

Investigation of alleged improper conduct by Executive
Officers at Ballarat City Council

May 2020

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The Victorian Ombudsman pays respect to First Nations custodians of Country throughout Victoria. This respect is extended to their Elders past, present and emerging. We acknowledge their sovereignty was never ceded.

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973* (Vic), I present to Parliament my *Investigation of alleged improper conduct by Executive Officers at Ballarat City Council*.



Deborah Glass OBE

Ombudsman

14 May 2020



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Foreword

“... there was a perception amongst staff that: Oh yeah, Terry’s hiring his mates.”

“It’s hung over me ... Everything I do now in my current role I do that much harder to prove that I’m the right person ... I always had in the back of my mind that there were people talking – whether that was real or perceived ... it just waters down everything you do.”

- From evidence to the investigation

“Who do you have to know to get a job around here?”

It was certainly the perception in Ballarat Council that senior staff, one of them the chief executive, were hiring their friends. Perceptions matter. The result of this perception is that eight different complaints were made to my office over a 15-month period, first alleging a director was hiring his mates, then alleging his boss was hiring hers.

Allegations of nepotism are damaging for many reasons, even if they are not substantiated. They damage the individuals complained about, as well as those who were hired, who for no fault of their own may find the merits of their appointment called into question. They damage the reputation of the organisation, and it is not an overstatement that ultimately they damage public confidence in the integrity of our system of government.

The excuses given for such breaches of hiring practices are almost invariably that the person hired was the best person for the job and it was in the interests of the business, usually because things needed to be done quickly. And besides, everyone knew they knew each other. Sometimes, process just gets in the way of getting things done.

But process is there for a reason. The assertion that those hired were the best people for the job cannot be tested, because process was not followed.

So one of the director’s former colleagues and friends moved from a full-time job with an annual salary of \$93,000, to part-time work for which his company was paid around \$400,000 over three years. Another was appointed and promoted in questionable circumstances. The chief executive advanced her friend and doubled her salary. The heady whiff of favouritism tainted reputations, regardless of individual merits.

It is not surprising council staff became genuinely concerned that senior officers were employing their friends, and it is a poor look for the council that such a view should flourish.

I am not tabling this report because of the scale or severity of the conduct: the findings about the chief executive are at the lower end of the spectrum of bad behaviour. But senior officers must lead by example. They set a culture in which demonstration and acceptance of poor practice can become the norm. Poor management of conflicts of interest – actual or perceived, deliberate or otherwise – leaves an organisation vulnerable to charges that can fundamentally damage its integrity.

Local government – especially for senior officers in regional Victoria – is claimed to be a small world where everyone knows each other. All the more reason for them to be mindful of conflicts, actual or perceived, and to manage them appropriately. It may be a painful lesson for Ballarat Council, of which others in the sector should take heed.

Deborah Glass
Ombudsman

The investigation

The disclosures and allegations

1. This report examines allegations that two of Ballarat City Council's most senior officers engaged in improper conduct. The officers are Council's Director, Infrastructure and Environment, Terry Demeo, and its Chief Executive Officer, Justine Linley.
2. In January 2018, the Independent Broad-based Anti-corruption Commission (IBAC) referred a matter concerning Mr Demeo to the Ombudsman for investigation pursuant to section 73 of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic). IBAC determined the matter to be a 'protected disclosure complaint' under the *Protected Disclosure Act 2012* (Vic). Over the course of the investigation, additional allegations emerged about Mr Demeo's conduct. Allegations also emerged about Ms Linley. Appendix 1 documents when and how each of the allegations were referred to the Ombudsman.
3. Following legislative amendments effective from 1 January 2020, the Protected Disclosure Act 2012 was named the Public Interest Disclosure Act 2012, and a protected disclosure complaint is now known as 'public interest complaint' under the *Public Interest Disclosures Act 2012* (Vic).
4. In summary, the allegations against Mr Demeo were that he:
 - was improperly involved in recruiting three friends and former colleagues to positions at Council
 - was improperly involved in splitting purchase orders to avoid a tender process regarding Council rectification works
 - misused a Council 'purchasing card'.
5. The allegations against Ms Linley were that she was improperly involved in recruiting or promoting six friends and/or former colleagues to senior positions at Council.
6. The Ombudsman notified the Minister for Local Government and the Mayor and Chief Executive Officer of Council that she intended to investigate the allegations against Mr Demeo in letters dated 31 May 2018, 21 March 2019 and 25 June 2019.
7. The Ombudsman notified the Minister for Local Government and the Mayor that she intended to investigate the allegations against Ms Linley in letters dated 8 March and 9 May 2019.

Jurisdiction

8. The allegations against Mr Demeo and Ms Linley fall into three categories:
 - public interest complaints under the *Public Interest Disclosures Act 2012* (Vic). IBAC referred these matters to the Ombudsman for investigation.
 - 'related disclosures' under section 34 of the Public Interest Disclosures Act
 - non public interest complaints that IBAC also referred to the Ombudsman for investigation.
9. The Ombudsman investigated the public interest complaints and related disclosures pursuant to section 15C of the *Ombudsman Act 1973* (Vic). The Ombudsman investigated the non public interest complaints pursuant to section 15B of the Ombudsman Act.
10. These provisions allow the Ombudsman to investigate complaints by or in an 'authority'. Members of staff of a Council are an 'authority' for the purposes of the Ombudsman Act by virtue of section 2 and Schedule 1, Item 15. Mr Demeo's and Ms Linley's conduct therefore falls within the Ombudsman's jurisdiction.

Conduct of the investigation

11. The investigation:

- examined Council's integrity obligations in the *Local Government Act 1989* (Vic)
- examined relevant Council and other policies including:
 - o Council's Recruitment and Selection Policy, HR-15, Version 2 dated December 2009 and Version 3 dated 2016
 - o Council's Procurement Policy, Version 7.2 dated 2 May 2018 and Version 4 dated 25 May 2015
 - o Council's Corporate Purchase Card Policy, FP-21, Version dated 30 June 2016 and Version dated 12 September 2017
 - o Local Government Procurement Guidelines issued by the Department of Environment, Land, Water and Planning dated 2013
 - o Conflict of Interest: A Guide for Council staff, 2011 issued by Department of Environment, Land, Water and Planning
 - o Council's Employee Code of Conduct, 2014 and 2016
- issued seven confidentiality notices under the Ombudsman Act
- conducted one 'voluntary' interview and 13 'compulsory' interviews under oath or affirmation, including with Ms Linley and Mr Demeo
- obtained four statutory declarations from current and former Council officers

- obtained and reviewed Council records including:
 - o relevant recruitment, procurement and corporate purchase card records
 - o conflict of interest declarations by Council officers named in the report, including Mr Demeo and Ms Linley
 - o staff recruitment files and personnel files
 - o staff emails and telephone records.

12. The investigation has been guided by the civil standard of proof, the 'balance of probabilities'. In reaching findings of fact, the investigation has considered the nature and seriousness of the conduct in question, the quality of the evidence, and the gravity of the consequences for the persons involved in the matters under investigation.

