

## 9.2 Late Item - Report on Code of Conduct Investigation

---

Report To: Council  
Meeting Date: Wednesday, 31 July 2024  
Author: Michael Booth  
Author Title: Executive Manager Business Support  
Authorised by: Chief Executive

---

### Purpose

To provide Council with the independent investigator's report on the Code of Conduct official complaint.

### Recommendation

That the Council:

- a. Receives and Notes the Report on Code of Conduct Investigation (Resolve # 2024-377)

### Executive Summary

An independent investigation was authorised by the Chief Executive following the receipt of an official complaint from Cr Farrell in relation to the conduct of the Mayor in withdrawing a submitter's right to speak at the Council Hearing held on Monday 24 June 2024.

The investigator's report is attached for Council's information.

In response to the investigation, the independent investigator advised that:

- the complaint, as documented by Cr Farrell against the Mayor, has **no basis** and should therefore be disregarded.
- the Council use this as a learning and development opportunity in terms of further securing communication channels with the public, and reinforcing behavioural and process expectations of, and between, elected members and the public.

The independent investigator made a number of general recommendations to strengthen processes and understanding.

### Discussion

### Attachments

1. 240727 - SWDC Code of Conduct

27 July 2024

**Mr Craig Tiriana**  
**Kaiwhakahaere rangatōpū**  
**Corporate Affairs Manager**  
**South Waikato District Council**  
**3 Torphin Crescent,**  
**Tokoroa, 3420**

Kia ora, Craig

**RE: INDEPENDENT INVESTIGATION INTO CODE OF CONDUCT COMPLAINT  
CR FARRELL AGAINST MAYOR PETLEY**

I have been engaged by South Waikato District Council to undertake an independent investigation of a Code of Conduct Complaint laid by Cr Farrell against the Mayor.

This complaint centres on Council's recent Long Term Plan deliberation process where the Mayor is challenged with failing to enable a resident to complete his address in response to his written and agreed verbal presentation.

This investigation does not cover the investigation of any complaint yet to be initiated by the member of the public concerned, being Mr Zed Latinovic, who has advised at this time that he does not intend to progress with that course of action.

From my interview process, held at Council offices on Wednesday 24 July 2024, I have documented a number of general observations, commentary and recommendations, which follow.

In response to the investigation, my finding is that the complaint, as documented by Cr Farrell against the Mayor, **has no basis** and should therefore be disregarded.

However, I would encourage Council to use this as a learning and development opportunity in terms of further securing communication channels with the public, and reinforcing behavioural and process expectations of, and between, elected members and the public.

Ngā mihi



**Mark Abbot**  
**Principal Consultant**

## CODE OF CONDUCT INVESTIGATION

This investigation report is in relation to a Code of Conduct Complaint initiated by Cr Marie Farrell against south Waikato District Council (SWDC) Mayor, Gary Petley.

It follows a discussion on 24 June 2024 with Cr Farrell appealing to the Mayor to allow Mr Zed Latinovic to be able to return to the chamber to complete his presentation as part of the SWDC Long Term Plan consultation hearings and deliberations.

Cr Farrell records a formal complaint in that Mr Latinovic was “not allowed to exercise his right to present on the Long Term Plan as he was censored, ejected from the Council Chamber, and threatened with Police Intervention.” Further noting that Cr Farrell considers the way in which Mr Latinovic was treated to be a violation of his right to exercise free speech. While Cr Farrell states that she does not necessarily agree with any of Mr Latinovic’s views, she support his ability to respectfully express them and would like this to be noted.

## PROCESS AND OUTCOMES

Under legislation (Local Government Act 2002) any recommendations following this review process and investigation carry little weight in terms of sanctions or repercussions. However, it should be accepted that, by undertaking this process, there are seldom any ‘winners’. The process has a financial cost impact on Council; an impact on staff time and work delivery through distraction and preparation; a positioning of Councillor against Councillor in the public domain which often signals politicking rather than representation; often the weaponizing of the Code of Conduct process, again for political or person gain or point-scoring.

Following the lodgement of this formal complaint and the initiation of this investigation process, Cr Farrell failed to participate further by way of meeting or providing any additional information or substantiation, which is disappointing.

Cr Farrell’s further interference with the process of the Mayor exercising his rights under Standing Orders by requesting Mr Latinovic to remain in the building while she secured his “right” to continue speaking appears to have further exacerbated a situation which was being effectively deescalated by staff.

## GENERAL OBSERVATIONS

- 1. Respectful Delivery:** Cr Farrell’s complaint is supported by the statement that she “Supports his (Mr Latinovic’s) ability to respectfully express them (his views) and wishes for that to be noted.  
Mayor Petley exercised his rights under Standing Orders to withdraw Mr Latinovic’s speaking rights on the basis that this was not being delivered respectfully. Clearly there is some misinterpretation between parties as to what comprises respectful delivery and what does not.  
From the review of transcripts and interviews, it appears that the delivery, while well intended, was not respectful.
- 2. Personal Attacks:** There are a series of tenuous linkages provided to CVs or profiles which are available in the public domain to Council executives and where the context of these is not adequately aligned or provided and therefore this can be no defence for denying the lack of

personal attacks as noted by the Mayor. The attacks do appear personal and unsubstantiated. Frankly, any slur against Councillors, staff and officers, and members of the public in this forum are totally unacceptable.

3. **Standing Orders and Bill of Rights:** Council's Standing Orders serve to provide clear guidance as to how meetings, in this instance, are managed, run and processed. While there is a clear expectation that submitters can be heard, the Chair (being the Mayor) determines and rules on whether thresholds have been breached.

Bringing to a close any discussion that the Chair considers in breach of Standing Orders is not a contravention to civil liberties and 'rights' as interpreted under general legislation.

