

From: [Bradley Cato](#)
To: [REDACTED]
Cc: [Euan Kyle](#)
Subject: RE: Code of Conduct OIR
Date: Thursday, 15 October 2020 10:08:36 AM
Attachments: [Transcript - Mayor, Cr Milne, Cr Bassett, Jo Miller, Bruce Hodgins.docx](#)
[image001.jpg](#)
[image002.jpg](#)
[hccsmalllogo_12fb0640-f486-4c5a-a775-f4ab1b1dfb5d.jpg](#)
[12153HaHEmailSignatureFINAL_3cd6181d-2156-4dde-9fbd-b6f7f302ed05.JPG](#)

Hi [REDACTED]

Following on from the below, please find attached a transcript of a call that took place before the complaint was lodged.

There was another meeting, once the complaint was lodged, but this was during the confidential part of the process and was on a without prejudice basis. For this reason it has been withheld under s7(2)(c)(i) and (ii) of LGOIMA. You have a right to make a complaint to the Ombudsman about this.

Regards

Brad

From: [REDACTED]
Sent: Thursday, 8 October 2020 10:51 PM
To: Bradley Cato
Cc: Euan Kyle
Subject: Re: Code of Conduct OIR

Correct, but my request is also for details of all meetings involving Cr Milne, The Mayor, Deputy and Chief Executive. While mention of these meetings is contained in the meeting reports, I want the notes and records of these meetings.

Regards,

Max

From: Bradley Cato <Bradley.Cato@huttcity.govt.nz>
Sent: Thursday, 8 October 2020 8:21 PM
To: [REDACTED]
Cc: Euan Kyle <Euan.Kyle@huttcity.govt.nz>
Subject: Code of Conduct OIR

Hi [REDACTED]

I understand you have a request in for the Cr Milne Code of Conduct complaint and cost.

This information is available here:

http://infocouncil.huttcity.govt.nz/Open/2020/10/HCC_09102020_AGN_2860_AT_EXTRA.PDF

Regards

Brad

Bradley Cato

Chief Legal Officer

Hutt City Council, 30 Laings Road, Private Bag 31912, Lower Hutt 5040, New Zealand

T , M 027 363 2557, W www.huttcity.govt.nz



IMPORTANT: The information contained in this e-mail message may be legally privileged or confidential. The information is intended only for the recipient named in the e-mail message. If the reader of this e-mail message is not the intended recipient, you are notified that any use, copying or distribution of this e-mail message is prohibited. If you have received this e-mail message in error, please notify the sender immediately. Thank you.

Zoom Meeting Tuesday 21 April 7.15am with Mayor Campbell Barry, Councillor Chris Milne, CEO Jo Miller, Councillor David Bassett and Bruce Hodgins

Campbell So on this call we've got Jo Miller and Bruce Hodgins, Council Officers and who are both tasked with ensuring the integrity of the Council's waste and recycling tender. They are in attendance to answer any specific questions and Jo to relay information as she's spoken directly with David Howie. We also have Councillor Bassett who's here at your request Councillor Milne as a support person. I'd just to make my expectations clear is that David I don't expect you as a support person to be engaging in the matter that's before us but however your presence is entirely appropriate and I've got no issue with that at Councillor Milne's request. Just to make it clear as I outlined in the letter yesterday this is a meeting to get your version of events Chris and isn't part of any formal disciplinary or code of conduct process. I have had matters raised with me and which based as youreally this is my chance to hear your side of this before going any further and also isn't a meeting to litigate some of the issues around the waste and recycling contract, generally on what Council does so it really is about consistency between the issues that have been raised and your recollection. So to get things moving I'd like to do a bit of outline around this point of the information being presented to me, Jo can you start off by outlining your steps and why since you've been contacted by David I believe on Thursday.

Jo Good morning everybody. I was contacted on it 10.30 actually it was a missed call by me and a request to call back as soon as possible by David Howie who's the Lower North Island General Manager for Waste Management. I called him back and David said the purpose the call was that he wanted to let me know that he had been contacted the day before directly by Chris with a direct call to him on a number of issues which David said pertained to the current live waste and recycling tender. David was surprised to have received the direct call particularly during a live tender process and he advised me that he explained to Councillor Milne that the contact was inappropriate and that he couldn't respond to some of the issues that Councillor Milne was raising and that it was vital that tender processes were not unwittingly interfered with there was no suggestion that it was anything other than unwittingly. David advised me that Councillor Milne was amongst other things testing out with him David the advice that we had consistently given you as Council regarding the extension of the current waste contract and why it isn't possible that it would require a whole new tender on that alone. David confirmed the advice was very much as I have previously given you. David expressed to me that there appeared to be a lack of understanding between Governance and operations I know that you said Chris wanted to explore with him different ideologies towards waste and recycling. In my call I apologised to David on the Council's behalf for what I'm really clear is inappropriate contact, it's not just content it's contact so I thanked David for contacting me and I assured him that Chris didn't have any authority to speak for the Council. I also reassured David of the importance of the integrity of our tender processes and own rules that we should comply with. I thanked David for his declining of Chris' request to correspond with him directly and assured him and that anything that David