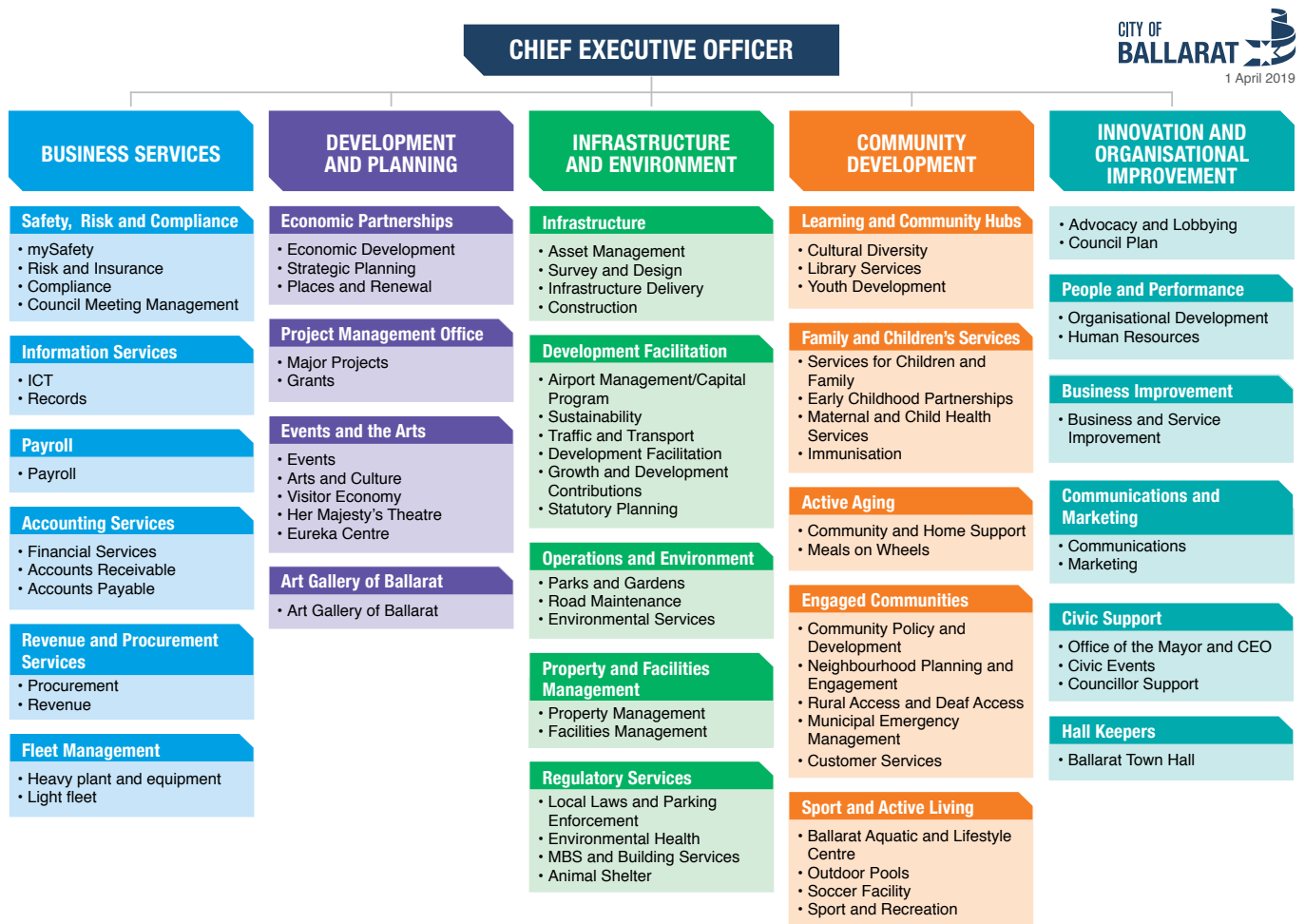
Procedural fairness

13. This report includes adverse comments and findings in relation to Mr Demeo and Ms Linley.
14. In accordance with section 25A(3) of the Ombudsman Act, any other persons who are or may be identifiable from the information in this report are not the subject of any adverse comment or opinion and:
 - The Ombudsman is satisfied that it is necessary or desirable in the public interest that the information that identifies or may identify those persons be included in this report and
 - The Ombudsman is satisfied that this will not cause unreasonable damage to their reputation, safety or well-being.
15. In the interests of procedural fairness and in accordance with section 25A of the Ombudsman Act, the Ombudsman provided Mr Demeo, Ms Linley and eleven other current and former Council officers with a reasonable opportunity to respond to the material in a prior draft of this report. Some of the recipients requested extensions of time to complete their responses to the draft report. The Ombudsman granted these requests in each case.
16. Information provided in the course of responses to the draft report resulted in further adverse comments and a provisional adverse finding being added to the report in relation to Ms Linley. Ms Linley was provided with the relevant sections of the amended report. The Ombudsman received Ms Linley's response to the amended report on 21 February 2020.
17. A number of responses disputed the accuracy of matters examined and discussed in the draft report, with some providing supporting documentary evidence. Where necessary, investigators obtained additional information from Council. Parts of the report, including some provisional adverse comments and findings, were substantially amended or wholly removed in light of information provided and received.
18. A revised draft version of this report was subsequently provided to the Mayor of Ballarat and to Ms Linley, in her capacity as the Chief Executive Officer of the City of Ballarat. The Mayor of Ballarat provided responses from Council on 13 March 2020 and 24 April 2020. Ms Linley provided a further response on 15 April 2020.
19. All responses received have been considered and are appropriately reflected in this report.

The Council and integrity rules

20. Ballarat City Council is one of Victoria's largest regional city councils. It provides local services to around 105,000 people, including maternal and child health services, home care and support for elderly residents, garbage and recycling, and parks and recreation facilities. In 2017-18, the Council reported a turnover of \$225.95 million, assets of \$1.69 billion and 940 employees. Figure 1 below shows Council's organisational structure at the time of this investigation.

Figure 1: Ballarat City Council organisational structure



Source: Ballarat City Council website, April 2020

21. Like other councils in Victoria, Ballarat Council is subject to an integrity framework of laws and policies which aim to ensure Council officers:

- declare and address conflicts between their personal interests and the interests of the community
- employ people based on merit, not favouritism
- spend public money wisely in the interests of the local community.

22. This section summarises some of the key integrity laws and policies relevant to this investigation.

State laws

23. The *Local Government Act 1989 (Vic)*¹ sets out a legal framework for local councils in Victoria. Section 95 sets out conduct principles for council staff. It states that council staff must, in the course of their employment, 'act impartially' and 'act with integrity including avoiding conflicts of interest'.

24. Section 77A provides that a conflict of interest can arise from a council officer having 'a direct interest or indirect interest' in a matter.

25. Section 77B(1) defines a direct interest:

A person has a direct interest in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly altered if the matter is decided in a particular way.

26. Sections 78 to 78E describe six types of 'indirect interests'. They include a 'close association'. The Act defines this term to include family members, but not friends or other associates.

27. The Act also sets out basic requirements for employment and procurement in councils. Section 3D states that the role of a council includes 'maintaining the viability of the council by ensuring resources are managed in a responsible and accountable manner'. The basic requirements are:

- Employment – section 94C(a) requires councils to establish employment processes that ensure 'employment decisions are based on merit'. Section 94B establishes additional obligations on a council CEO before a person may be appointed as a senior officer.
- Procurement – section 186 requires councils to conduct public tenders for contracts for goods and services valued at \$150,000 or more, and contracts for works valued at \$200,000 or more.

Sector-wide guidelines

Conflict of interest

28. Local Government Victoria has published a guide for council officers on conflict of interest. The Guide advises:

Being employed by a Council is a position of public trust. As a member of Council staff you must only exercise your duties in the service of the community and the Council. You must never use your position to service your own or someone else's private interests.

Conflict of interest management is about transparency. As a member of Council staff, it has to be clear that your private interests do not affect the way you perform your duties.

29. Like the *Local Government Act*, the Guide states that a conflict of interest can arise from 'direct interests' and 'indirect interests'.

¹ All legislative provisions referred to in this report are from the *Local Government Act 1989 (Vic)*. The *Local Government Act 2020 (Vic)* which replaces the 1989 Act was proclaimed on 6 April 2020 and is being implemented in stages. The provisions referred to in this report remain in force as at the date of this report.

30. The Guide provides additional advice about conflicts of interest involving friends. It notes the Local Government Act does not include 'friends' in its definitions and it is difficult to determine 'the level of closeness that should be regarded as an indirect interest'. It recommends council officers advise their manager or CEO where they face situations that may affect the interests of someone they are particularly close to. It recommends they avoid exercising the relevant power, duty or function in those situations.

Procurement

31. Local Government Victoria has also published *Best Practice Procurement Guidelines for Local Councils*. These Guidelines set out best practice principles, including value for money and open and fair competition. They also note '[t]he community expects business in the public sector to be conducted ethically, displaying honesty, integrity, diligence, fairness, trust and respect when dealing with others'.
32. The Guidelines state councils must conduct public tenders for contracts for goods and services that exceed \$150,000, and contracts for the carrying out of works that exceed \$200,000.
33. They also advise about specific issues such as:
- Contract splitting – this involves dividing large contracts into smaller components that individually fall below the threshold for a public tender. The Guidelines state this breaches the requirement for public tenders.
 - Conflicts of interest – the Guidelines state it is best practice for people on tender evaluation panels to declare any conflicts of interest.
 - Purchasing cards – the Guidelines state councils should have processes governing expense thresholds for cards and restrictions on use.

34. The Guidelines note that 'the success of the organisational model for procurement rests on the extent to which it is embraced and implemented by Council's senior management'.

Council policies

Code of Conduct

35. Ballarat City Council has an Employee *Code of Conduct* (the Code), as required by section 95AA of the Local Government Act. The Code prescribes the behaviour expected of Council staff in their dealings with the community and each other. It is binding on Council staff.
36. The Code states that Council staff are ambassadors for Council, and community support depends on their conduct and professional image. It states the public is entitled to expect:
- the business of Council will be conducted with efficiency, impartiality and integrity
 - employees will obey the spirit and letter of the law
 - the duty to the public will be given absolute priority over the private interests of staff
 - an employee will not act for an improper or ulterior purpose.
37. The Code requires Council officers to:
- act appropriately and within the law
 - perform duties in good faith for the benefit of the community, and in compliance with Council's administrative and management policies and procedures
 - exercise judgement
 - treat other employees fairly
 - behave with sincerity and integrity.