4. **Ratepayer Expectations as to Employee Rights and Relationships:** The payment of Rates, Fees, Licences etc does not provide or constitute any right, nor should it tolerate, an expectation of subservience. Councils' funding mechanisms, however that is arranged and effected by Officers, pay salaries, contractors and other expenses.
5. **Individual and Industry Representation:** Mr Latinovic was booked to present as an individual on the first day and as an Industry representative on the second. Notification was given to Mr Latinovic late in the afternoon of Day 1 the withdrawal of his right to speak (Industry) on Day 2 on the basis that his two written submissions were identical.

We should expect that this ruling would be equitably applied across all speakers. Anecdotally there is a claim that at least one other speaker retained speaking rights and based on identical submissions.

- a) If submissions are identical across Individual / Industry the same ruling should be expected to apply.
  - b) If Mr Latinovic's exclusion was on the basis of the cessation of this speaking rights on Day 1, that should have been noted as the cause.
  - c) If the Chair had relented and changed his mind to allow Mr Latinovic to speak on Day 2, that should have been conveyed.
6. **Written Transcript of On-Line Record:** We are satisfied that changes noted by Mr Latinovic have been made through my interpretation of the transcript provided, noting Mr Latinovic stating he was not making a personal attack, along with the substitution of "world" for "war". This investigation will disagree that his insistence of comments being non-personal is misplaced.
  7. **Council as a Business:** While Councils conduct operations and activities that can have components of enterprise and financial exchange, there are other, and significant, drivers that are at play. To apply the same caveats to Local Government as to a business ignores the fundamentals of why Councils exist. Those are factored on community delivery and social outcomes, alongside infrastructure stewardship etc.
  8. **The Process of Consultation:** This investigation review has not been surprised by the lack of understanding as to the process of consultation and Council's legislative obligations.

Elected Members are democratically selected and appointed to represent and ensure fair and considered decision-making for all residents and ratepayers, with this not limited to the minority of those who have voted for them.

Elected Members hold office to make decisions for the entirety of the community they serve. While it is expected and mandated to give regard to the consideration of group and individual views and feedback, etc, there is no requirement or expectation that that feedback and commentary must or may change a decision or course of action.

The opportunity to do that rests with each election cycle, rather than plan deliberation process.

In saying that, all Councillors should (and must) engage in the consultation process. After all, if they are absent or not visible in preceding and informal sessions, how else can the public engage other than through the formal submission and hearing process.

The implication of this can be the emotional delivery of personal views, appropriate or otherwise, as in this case.

9. **Volume of Submissions:** It is reported that a large number of submissions, both written and verbal, were considered by Council through this LTP process. It is unsurprising that a high level of emotional delivery results. Council would be expected to have prepared for this, as standard operating procedures with council officers on hand to ensure de-escalation as a preference to police involvement. This cannot be considered intimidation, rather preparation and preference. However, Mr Latinovic's anxiety that this could lead to later police intervention, including the issue of trespass notification is understandable.
10. **Cultural Context:** There should be some leniency (although this is not to suggest any softening of adherence to Standing Orders) given in terms of cultural context and challenges. There are nuances of language (including English as a second / adopted language), the challenges of a complex local government environment and legislation that should be considered.

However, delivery must be moderated. This is not to suggest moderation to comply with local idiosyncrasies, but to demonstrate the same respect and consideration demanded in return.

11. **Assumptions and Review Processes:** Mr Latinovic has made a number of assumptions through his interpretation of the consultation document that suggest a natural lack of understanding as to the strategic and operational processes and cycles. Council's Levels of Service determination are a critical consultative process where the removal or change of activity locations and quantities or qualities is not something that happens behind closed-doors or 'in camera'. The Ombudsman has provided sufficient challenge to Council operations of late to ensure that Councils are familiar with, and fully compliant of, the requirements for open and transparent deliberation and decision-making. Further legislative and statutory frameworks and guidelines such as the LGA's s17(a) review process to assess and determine activity efficiency is one such mechanism that should provide the public with a level of confidence as to safeguards in place.
12. **Contribution to Investigation Process:** Other than Cr Farrell' lack of attendance, this investigation was encouraged by the active and intent participation in the process by those parties involved including officers, the Mayor and Mr Latinovic himself. Officers are well-versed in process and favour de-escalation; the Mayor is community-centric and appears consistent in the application of the tools at this disposal, such as Standing Orders, to provide efficiency and effectiveness of meeting protocols and processes; Mr Latinovic presents as an intelligent and articulate individual, proud to be a resident of SWDC and eager to share his views. We would suggest that some work is required on future delivery methods, however.

**GENERAL RECOMMENDATIONS:**

1. The Induction Process for Councillors could be strengthened by regular reminders and refocusing on the tools of Council including the implications of decision-making; the concept of whole-community representation; the adherence to behavioural standards as outlined in the Code of Conduct; and the familiarisation of Council's Standing Orders, including the implications of non-compliance.
2. In addition to providing greater awareness to the public as to what Council Officers' roles involve, this could be strengthened through elected member inductions.
3. Annual and Long Term Plan Consultation Process could be enhanced by ensuring appropriate systems are in place to capture submissions across multiple formats, including the requirement for all councillors to be visible and accessible leading up to the formal submission process.
4. Executives to reinforce to staff (and elected members):
  - a) Code of Conduct intent and content.
  - b) Standing Orders purpose and structure.
  - c) Appropriate response to any intimidating or unsafe behaviour.
  - d) Any governance policy review requirements to ensure understanding and adherence.
5. Comprehensive promotion of rules and guidelines covering expectations of submitters in public forum, and including that of councillors, that which is deemed unacceptable, along with an explanation of ramifications.