

CODE OF CONDUCT PANEL

INVESTIGATING PANEL - DETERMINATION REPORT

NORTHERN MIDLANDS COUNCIL

Complaint brought by Cr Andrew McCullagh against Cr Dick Adams

Investigating Panel

- Lynn Mason AM (Chairperson)
- Matt Evans (Local Government Member)
- Richard Scaife (Legal Member)

Date of Determination: 29 September 2026

Content Manager Reference: 40036

Explanatory Statement

Section 28ZJ(2) of the *Local Government Act 1993* (Tas) (the Act) states that the determination of a code of conduct complaint must not contain any information of a kind referred to in s 338A of the Act, but, if the Investigating Panel for the complaint considers that any such information is relevant to the report and should be included, it is to include that information in an addendum to the report.

The Panel has determined that it is necessary in this Determination Report to append an addendum to provide relevant information to the Council and the parties to the complaint. The report without the addendum is to be made available to the public through the agenda of an ordinary Council meeting; the report and the addendum are to be included in the agenda of a Council meeting closed to the public.

Summary of the complaint

1. A code of conduct complaint, made under s 28V of the Act, was submitted by Councillor Andrew McCullagh (Cr McCullagh) to the Corporate Services Manager, Northern Midlands Council (Council), on 24 December 2024 (the complaint).
2. The complaint alleges that Councillor Dick Adams OAM (Cr Adams) breached the code of conduct relating to the conduct of councillors, as set out in Schedule 1 of the *Local Government (Code of Conduct Order) 2024* (Tas) made by the Minister for Local Government pursuant to s 28R of the Act (the Code).
3. In the complaint Cr McCullagh specifically alleges Cr Adams breached the following parts of the Code:

PART 2 - Conflicts of interests that are not pecuniary

1. *A councillor, in carrying out the councillor's public duty, must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests that the councillor may have.*
2. *A councillor must act openly and honestly in the public interest.*
3. *A councillor must uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting of the council and at any workshop or any meeting of a body to which the councillor is appointed or nominated by the council.*
4. *A councillor must act in good faith and exercise reasonable judgement to determine whether the councillor has an actual, potential or perceived conflict of interest.*
5. *A councillor must avoid, and withdraw from, positions of conflict of interest as far as reasonably possible.*
6. *A councillor who has an actual, potential or perceived conflict of interest in a matter before the council must –*
 - (a) declare the conflict of interest and the nature of the interest before discussion of the matter begins; and*
 - (b) act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the councillor to leave the room during any council discussion and remain out of the room until the matter is decided by the council.*
7. *This Part does not apply in relation to a pecuniary interest.*

PART 3 - Use of office

1. *The actions of a councillor must not bring the council or the office of councillor into disrepute.*
2. *A councillor must not take advantage, nor seek to take advantage, of the councillor's office or status to influence others improperly to gain an undue, improper, unauthorised or unfair benefit, or detriment, for the councillor, another person or a body.*
3. *A councillor, in the councillor's personal dealings with the council (for example as a ratepayer, recipient of a council service or planning applicant), must not expect or request, expressly or implicitly, preferential treatment for the councillor, another person or a body.*

PART 5 - Use of information

1. *A councillor –*
 - a) must only access or use council information as needed to perform the councillor's duties and functions; and*
 - b) must not access or use council information for personal reasons or non-official purposes.*
2. *A councillor must only release council information –*
 - a) in accordance with established council policies and procedures; and*
 - b) in compliance with relevant legislation.*

4. The breaches are alleged to have occurred at the ordinary Council meeting in the Council Chambers on 9 December 2024 in connection with Cr Adams' participation in and voting upon Item 5.3.1, which was a notice of motion that proposed:

Council write to the Director of Local Government seeking a fully independent investigation into the Northern Midlands Council under Section 339EA of the Local Government Act 1993, into the misuse of council finances for private purposes and the destruction of council records in relation to the Council meeting of 26 October 2020.

(the 2024 Proposed Motion)

5. On 26 October 2020 Cr Adams participated in Items 376/20 and 377/20 on the Agenda of the Council's Special Meeting and voted in favour of motions which were passed in Closed Council, that Council: *See addendum.*

(together the 26 October 2020 resolutions)

6. The 26 October 2020 resolutions were the subject of the 2024 Proposed Motion which, if passed, may have resulted in the Director of Local Government's needing to investigate, and therefore scrutinise, the 26 October 2020 resolutions.