-
38. The Code contains more extensive requirements about conflict of interest than the Local Government Act or Local Government Victoria's guidelines. Clause 6.4.4 states that conflicts can arise from 'pecuniary' (financial) interests or 'non-pecuniary' (private or personal) interests. It defines non-pecuniary interests to include friendships. Clause 6.4.5 lists 'misuse of position' as a specific conflict of interest, where employees need to ensure they do not use their positions for private advantage for themselves or others, or to cause detriment to Council.
39. The Code asks Council officers to:
- work in the best interests of Council (Clause 6.4.1)
 - avoid situations creating conflicts (Clause 6.4.4)
 - declare potential conflicts immediately and remove themselves from any position of influence in tendering or selection processes (Clause 6.4.4).
40. Unintentional and less serious breaches of the Code can lead to action including counselling and training. Intentional or serious breaches affecting Council's reputation and operation may result in disciplinary action or termination of employment.
41. Council's Recruitment and Selection Policy prescribes the process for recruiting Council officers, and includes specific advice about conflicts of interest in employment.
42. The Policy requires recruitment of senior and executive officers at Council to be conducted by a three-person Selection Panel. Clause 6.2.1 says a Panel must include a nominee (usually the manager or supervisor from the unit where the position will be located), an independent staff member, and an independent nominee from another unit. An external specialist interviewer may be used where the Panel identifies a potential conflict of interest. Clause 6.2.2 says the Chair of a Selection Panel receives a list of applicants for shortlisting.
43. The Policy is silent on who chooses the Panel. A former Council Human Resources (HR) Manager told investigators that in practice, the Chair decides the Panel.
44. Where Panel members know applicants, Clause 6.2.1 requires them to declare this before interviews begin. Where this is 'likely to inhibit the objectivity of a panel member or be seen as a conflict of interest by others', the relevant Panel member cannot be part of the Selection Panel.
45. The risk of possible collusion is also addressed. Where an applicant is considered for a position in a unit where a relative or close friend is employed, Clause 6.3.4 says the Chair of the Selection Panel must consider the Council's Fraud Policy and consult with HR to mitigate risks.

Recruitment and selection

41. Council's Recruitment and Selection Policy prescribes the process for recruiting Council officers, and includes specific advice about conflicts of interest in employment.

Procurement

46. Council's Procurement Policy sets out its requirements for procuring goods, services and works.

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47. Clause 4.5 requires Council officers to use the following procurement processes, depending on the dollar value of the goods, services or works:
- Up to \$5,000 – requires one verbal quote.
 - From \$5,000 to \$25,000 – requires one written quote.
 - From \$25,001 to \$124,999 – requires three written quotes.
 - \$125,000 or above – requires a public tender process. This is lower than the public tender thresholds in the Local Government Act and Local Government Victoria guidelines.
48. The Policy recognises that in some cases, Council officers make small payments over time to one supplier that add up to a larger amount. Clause 8.5 advises officers to consider ‘Total Cumulative Spends’ when assessing the thresholds. It requires officers to consider cumulative spends over a period of up to two years, unless the CEO grants an exemption. Council’s policy is that a cumulative amount that exceeds \$125,000 over two years must go out to public tender.
49. In the interests of efficiency, Clause 8.6 of the Policy allows Council officers to tender for a panel of ‘preferred suppliers’. Council officers can then obtain goods, services or works from those suppliers, without running a separate procurement process each time. However, the Council must still use a public tender where:
- any single purchase of goods, services or works from a preferred supplier exceeds \$125,000
 - payments to a preferred supplier reach a \$125,000 limit.
50. The Policy also contains specific rules to deal with conflict of interest in procurement. Clause 7.2 states Council officers ‘must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny’. It also states officers have ‘an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest’.
51. Clause 6 of the Policy defines a conflict of interest as a ‘personal or private’ interest of the type specified in the Local Government Act.
52. Under Clause 7.2 of the Policy, Council officers involved in procurement:
- must avoid situations where their private interests conflict, may reasonably be thought to conflict, or have the potential to conflict with their Council duties
 - are prohibited from exercising their delegated powers or duties if they have a conflict of interest
 - must lodge a Conflict of Interest Declaration when evaluating quotes or tenders.
 - must make their interests known ‘in any situation where it could be perceived that an interest might unduly influence them’.
53. The onus is on the officer to be alert and promptly declare the actual or potential conflict of interest to Council.

Allegations concerning the Director, Infrastructure and Environment

54. Terry Demeo joined Ballarat City Council in July 2014 as Manager, Planning Implementation. In October 2015, he was promoted to the role of General Manager, City Development. In 2016, when CEO Justine Linley joined Council, his role changed and was renamed Director, Infrastructure and Environment.
55. Mr Demeo's role carries significant responsibilities. He is responsible, amongst other things, for Council's roads program, parks and gardens, animal shelters, planning and building controls and local laws and parking enforcement. He has five direct reports and manages a portfolio of 352 staff and a budget of over \$120 million. He is one of five Directors reporting directly to the CEO.
56. Before joining Ballarat Council, Mr Demeo worked for 26 years at Greater Geelong City Council.
57. This chapter examines allegations that Mr Demeo:
 - improperly recruited friends and former colleagues from Greater Geelong Council to senior positions at Ballarat Council
 - was improperly involved in splitting purchase orders to avoid a tender process for a Council construction project
 - misused a Council Purchasing Card.

Alleged improper advancement of personal associates and former colleagues

58. The allegations that Mr Demeo improperly recruited friends and former colleagues involved three officers. This report calls these officers Officer A, Officer B and Officer C.
59. The table on the next page shows the movement of Mr Demeo and these officers between Geelong Council and Ballarat Council, and the overlapping periods of employment. This section examines Mr Demeo's involvement in facilitating these moves, and whether he complied with his integrity obligations.

Officer A

60. Mr Demeo and Officer A worked together at Geelong Council for five years between 2009 and 2014. Officer A told investigators he and Mr Demeo worked on a major industrial development project, the Geelong Ring Road Employment Precinct Project.
61. The two told investigators they had regular working breakfasts. They also had some contact outside work. Mr Demeo said he visited Officer A's home twice when Officer A was dealing with a serious illness in his family. He visited again immediately after Officer A's family member passed away and attended the funeral. When Officer A took extended leave, Mr Demeo said he would have called on Officer A to check on his wellbeing.
62. The two described their relationship differently. Mr Demeo said he and Officer A 'got on well' but had 'a respectful professional relationship' rather than a friendship.

Geelong City Council officers recruited to Ballarat Council

Year	Employed at Geelong Council	Employed at Ballarat Council
1988-2000	Terry Demeo	
2001-2002	Terry Demeo Officer B (from 2001)	
2003-2004	Terry Demeo Officer B	
2005-2006	Terry Demeo Officer B	
2007-2008	Terry Demeo Officer B Officer C (6 months)	
2009-2010	Terry Demeo Officer B Officer A (from 2009)	
2011-2012	Terry Demeo Officer B	
2013-2014	Terry Demeo (until January 2014) Officer B Officer A (to December 2014)	Terry Demeo (from July 2014) Officer C (from September 2014)
2015-2016	Officer B (until 2016) Officer A (until October 2015)	Terry Demeo Officer C Officer A (from November 2015) Officer B (from 2016)
2017-2018		Terry Demeo Officer C Officer A Officer B
2019		Terry Demeo Officer C Officer A Officer B (until June 2019)

63. Officer A, on the other hand, said he developed a friendship with Mr Demeo at Geelong Council. He said, 'I would say we're friends ... I have a coffee with him every three months or so. We're not bosom buddies or anything like that. I respect him. Looks like he respects me'. In response to a draft of this report, Mr Demeo said he and Officer A described the same degree of association, in that they were professional colleagues and not friends at this time.

Recruitment as consultant

64. The investigation confirmed that shortly after Mr Demeo began working at Ballarat Council, he engaged Officer A as a consultant Project Manager through Officer A's company.

65. At interview, Mr Demeo said he contacted Officer A in or around August 2015 after Council's then CEO publicly announced that Council would be introducing a green waste bin service by 1 July 2016. Mr Demeo was an Acting Director at the time and responsible for delivering the project. He said he heard Officer A had left or was planning to leave Geelong Council:

So I made a phone call to him to ... check his availability, because I had worked with him, understood his capacity as a project manager in that the [Geelong Ring Road Employment Precinct Project] was the most complicated infrastructure delivery project that Geelong [Council] had ever taken on and [Officer A] delivered in an exemplary fashion there.

66. Mr Demeo said by employing Officer A, he felt certain the project would be delivered on time.

67. Officer A told investigators he met Mr Demeo and another Ballarat Council officer for lunch:

I was a little bit reluctant because I'd just retired ... I think I put in a resume and application saying this is what I can do and this is how much I charge ... I wasn't going to go all the way up to Ballarat without someone at least buying me a lunch.