receives would go through our tender process which requires it to go through the operations side of the Council. I was, I'll carry on if that's OK Campbell. I was really concerned about this at the blurring of governance and operations and I was at highly surprised at this contact during a live tender process but I wanted to check out that it wasn't my own cultural issues if you like so I contacted Brad Cato, Kathryn and took advice and specifically looked at your Code of Conduct because in my experience to date this is something that I would have raised directly with a Councillor and then briefed you as the Mayor but as I understand it and as I'm advised and I've now had a look at your practice that's not how Hutt does things uniquely you have changed the Code of Conduct to require instances be referred to the Mayor in the first instance and that's why I wrote to you Campbell in an email on the 16th April, I think, I can't quite see the time but it was the afternoon and I also sent, I didn't copy in but I forwarded my email to David Howie because I wanted to, I thanked him for his call in the conversation I'd had with him on the telephone I thanked him as I said for letting me know and I did say to him that I would do what I needed to do so I sent him my email, thanked him for bringing it to my attention and said do let me know if there are any inaccuracies in my email from your point of view and he emailed back to me and said no issues with your email and no further issues to raise. So that was the first bit and then the second bit of it for me was then yesterday, I was actually on leave yesterday making sure some UK friends who have been in our bubble for the last seven weeks got on a plane to the UK but you forwarded to me Chris Milne's reply to you yesterday evening which demonstrated further contact with David Howie and I then telephoned David Howie again and he expressed further surprise to me that the contact yesterday confirmed that my email to him was absolutely right and that he wasn't expecting any further contact outside of our formal tender process, he said that he would not take any further calls in that regard. I think that is probably enough from me for now.

Campbell Thanks Jo and Chris just so it's clear we'll go through each of the points that Jo's made so I've written down here what David Howie has confirmed in writing as being correct as well and I know you have already responded to some of them in your email so we've got that it would be quite good to go through each point what we can agree is correct get your side of it or anything that you disagree with so you happy to do it that way Chris?

Chris Sorry I was on mute

Campbell So I was just saying that what I'm going to do

Chris Yes I heard it, I'm fine

Campbell So on Thursday 16th April Jo contacted me and sent me a subsequent email essentially you called David Howie directly on Wednesday 15th April, that's correct?

Chris I don't know the date but yes I called him probably was that that day

Campbell Yep so the day before OK David advised that you called to speak to him on a number of issues pertaining to the current waste and recycling tender. Is that correct

Chris Well if discussing anything to do with waste is relating to the tender then yes but in fact the actual tender was not discussed it was about the industry

Campbell – OK so there was nothing specific about rates funded bins and anything involving what the tender is currently going through

Chris Oh yes I asked what other Councils were doing regards to user pays rates funding about how the different models worked out around the country what the experience was in other Councils what some of the pros and cons were of different models but the idea that I've been trying to interfere with the Council tender process is fanciful because first of all I have no role in the tender process and secondly I'm well aware of the fact that one shouldn't meddle in a Council tender process like that so as I said in my email back to you we did discuss what was appropriate and not appropriate and boundaries were observed

Campbell OK, David explained to you that contact was inappropriate

Chris No he didn't and that's very surprising because when I rang him back and it's in my letter I've written it out, exactly what I've written in that ...is what I read to him, he says that he did not say to me that the call was inappropriate, I mean I can't explain the different, I mean I regret that I didn't record the call but you're welcome to read back, have you read back what I wrote to him because that's exactly what I read to him and yes it's a fair summary of what occurred.

