold about any matter, or otherwise adopt a viewpoint at variance with their own. It is the manner in which Councillors conduct themselves (including as to how they engage in debate and make their views known) that must meet the Code's behavioural standards.

20. As earlier noted, those aspects of the Code that have been called into question during this investigation have been extracted and reproduced at [Appendix 2](#) of this report. Whilst I am not required to categorise any form of behaviour or conduct, and have not done so, it is appropriate to set out the meaning of certain terms where they may be referenced in this report.
21. I found that staff participants were generally reluctant to use the term 'bullying' to describe the conduct they may have witnessed or experienced. Some participants did do so, and others used the term 'borderline bullying behaviour'. Staff participants more generally described the behaviours witnessed as conduct that was "not consistent" with the Code and attributed these to a minority of Council Members.
22. There is limited guidance to the interpretation of the terms 'bully' and 'harass' as used in the Code. Whilst the Federal Fair Work Act does not apply to the City of Adelaide and its staff, that Act defines 'bullying' in a way that is useful and persuasive.
23. In recent times, the clauses which prohibit a Council Member from bullying and harassing others have drawn the attention of the Ombudsman. The Ombudsman has considered in detail the verb "bully", in its report into complaints concerning the City of Burnside and Cr Bagster (Final Investigation Report 2017/10978): repeated and unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety⁶. I consider that bullying does not include reasonable action taken in a reasonable manner, or robust debate within Council that is conducted in a manner consistent with the Code.
24. Bullying can be both intentional and unintentional. We find support for this position from the submissions by SafeWork Australia to a Parliamentary Committee inquiring into workplace bullying:

Bullying can be intentional, where the actions are intended to humiliate, offend, intimidate or distress, whether or not the behaviour did have that effect. Bullying can

⁶ SafeWork Australia National Guideline,

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also be unintentional, where actions which, although not intended to humiliate, offend, intimidate or distress, cause and should reasonably have been expected to cause that effect. Sometimes people do not realise that their behaviour can be harmful to others.⁷

25. As to the question of how 'unreasonable behaviour' is assessed, I have assessed this as behaviour which a reasonable person, having regard to the circumstances, may consider to be unreasonable. This is an objective test, having regard to the relevant circumstances at the time. The requirement to act 'in a reasonable, just, respectful and non-discriminatory way' when dealing with people is a general behavioural requirement of all Council Members. Where behaviour is not considered to amount to bullying behaviour, but is still unreasonable or inappropriate, or otherwise appears to be a breach of the Code, I have indicated this in my report.

STAFF PERSPECTIVES

26. Every staff member interviewed, and/or responding to the survey, spoke of how much he or she enjoyed their role in the Administration. Each presented as being clearly committed to achieving good outcomes for the City of Adelaide. It was the aspect of their roles that interfaced with certain Council Members that, for the most part, detracted from that enjoyment.
27. The context in which Council employees work is important to highlight. These staff members are answerable to the Chief Executive Officer, but on a day to day basis, may be delegated to interact with or action various requests for information from Council Members. This is often but not always in the public eye, and visible to their direct reports. This heightens the importance of respectful communications and interactions with staff.
28. In that practical sense, staff perceive (reasonably in my view) that:
- a. they are accountable to Council Members;
 - b. the manner in which they are addressed, particularly in the public realm, has a direct impact upon their work and reputation;
 - c. his or her integrity and the duty to act professionally and ethically is paramount.