68. Officer A said he felt 'more comfortable' working through his company for tax and other reasons and agreed to work under that structure:

I'd enjoyed working with Terry in the past and he's a guy who can get things done ... I told him my rate was \$250 an hour but for him I'll give him mates' rates for \$150.

69. There is no evidence Mr Demeo sought other quotes for the work. At interview, he said a recruitment agency would have charged an additional \$50,000 to \$100,000 for the project. But he did not recall contacting any agencies for an estimate. He said he 'didn't have time' for that course of action. Mr Demeo said he spoke with Council's Procurement Officer, but could provide no records of that discussion.

70. At the time, Mr Demeo's financial delegation authorised him to approve up to \$3 million. However, Council's Procurement Policy prohibited officers from exercising their delegations if they had a conflict of interest. The Policy required Council officers to declare interests 'where it could be perceived that an interest might unduly influence them'.

71. At interview, Mr Demeo said Council's then CEO agreed to his engaging Officer A through Officer A's company. He said he told the CEO about his previous professional association with Officer A, although he added he would not have told the CEO about attending the funeral or visiting Officer A. He said he considered his actions to be 'an extension of that working relationship ... not friendship per se' and 'I don't think it's a friendship that puts me in a position of bias'.

Relationship at Council

72. Officer A informed the investigation that he commenced at Council in November 2015. Mr Demeo said while Officer A reported to one of his officers in relation to the green waste project, he had 'a very hands-on role' and Officer A discussed matters with him during the day and at weekly meetings.
73. The two told investigators they met several times a week for morning coffees to discuss work. Officer A also had dinner one or two times at the Ballarat home of Mr Demeo's relatives, where Mr Demeo boarded during the week.
74. At interview, Mr Demeo said his relationship with Officer A became closer:

I think I've got closer to [Officer A] since he's been in Ballarat ... I certainly am much more privy to [Officer A]'s life as a result of working with him in Ballarat than I ever was when I worked with him previously ... it's much closer ... I would say he's a friend in that we've shared a lot over the years and that we've had a professional relationship. So, since he's been working in Ballarat, our relationship, albeit predominantly professional, certainly has friendship elements.

Our relationship, albeit predominantly professional, certainly has friendship elements.

Terry Demeo

75. Officer A told investigators he and Mr Demeo were 'sort of friends' at Geelong Council, and they 'didn't stop being friends' when they worked together at Ballarat Council.

76. In response to the draft report, Mr Demeo submitted that his relationship with Officer A 'is demonstrably a professional colleague relationship with friendship which is normally/reasonably associated with work colleagues'.

Tender for preferred suppliers

77. In mid-2016, the Council's Procurement Officer identified that cumulative payments to Officer A's company (and another company engaged to assist with the green waste project) were going to exceed the public tender threshold in Council's Procurement Policy. The Procurement Officer emailed Mr Demeo to draw his attention to the issue. The Council then began a tender process for a panel of 'preferred suppliers'.
78. After receiving 18 tenders, Council appointed nine companies as preferred suppliers, including Officer A's company.
79. Council records show Mr Demeo was on the Panel that evaluated the tenders and recommended Officer A's company. Council's 'Evaluation of Tender' document dated 28 November 2016 records the following:

Evaluation Panel. Panel members were [name omitted], Terry Demeo, and [name omitted].

80. At interview, Mr Demeo initially said 'I don't believe I was involved in any of that Panel process'. When investigators showed Mr Demeo the tender evaluation document, he responded:

I honestly, given that no interview process or - clearly that's my signature, so I'm involved in the - I put my signature to the assessment, but I don't recall the process per se.

81. A number of Council officers told investigators it was unusual for someone of Mr Demeo's seniority to participate in an Evaluation Panel of this kind. The Procurement Officer said:

I would expect [a Director] to be on a \$15 million roads contract ... This [tender is] procedural. I don't know why he would even get involved

... It's the only time that Terry has appeared on an Evaluation Panel.

82. Council's Director, Business Services, who is responsible for overseeing procurement at Council, also said at interview:

Very rarely would a Director sit on a Panel. It would have to be a Major Project for a Director to sit on a Panel ... We're not paying him a small fortune to sit on Tender Panels.

83. When investigators informed the Director, Business Services that Mr Demeo had participated on the Tender Evaluation Panel, he said Mr Demeo could have been on the Panel if he was directly overseeing the project.

84. Mr Demeo could not recall having been on any other Tender Evaluation Panels.

No conflict of interest declaration

85. Mr Demeo did not declare his relationship with Officer A during the tender process. Council's tender evaluation document (Figure 2 below) requires panel members to declare they have no conflicts of interest or personal biases. The records show Mr Demeo signed this declaration.

Figure 2: Terry Demeo's conflict of interest declaration

CONFLICT OF INTEREST DECLARATION

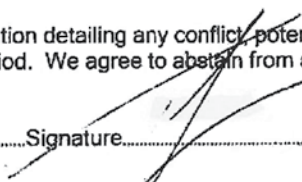
We the undersigned declare that to the best of our knowledge, we do not have:

- any financial interest in the Strategic Project Delivery tender
- any immediate relatives or close friends with a financial interest in the subject
- any personal bias or inclination which would in any way affect my decisions in relation to the subject
- any personal obligation, allegiance or loyalty which would in any way affect my decisions in relation to the subject


(a "conflict"), except as set out below:

1. Name & conflict, (if any)
2. Name & conflict, (if any)
3. Name & conflict, (if any)

We undertake to make a further declaration detailing any conflict, potential conflict or apparent conflict which may arise during the contract period. We agree to abstain from any decision where such a conflict arises.

Terry Demeo Signature  Date 29/11/2016

 Signature  Date 25/11/16

 Signature  Date 25/11/16

86. When investigators asked Mr Demeo about his declaration, he said:

'Any immediate relatives or close friends with a financial interest in the subject?' I've given evidence around the fact that [Officer A] and I had grown closer ... [He] didn't fit in that 'mate' category. But it was a friendship. Extension of our personal relationship. Does that satisfy that 'close friend'? I clearly did not consider that at that time.

87. Mr Demeo also denied any 'personal bias' in favour of Officer A. He said Officer A's appointment was 'purely professional in my assessment ... on the merits'. He said '[i]f there was any bias it was about me pushing to have the very best people do the work ... I pushed him for my benefit, not his'.

[He] didn't fit in that 'mate' category. But it was a friendship. Extension of our personal relationship. Does that satisfy that 'close friend'? I clearly did not consider that at that time.

Terry Demeo

88. At interview, Officer A defended Mr Demeo's failure to declare their relationship:

I don't have a problem because I don't think I'm a close friend. I'm a friend but not a close friend. No financial interest in it. Personal bias or inclination. I don't know if he believed on the basis that I could do a good job. Is that a personal bias? ... I think he'd know people in all these other firms as well. He knows people everywhere. He's worked with them. He's been in the system a long time.

89. Other Council officers took a different view. When investigators told the Council's Procurement Officer about Mr Demeo's relationship with Officer A, he said:

To me it's a conflict of interest ... but he's actually signed here to say he hasn't got a conflict of interest ... I should have picked this up.

To me it's a conflict of interest ... but he's actually signed here to say he hasn't got a conflict of interest.

Council's Procurement Officer

90. Council's Director, Business Services also said even if Mr Demeo did not have a direct conflict, he should have said:

I've worked with that person or I know that person very well. A Director should do that ... Depending on his relationship ... he probably should have excused himself from the panel. It would depend on his relationship with [Officer A] in the past.

91. In his submissions, Mr Demeo said the tender evaluation papers 'were presented to me by [an Executive Manager] who had undertaken the assessment with the other party'. Mr Demeo accepted the documents record that he was a Panel member, but said there was 'no Panel as such' and he 'did not in fact play any role in the assessment of the tenderers and I was not on the Panel in any real sense'. He said he had signed the conflict of interest declaration in good faith and was entitled to do so because:

I did not have a 'close friend with a financial interest in the subject'. The relationship with [Officer A] in my view was a respectful work colleague relationship with a related work-based friendship, not a close friend as such.

Preferred supplier work

92. Following the appointment of Officer A's company as a preferred supplier, Council engaged the company for additional projects until August 2018. These projects involved the waste interchange transfer station, landfill management, relocating Council's animal shelter and the Ballarat parking regime.