Campbell David has said he could not respond to some of your issues raised to ensure that the tender process was not unwittingly interfered with did he explain that to you or any way advise you of that

Chris No I mean if he didn't respond to anything what he may mean he could have said more but he didn't. I certainly never pressed him on anything to do with our tender. If I asked an open question about something he maybe told me, I don't know I'm speculating, he might have told me 60% of what he could have told me but he didn't tell me that he was withholding 40%

Campbell And you questioned David about the advice that we've received about waste management which we've not been able to extend their current contract

Chris Yes I asked him about that, that's not part of the tender

Campbell Yeah but it's still a relevant piece of information quite important so what did you ask him about that

Chris I asked him about whether it could be extended and strangely enough he actually confirmed to me that they could extend it if necessary the thought

Campbell OK and also that you wanted to explore different ideologies towards waste collection and recycling

Chris Well I don't know if the word ideologies is correct it's really just about different systems about the pros and cons yes

Campbell Ok is there anything else from that conversation that you'd like to add in I mean those are the key points

Chris I actually made detailed notes of that conversation with David Howie. I've got here four pages of notes about my conversation with him, sorry three pages as I have written down everything that we discussed, I've got full notes here about everything that we discussed so you know I've got complete notes on that conversation

Campbell OK so you're happy to send those notes through

Chris Not really. I mean

Campbell OK any particular reason

Chris I mean

David Hello can I just suggest here that Campbell's request, could Chris just have some time to think about that

Chris Yes sure Campbell I'll just explain to you why I wouldn't want to send them through I think the reason is he's made some comments about certain things which are actually at variance with what Council's belief is I mean I'll just make a general comment from talking to people in the waste industry people are going along politely along with what Council's doing, I don't want to put David, I don't want to expose David you know Campbell people are going along politely with what Council's doing but they don't actually think it's in the interest of ratepayers but because Council is going to pay them money they'll just go along with it, I mean that's unfortunately

Campbell I'm happy for you to have a think about if you provide those notes but obviously if you had taken detailed notes at the time of the conversation that would be very helpful to be able to establish what was said so

Jo Campbell would you mind if I made a comment here or just leave it. I think this gets to the heart of the issue obviously Chris is going to consider his position on those notes as I think it is important that they are transparent. The Council is not doing anything other than seeking bids for issues beyond a rates funded bin system. Colin Cashmore is clear of that and David is clear of that

Chris Sorry Council's not doing anything more than what

Jo It has a live tender system that invites tenders beyond a rates funded bin system. This is not the first time I've said this and the issue with governance being involved in those discussions precisely gets us to here and it's precisely why it is inappropriate. I absolutely accept that members have a whole heap of questions not just you Chris

around bins but we do that the proper way not through interfering and inserting ourselves into a live tender process

Chris Jo I have not interfered in the tender process at all what I have done is gather information to understand the industry, options the systems, the economics, I've done this to inform myself because later on in the year we are going to be consulting on this with the public. I aim to be exceptionally well informed through the process the only way I can become well informed through that process is by talking to people in the industry

Campbell OK I think it is important to stick just going through some of these other information

Jo Apologies

Chris The idea I've been interfering with the tender process is not correct

Campbell Yeah well I think what's key here is we go through the rest information I have to get your side of things Chris so we've touched on those notes that would be helpful I mean I'm happy to if you're feeling that they're sensitive Chris for them to be my eyes only, happy for that and we can go from there but that's something we'll touch on in a moment. So just some further questions so you're obviously aware that there is a current tender being undertaken by officers I mean its pretty clear that you are aware of that

Chris Of course

Campbell And you're aware that Waste Management is actively engaging in that tender process

Chris Well I have no knowledge of that

Campbell When you spoke to David you were aware though that Waste Management were actively engaging in that process from your conversation with him

Chris Yes he told me that but I didn't know that before I rang him

Campbell It would be safe to assume that you would likely know that they would be as a

Chris Well it's obviously possible as anybody can tender for it likely they would do that as they are the incumbent

Campbell Yep and they confirmed that OK and just from and just to confirm that after I sent you my letter you've then contacted David to go over some of the contents of that letter and to essentially you just wanted to go over the conversation to make sure you're both on the same page and that your understanding of that conversation was correct is that the reason you contacted him again

Chris I rang him because your letter said that he had advised me that he had told me at the time that the discussion was not appropriate. I didn't believe he had ever said that and when I rang him back he confirmed to me that he had never said that

Campbell OK so that was your main issue in calling him back

Chris When I got your letter I said what I couldn't believe he'd said that and when I rang him back he confirmed that he didn't say that

Campbell OK so that's something we need to

Chris That was the one and only reason for my call was to find out whether in fact he had actually said that as I had no recollection of him saying that to me during that call

Cambell

Chris That was the only reason I rang him I get a letter from you saying someone that I have spoken to says something I have no recollection of I ring him to check whether he said that and he said he didn't