Initial assessment

7. Following receipt of the complaint, an Initial Assessor (IA) was appointed to conduct an initial assessment of the complaint in accordance with s 28ZA of the Act. Having assessed the complaint against the provisions of ss 28ZB and 28ZC of the Act, the IA determined that part of the complaint should be investigated and determined by the Code of Conduct Panel, viz., Part 2 of the Code. The IA determined to dismiss the other part of the complaint, as it related to alleged breaches of Parts 3 and 5 of the Code.
8. Cr McCullagh, Cr Adams and the General Manager of the Council were notified of the outcome of the initial assessment by letter dated 24 January 2025.

Initial investigation and determination of the Complaint

9. The Executive Officer, appointed under s 28M of the Act (Executive Officer), selected three members of the Code of Conduct Panel (established under s 28K of the Act) to investigate and determine the complaint under s 28L of the Act (First Panel). The First Panel investigated and, on 5 September 2025, determined the complaint under ss 28ZE and 28ZI of the Act respectively.
10. Subsequently, Cr Adams applied to the Tasmanian Civil and Administrative Tribunal (TASCAT) for a review of the First Panel's determination. However, on 12 December 2025, TASCAT relevantly ordered, by consent of the parties, that the First Panel's determination, dated 5 September 2025, be set aside and 'the matter is sent back to a differently constituted Panel to be determined afresh'.

(Re)Investigation

11. The Executive Officer selected three other members of the Code of Conduct Panel to investigate and determine the Complaint under s 28L of the Act (the current Investigating Panel).
12. Through the Executive Officer, the Panel wrote to the General Manager of the Council on or about 19 February 2026, requiring the following information:
 - a. The full agenda and minutes of that section of the meeting of 26 October 2020 dealing with the motion to pay the expenses of the Mayor and General Manager; and
 - b. any attachments to that item.
13. On 20 February 2026, the Panel received the following documents pertinent to the Council meeting on 26 October 2020 sent through the Executive Officer by the General Manager:
 - a. Agenda for the Special Council Meeting – closed council;
 - b. Agenda for the Special Council Meeting – open council;
 - c. Special Council Meeting attachments – closed council;
 - d. Minutes Special Council Meeting – closed council;
 - e. Minutes Special Council Meeting – open council.
14. The Panel has considered the following evidence in this matter:
 - a. The complaint from Cr McCullagh, accompanied by a Statutory Declaration dated 23 December 2024;
 - b. Response from Cr Adams, accompanied by a Statutory Declaration dated 22 January 2026;
 - c. Further response from Cr McCullagh, accompanied by a Statutory Declaration dated 16 February 2026;
 - d. Further response from Cr Adams, accompanied by a Statutory Declaration dated 6 March 2026;
 - e. Minutes of the open council meeting of 9 December 2024;
 - f. Minutes of the closed council meeting of 26 October 2020, items 376/20 and 377/20, with attachments;
 - g. Records of the council meeting of 26 October 2020:
 - i. Agenda for the Special Council Meeting – closed council;
 - ii. Agenda for the Special Council Meeting – open council;
 - iii. Special Council Meeting attachments – closed council;

- iv. Minutes Special Council Meeting – closed council;
 - v. Minutes Special Council Meeting – open council;
 - h. *Review of Governance and Meeting Processes* by Andrew Paul, provided to the Panel on 27 February 2026;
 - i. Witness statement of Cr Paul Terrett, together with Statutory Declaration, both dated 4 March 2026;
 - j. Witness statement of Cr Matthew Brooks, undated but accompanied by a Statutory Declaration dated 4 March 2026;
 - k. Further response from Cr Dick Adams, 6 March 2026; and
 - l. *Local Government (Code of Conduct) Order 2024* (Tas).
15. The Panel also considered the decision of the Supreme Court of Tasmania, made 18 November 2024, in *McCullagh v Northern Midlands Council, Knowles and Jennings* [2024] TASSC 66 (the Supreme Court decision).
16. The Panel met on 18 February 2026 and, pursuant to s 28ZG(1) of the Act, determined to conduct the investigation of the complaint by means of a hearing.
17. By letters dated 26 May 2026, the Chairperson of the Panel wrote to Cr McCullagh and Cr Adams to advise of the hearing details and to include information about the manner in which the hearing would be conducted and a list of the materials the Panel would consider as part of the investigation (with an invitation to contact the Executive Officer if a copy of any of the documents listed was required).
18. The Panel held a hearing, pursuant to s 28ZH of the Act, on 23 July 2026 at the Longford Memorial Hall (the Hearing).
19. At the Hearing:
- a. Cr McCullagh appeared by video link;
 - b. Cr Adams appeared in person with his support person, Mr Michael Salhani; and
 - c. Witnesses Cr Paul Terrett and Cr Matthew Brooks appeared in person.
20. At the commencement of the Hearing the Chairperson:
- a. identified the allegations against Cr Adams;
 - b. provided detailed information regarding the relevant provisions of the Code that were alleged to have been breached by Cr Adams in the complaint;
 - c. provided information regarding the Initial Assessment of the complaint, including that the Initial Assessor had dismissed the allegation that Cr Adams had breached Parts 3 and 5 of the Code;
 - d. identified the evidence before the Panel relevant to the complaint; and
 - e. explained the process to be followed in the hearing.

