

## 11.1 Actions following Code of Conduct breach

*Report on elected member mediation and training following a Code of Conduct complaint.*

*This is an update on a previously reported project, concept or issue.*

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File Reference:

Attachments: 1. Report from Michael Kelledy, Wallmans Lawyers (2 pages)  
2. Report from Michael Craig, Michael Craig Consulting  
(1 page)

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## 1 Executive summary

### 1.1 Topic

Report on elected member mediation and training following a Code of Conduct complaint.

### 1.2 Context

At its meeting of 19 January 2010, Council resolved the following:

2. *That Council endorse actions to date in response to a complaint under the Elected Member Code of Conduct.*
3. *That Council note the report of the independent Local Government Governance Panel including its findings that a breach of the Elected Member Code of Conduct 2008 has occurred.*
4. *That Council make mediation services available to the elected members involved.*
5. *That Council make available training to help the elected member who has breached the Code of Conduct to better understand the role and responsibilities of an elected member.*

and a further resolution:

6. *That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the abovementioned document (or part of such document) including the minutes and the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(a), with the exception of the resolution moved by Cr Erwin and seconded by Cr Fletcher be retained in confidence for a period of 12 months.'*

### **1.3 Suggested outcome**

That Council consider the reports from Michael Craig of Michael Craig Consulting and Michael Kelledy of Wallmans Lawyers.

It is suggested that Council consider this item in Confidence. Section (ii) 90(3)(a), of the Local Government Act 1999 is the most appropriate to use for this purpose.

This item is presented as a confidential item consistent with the approach taken at the Council meeting on 19 January 2010. At that meeting the report was considered in confidence with an order that all documents be kept confidential for a period of 12 months. The resolution shown under 1.2 Context above (ie items 2 to 5) was specifically excluded from the confidentiality order.

The recommended confidentiality order for this report is consistent with the order resolved by Council on 19 January 2010 (that is the order is recommended to expire 12 months after that date).

## **2 Recommendation(s).**

### **1. That:**

- a. under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.**
- b. the Council is satisfied that it is necessary that the public be excluded to enable the Council to consider the matter at the meeting on the following grounds:**
  - Section 90(3)(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);**
- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.**

**2. That Council note the reports of Michael Craig of Michael Craig Consulting and Michael Kelledy of Wallmans Lawyers.**

**3. That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the abovementioned document (or part of such document) including the minutes and the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(a), until 19 January 2011.**

## Key Factors

### 3 Discussion

At the Council meeting of 19 January 2010 a report of the Local Government Governance Panel was considered in confidence. That report found that Cr Apap had breached the Elected Member Code of Conduct. The outcome was that Crs Apap and Wenham were to be offered mediation and Cr Apap was to be offered training in the role of an elected member.

Both processes have been concluded and reports from Michael Craig of Michael Craig Consulting (mediation) and Michael Kelledy of Wallmans Lawyers (training about the role of elected members) are attached.