⁷ SafeWork Australia Submission (page 31) to the Parliament of the Commonwealth of Australia, House of Representatives, Standing Committee on Education and Employment, "Workplace Bullying: We just want it to stop"

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29. Emerging clearly from the investigation was the belief on the part of staff that the behaviour of Council Members toward each other:
- a. frequently breaches the Code;
 - b. impacts adversely on staff; and
 - c. is behaviour that is escalating.
30. Staff are concerned that the behaviour of Council Members toward each other, in and out of the Chamber, is not only embarrassing and against the interests of the organisation as a capital city Council, but it impacts the broader staff group. This was deeply concerning to the participants. Staff were always endeavouring to carry out in good faith the wishes of Council and frequently found either themselves or colleagues caught in political point scoring. They felt this de-valued their work, reputation and contribution.
31. It is evident that the personal reputation and integrity of staff participants is very important to them, and in local government this is a fundamental requirement of employment. Staff wished to be represented by leaders who demonstrated high standards of behaviour and promoted a healthy work culture. Where this is undermined it is both upsetting and harmful to staff wellbeing. The behaviours of Council Members reflected poorly overall on the image of Council, and this was something staff participants wished to change.
32. Of particular and further concern to staff was the volume of email traffic and tone of email communications between Council Members. Staff considered that exposure to those communications negatively impacted their own wellbeing and that of their colleagues. It added unnecessarily to workload, because those emails needed to be assessed in case of action required, and often the emails had nothing to do with Council business.
33. Staff managing the significant email traffic between Council Members detracted from their work on core business. It impacted their efficiency in their role and was increasing the workload for staff. This gave rise to significant frustration.
34. It was of concern to senior leaders that direct reports to them were able to witness poor behaviour either directly or through seeing emails. Employees are trained against engaging in this type of behaviour (which would be the subject of disciplinary action) yet senior leaders worked around Council Members who behaved contrary to organisational values. It was also upsetting to staff participants where they or their colleagues were treated unfairly or ridiculed in public settings. Staff reported it increasingly difficult to work effectively under these conditions.

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35. Of concern, staff advised they were taking steps to protect those who report to them, from the effects of challenging exchanges. Techniques were and are being deployed to manage the interface between staff and Council Members. These included de-briefing sessions after meetings to refocus staff on tasks, to regularly check that staff were 'ok', and bringing attention to staff wellbeing to reinstate morale and re-engage with the core business.
36. Staff participants were concerned that dealing with repetitive and strong questioning from Council Members sometimes amounted to personal questioning and debate by the Member.
37. When asked how these behaviours were being controlled, the answers from staff participants were generally that Council Members, the Lord Mayor, and a lesser extent the Chief Executive Officer, were looking past poor behaviour. This added to feelings of being unsupported, of frustration and helplessness.
38. Staff reported that the majority of Council Members engaged with staff professionally and respectfully and it was a minority of Council Members who often offended standards of reasonable and respectful behaviour. Staff reported the 'offender' to be (in particular) Councillor Martin in the manner and form of his questioning of staff. His style of questioning was described often a tactic to 'trap' staff, as an interrogation or a personal debate with staff. Councillor Martin's approach was described as often sarcastic and that he engaged in 'point scoring' that left them feeling anxious and overwhelmed. Staff considered his questioning to be unreasonably repetitive at times, relating to information the Administration was presenting honestly and in good faith. Staff described the manner of Councillor Martin's questioning as amounting both to 'borderline' and 'actual' bullying at times. Those concerns have foundation when some Council meetings and workshops are reviewed.⁸
39. Councillor Moran is alleged to contribute to poor behaviour by (for example) walking out of meetings, copying media outlets to emails between Council Members that were disrespectful communications, and which did not concern Council business and engaging disrespectfully with other Council Members using email.
40. To a lesser extent the behaviour of Deputy Lord Mayor Hyde was also identified as it was reported he would often participate in exchanges with Councillors Moran and Martin, which escalated poor behaviour.
41. These experiences are having an adverse impact on health and wellbeing, and in some instances are creating a risk to health and safety that needs to be managed.