Campbell I could have made it clear in the letter I thought it's something we could have dealt with today and there's a discrepancy there that we would have to look at that's something I'll have to look further at. Ok so just to outline the process from her so I think I've got the information of your side of events. I have asked for legal advice on this issue obviously given the information Jo provided that advice considered it was sufficiently serious to warrant further investigation as potentially a misconduct issue however that's of course on the caveat I needed to understand you side of the events and take it into account so I appreciate you going through that and what I'll do is come back to you by the end of this week with any further steps or what the process look like from there. Is there anything else you want to add to the conversations or issues that have been raised

Chris Well I'm not sure is it being suggested that Councillors can't take to people in the waste industry through this period is that what's being suggested here

Campbell No what I think the key thing for me is that there has been issues been brought to my attention and I'm taking steps now to understand what the facts are the agreed facts are and unagreed and then it would be to seek advice on what actions need to be taken from that so I'm not drawing any conclusions at this stage

Chris So the issue would appear to be whether I have interfered with the tender process or compromised the tender privacy that would be the issue

Campbell I'm not saying that there have been a range of issues that have been raised I've received legal advice on

Chris But surely the only thing that could cause any legal issue would be whether I have compromised the tender process

Campbell Like I said I'm receiving advice and I now have your version of events so I can go back in and consider that and get further advice so is there any questions on the process or anything else you wanted to raise

Chris No I'm just not clear on what you're getting legal advice about if it isn't whether the tender process has been compromised

Campbell What I need advice on Chris is an understanding based on the facts as they are your side and what David Howie has confirmed in writing as being correct and all so I think getting some clarification on some of those points you adamantly disagree with and then we go from there. The fact first need to be established before we go any further

Chris Suggest that you take my letter and you run it through with David Howie if you want on this occasion

Campbell I will take appropriate steps to confirm anything that is not clear and hopefully you'll provide those notes to me as well from your conversation

Chris No I'm not sure that I will or if I did I would not hand them to you I would table them and then pick them up again but I mean there are comments I mean just to be clear you know I had a call with him where we had a pretty full and frank discussion and all I can say is that overall people on it are politely going along with what we are doing but don't believe it is necessarily in the best interest of rate payers and I'm happy to, I'm not very comfortable to hand over those notes at all because that would be interfering with the tender process

Campbell I don't quite understand what you have described to me was the tender process

Chris I have no role in the tender process I don't have anything to do with considering the tender submissions I have nothing to do with the decision making process around the tender I am actually removed from it. I've got no ability to interfere with the tender process and I said you are not privy to any information that flows between waste contacts and the Council I don't have confidential information and I have no influence in the tender process however if I was to give you these notes then that would actually be divulging information which could influence the tender process

Campbell So just to be clear then you're saying that because you don't have an active role in the tender that you have discussed the tender with David Howie

Chris It's comments like the industry politely going along with what we are doing because they're going to be paid to do it and they may or may not get business out of it not necessarily what the industry thinks might be the way the Council is proceeding. Now that's nothing to do with our tender it's more a comment on how the industry thinks is the right way for Council to be proceeding. Now, that's nothing to do with our tender. It's a general comment for example, about what the industry thinks Council is doing. There are various comments like that in there which quite frankly if David Howie's personal views expressed to me and that would potentially compromise the tender. Or

at least compromise Waste Management's. I mean if Officer's knew what some of the things that people were saying in the Industry about the Council, it wouldn't necessarily help their tender prospects and therefore if I was to hand those notes over that would involve interference with the tender process, whereas everything to date has not.

Campbell Okay. I will have to seek some advice on what you are saying, but I am a little bit confused on that.

Chris Well, not really. Because he's said things to me, if I relayed them to Officers, would then constitute interference with the tender process. Because it might affect Officer's views on certain companies. Whereas at the moment Officer's don't have that information, the tender process is clean, in the sense that it the thing is controlled through the GETS system and people are able to put in their bids and things. I've got no role in it, I don't want to interfere with what officers are doing with the waste companies, I was simply trying to inform myself about the industry.

Campbell So you are of the view that as a Council elected member you are entitled to contact [inaudible] and engage in an active tender, discuss at a high level those matters and seek...

Chris I don't think the tender process can be used as a basis for stopping councillors doing research on something that is of really significant importance to ratepayers.

Campbell But it might not be advisable to contact the person that is actually submitted a tender to discuss it. That's – I'm trying to, you don't see an issue with that?

Chris Well I, are you telling me David Howie has submitted a tender?

