

Mayor's Personal statement 26/4/2022

Investigation Report

Code of Conduct for Council Members City of Unley.

Subject Member: Mayor Michael Hewitson AM

Advertiser Editorial 26/10/2022

The Advertiser

Council craziness

SOUTH Australian councils have made a fine art of making themselves look stupid.

Unley is the latest example, spending \$16,000 of ratepayers' money on code-of-conduct complaints against Mayor Michael Hewitson.

Dismayingly, such complaints are all too often weaponised within local government by feuding councillors driven by animosity, political ambition and pettiness.

The result is that tens of thousands of dollars are wasted each year by councils using lawyers to investigate elected members because of personality clashes, trivial disagreements and factional

differences. Mr Hewitson's predicament is a case in point. He is facing a censure motion over, of all things, encouraging his ratepayers to support greater transparency and accountability within councils.

A councillor for almost 16 years, his so-called offences include getting staff to help with his newsletters and videos, referring to confidential legal advice in a newspaper column and talking about "silly rules" for councils.

As Mr Hewitson rightly points out, if a mayor cannot advocate for long-overdue local government reform then who can?

"Silly rules and silly application make for bad governance."

I am proud of the achievements of our Council and the way we are working together over in the current term. We have a great staff team lead by our CEO Peter Tsokas, and we the Council, are delivering for the people of Unley.

The feedback from our own Community about Unley Council, is outstanding. Unley Council is well respected.

The finding of the ME report that I did not breach 2.8 of the code is consistent with my belief that everything I have said, and written, has been the truth.ⁱ I would have been devastated had the findings been anything other than I had told the truth.

My service for the people of Unley has been based on truth, transparency, and respect. The report found that I 'show respect for others if making comments publicly'.ⁱⁱ I would also have been devastated had the findings been anything other than I had shown respect for others.

With the advice in the ME report, as members of the Council you now have a decision to make.

As Council members you have received a legal decision and a recommendation via the MinterEllison report. The acting CEO and I also received a letter and document from Iles Selley Lawyers. They were writing to you as Councillors, to be part of your consideration prior to making this decision.ⁱⁱⁱ I have been advised that I am not entitled to table the Iles Selley documents.

The advice I received from Mark Booth and Iles Selley lawyers reaffirmed my belief that I had not breached either 2.2 or 2.7 of the code.^{iv}

I am disappointed that I am unable to share the Iles Selley advice with you to assist you in making a decision about the recommendation.

Legal Advice I sought legal advice as I wanted to know whether I was guilty of the offence of breaching the code of conduct.

Given the evidence provided by Iles Selley to MinterEllison, I was astonished that in the ME report I was found to have breached 2.2 and 2.7 of the code.

Did my article diminish Community trust and confidence in the Council?

I wrote the Herald Article to start a discussion on how we could improve how Local Government runs. Unley citizens have come across so many stories that undermine trust in Local Government. I believed that a Mayor sharing his

personal views, and suggesting a solution, would increase the confidence in local government. I believe people want the truth, and welcome positive suggestions.

I tested the article^v by giving it to some Mayors and asked, “Do you consider the article diminished community trust and confidence in the Council?” Not one of them did.

I welcome advice and wish to thank my colleagues for your advice in October last year. The article, including advice from one was circulated to all members of council. I then received a further email of support, with more suggested amendments. They were all included in the final article submitted. Other advice was received after the deadline, with three expressing concern and another expressing support.

I respect the varied opinions of other Councillors. I regret that not all advice was received prior to the deadline.

Did I share confidential legal advice?

I believe confidential legal advice must be respected. I wrote the Herald article referring to the 2019 advice of our CEO. This advice can be found on P12 of the final report.

It is unsurprising that the advice I receive in 2019 was similar to later advice that was confidential. I sincerely regret that I have written a piece which can be read in an unintended way. It would have been good to have added to words, “As Mayor of Unley, **In 2019** I was advised that it is against the rules for Elected Members to be able to have the information they share with you checked by staff who are willing to do so.”

Irresponsibly sharing an unauthorised Council video

I did accept staff advice that I could share a U-tube link to both a short and longer version of a report on our council meeting. I was not part of the staff authorization process. Before sharing the video, I did double check the information was accurate because I am responsible for the accuracy of the information I share. My intention was not for any supposed private gain, but rather to improve the quality of the video of our council meetings monthly report.

As a Councillor and Mayor, I have often accepted the assurance of staff that I can trial a ride on an e-scooter, or that an email is good to share.... I carefully vetted it. I am still unable to work out how I have privately gained by sharing a longer and shorter version of a video that accurately reported on a Council Meeting.

It is my hope that Mayors will be allowed to speak the truth, with respect for others.

Final statement

A Council that can discuss concerns and explore ideas to improve the way council runs, and admit mistakes, is a Council that I trust.

A Council that considers all available evidence when asked to make decisions, is a Council that our community can trust.

Whatever the outcome of your decision, I look forward to continuing to work with you all for the betterment of our citizens of Unley.