⁸ See for example Cr Martin's exchange

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42. There was a reluctance by staff to report the behaviours seen to be in breach of the Code. The views as to why varied. Some reported that the Code process is ineffective to remedy the problem, too slow and that they may be seen as not being 'up to the job'. There was a perception that Council Members would not change, and a general view that tolerating challenging behaviour was seen as, or expected to be, "part of the job".
43. Obvious concerns reported to the investigation were feelings of exhaustion after long meetings, feeling undervalued by Council Members, and embarrassed by the form and manner of questioning. "Self-help techniques" and support for colleagues follows most Council meetings or workshops.
44. Other impacts identified by the staff participants, attributed to the conduct and behaviour of certain Council Members:
- a. Sleeplessness, especially before and after General Council meetings;
 - b. Self-doubt and 'second guessing';
 - c. Struggling to keep up with the requests and work demanded by Council Members through repetitive questions on notice, or the volume of questions without notice;
 - d. Public ridicule;
 - e. Anxiousness and anxiety, immediately before and when presenting to Council;
 - f. Distrust of the motives of certain Elected Members;
 - g. Unnecessary and additional workload to unreasonable levels;
 - h. Feeling:
 - i. that staff are being 'used' to political point score;
 - ii. personalised in debate;
 - iii. set up to fail when answering questions;
 - iv. embarrassment, because of the behaviour of Council Members including toward each other, reflecting poorly on the City of Adelaide as a whole;
 - v. under-valued in their effort and contribution to the objectives set by Council;
 - vi. upset and overwhelmed by email traffic between Council Members, often copied to the Executive Leadership Team and which is personal and offensive at times and nothing to do with the furtherance of Council business;
 - vii. 'burnt out' after Council meetings;
 - viii. unreasonably criticised and integrity unreasonably questioned where it is implied misinformation has come from the 'Administration';

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- ix. concerned at conduct by one Member who on more than one occasion has referred to a staff member by reference to [redacted], seen as a de-valuation of the importance of that staff member's worth, contribution and effort.
45. The following perspectives were also shared:
- a. staff have defended poor behaviour by Council Members especially to their direct reports;
 - b. some staff consciously self-manage their mental health and/or stress levels which they attribute to Council Member behaviours and have taken and continue to take, steps to 'protect' the mental health of colleagues or direct reports;
 - c. there was a general sense of fatigue caused by repetitive behaviour regarded as bullying or borderline bullying by a minority of Council members towards staff;
 - d. unreasonable attacks on 'the Administration' are made, such as accusations of mismanagement and misinformation without proper foundation or opportunity to respond.

COUNCIL MEMBER PERSPECTIVES

46. The investigation of Member to Member conduct, whilst not a matter within the scope of the inquiry, is an issue clearly raised by the Administration as being of strong impact upon staff employment and wellbeing. The perspective of Members is equally relevant to understanding the culture that comprises the workplace for staff, and in fact, for Members. It is important that Members felt heard in this inquiry and all participated constructively and genuinely and were assured confidentiality in their responses. Each Member's perspective has been given close consideration and the views expressed below reflect broad themes communicated to the investigation.
47. In inviting Members to respond to the key themes reported by staff, Members confirmed the lack of collegiate and respectful behaviours in and out of the Chamber.
48. Members typically identified that even if Council Members 'signed up' for an adversarial role when needed, staff should not expect to be subject to adversarial behaviour and probably would not put up with it.

