

Local Government Act 1993

**INVESTIGATING PANEL DETERMINATION REPORT
BURNIE CITY COUNCIL CODE OF CONDUCT**

Complaint brought by Mr Stuart Paine against Councillor Trent Aitken

Investigating Panel

- Ms Jill Taylor, (Chairperson)
- Dr Josh Fergeus (Local Government Member)
- Ms Audrey Mills (Legal Member)

Date of Determination: 24 August 2026

Content Manager Reference: C40653

Summary of the complaint

1. A code of conduct complaint was submitted by Mr Stuart Paine to the General Manager – Burnie City Council on 12 March 2026.

The complaint alleges that Councillor (Cr) Aitken breached the following parts of the Code of Conduct for councillors made by the Minister for Local Government under section 28R of the *Local Government Act 1993* (the Act). The alleged breach occurred on Cr Aitken's social media platforms on or about 15 February 2026.

Part 3(1) The actions of a Councillor must not bring the Council or the Office of Councillor into disrepute.

Part 7.1 A councillor must –

Treat all persons fairly; and

Not cause a reasonable person offence or embarrassment; and

Not bully or harass a person.

Part 7.5 A councillor must not, in the councillor's relationships with persons, other councillors, the council, employees of the council or other bodies engage in conduct that is prohibited conduct.

Part 8.1 A councillor must accurately represent the policies and decisions of the council when giving information to the community.

Part 8.4 A councillor must clearly indicate if a view put forward by the councillor is a personal view.

Part 8.7 A councillor's personal conduct must not reflect or have the potential to reflect adversely on the reputation of the council.

Initial assessment

2. Following receipt of the complaint, Mr Nicholas Heath was appointed as Initial Assessor to conduct an initial assessment of the complaint in accordance with the requirements of section 28ZA of the Act. Having assessed the complaint against the provisions of sections 28ZB and 28ZC of the Act, Mr Heath determined that Parts 3.1, 7.1, 7.5, 8.1, 8.4 and 8.7 be investigated by an Investigating Panel (the Panel).
3. The complainant, respondent councillor and the General Manager were notified of the outcome of the initial assessment by letter dated 1 April 2026.

Investigation

4. In accordance with section 28ZE of the Act, the Panel investigated the complaint.
5. The following documents were presented to the Panel as evidence in this matter:
6. Mr Paine's complaint dated 12 March 2026 submitted under cover of a statutory declaration dated 10 April 2026 with attachments -
 - a. 2 x Social Media posts by Cr Trent Aitken
 - b. Video of Cr Trent Aitken
7. Cr Aitken's response dated 2 May 2026 under cover of a statutory declaration dated 13 May 2026 with attachments REF PT2, REF PR3, REF PT4, REF PT6 and REF PT7
8. Mr Paine's complaint relates to a video and two social media posts made by Cr Aitken about local Surf Lifesaving Clubs that supported Pride Day and associated LGBTQIA+ inclusion activities.
9. The posts appeared on Facebook and were viewed extensively. Cr Aitken admits that these are his posts and video.
10. Cr Aitken's comments primarily targeted the Burnie and Boat Harbour Lifesaving Clubs and supporters of the activities of those clubs. Mr Paine alleged that Cr Aitken's posts were derogatory and inflammatory and undermined the clubs' efforts to foster a safe and welcoming environment for all community members.
11. Mr Paine further alleges that Cr Aitken's remarks insinuate that Surf Lifesaving Clubs support of Pride-related initiatives were somehow placing young members at risk of harm or abuse. Mr Paine contends that Cr Aitken's social media posts had the potential to cause significant distress to young volunteers as well as undermining the integrity and reputation of organisations who have a culture of protecting and supporting young people.
12. By letters dated 22 May 2026, the complainant and respondent councillor were notified of the Panel's intention to proceed to determine the complaint without a hearing. Both parties were invited to provide any objection in writing by 9 June 2026. Mr Paine advised on 25 May 2026 and Cr Aitken on 11 June 2026 that they had no objection to the matter being determined without a hearing.
13. In reviewing the evidence before it, the Panel concluded that the comments made by Cr Aitken in both his video and social media posts contained unsubstantiated allegations that a reasonable person would find offensive and embarrassing to members and supporters of the Life Saving clubs and the LGBTQIA+ community.
14. Cr Aitken's video made several unsubstantiated assertions including that "nippers" were at risk of harm and abuse and white heterosexual males would not be saved by lifesavers. His comments had the potential to undermine and damage the reputation of the Surf Lifesaving Clubs and those associated with them.