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93. Council's Procurement Officer said Officer A 'was popping up everywhere ... It was just like The [Officer A] Show'. In response to the draft report, Mr Demeo submitted the Procurement Officer's view lacked the relevant context 'to understand the specific nature of the project'. It should be noted the Procurement Officer's evidence concerned the frequency with which Officer A's company received work from Council. This is relevant to whether there was perception of a possible conflict of interest.
94. Officer A told investigators that while he reported to two officers in Mr Demeo's team, he also met regularly with Mr Demeo because Mr Demeo wanted to know what was going on with Officer A's team. He said Mr Demeo saw his projects as 'prime jobs'.
95. Officer A also said he continued to have contact with Mr Demeo outside work:
- In 2017, they were involved in a legal action involving one of their projects at Geelong Council, and Mr Demeo relied on him to read the legal documents.
 - He attended the 21st birthday celebrations of Mr Demeo's children in 2018 with a mutual colleague, Officer B.
 - Mr Demeo visited his house around three times, when he was sharing a house in Ballarat with Officer B.
96. Officer A said at this time he and Mr Demeo were:
- friends but work colleagues more. We socialised after hours on rare occasions. We did socialise after hours. More through [Officer B] than anything. [Officer B] was close to Terry ... Most of the invites I had with Terry after hours related to [Officer B].
97. Mr Demeo said Officer A's and Officer B's attendance at his children's 21st birthday party was 'in their capacity as persons then working with me at Ballarat [Council]'. He noted there were up to 200 attendees at the party and not all of them were his friends.
98. In response to the draft report, Officer A drew a distinction between friendship and a working relationship and said:
- Mr Demeo is a very caring person and his interest in me and support during several major personal issues for me should not be used to persecute him. Managers are supposed to take an interest and care for people who work for them.
99. After investigators informed Council's Director, Business Services about Mr Demeo's relationship with Officer A, he said the Council would investigate the total payments to Officer A and whether he had been given preference over other preferred suppliers.
- ### Council payments to Officer A
100. Prior to joining Ballarat Council, Officer A's salary for full time work at Geelong Council was \$93,000 per year. Before Council's tender process, Officer A worked two to four days a week on similar project management work, for which his company earned \$128,806.
101. Following the Council's tender process, records show Officer A's company was paid a further \$257,000.
102. When asked about the increased salary for comparable work, Officer A noted '\$150 an hour is at the lower end of consulting'. Mr Demeo also said the increase in Officer A's salary did not sound surprising for 'a short-term contractor compared to a public servant wage earner' and 'doesn't present an issue from my end'. He told investigators that in his view, this was money very well spent.

103. In response to the draft report, Officer A also said wages and consultancy rates are not comparable. He said he charged \$150 per hour for consultancy work at other organisations, and \$195 per hour for another consultancy project at Ballarat Council that was competitively tendered. He pointed out that not all of his payments from Council were attributable to work done for Mr Demeo.

Officer B

104. Mr Demeo and Officer B both worked at Geelong Council for 13 years between 2001 and 2014, with Officer B employed as a site manager. Officer B told investigators he and Mr Demeo did not work together directly, but he knew Mr Demeo through their mutual colleague, Officer A.

105. Officer B attended the working breakfast meetings with Officer A and Mr Demeo. At interview, he initially described his relationship with Mr Demeo as 'professional' but later described it as '[f]riendly ... I know his family. I know his wife. Yes, we have been friends'.

I could see how it could be perceived as friendship and I wouldn't resist that.

Terry Demeo

106. Mr Demeo told investigators he was 'closer' to Officer B than to Officer A, and that Officer B had been to his home and knew his family. He was equivocal at interview about whether the relationship was a friendship. He said:

I'm sure if you asked him, he would say I was a friend ... [W]ork is everything to [Officer B] and to that end ... the nature of our contact he would certainly perceive it as friendship ... I could see how it could be perceived as friendship and I wouldn't resist that.

107. Mr Demeo said after he left Geelong Council in 2014, he had less contact with Officer B but they had spoken.

Recruitment as Site Supervisor

108. The investigation confirmed that in July 2016, Mr Demeo recruited Officer B as a Site Supervisor in his team at Ballarat Council. Officer B was engaged on an 18-month fixed-term contract. His total remuneration package (TRP) was around \$160,000, including a vehicle allowance of \$8,000.

109. At interview, Mr Demeo said he needed a Site Supervisor because Council had decided to manage the second stage of the Ballarat West Link Road Project. This was a multi-million-dollar project involving VicRoads and Council, and was the biggest project undertaken by Council at that time. He said the Council officer working on the project lacked construction experience, and other Council officers were busy with other responsibilities.

110. A former Council Manager, who reported to Mr Demeo at the time, told investigators that at least three to six months prior to the role being advertised, Mr Demeo told him he had someone in mind for the role.

111. At interview, Mr Demeo confirmed he rang Officer B before advertising the role to ask if he was interested.

112. Mr Demeo chaired the Selection Panel. He told investigators he needed to be on the Panel 'because this project was the biggest project, the biggest ever civil project that Ballarat had embarked on. It was incredibly critical'.

113. There were eight applicants for the role; and in July 2016, the panel interviewed five candidates, including Officer B and two internal applicants.

114. The investigation identified three problems with the selection process.

Interview panel of two

115. Council's Recruitment and Selection Policy requires interview panels for 'Band 5' roles and above to have three members. This requirement applied to the Site Supervisor role.
116. Council HR officers told investigators it was particularly important to have a third person on panels where there was a potential conflict of interest. The former Council HR Manager said 'if there are concerns about nepotism or favouritism, ... we've got that independent person on [the] Panel'.
117. In this case, Council's recruitment file shows the Selection Panel consisted of two members - Mr Demeo and the former Council Manager who reported to Mr Demeo.
118. Council's selection documentation named Council's former HR Coordinator as the third member of the panel. However, her name was crossed out and 'Not available' was written in Mr Demeo's handwriting. At interview, the other Panel member could not recall why the third member was not available, but said Mr Demeo decided on the day that interviews would proceed nonetheless. Mr Demeo told investigators he could not recall the Panel missing a third member. He subsequently said the HR Coordinator 'did not show up'.
119. The former HR Coordinator told investigators, 'I don't remember getting asked to be on the Panel at all'. The HR Coordinator and the former Council HR Manager both told the investigation that when a nominated HR officer is not available for an interview panel, there are other officers who can attend instead.
120. The Director, Business Services, who oversaw HR at Council at the time, told investigators, 'I think our policy says you must have three and there must be at least one female on the Panel so that Panel shouldn't have gone ahead'.
121. In a letter from Mr Demeo's legal representative following his interview, Mr Demeo acknowledged that 'in retrospect it would have been appropriate to ensure a third representative was on the Panel'. In response to the draft report, Mr Demeo said he 'had certainly expected [the HR Coordinator] would be present and did not in any way try to avoid the participation of a third member'.
122. The outcome of the interviews was that Officer B was the preferred candidate. At interview, Mr Demeo denied he engaged Officer B because of their friendship:
- The reason for his engagement was I knew how tough this project was going to be and it proved out to be that tough ... I wanted somebody that I knew could deliver it ... [The project] was potentially career limiting. It was a gigantic risk. This project could have failed miserably ... I needed somebody that had the skillset to actually manage these things.
123. He repeated this point in response to the draft report, submitting:
- [t]he decision to appoint a person who was the most skilled and experienced in delivery of a project [the Ballarat West Link Road Project] was my only determinant - to seriously suggest that the decision was taken on the basis of friendship is ridiculous. This was a project which required someone prepared to work seven days a week through the normal non-construction period of Ballarat in order to deliver on the anticipated/expected time frame.
124. In support of this submission, Mr Demeo repeated this was the biggest construction project Ballarat had embarked on, and carried significant risk for Council and for him professionally.
125. The other Panel member told investigators he too believed Officer B was the best candidate. He said the second-placed candidate had less relevant experience and 'going completely on merit, projects, experience, size of project, it was clear to me that [Officer B] was the best candidate'.

No conflict of interest declaration

126. Council's Recruitment and Selection Policy and Conflict of Interest Policy required Panel members to declare before interviews when they knew applicants. Where that personal knowledge was 'likely to inhibit the objectivity of a Panel member or be seen as a conflict of interest by others', the Panel member was not permitted to participate. Further, where an applicant applied for a position in a unit where a close friend was employed, the Chair was required to consider the Fraud Policy and consult HR.

127. The former HR Coordinator told investigators that if there was a friendship between Mr Demeo and Officer B, Mr Demeo should have disclosed this at the beginning of the recruitment process. She said there should have been a recorded conversation with Council's HR Team; an HR representative should have been on the Selection Panel; and Mr Demeo should not have conducted reference checks:

Another option is to step out of the process. There was a heap of Executives/ [General Managers] that could have been on the panel and Terry didn't need to be on the panel.

128. Mr Demeo confirmed at interview that he did not formally declare his relationship with Officer B. Mr Demeo submitted he has 'never seen a policy position that ... you have to declare when you personally [know] applicants'. He also submitted this would be 'unworkable for internal interview processes where people obviously [know] each other'. Mr Demeo noted the Policy referred to associations that were 'likely to inhibit the objectivity of a panel member or be seen as a conflict of interest by others'. He acknowledged his error 'in not fully appreciating the risk of a perception of conflict of interest'.

There was a heap of Executives/GMs that could have been on the Panel and Terry didn't need to be on the Panel.