Campbell Well, I...

Chris I don't know whether David Howie submits a tender or not. I was given his name by another industry person and given his phone number as a person to speak to that was knowledgeable about the industry, which is why I called him, not because he was tendering. I called him because another waste company suggested that I called him because he was very well informed. Because he has responsibility for recycling nationally and for Waste Management's, all its contracts around the country from Hamilton south. So he actually understand what's going all around the country. That's why I called him because I was given his name and phone number by somebody else as being someone who was very knowledgeable. I didn't call him because I thought he was tendering for our contract.

Campbell Just to sign off I think, Bruce do you want to touch on the procedures and the process with the tender and how, and how that's managed, to protect that integrity of any contacts via the Council. Can you just go through that process, I think it would be quite helpful.

Bruce Sure, it's quite simple really. So any questions that are in relation to the contract itself are directed through the GETS website, and that is managed by our consultants Morrison Lowe and they will come back to us – talk to us about the issues that have been raised and we meet usually as a group and there's Joern, myself, Alice from Morrison Lowe, and we'd discuss the issues and come back with a response. So everything that occurs and that the process from a Council point of view has to go through that process. Now the issue for me, is around is around the perception. It's the perception that we have a Council – somebody related with the Council talking to individual contractors about issues that might relate to this. So that's our big concern. One of the things that we are wanting to achieve is a really open and robust tender. And there has been concerns expressed in the past from other companies that have suggested to us that they might not want to enter into a tender process because they think that the current provider – we're just going to go along with them. So there's a real danger in anyone talking – closely related with the Council – engaging with those companies, particularly with Waste Management separately because it could be a real perception out there that Council's going to do a done deal. That is the big issue that I have. It's around perception of what's going on. We have to be squeaky clean.

Campbell Thanks Bruce. Jo – anything from you? In respect of any steps you need to take at this stage.

Jo I think the issue around members having questions and we know there are around the table, is the way to manage that is by us gathering them and being able to answer those questions. There's no such thing as two sides here in relation to information. I just make the point that it's contact that is inappropriate – not just content. That really has to stop

Campbell Chris, anything else from you before we wrap up? I know you've got another meeting at 8 as well.

Chris No, I've pretty much said everything I want to say. I mean the idea that this is interference in the tender process is a very very long bow,

Campbell I do want to make it clear that we're not drawing any conclusions right now – the idea of this meeting is to understand from your side of things those conversations that were had. I'll go away and I'll likely seek advice.

Chris If I was going to interfere in the tender process I would have to actually a) be involved in it and b) have inside information about the tender process. I have neither of that. I've got not interest in interfering with the tender process, it's honestly [inaudible] I'm very surprised.

Campbell Chris, again I need to say that I've not said that and I don't believe others have said that. What I'm doing is establishing what has occurred and we'll decide what steps to happen from there. I'll come back to you later this week, but I just want to make it clear, I don't want to leave you with the impression that that's conclusion I've drawn. I've got your side of events and now I'll take that away and consider that.

Chris Well it's impossible to reach any other conclusion because I couldn't interfere with it.

Campbell Thanks everyone – and if there's anything else, please can I ask Chris that you don't contact anyone from Waste Management on this issue, particularly as we go through this process moving forward, and I really do strongly advise you to do that, and like I say I'll get back to you by the end of this week with what's happening from here.

Chris Well actually you see – David Howie I told him I would send him my notes to, so that he could look at my notes to correct anything, but I haven't sent him those notes, and he also said to me that he was going to give to me the contact details of some people in other council's to talk to.. He was also going to provide me with some other information.

Campbell What was the other information?

Chris He was going to come back to me, because I raised a question with him as to why the current waste pricing for bins in Kapiti was so different from the waste valley in the Hutt Valley. He said he didn't know but would find out for me. That's current waste pricing and he said he didn't know but would be quite interested to find out for himself.

Campbell Just asking from here that you don't make contact with David, and David's already advised Jo that if you do he won't respond anyway.

Chris Well I can imagine he wouldn't respond now that all this has happened. We had a perfectly reasonable discussion going, which wasn't interfering with our tender and was about understanding how the industry is working. But now you're requesting that I cannot speak to him any further, and of course he's probably frightened off by now anyway.

Campbell Well what I'm asking is that while we go through this process it's prudent not to make further contact with him or anyone from Waste Management.

Chris This process – you mean the process under your letter?

Campbell Yes.

Chris Okay, alright

Campbell I've leave it at that for now, and I'll let you know later this week what's happening from here