15. Cr Aitken is a well-known in his community as a councillor of the Burnie City Council which promotes and supports diversity. At no stage when making his statements, did Cr Aitken make any attempt to disassociate himself from his role as a councillor and Council's stand in relation to diverse groups including people who identify as LGBTQIA+. The Panel finds that, the evidence from the video and Facebook posts shows that Cr Aitken used his recognition as a councillor to ensure greater publicity.
16. The Panel acknowledges that people elected to public office are entitled to make statements on a range of issues, on the proviso that they make clear the capacity in which they are making statements and, where necessary as per the Code, distance their statements from their role as councillor and their connection to Council. Further, their comments are not to be in breach of State or Commonwealth law, particularly in this matter anti-discrimination legislation.

Determination

17. As per section 28ZI of the Act the Investigating Panel met on 30 June 2026 and determines that Cr Aitken has breached part of the Code of Conduct that relates to Parts 3.1, 7.1(a), (b) and (c), 7.5 and 8.7. The Panel dismisses the complaint as it relates to Parts 8.1 and 8.4.

Reasons for determination

18. Reasons for the Panel's decision in relation to each Part of the Code follows.

Part 3.1-The actions of a councillor must not bring the council or the office of councillor into disrepute.

19. Cr Aitken as an elected member of the Burnie City Council is well-known in the local community as such. Cr Aitken's social media posts were widely viewed in the community.
20. Cr Aitken states in his response that his posts all contain a statement "all information on page is my personal opinion". The evidence before the Panel did not contain any such wording. Cr Aitken did not use his title as councillor, however, in the absence of any statements to the contrary, the Panel finds that a reasonable person would be unlikely to draw that distinction between his personal views and that of an elected councillor. The comments in the social media posts characterised the surf lifesaving clubs pride and inclusion activities in a derogatory and inflammatory manner. The comments included claims that were unsubstantiated namely, that the Surf lifesaving Clubs inclusion activities were placing young members at risk of harm or abuse.
21. The Panel determines that Cr Aitken has brought the Council and office of councillor into disrepute. The Panel upholds this part of the complaint.

Part 7.1(a) - A councillor must treat all persons fairly;

22. The Panel found that Cr Aitken targeted specific segments of the community by virtue of his unsubstantiated allegations. These groups include people who identify as LGBTQIA+, staff and volunteers of Surf Lifesaving clubs, participants in programs conducted by those clubs, and particularly young people (Nippers) who he implied were at risk of harm or abuse. Cr Aitken referred to a transgender woman as "Andre

the Giant” in a disparaging and belittling manner. Cr Aitken went to so far as to suggest that “white heterosexual males would not be saved by the lifesavers”.

23. Cr Aitken provided no evidence to substantiate his claims, with the Panel determining that he had singled out these individuals and groups for unfair treatment. The Panel upholds this part of the complaint.

Part 7.1(b) -A councillor must not cause a reasonable person offence or embarrassment;

24. The Panel determined that a reasonable person would be offended and embarrassed by Cr Aitken’s unsubstantiated and disparaging remarks. The Panel determines that Cr Aitken’s remarks were damaging to the reputation of local Surf lifesaving clubs and their supporters and therefore would cause a reasonable person offence and embarrassment. As Mr Paine states, Cr Aitken’s public remarks undermine the image of the Surf lifesaving clubs and their objective to foster a safe and welcoming environment. The Panel upholds this part of the complaint.

Part 7.1 (c)- A councillor must not bully or harass a person;

25. In relation to this part of the Code, on the evidence before it, the Panel does consider Cr Aitken’s behaviour constitutes harassment which requires conduct that a reasonable person would anticipate would offend, humiliate or intimidate the person harassed (Australian Human Rights Commission).. The Panel has determined that Cr Paine’s offensive, humiliating and unwarranted comments relating to the LGBTQIA+ community and the individual he referred to as “Andre the Giant” do constitute harassment. The Panel upholds this part of the complaint.
26. The Panel dismisses the complaint as to bullying as there was not repeated conduct sufficient to establish bullying.

Part 7.5 -A councillor must not in the councillor relationships with persons other councillors, the council, employees of the council or other bodies engaging conduct that is prohibited conduct.

27. Prohibited conduct is defined by s3 of the Local Government Act as
- (a) *discrimination, or prohibited conduct, within the meaning of the [Anti-Discrimination Act 1998](#) that is not the subject to an exception or exemption under [Part 5](#) of that Act; or*
 - (b) *such other conduct, or behaviour, that is prescribed as prohibited conduct;*
28. The relevant provisions of the Anti-Discrimination Act 1998 (Tas) are s.19 Inciting Hatred.
- A person by a public act, must not incite hatred towards, serious contempt for or severe ridicule, of a person or a group of persons on the ground of...*
- (c) *the sexual orientation or lawful sexual activity of the person or any member of the group or ...*
 - (e) *the gender identity or intersex variations of sex characteristics of the person or any member of the group*

29. The Panel finds that although the social media posts did ridicule and were likely to be offensive to people who identify as LGBTIQ+ and to the individual targeted by Cr Aitken, they were not at the serious or severe level required by the Anti-Discrimination Act. The Panel therefore dismisses this part of the complaint.