Mayor Michael Hewitson AM 26/04/2022

i **2.8 Endeavour to provide accurate information to the Council and to the public at all times.** We do not consider that the Herald Article was inaccurate in the nature submitted by the Complainant. We do not find that the Mayor breached clause 2.8 of the Code. ME report

ii **2.4 Show respect for others if making comments publicly.** We do not find that the Mayor's publication of the Herald Article failed to show respect for others (in making comments publicly) and accordingly we have found no breach of clause 2.4 of the Code

iii This advice was sent to our acting CEO by my lawyers last Wednesday, 20/04/2022. They asked that their advice to you be included in the agenda.

iv **(Act in a way that generates community trust and confidence in the Council.)** and 2.7 of the Code. **(2.7 Deal with information received in their capacity as Council members in a responsible manner.)**

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SILLY RULES AND SILLY APPLICATION MAKE FOR BAD GOVERNANCE?



**Michael Hewitson AM
Mayor, City of Unley**

You are restricted by law to just half a glass a day! 55mls?

I recently had the pleasure of attending breakfast with the Governor of South Australia, Francis Adamson AC, on her first public engagement.

What a great speech was given; succinct, relevant and engaging.

Anthony Black is head of "Risk and National Care Practice" and was the lead speaker at the Disability and Ageing Lifestyle Breakfast.

He left us with a question: "What will you do to strengthen governance in your organisation?"

Anthony described how

a board with an aged care facility had strictly followed the national guidelines and rules.

Women who had just left the independence of their own household with the freedom to have a glass of wine or two each night were forcibly restricted to half a glass maximum each day!

They followed the rules and not much care was given to these residents.

We also have some silly rules in local government. I doubt whether this will surprise your readers.

For 14 years I have been able to have my newsletters checked by staff for factual accuracy.

The views were mine, and I valued feedback on those as well.

The responsibility for accuracy must always lie with the elected member. It was good to have inadvertent mistakes corrected to ensure Unley's debates were

based on agreed facts.

Lies travel the world at the speed of light and facts crawl hidden in their wake.

Truth matters.

Democratic debate and good governance depends on an agreed set of facts based on truth.

Truth is the breastplate of our democracy. Lies, fake news and dissembling are the arrows to the heart.

Weaponised legal attacks ensure truth is hidden and truth is hard to see.

As Mayor of Unley, I have been advised that it is against the rules for elected members to be able to have the information they share with you checked by staff who are willing to do so.

The partnership between elected members and our staff is essential for the good governance of our city.

Staff are required to follow the rules and

should do so.

Is there a way for our staff and elected members to be able to work together, even though there are rules which are silly when applied to willing partners working for truth?

Yes, staff need to be protected from being politicised by individual councillors or mayor.

Legal rules will always be a blunt instrument applied badly, and they can be bad for our democracy.

Good governance of the city of Unley requires our staff and elected members to work together and share an agreed set of facts.

By the way, I am unable to share the legal advice I have had about this with you. Silly rules need to be called out.

These are my personal views and are not necessarily council policy.

Review needed

YOUR editorial (Council craziness, The Advertiser, Tuesday) rightly criticises councils for appearing to behave stupidly and wasting thousands of dollars of rate-payers' money in pointless code of conduct issues.

The latest case involving the Mayor of Unley ironically is within the seat of former Liberal MP Mark Brindal who, in 1999, enacted a reform of local government which opened the door for the repressive reforms and silly rules councils now are lumbered with.

Interaction between elected members and council staff was just one of many council activities which Mr Brindal saw fit to inhibit and to control the governance of councils, taking away from local electors their right to decide what they wanted of their elected councillors.

Successive state governments have further restricted the workings of councils so as to make them little more than a puppet state government department whereas, in fact, they are a legitimate sphere of government in our three-tier system.

It would be highly commendable if the new Minister for Local Government, Geoff Brock, were to initiate a complete review of the Local Government Act with a view to removing its many silly rules and replacing them with a strong sense of general competence and common sense.

DAVID PLUMRIDGE AM,
Kent Town

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Silly rules

THE article "Council puts its mayor in firing line" and your editorial "Council craziness" (The Advertiser 26/4/22) show just how silly things can get in local government.

But it is wrong to assume that this means councils are not doing their jobs.

Based on my former role as a SA councillor and deputy mayor, the quality of corporate governance and overall staff performance in local government is actually far higher or comparable than in the three state and territory government departments and one federal statutory authority that I have worked for.

What sometimes diminishes the process in local government is not the feuding and sometimes irrational or politically motivated councillors who are purely a natural outcome of our democratic system.

Rather, as Unley Mayor Michael Hewitson points out, the real concerns are the silly rules discouraging councillors and mayors from communicating openly and transparently with the community they were elected to represent on issues of concern.

As your editorial points out, the only big winner from these silly rules is the legal profession, whose standard response to an investigation into elected member behaviour is to engage them further to draft more silly rules.

DAVID HALL,
Tranmere