Former HR Coordinator

129. However, Mr Demeo said he did not believe he breached Council's Policy because he had been open with the other Panel member about working with Officer B in the past. In subsequent correspondence, Mr Demeo said he also disclosed he knew Officer B to the CEO and Council's leadership team, and that his professional and personal relationship with Officer B was not hidden.

130. When investigators interviewed the other Panel member, he could not recall whether Mr Demeo had formally declared his relationship with Officer B. However, he said:

It was clear that they knew each other ... [Mr Demeo] made it clear [when] he asked him about a specific incident Terry was aware of involving [Officer B] so it was clear to me from even that comment that there was a previous working relationship or friendship relationship between them. Probably a working one.

131. The former Council HR Manager and the Director, Business Services told investigators they were aware Mr Demeo and Officer B had worked together. However, they said they did not know Mr Demeo and Officer B were also friends. The Director, Business Services said Officer B's appointment was discussed by Council's leadership team because the Ballarat West Link Road Project was a major project and there were staff concerns about Mr Demeo employing friends. He told investigators:

It was said, '[Officer B] better be the right person if you're employing him. It can't just be one of your mates'. And Terry said, 'Nah, I'm not employing him because he's a mate, I'm employing him because he can do the job'.

132. When investigators told the Director, Business Services there was evidence of a friendship between Mr Demeo and Officer B and that the two-person Selection Panel had not complied with Council's Policy, the Director, Business Services responded, 'Silly boy'.

133. In response to the draft report, Mr Demeo repeated that he disclosed that he knew Officer B:

All of the leadership team including the current CEO and [the Director Business Services] knew from an early stage that [Officer B] and I had worked together before.

Medical fitness

134. The investigation identified evidence of concerns about Officer B's medical fitness for the Site Supervisor role.

135. The investigation heard the role was expected to be physically demanding. Mr Demeo told investigators the Site Supervisor needed to work 10-12 hour days, six or seven days a week. He said the Site Supervisor spent a significant amount of time in a vehicle, which involved getting in and out and inspecting and supervising works. He said work was expected to continue through the winter, when construction usually ceases around Ballarat because of poor conditions.

136. Officer B was nearly 80 years old when Council interviewed him for the role.

137. The second Panel member recorded concerns about Officer B's medical fitness on his recruitment records. He said he later crossed them out because he did not want to discriminate on the basis of Officer B's age, but:

I did have concerns about his age ... this [role for] construction of a road on a greenfield site - a considerable amount of walking is involved and he was obviously - probably from a fitness point of view you wouldn't classify him as being fit ...

When we did the interview in the city Council offices on the first floor, he had to take the lift up to come to the interview ... He had some physical reason preventing him from walking up the stairs.

138. Officer B underwent a medical assessment after he was identified as Council's preferred candidate. The initial medical assessment indicated a number of health issues relevant to the performance of the role.

139. Former HR officers told investigators there were discussions about the assessment with Mr Demeo and Council's Occupational Health and Safety Team. The former HR Manager said there were:

concerns that we couldn't perhaps provide [Officer B] with a safe work environment. Terry was adamant that this was the man for the role and that he needed him in the role because there's nobody else who could do this role: 'I know him and I trust him and he can just go out and do the role'. So we offered a solution which was to get further advice, go back with more specific information about the role for the doctor to respond to which gave us a little bit more comfort.

140. When HR requested a clarification from the examining doctor, the doctor responded that Officer B could perform the role with some adjustments:

As long as he is not subject to physical demands beyond those expected in an office role

... [There is a] four-wheel drive capable component.

Terry was adamant that this was the man for the role and that he needed him in the role because there's nobody else who could do this role.

Former HR Manager

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141. Mr Demeo denied Officer B needed to use his car because he could not walk the distances required in the job, and said all supervisors have access to cars.
142. However, he acknowledged he had 'genuine concerns' about Officer B's energy levels and the risks involved in employing him. He said, 'He's not wheelbarrowing stuff into holes obviously ... but there's some physical necessity'. He said Officer B's 'capacity was always the challenge' but he 'insisted because the capability was there'. Mr Demeo submitted that 'ultimately the HR and Risk management team ... did not object to the appointment of [Officer B] on fit for work grounds'.
143. The Director, Business Services said Council could not refuse Officer B the job if his medical assessment supported the appointment.
144. However, another Council officer provided a statutory declaration to investigators that Officer B could not 'walk a proof roll', meaning he could not walk along the road to assess the asphaltting for movement or defects. The officer said Officer B conducted the assessment by driving his car parallel to the test vehicle, which he said may not permit an accurate assessment.

Relationship at Council

145. The evidence is that Mr Demeo's relationship with Officer B became closer following Officer B's engagement by Ballarat Council.
146. Mr Demeo told investigators Officer B reported to another Council manager 'in theory', but that he took responsibility for project management and decision making for the Ballarat West Link Road Project. He said he worked through project issues with Officer B and they became closer because of the project's intensity.
147. Mr Demeo, Officer B and Officer A socialised outside working hours. Officer B shared a house with Officer A in Ballarat when he first started work at the Council. Officer B and Officer A told investigators Mr Demeo visited the house on several occasions. They also continued to meet regularly for coffee. Mr Demeo also said he visited Officer B in hospital during a period when Officer B was seriously ill.
148. Mr Demeo said while he would not deny he had a friendship with Officer B before Officer B joined Council, it became:
- much more intensive at Ballarat. I would resist it was that way inclined at Geelong [Council] ... But it certainly has become that way at Ballarat [Council]. Post his employment. Post his employment. If I can emphasise that.
149. In response to the draft report, Mr Demeo said he characterised his friendship with Officer B as being a 'professional/colleagues/friendly relationship not a friendship per se.'

Extension of contract

150. Officer B's contract with Council regarding the Ballarat West Link Road Project was due to expire in December 2017. Mr Demeo spoke with the CEO and negotiated an extension of the contract until September 2019. Mr Demeo said the Ballarat West Link Road Project finished in April 2018, and Officer B was then given five 'related projects' at the Council.
151. At interview, Mr Demeo denied he was finding projects to keep Officer B employed. However, he agreed that one of Officer B's projects 'would have fitted into the work delivered in house' by the Council's Infrastructure Delivery Team. He said the other projects also could have been completed by that team, although it would have been stretching its capacity.

152. Mr Demeo also agreed these projects did not require someone of Officer B's seniority and could have been completed by more junior officers, with some investment to build their capacity. However, he noted Council's CEO and HR area agreed to the extension.

153. Officer B's working arrangements under the extended contract were unusual in two respects.

154. First, Officer B's salary package was increased by an allowance worth \$30,000 to \$40,000 because he was using his own car for work. Mr Demeo submitted he was not aware of this allowance increase.

155. Secondly, after the Link Road project finished, Officer B did not return to the main Council office. He stayed at a project hut on the Link Road project site until late 2018 and then worked out of an office near Council's animal shelter. Mr Demeo said there were some outstanding issues regarding streetlighting with the Link Road, and the saleyards adjacent to Officer B's office were being decommissioned and there was concern that material might be stolen. However, he acknowledged Officer B's mobility was a factor, along with Officer B's preference to work alone and not come into Council offices. Mr Demeo submitted that to the extent arrangements for Officer B's work might be described as unusual, 'they were not improper or inappropriate'.

156. Officer B's contract ended prematurely when he resigned in June 2019. At the time, Officer B was midway through a Council project and investigators understand there were issues regarding a poor outcome of a road construction and a failure to follow and document the appropriate procurement process.

157. Mr Demeo advised Council HR officers by email:

The agreement I have struck with [Officer B] is for him to discontinue his operational role today & for him to be paid for time in lieu owed until the 15th June & him to be paid for 4 weeks in lieu of Notice thereafter.

158. The investigation provided Officer B with relevant extracts of the draft report for comment. Officer B advised that he would not be providing a response.

Officer C

159. The third officer, Officer C, told investigators she knew of Mr Demeo when Mr Demeo worked in the Planning Team at Geelong Council. Officer C said their families lived in the same town and her father knew Mr Demeo through work and a local sports club.

160. Officer C said her 'first real introduction' to Mr Demeo was in 2007, when she was a student interested in a career in Planning. She said she called an officer working with Mr Demeo at Geelong Council about a possible work placement, and Mr Demeo called her back. Officer C said she completed two periods of work experience at Geelong Council in 2007 and 2008.

161. At interview, Mr Demeo said Officer C's father was no more than 'an acquaintance' and he could not remember Officer C working at Geelong Council. After investigators informed him of Officer C's evidence, he said he remembered her working as a very junior student. His lawyer later wrote to investigators agreeing that Mr Demeo told Officer C 'she could come for work experience during a time he was leading the Statutory Planning Team'.

162. After Officer C completed her study, she worked as a Planner at two other regional councils, and she and Mr Demeo said they met on one occasion.