Part 8.1-A councillor must accurately represent the policies and decisions of the council when giving information to the community.

30. Cr Aitken's social media posts in relation to this complaint are not directly linked to any Council policies or decisions, but rather sweeping statements targeting specific community groups. Part 8.1 specifically states that a councillor must accurately represent the policies and decisions of Council. The Panel dismisses this part of the complaint.

Part 8.4-A councillor must clearly indicate if a view put forward by the councillor is a personal view.

31. Similarly, Part 8.4 requires an elected member when representing the business of Council to indicate if a view they communicate is their personal view and not one of Council. Cr Aitken's social media posts do not relate to particular policies and decisions of Council, but rather views he holds relating to certain community group. Although Cr Aitken did not explicitly specify whether the view he put forward was a personal view or the view of the Council, the Panel did not find that he was seeking to portray these views as the view of Council. The Panel dismisses this part of the complaint.

Part 8.7-A councillor's personal conduct must not reflect, or have the potential to reflect adversely on the reputation of the council

32. Cr Aitken is a well-known in his community as a Burnie City councillor. Whilst he claims that he was posting on his personal social media, he did not clearly indicate these were his personal views. Part 8.7 places the onus on an elected member to ensure that any public commentary or behaviour does not have the potential to reflect adversely on the reputation of Council. The content of Cr Aitken's social media posts is contrary to Council's promotion of inclusion and therefore has the potential to adversely impact on the reputation of the Burnie City Council. The Panel upholds this part of the complaint.

Sanctions

33. Section 28ZI states that -

- (1) After completing its investigation of a code of conduct complaint, the investigating Panel for the complaint is to determine the complaint by –
 - (a) upholding the complaint; or*
 - (b) dismissing the complaint; or*
 - (c) upholding part of the complaint and dismissing the remainder of the complaint.**
- (2) If the code of conduct complaint or part of it is upheld, the investigating Panel for the complaint may impose one or more of the following sanctions on the councillor against whom the complaint is made:*

- (a) a caution;
- (b) a reprimand;
- (c) a requirement to apologise to the complainant or other person affected by the contravention of the code of conduct;
- (d) a requirement to attend counselling or a training course;
- (e) a suspension from performing and exercising the functions and powers of his or her office as a councillor for a period not exceeding 3 months.

- (3) If the code of conduct complaint or part of it is dismissed, the investigating Panel for the complaint may determine that the complainant may not make a further complaint in relation to the same matter for a period not exceeding 12 months unless the complainant provides substantive new information in the further complaint.

- 34. On 7 July 2026 the Panel wrote to Cr Aitken advising that it had determined the complaint should be upheld, providing high level reasons for its decision. Cr Aitken was invited to provide a response by 24 July 2026. An undated response from Cr Aitken was received by the Executive Officer and forwarded to the Panel on 21 July 2026.
- 35. In his response, Cr Aitken stated he considered the content of his social media posts were true and that they were posted on his personal social media platforms. Cr Aitken concluded that he did not understand how the Panel could have found he had breached the Code and that the complaint should be dismissed.
- 36. In considering penalty, the Panel noted that a similar complaint had recently been upheld by a different Panel. The determination in the previous matter was tabled in Council at its meeting of 27 January 2026. Parties to that complaint were forwarded copies of the determination on 3 December 2025. The sanction applied to Cr Aitken was a 14-day suspension and a requirement to undertake training as determined by the General Manager. The date of Cr Aitken's alleged breaches in relation to this complaint was 15 February 2026. Whilst Cr Aitken may not have commenced his training by then, he was aware of the findings of the Panel in the previous matter yet continued to maintain similar behaviour that led to his suspension.
- 37. Having regard to the evidence before it and Cr Aitken's continued non-compliance with the Code, the Panel imposes a 28-day suspension to commence from the day following the tabling of this determination. Additionally, if the previous training has not covered appropriate use of social media by elected members, the Panel determines that Cr Aitken undergoes further but specific training as arranged by the Office of Local Government. This training must commence after Cr Aitken's period of suspension end and be completed within three months of that date.

Timing of the Determination

- 38. In accordance with section 28ZD(1) the Investigating Panel is to make every endeavour to investigate and determine a code of conduct complaint within 90 days of the Initial Assessor's determination that the complaint is to be investigated.
- 39. The Panel has been unable to determine the complaint within 90 days, owing to time taken seeking clarification relating to documentation and occasional unavailability of Panel members

Right to review

40. A person aggrieved by the determination of the Code of Conduct Panel, on the ground that the Panel failed to comply with the rules of natural justice, is entitled under section 28ZP of the Act to apply to the Tasmanian Civil and Administrative Tribunal for a review of the determination on that ground.



Jill Taylor
Chairperson



Dr Josh Fergeus
Member



Audrey Mills
Member

DATE : 24 August 2026