21. During the Hearing, Cr McCullagh and Cr Adams were both invited to make, and both made oral submissions. Cr McCullagh and Cr Adams were both invited to ask questions of each other. Both Cr McCullagh and Cr Adams did so.
22. The Panel, Cr McCullagh and Cr Adams were given an opportunity to ask questions of the witnesses.
23. Both Cr McCullagh and Cr Adams were invited to make a closing statement.
24. After Cr McCullagh and Cr Adams concluded their closing statements the Chairperson informed the parties of the process to be followed from that point, and invited the parties to comment on sanction, in the event that any part of the complaint was upheld. The parties were given until Monday 27 July 2026 to make further submission on sanction if so desired.
25. Consistent with s 28ZH(4)(a) of the Act, evidence given by Cr McCullagh, Cr Adams, Cr Terrett and Cr Brooks was on oath or affirmation.
26. In addition to the evidence considered in this matter, identified above and including the evidence given at the Hearing, the Panel has also considered Cr Adams' submission with respect to sanction, which was received on 11 August 2026.

Determination

27. For the reasons that follow, pursuant to s 28ZI(1)(c) of the Act, the Panel determines to uphold the complaint, as it relates to paragraphs 1 – 6 (inclusive) of Part 2 of the Code and, to the extent it is necessary, dismisses the remainder of the complaint.

Reasons for determination

28. The Panel considered the information and evidence provided and identified in [14], [15] and [26], together with the submissions and evidence from the Hearing.
29. What is apparent from the information and evidence is that the complaint is not one that involves a dispute about the material facts. Instead, the principal question that falls to the Panel to determine is whether Cr Adams' conduct, by participating in the 2024 Proposed Motion, equates to a breach of any of paragraphs 1 – 6 of Part 2 of the Code. Cr McCullagh contends that it does. Cr Adams contends that it does not.
30. The material facts relevant to that enquiry, which are not in dispute, are:
 - a. Cr Adams attended the Closed Special Meeting of Council held on 26 October 2020 as a councillor and seconded and voted in favour of the following motion identified in the minutes of that meeting as Item 376/20: (*see addendum*)
 - b. Cr Adams attended the Closed Special Meeting of Council held on 26 October 2020 as a councillor and voted in favour of the following motion identified in the minutes of that meeting as Item 377/20 that, in part, stated (*see addendum*):

(a. and b. being the 26 October 2020 resolutions)

- c. Before 9 December 2024, Cr Adams was aware of the decision of the Supreme Court of Tasmania in *McCullagh v Northern Midlands Council, Knowles and Jennings* [2024] TASSC 66 (the Supreme Court decision).
- d. On 9 December 2024, Cr Adams participated in the debate and voted against the following motion put to Council, identified in the Council Minutes of that meeting as Item 5.3.1:

That Council write to the Director of Local Government seeking a fully independent investigation into the Northern Midlands Council under Section 339EA of the Local Government Act 1993, into the misuse of council finances for private purposes and the destruction of council records in relation to the Council meeting of 26 October 2020.