Recruitment to planning position

163. In 2014, shortly after Mr Demeo commenced working at Ballarat Council, Council advertised a statutory planning position. Officer C told investigators she did not know anyone else at Council so she contacted Mr Demeo:

I just always remember that one time of work placement, him just being so incredibly nice and he has a really good reputation in the planning industry so when I knew he'd ended up at Ballarat I reached out to find out why, how he enjoyed it, and what he thought the culture was like ... I guess I just thought he'd be someone I could trust.

164. Officer C got the job and started work at Council in 2014. She told investigators:

There has been an assumption in the past couple of years that I came into Ballarat with Terry which is just not true. He started a couple of months before me ... [H]e was the only person I knew when I started there so, yes, there was that association. But I didn't come to Ballarat because of Terry and he certainly didn't ask me to come to Ballarat.

165. The investigation found no evidence that Mr Demeo was involved in Officer C's recruitment to this position.

Relationship at Council

166. Officer C said Mr Demeo was managing another team when she started work at Ballarat Council, where her contact with Mr Demeo 'was regular enough without being structured'. Mr Demeo described their association in the first year of Officer C working at Ballarat Council as a professional relationship.

167. Mr Demeo and Officer C told investigators that on two occasions in 2015, Officer C and another staff member stayed at the home of Mr Demeo's relatives in Ballarat, where Mr Demeo boarded during the week. Officer C was living in Geelong and Council meetings in Ballarat ran unexpectedly late.

168. Officer C said 'I took it as a nice offer ... They are just very generous, very lovely people who wanted to try to help'. She said, 'I don't think we advertised that I'd stayed there once or twice' and she was conscious of the perceptions of other Council officers:

[T]hose perceptions or those thoughts have been plaguing on me for a little while ... but there is a difference between 2015 and now in that Terry wasn't my manager when I stayed there. He is now, and I would never do it now. And there has been a change. I've grown in my role as well. I wouldn't do it now. Like I just wouldn't. It'd be inappropriate, and I know that. But he wasn't my manager at the time, there was good reason to stay.

169. After reading the draft report, Officer C pointed out she had also stayed in Ballarat on other occasions at the homes of other Council officers, Airbnb properties and hotels.

Promotion to Manager role

170. In 2015, Mr Demeo advertised a Manager position in his team dealing with local laws and parking enforcement. Officer C obtained the position. The investigation found the selection process was run twice, due to concerns about the process.

The first selection process

171. When Council first advertised the position, Officer C told investigators she discussed the role with Mr Demeo, asking whether he thought she had the necessary skills and qualifications. Although well-versed in local laws issues, Officer C said she had concerns about parking laws. Mr Demeo told investigators he could not recall this, but he 'probably would have' spoken to Officer C about the role.

172. There were 20 external applicants for the position. Officer C was the sole internal applicant. The Panel interviewed four candidates, including Officer C.

173. Council records show there were three people on the Selection Panel – Mr Demeo, an officer who reported to Mr Demeo and the former Council HR Coordinator. Mr Demeo chaired the Panel.

174. Officer C told investigators that, after the interviews, Mr Demeo told her she was the preferred candidate. However, the following day Mr Demeo told her he had ‘jumped the gun’ and ‘concerns’ had been raised.

175. The evidence shows Council’s HR Team raised concerns about Officer C’s claims to the role. The former HR Coordinator told investigators she approached Mr Demeo before the interviews and said Officer C should not be interviewed. Mr Demeo disputes this, but says he was told of concerns after the interview process was completed.

176. The HR Coordinator’s interview notes from Officer C’s interview state Officer C had ‘no real experience’ and ‘not a lot of exposure’. She told investigators:

[I] felt that this was not OK and I know [the other Panel member] is friends with Terry as well and he’s from Geelong. I felt a little bit they’d already made their mind up.

177. When investigators asked the HR Coordinator why she thought Mr Demeo and the other Panel member wanted to employ Officer C, she said:

It was obvious. It wasn’t so much what they said. It wasn’t someone coming in and being nervous in an interview. It just felt too close and comfortable ... I just thought ‘Here we go’.

178. In response to the draft report, Mr Demeo challenged the inference that Officer C’s lack of nerves suggested bias or favouritism in the process.

It was obvious ... It wasn’t someone coming in and being nervous in an interview. It just felt too close and comfortable ... I just thought ‘Here we go’.

Former HR Coordinator

179. Council’s former HR Manager told investigators that after the interview, the former HR Coordinator approached her with concerns that Officer C did not meet the selection criteria for the position. The HR Manager said she reviewed the documentation and agreed. Both were concerned that other applicants may take union action if Officer C obtained the role.

180. The HR Manager said she spoke with Mr Demeo, but he was adamant Officer C was the best person for the role and did not want anyone else. She said Mr Demeo usually complied with advice from the HR Team, ‘sometimes begrudgingly’. She said:

I had to advise him when he wanted to appoint [Officer C] through the first recruitment process that he couldn’t and he would have to readvertise. ... He tells you that he disagrees with you or asks ‘Why? What’s the benefit of that? This is what the outcome should be’. At that time, I’d say ‘I’ve got the support of [the Director, Business Services, who was responsible for HR at that time] so if you don’t agree with my advice you’ll need to go and take it up with [the Director, Business Services]’.

181. The Director, Business Services told investigators he did speak with Mr Demeo:

We said she can't be employed based on the current [Position Description] because she doesn't meet it. And I think I told Terry, 'You can't do it this way ... If you do want to employ her with the skill set she has you'll need a different role because she doesn't meet the role that she was going for' ... I called Terry in and said, 'Mate not a hope, this won't happen'.

182. At interview, Mr Demeo recalled having 'robust' conversations with the HR Manager and the Director, Business Services. His view was Officer C was the best person for the job and he recalled the Director, Business Services saying, 'If you want to revisit it, you'll have to go through the process again'.

We said she can't be employed based on the current [Position Description] because she doesn't meet it ... I called Terry in and said, 'Mate not a hope, this won't happen'.

Director, Business Services

The second recruitment process

183. The second recruitment process for the Manager role took place in November 2015.

184. The Position Description for the role was changed and now required qualifications and experience in town planning and managing strategic projects. These changes aligned with Officer C's experience.

You're now writing the [Position Description] specifically for an applicant. But he was adamant that's what he wanted to do.

Former HR Manager

185. The former HR Manager told investigators she believed the Position Description was altered to advantage Officer C:

[Our] preference was that [Mr Demeo] keep the [Position Description] as it is because that's the record that says these are the qualifications for the role. You're now writing the [Position Description] specifically for an applicant. But he was adamant that's what he wanted to do.

186. The Director, Business Services told investigators he was not aware of the changes to the Position Description:

I think [the HR Manager] said, 'Well she meets the new [Position Description]' and I said, 'Well there's nothing we can do about it' ... Terry may just have decided that he wanted [Officer C] in the job.

187. In response to the draft report, the Director, Business Services said that Mr Demeo's view about the role the successful candidate would perform was different to the original Position Description. He submitted that he told Mr Demeo that 'the Position Description should be revised to better reflect the role Mr Demeo had in mind given that the successful candidate would report directly to Mr Demeo'.

188. When investigators asked Mr Demeo about the changes to the Position Description, he said:

I strongly deny that the position changed dramatically to a point where there was concern in relation to the initial process. However, I agreed to go through another process on the basis of the concerns that had been raised.

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189. The position was advertised and there were 16 applicants, four of whom were interviewed. Officer C was the only internal applicant.
190. Council interviewed for the position in December 2015. Mr Demeo chaired the Panel again. The other members were another officer who directly reported to Mr Demeo, and an HR officer.
191. Officer C was again selected as the preferred candidate. She began working in the role in December 2015.
192. At interview, Mr Demeo conceded that Officer C had knowledge gaps relevant to the role. He said 'it is very common for a person entering a new role to have things they need to learn'.

No conflict of interest declaration

193. Council's recruitment files record no conflict of interest declarations from Mr Demeo regarding Officer C. At interview, Mr Demeo repeatedly stated he did not believe he had any conflict through his relationships with Officer C's father or Officer C herself.
194. He told investigators that Officer C's father regularly attended Geelong Council to make applications relating to his business, but said '[i]f I spoke to [her father] at the [sports club] more than five times in my life I'd be shocked'.
195. Mr Demeo initially told investigators that he had a 'friendship' with Officer C. But when referring to this recruitment process he said 'I don't believe I had a relationship that fits friendship or personal or so on'.
196. Mr Demeo said he was transparent about his relationship with Officer C throughout the process.