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49. Members acknowledged the inappropriateness of email traffic which frequently occurred, and its lack of connection to Council business on many occasions. Members universally agreed that the adversarial behaviour in the Chamber often spilled outside of the Chamber.
50. The involvement of media in disrespectful communications (including it was suspected, by blind copy) was seen as inappropriate as was the significant volume in email traffic that is being copied to staff, which does not advance Council business. It was explained that this practice of copying senior staff to emails followed a long-standing practice of email communication, and was easily remedied but that would be for the Chief Executive Officer to instruct and control. We agree with that observation and that it would be necessary (and easy) for the Chief Executive Officer to instruct that practice cease.
51. The majority of Members have grown tired of the use of labels to factionalise Council, describing this as antagonistic, unfair and untrue, and saw this as unhelpful to the maintenance of good relationships. In turn this has likely fed into the inappropriate email traffic, and the escalation of disrespect amongst Members.
52. Members were asked to whom or what position the obligation fell to control poor behaviours in meetings and workshops. The consistent message to our inquiry was that the Chief Executive Officer was responsible to take whatever steps he felt necessary to ensure the wellbeing of staff. The Chief Executive Officer is the only employee directly appointed by Council and if concerned, the Chief Executive Officer could take immediate steps accordingly. We agree with that observation.
53. As for behaviours between Members, the consistent message was that the Lord Mayor should intervene and take proactive steps to control behaviours, unreasonable questioning of or debate with staff, and unacceptable behaviours in the Chamber. If meetings were not presided by the Lord Mayor, the Chair of the meeting would be expected to exercise that control. We agree with that observation also, although it goes without saying that if each Member responsibly controlled their own behaviour, intervention would not be necessary at all.
54. When asked to make an assessment of Members' behaviour as a whole, the concessions were telling. Members described the Council as dysfunctional, frustrating, aggressive, with a 'highly adversarial culture and style'. It was not unusual for a minority of Members to debate or badger staff in questioning and to politicise staff 'caught in the middle'. Members admitted that meetings were not enjoyable and that there is little or no opportunity to connect with staff or engage with other Members, other than in an adversarial capacity.

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55. The Council was described by some as factionalised, where it was difficult for some to have a voice. Some Members felt disempowered. Members recognised the seniority and the depth of knowledge and experience that some Members brought to Council despite the present culture and were concerned that this valuable knowledge was being lost because of the dysfunctionality in Council.
56. The investigation heard of past experiences between Members that were obviously deeply hurtful for them and which have led to differences that are likely irreconcilable.
57. As to Councillor Martin's approach and manner toward staff which had been the strong complaint by the staff participants, this was confirmed as confrontational on many occasions. Without condoning that approach however, Members also recognised Councillor Martin's thoroughness in approach and analysis of the information put before Council.
58. Most Members observed that a combination of factors have compounded the present culture. This included the removal of meals at meetings. This provided a break and opportunity to talk and engage with other Members and staff outside of workplace roles. Meals enabled regular social contact between Members and staff which a good number of Members enjoyed. Over the course of this year, meetings had also moved to remote forms of communication and this has added to the level of disengagement and disconnect.
59. The Council meetings themselves, at least for a time, had grown unreasonably long, and this was taking a toll on Members and staff alike. There was a concern, reasonably held in our view, that the length of meetings did not assist good behaviours nor good decision making and of itself was impacting mental health of staff and Members. At the time of discussion with Members, the length of meetings had resumed more manageable levels.
60. Some Members remarked that the concern for staff was not raised directly by the Chief Executive Officer and that this should have been the correct procedure to prompt an inquiry, rather than from the floor of the Chamber. We have suggested a recommendation to correct this. Irrespective of the mechanism to instigate the review, our investigation has identified a real and proper basis for the concern, confirmed by the accounts of staff.
61. Overwhelmingly the Council Members saw the obligation to protect the health and wellbeing of staff as an obligation falling to the Chief Executive Officer, and the control of poor behaviours and management of Council Member issues in Council meetings and workshops falling to the Lord Mayor or Presiding Chair of any meeting. Members sought a stronger response by the Lord Mayor to poor behaviours in Council meetings.

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62. As to the issue of emails, their volume and content, this was recognised as an issue that was occurring and was easy to stop. As earlier noted, the copying of senior staff was a historical standing practice and in our view one for the Chief Executive Officer to easily control. Access to the Administration was recognised by Members overall as a privilege and not a right, but this was again observed as a matter for the Chief Executive Officer to weigh and balance.
63. Like staff, Members regarded the Code as ineffective to deal with the issues at play in this Council. The Code was described invariably as tedious, time consuming, without 'teeth' and an expensive process for little resolution.

