

10 November 2020

[REDACTED]
[REDACTED]

Brad Cato
Transformation and Resources
027 363 2557
brad.cato@huttcity.govt.nz

Dear [REDACTED]

Request for Information – Local Government Official Information and Meetings Act 1987

We refer to your official information request dated 12 October 2020 asking for a list of elected members, since they were elected in 2019, who have had formal complaints made about them, the date of the complaint, an explanation of what the complaint was about, who made the complaint and what action was taken. Please also provide who undertook the investigation and what the cost to council was?

Part of the information you have requested (Complaints 1 and 2) is enclosed as Appendix 1 and Appendix 2. However, we have decided to refuse your request for the other information. Council's Code of Conduct allows for an early stage of confidential and without prejudice settlement of matters and provides that the complaint and steps up to the point of refer to an external investigator are confidential. For this reason the details of a third complaint are withheld under s7(2)(c)(ii) of the Local Government Official Information and Meetings Act 1987. We do not think there are public interest considerations that weigh in favour of release.

If you have any issues with our response or wish to discuss this decision with us, please feel free to contact the person above.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely

K E Stannard

Kathryn Stannard
HEAD OF DEMOCRATIC SERVICES

Enclosures:

Appendix 1: List of elected members since elected in 2019 who have had formal complaints made about them

Appendix 2: Action taken by Council against Cr Milne

Appendix 1

SUBJECT: LIST OF ELECTED MEMBERS SINCE ELECTED IN 2019 WHO HAVE HAD FORMAL COMPLAINTS MADE ABOUT THEM

Respondent	Date of Complaint	Explanation	Complainant	Investigator	Action Taken	Cost of professional services \$
Councillor Milne	25 May 2020	<p>Complaints 1 and 2: Councillor Milne contacted the Lower North Island General Manager for Waste Management Ltd on 15 April 2020, to discuss a number of issues pertaining to the Hutt City Council waste and recycling tender, in breach of clause 4 (role and responsibilities) and clauses 5.2 and 5.3 (relationships with staff and relationships with the public) of the Elected Members Code of Conduct</p> <p>Councillor Milne phoned a</p>	Deputy Mayor Lewis	ChenPalmer Lawyers	See Appendix 2 below	\$27,500

		senior Council staff member, twice to talk about a proposal concerning the sale of tennis court land at a Hutt Valley Tennis facility, in breach of clause 8 (conflicts of interest) and clause 10 (ethical behaviour) of the Elected Members Code of Conduct.				
--	--	--	--	--	--	--

Appendix 2

SUBJECT: THE CODE OF CONDUCT COMPLAINT AGAINST CR MILNE

At the Council meeting held on 9 October 2020, Council resolved the following:

RESOLVED: (Mayor Barry/Cr Dyer) (By Division)

Minute No. C 20603

“That Council agrees to accept the findings of the independent investigator’s report in the Final Report attached as Appendix 1 to the Chief Executive’s Report on the Code of Conduct Complaint against Councillor Milne that:

- (a) “based on the information and documentation before me to date and the information provided to me in my interviews with David Howie, Bruce Hodgins and Councillor Milne, I am of the view that Councillor Milne’s breaches of clause 5.3 in respect of complaint 1, and clauses 8 and 10 in respect of complaint 2 are material and serious and should be drawn to the attention of, and considered by, Council; and*
- (b) Councillor Milne’s actions and responses to date reflect a lack of awareness of how those actions could be perceived and could be detrimental to the Council’s reputation. The adverse impacts of Councillor Milne’s actions are real and, if not remedied by his acceptance that they should not be repeated, they risk undermining the purpose and objectives of the Code”.*

The motion was declared CARRIED by Division with the voting as follows:

For

Mayor Barry
Cr Briggs
Cr Brown
Cr Dyer
Cr Edwards
Cr Hislop
Cr Mitchell
Cr Shaw

Total: 8

Against

Cr Bassett
Cr Sutton

Total: 2

RESOLVED: (Mayor Barry/Cr Edwards) (BY DIVISION)

Minute No. C 206024

“That Council determines that penalties will be imposed as follows:

- (i) a letter of censure written by the Mayor on behalf of Council to Councillor Milne expressing disappointment with his actions and stubbornness that has led to the inability to settle this matter at an earlier stage;*
- (ii) requires Councillor Milne to issue an unqualified public apology that is acceptable by the*

Mayor and Chairs of Standing Committees (excluding Deputy Mayor Lewis) which includes:

- (a) an acknowledgement that his actions were serious and have breached the Code of Conduct and that those actions were wrong and will not be repeated; and*
- (b) a commitment to adhere to the Code of Conduct;*
- (iii) requires Councillor Milne to undergo training that addresses the matters found by the independent investigator and with a restorative process to rebuild trust between Councillor Milne and Council;*
- (iv) removal from the Risk and Audit Subcommittee and Seaview Marina Ltd Board unless an unqualified public apology is given by 23 October 2020 by Councillor Milne (see part (ii) above);*
- (v) reimbursement of \$16,500 of Council's external costs incurred in the full investigation required for the Final Report by the independent investigator; and*
- (vi) Councillor Milne will only have access to staff via the Chief Executive, for the remainder of the 2020/2021 financial year. The Chief Executive will establish protocols to implement this.*

For the reasons that Councillor Milne has breached three provisions of the Code of Conduct and these breaches have been found to be serious and material by an independent investigator. Councillor Milne continues to display a lack of awareness of how those actions could be perceived and have been detrimental to Council's reputation. The adverse impacts of Councillor Milne's actions are real and he has not accepted that they should not be repeated, therefore his behaviour continues to risk undermining the purpose and objectives of the Code of Conduct."

The motion was declared CARRIED by Division with the voting as follows:

For

Mayor Barry
Cr Briggs
Cr Brown
Cr Dyer
Cr Edwards
Cr Hislop
Cr Mitchell
Cr Shaw
Total: 8

Against

Cr Bassett
Cr Sutton

Total: 2