(that is, the 2024 Proposed Motion)

- e. Before participating in and voting against the 2024 Proposed Motion, Cr Adams did not declare a non-pecuniary conflict of interest. It follows that Cr Adams did not leave the room when the 2024 Proposed Motion was considered and decided by the Council.
31. The Panel notes that Cr Adams relied on consultant Andrew Paul's report and stated that Council was acting on Mr Paul's recommendations; Cr Adams submits that his vote against the 2024 Proposed Motion was justified on that basis. However, the Panel observes that submission is not responsive to the underlying basis of the complaint; that Cr Adams had a non-pecuniary conflict of interest in respect of the 2024 Proposed Motion. The complaint is not directed at the merits of or justification for Council's decision in respect of that motion, and any submission to that effect does not ameliorate a failure to manage properly a conflict of interest. Even if it were, Cr Adams' submission is not supported by Mr Paul's report. Mr Paul did not make any relevant recommendations. Mr Paul's report, in dealing with this matter states (emphasis added below):

Decision to fund the defamation action

*This matter relates to Council funding the legal costs of the Mayor and General Manager in a defamation action against another now Councillor. I am advised that the decision to fund the legal proceedings was a resolution of Council and was supported by legal advice at that time. As an external advisor to Council, I have no entitlement to access closed meeting minutes without the express motion of Council. Further, I understand that this matter is now before the Courts and as such I am unable to receive the legal advice as to do so would result in the removal of privilege that covers that document. I understand that there is ongoing legal argument as to the validity of Council's decision to fund the proceedings. **Ultimately this is now a matter for the Court to determine and for that reason not something which I can provide recommendations on.***

32. The Panel concludes from this statement by Mr Paul that no investigation nor review of that decision taken in 2020 has been undertaken by the Council as a result of this governance report by Mr Paul. The Panel therefore places no weight on the statement made by Cr Adams in his sworn statement of 22 January 2026, and repeated during the hearing, that Mr Paul's recommendations were adopted by the

Council at its meeting of 21 October 2024, and that therefore no further investigation as proposed by Cr Terrett's motion was necessary.

33. Cr Adams also relies on Council's compliance with the orders in the Supreme Court decision as justification to vote against the 2024 Proposed Motion. However, again, the Panel observes that submission is not responsive to the underlying basis of the complaint: that Cr Adams had a non-pecuniary conflict of interest in respect of the 2024 Proposed Motion. The complaint is not directed at the merits of or justification for Council's decision in respect of that motion and any submission to that effect does not ameliorate a failure to manage properly a conflict of interest. In addition, the Panel observes that the orders of the Court in the Supreme Court decision do not extend to that part of the 2024 Proposed Motion which deals with the alleged destruction of Council records.
34. Whilst Cr Adams consistently and robustly denied that he had breached Part 2 of the Code, Cr Adams has not provided any other reasonable basis on which it could be contended that his participation in the 2024 Proposed Motion complied with Part 2 of the Code.¹
35. The Panel is satisfied Cr Adams' participation in the 2024 Proposed Motion represents a failure to comply with paragraphs 1 – 6 (inclusive) of Part 2 of the Code for the following reasons:
 - a. Cr Adams participated in the debate on, and voted for, the 26 October 2020 resolutions;
 - b. The 26 October 2020 resolutions, (*see addendum*) were declared invalid and of no effect, and the resolution was quashed by the Supreme Court decision. The Supreme Court decision was also highly critical of the Council's resolution (*see addendum*);
 - c. Cr Adams was aware of the Supreme Court decision prior to his consideration of the 2024 Proposed Motion;
 - d. Cr Adams failed to declare any actual, potential or perceived conflict of interest in respect of the 2024 Proposed Motion;
 - e. The 2024 Proposed Motion, if carried, would likely have brought scrutiny upon Council, possibly significant adverse scrutiny on the basis of the Supreme Court decision; particularly upon those councillors who voted in favour of the 26 October 2020 resolutions (of which Cr Adams was one);
 - f. Cr Adams, as a councillor, had a public duty to act in the best interests of the Community (s 28(1)(b) of the Act) which arguably justified Council's engaging in a process to enquire into the circumstances surrounding the 26 October 2020 resolutions, particularly given the strong condemnation of Council's actions in the Supreme Court decision;
 - g. Cr Adams voted in favour of the 26 October 2020 resolutions and therefore had either or both a personal or private interest in avoiding such scrutiny. Such

¹ The Panel notes that the IA stated in his letters to the parties regarding his determination on investigation, that paragraph 7 of Part 2 of the Code does not impose any obligations upon a councillor but defines the application of Part 2 of the Code. The Panel therefore makes determination only on paragraphs 1-6 (inclusive) of Part 2 of the Code.

scrutiny, conceivably, amongst other adverse consequences² had the potential to have a deleterious effect on Cr Adams' standing and reputation in the community;

- h. In those circumstances, Cr Adams had an actual, potential or perceived conflict of interest in respect of the 2024 Proposed Motion and a reasonable person would consider that the conflict of interest required Cr Adams to leave the room during Council discussion of the 2024 Proposed Motion and remain out of the room until the matter was decided by Council.