GENERAL SUMMARY

64. These observations form an impression that it is not only staff participants who are being adversely affected by Council Member behaviours. The Councillors themselves are being harmed by the behaviours at play. This overwhelmingly points to a need to act decisively and swiftly.
65. Unreasonable behaviours were reported by staff to be occurring, continuing and becoming unsustainable. Challenging behaviour and conduct by certain Council Members toward each other, and by them toward staff, is having an adverse effect on the wellbeing of staff. The Council's culture and administrative efficiency is being impacted, particularly after workshops and Council meetings. There is potential for significant improvement in the interface between staff and Council Members.
66. The investigation notes and recognises the role and responsibility of Councillors to have an inquiring mind, to hold the Administration to account and question the information presented to them by the Administration. However, it is the manner in which this questioning occurs that must be carefully approached and always respectful.
67. Council Members have a shared responsibility to lift the standard of behaviour, and each Council Member, if acting respectfully will deliver immediate improvement to culture. With that context, the following recommendations are made.

RECOMMENDATIONS

68. Council to consider a systemic process for the Chief Executive Officer to report to Council about the wellbeing of staff at pre-determined points in time, to ensure Council Members

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- remain informed and educated about the impact of Council Member behaviour on senior leaders within the Administration.
69. The Chief Executive Officer to take immediate steps to instruct Council Members to cease the copying of staff (other than the Executive if necessary) to all email communications, until further or otherwise advised to Members by the Chief Executive Officer.
 70. That Council agree to adopt and adhere to an email protocol as between each other that meets the expectations of the Code and is called to account by the Lord Mayor where it becomes personal or unrelated to Council business. Group emails should be used only for Council business and copied to the Chief Executive Officer and relevant Executive staff where necessary.
 71. Council Members are to be reminded and required to direct questions through the Lord Mayor/Chair and the Chief Executive Officer, not to staff direct. This should be enforced in Council Meetings and occur in a limited fashion in workshops to minimise the potential for staff to be drawn into, or feel drawn into, debate.
 72. That Council to reconsider the reinstatement of meals for Council Members, initially on a phased in or scaled back basis with clear expectations communicated by the Lord Mayor as to behaviours during those times and the need to adhere to high personal standards of behaviour toward staff and other Members.
 73. That the Lord Mayor and newly elected Deputy Lord Mayor receive specific and targeted training to assist in the effective management and control of challenging behaviours that are to be expected in the Chamber and in workshops. There must be clear and confident governance advice and direction provided to these leaders, to give Council the best opportunity to correct the present culture and remain effective. Training should be specific to effective meeting management and what can be enforced or developed under meeting procedures and standing orders.
 74. That training to staff be given or refreshed, as to the procedures to be followed at meetings. This should reinstate confidence to take questions on notice and not to enter debate by receiving and answering questions in the Chamber through the Chair or Chief Executive Officer. Interrogation of information or reports to be re-directed where possible, to committee meetings and/or workshops.
 75. That Council move to restore Council Members' commitment to specific values that drive better behaviour (including outside of the Chamber) and reinforce cultural values to regenerate confidence in the good governance of Council.

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76. The Chief Executive Officer to ensure a review of Council's records management policy to ensure compliance and clarity of understanding about use of Council resources for Council business, and to reinforce the proper use of email and technology systems directed always to proper Council business.
77. The Strategic Risk and Internal Audit Group (comprised of the Chief Executive Officer and Executive Working Group) identify practical ways in which more positive workplace engagement with the Council Members can be facilitated.
78. The Audit Committee, in consultation with the Chief Executive Officer, establish a system to monitor changes or improvements to behaviours and wellbeing of staff and report by way of review to Council accordingly.