36. Specifically, the Panel determines that Cr Adams:

- a. had a personal interest in ensuring that scrutiny was not brought upon the 26 October 2020 resolutions, (*see addendum*) and possible referral to other agencies (see Footnote 2), as this had the potential to have a deleterious effect on Cr Adams' standing and reputation in the community. The Panel determines that circumstance may be seen to have unduly influenced Cr Adams in carrying out Cr Adams' public duty. The Panel therefore upholds the complaint that Cr Adams breached Part 2.1. of the Code;
- b. failed to act openly and honestly in the public interest by his failure to declare that he had an interest in the outcome of the motions dealt with at Item 5.3.1 on 9 December 2024, and as a result, the Panel determines to uphold the complaint that Cr Adams breached Part 2.2. of the Code;
- c. had an actual, potential or perceived conflict of interest, which he did not declare in respect of Item 5.3.1, considered by the Council on 9 December 2024. The Panel upholds the complaint that Cr Adams breached Part 2.3. of the Code by failing to uphold the principles of transparency and honesty, and his failure to declare the conflict of interest;
- d. failed to act in good faith and did not exercise reasonable judgement when he did not declare his interest in Item 5.3.1 at the Council meeting on 9 December 2024, thereby breaching Part 2.4. of the Code;
- e. failed to withdraw from a position of conflict of interest when Item 5.3.1 was taken on 9 December 2024. The Panel therefore upholds the complaint that Cr Adams breached Part 2.5. of the Code; and
- f. had an actual conflict of interest in the outcome of Item 5.3.1 on 9 December 2024, and by not declaring the conflict of interest before discussion of the matter began and not leaving the room while discussion and voting took place, he breached Part 2.6. of the Code.

37. For those reasons, the Panel has determined to uphold the complaint.

Sanction

38. Section 28ZI of the Act provides:

² For example referral to the Integrity Commission, the Auditor-General or a 'law enforcement agency': s 339EA of the Act.

(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 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.

39. A response on the question of sanctions from Cr Adams was received 11 August 2026. Cr Adams maintained that he did not have a conflict of interest and that he should not face any penalty.
40. Through his response to the complaint, including his steadfast denial of the complaint and his failure to state, at any point, that a conflict of interest existed in respect of his participation in the 2024 Proposed Motion, Cr Adams disclosed a fundamental misunderstanding of his obligations as a councillor in connection with conflicts of interest.
41. Cr Adams has had two prior complaints upheld for breaches of Part 2 of the Code. It is apparent that Cr Adams has failed to learn from the imposition of a caution imposed in 2019, in the first instance, and the imposition of a suspension for a period of one month, for a second breach in December 2021.
42. The Panel imposes on Cr Adams a suspension for a period of two months, with effect from the second day following the date of this determination. In addition, and subject to Cr Adams being re-elected to office following the October 2026 local government elections, the Panel also imposes a requirement to undertake training, the nature and extent of which to be prescribed by the Director of Local Government, having regard to Cr Adams' failure to comply with Part 2 of the Code and its requirements with regard to the actions demanded of a councillor who has an actual, potential or perceived conflict of interest. This training is to be completed within three months of Cr Adams making the declaration of office, should he be re-elected for a further term.

Timing of the determination

43. In accordance with s 28ZD(1) of the Act, the Investigating Panel is to make every endeavour to investigate and determine a code of conduct complaint within 90 days of the IA's determination that the complaint is to be investigated.
44. The Panel has been unable to determine the Complaint within 90 days because of difficulties in scheduling the hearing to allow both parties and witnesses to attend.

Right to review

45. A person aggrieved by the determination of the Investigating Panel, on the ground that the Investigating Panel failed to comply with the rules of natural justice, is entitled, under s 28ZP of the Act, to apply to TASCAT for a review of the determination on that ground.



Lynn Mason AM
Chairperson



Matt Evans
Local Government Member



Richard Scaife
Legal Member

DATE : 29 September 2026