CONCLUSION

79. The strong motivation for participation in the survey was a desire to see the behaviour change. Participants accepted that the nature of the role demanded resilience but that this was being seriously challenged in the current environment. The risk of losing good talent if culture is not improved remains a real risk, as would attracting talented staff in future.
80. It is equally important to note the impact to the organisation, if the conduct and behaviours remain, or are not minimised:
 - a. Loss of valuable staff, not just to other Councils, but potentially to the sector entirely;
 - b. Impacts on the quality of work undertaken by staff, either because of feeling undervalued, or because of being overwhelmed in the role;
 - c. Inefficiencies, because of the pursuit of matters that detract from staff effectiveness in their role and work output required of the role.


DOCUMENTS

81. Appendix 1 - Terms of Reference
82. Appendix 2 – Extract of provisions from the Code of Conduct for Council Members
83. Appendix 3 – Survey Results

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DISCLAIMER

84. This report has been prepared at the request of the Audit Committee, further to the motion of Council dated 14 April 2020.
85. This report is based on information provided by Council staff and Council Members who chose to participate in the inquiry. The choice to participate was voluntary. The information provided was received confidentially and in respect of answers to survey questions by staff, anonymously.
86. The author of the report does not accept liability or responsibility for any error, loss or damage arising from reliance on information in this report and disclaims all liability to the fullest extent permitted by law.



EMA Legal

Kaye Smith

Principal Partner, Director

26 November 2020

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APPENDIX 1

Scope of work as proposed by the independent Members of the Audit Committee Working Group:

Context:

14 April 2020 decision of Council, following a Motion on Notice:

That Council:

1. *Recognises the valuable role the City of Adelaide administration plays in supporting Council Members*
2. *Expresses concern about the impact the conduct and behaviours of some Council Members may have on the health and wellbeing of the Administration.*
3. *Requests an urgent independent investigation to determine the extent of any impact and provide recommendations where appropriate.*

And the subsequent decision of the Audit Committee at its meeting on 1 May 2020:

That the Audit Committee notes the decision of Council at its 14 April 2020 meeting:

'That Council

1. *Recognises the valuable role the City of Adelaide administration plays in supporting Council Members*
2. *Expresses concern about the impact the conduct and behaviours of some Council Members may have on the health and wellbeing of the Administration.*
3. *Requests an urgent independent investigation to determine the extent of any impact and provide recommendations where appropriate.'*

and authorises the Audit Committee Chair, in consultation with its independent Audit Committee Members, to prepare a draft scope of work and recommend to Council a suitable party to undertake the review.

Scope of work:

The consultant will independently assess identified conduct and behaviours of current Council Members with potential consequential impact on Administration (including health and wellbeing impact) and will assess the extent of such impact.

The consultant will present a report on the findings and recommendations to Council as soon as possible.

The investigation may require interviews with the Executive and Associate Directors and any other parties the consultant deems relevant and will require a review of relevant communication and meeting recordings.

The consultant will be asked to report back to the Audit Committee Chair after conclusion of the initial interviews process (stage 1 – interviews, initial review of relevant documentation and recommendations on next steps) before potentially continuing the process (stage 2 – further review of documentary evidence and associated assessment and reporting) and provide regular updates to the Audit Committee Chair throughout.

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APPENDIX 2

Code of Conduct for Council Members – Extract of relevant provisions

Part 2

General Behaviour

- 2.2 Act in a way that generates community trust and confidence in the Council.
- 2.3 Act in a reasonable, just, respectful, and non-discriminatory way when dealing with people.
- 2.4 Show respect for others if making comments publicly.

Responsibilities as a member Council

- 2.7 Deal with information received in their capacity as Council members in a responsible manner.

Relationship with fellow Council Members

- 2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
- 2.10 Not bully or harass other Council members.

Relationship with Council Staff

- 2.11 Not bully or harass Council Staff.
- 2.14 Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

Part 3

Misuse of Council resources

- 3.14 Council members using Council resources must do so effectively and prudently.

Closure

The Special meeting closed at 8.30 pm

Clare Mockler,
Acting Chief Executive Officer

Sandy Verschoor,
Lord Mayor

Documents Attached for Reference

Nil