197. However, the Director, Business Services and the HR Manager told investigators they were not aware of any personal relationship between Mr Demeo and Officer C at the time of the recruitment. The Director, Business Services said if they were friends, Mr Demeo should have formally declared a conflict.
198. Having read a draft of this report, the Director, Business Services clarified that having previously worked with someone at another Council does not in itself require a conflict of interest declaration. He submitted, 'a declarable type of association in this context would be a close friendship involving multiple deliberate social interactions outside of work-related activities'.
199. In response to the draft report, Mr Demeo said there was no need for a declaration as he and Officer C had no contact of any substance until Ballarat Council. He said there was '...no friendship per se at any time but rather a collegiate working relationship whilst at Ballarat'.

Promotion to Executive Manager position

200. In 2016, the Council's new CEO, Justine Linley reduced the number of 'third line' Managers at Council as part of an organisational restructure. Officer C said Mr Demeo told three Managers, including her, that their jobs were going to be combined into one new Executive Manager role, reporting to Mr Demeo.
201. The evidence shows Mr Demeo originally intended to appoint Officer C to the new role without any recruitment process, only eight months after she had been appointed to the Manager position. In an email to Ms Linley, he wrote:

Justine, yes I have spoken to all but two of my managers ... Proposal is for ... [Officer C] to head up regulatory services as executive manager ... I will work with [HR] in relation to changes to position descriptions and other processes to put this in place.

202. At interview, Mr Demeo said he changed his mind. Officer C said Mr Demeo advised the Managers that he would run an internal Expression of Interest process to fill the new role on a temporary basis, followed by a formal recruitment process for the permanent role.

203. Officer C successfully obtained the temporary role and filled the position for around three months. When interviews were held for the permanent position, she was the sole internal applicant.

204. Council records show Mr Demeo chaired the Selection Panel, accompanied by two Council officers, including another Director and an HR Officer.

205. Officer C told investigators that although Mr Demeo had become 'my boss first and foremost', she now raised the issue of their work relationship with him. She said she had become aware of her colleagues' perception that she had only obtained her previous role because of her association with him. She told investigators:

I had felt from the first [role] I went for ... that I only got the job because I knew Terry. So, I'd already felt that, and I wanted to be really clear, in fact I might have even have said to Terry, I want to be really clear to ensure that this process is fair and if you get a better applicant or a better candidate you have to hire them obviously ... Terry knew who I was, [the other panel members] didn't so I felt comfort over that.

206. Officer C's application for the Executive Manager role was successful, and she was appointed to the position in January 2017.

207. In response to the draft report, Mr Demeo said he was the only Director to have conducted an Expression of Interest process for acting roles. He also noted he advertised the permanent positions, which was a more robust process than some of his contemporaries during the restructure.

I had felt from the first [role] I went for ... that I only got the job because I knew Terry.

Officer C

208. In response to Officer C's account of the concerns she raised with him regarding her appointment, Mr Demeo said he did not recall any such conversation. He said he assessed applicants, including Officer C, on merit without regard to any non-professional association.

209. Some Council officers, however, questioned whether Officer C had the skills and experience for her roles. One noted it was a difficult work group; Officer C had little management experience; and she was going from managing three staff to 30-40 staff. The officer said that when things became difficult, Officer C struggled. Another officer also told investigators 'I think [Officer C] has been pushed into a position that she's, not really not saying she can't do it, just saying she might be a little overwhelmed'.

210. In response to the draft report, Officer C submitted she had the necessary skills for the role. She said she managed up to ten staff in her previous roles, and 15 staff as a Manager at Ballarat Council. Officer C said she had worked well in the role and did not agree that she struggled or was overwhelmed.

211. Officer C's capabilities to perform the roles were not within the scope of the investigation and this report makes no comment about this.

No conflict of interest declaration

212. Again, Mr Demeo did not declare any conflict of interest regarding his relationship with Officer C.

213. At interview, Mr Demeo said:

I don't believe that I have ever had a personal relationship that prejudiced how I dealt with the appointment of [Officer C] in relation to roles at the City of Ballarat.

214. After reading the draft report, Officer C stressed she did not agree with an inference, if any, that she may have sought to secure roles with Council on the basis of her relationship with Mr Demeo. She also disagreed with any inference that she was aware that Mr Demeo may have preferred her as a candidate for these roles over equally or more qualified applicants. The investigation does not suggest that Officer C knew of or sought preferential treatment from Mr Demeo.

Perceptions at Council

215. Despite Mr Demeo's denials of any conflicts of interest regarding Officer A, Officer B and Officer C, other Council officers said there was a perception at Council that Mr Demeo favoured friends and former colleagues from Geelong Council.

216. The Director, Business Services told investigators there was a perception amongst Council staff that:

Oh yeah, Terry's hiring his mates ... Terry and the whole leadership team are aware of [this view held by staff] because Terry brought in [Officer B] to do the Link Road and [Officer B]'s quite old.

217. The Director, Business Services clarified that this comment was 'confined to a perception amongst a small group of disgruntled staff'.

'Oh yeah, Terry's hiring his mates' ... Terry and the whole leadership team are aware of [this view held by staff].

Director, Business Services

218. The former Council HR Manager also said:

[T]here were a number of appointments Terry had targeted people for and that wasn't from a belief he had any personal relationships with them ... We did start to joke towards the end that they were 'yes' people. They would just do what Terry would say. There were a number of appointments where we said, 'Well he obviously has that person in mind'.

219. Another officer told investigators 'it was like, Oh yeah. Another person from Geelong coming up'.

220. Many of the Council officers told investigators they believed Mr Demeo had a conflict of interest regarding Officers A, B and C. For example:

- Officers said they witnessed Mr Demeo and Officer A walking together to work and believed (apparently incorrectly) they shared a house in Ballarat during the week. One said 'There is a definite conflict there. You can see it'.
- Some perceived that Mr Demeo gave Officer B special treatment. One said they believed Council retained Officer B because he and Mr Demeo were close friends.
- Officers variously claimed that Mr Demeo acted more like an uncle to Officer C than a manager, and that they were 'thick as thieves'. Two officers said Officer C once claimed that Mr Demeo told her that if she could get herself a job at the Council, he would make her a manager. Mr Demeo and Officer C both denied making such statements, and the claims about the closeness of their relationship.

221. Officers A and C gave evidence about the impact of these perceptions on them. Officer A said he was upset when a Council officer circulated a photograph of himself and Officer B, calling them 'The Geelong Mafia'. He said perceptions about his relationship with Mr Demeo 'can't be helped. It's true in the sense that yes we're friendly'. He defended Mr Demeo's actions, stating:

[Terry] has brought people in that he has worked with before but as in my case, he knows I'm a person who can get things done. That was demonstrated. Like the green waste had been promised for about five years or so but nothing had been done. But I get there and it gets done in six months.

222. Officer A continued:

Terry is respected as a guy who gets things done. You look at Council and he's a guy who gets things done. And you step on toes doing that sometimes.

223. Officer C highlighted the impact of the perceptions on her:

It's hung over me ... Everything I do now in my current role I do that much harder to prove that I'm the right person and I know from talking to others in the organisation that there's no question ... that I'm good at it. But it sits there ... it does, it just waters down everything you do.

224. When investigators asked Officer C if she had a view about Mr Demeo's involvement in her recruitment, she said, 'I do now. Probably didn't back then. I do now'. Having reviewed the draft report, Mr Demeo suggested the report 'appeared to suggest some sinister conclusion without stating it' and this was unfair in the absence of more context and details.

225. Council managers said it was not necessarily inappropriate for Mr Demeo to be involved in recruiting people with whom he had worked. The former HR Manager said 'it's not uncommon for people to bring their work colleagues along with them, knowing what they can do and what they can deliver'. The Director, Business Services also said:

It is, we think, a well-established and accepted practice that senior officers will draw on their networks of previous colleagues to identify candidates to fill vacancies at Council and provided that the association is not so intimate and close to create a reasonable objective perception of bias, and a genuine and competitive open recruitment is undertaken, the legislative provisions will not be offended and will not require a declaration.

226. However, officers commented on Mr Demeo's failure to clearly distinguish between professional and personal relationships and follow proper process. The Director, Business Services told investigators:

I like Terry. I have concerns about some of the things that Terry does and I often have conversations with Terry and we've had many disagreements and I've put a stop to a lot of things - the way Terry was going go about it - so I put a stop to those. But my view is that Terry tries to do too much too quick.

... On the procurement, Terry's come and said can we do this and I've said 'no'. So, it hasn't been Terry trying to be dodgy. He wouldn't come and tell me if he was trying to be dodgy ... [He asks] 'Is there any way we can get this done?' and I've said, 'No' ... It's more about getting works done because he's under pressure to get works done quickly. And I've said 'Look, sorry mate, we're just going to have to go through a tender' ... He comes from the developer world. That's half the problem I think, and he hasn't quite completely got rid of that way of operating as a Director. He's a friend rather than a colleague.

227. In response to the draft report, the Director, Business Services clarified he was referring to Mr Demeo's work for private industry, which has less stringent probity requirements. He said Mr Demeo would alter his proposed approach to matters if he was told it did not satisfy legal requirements.

228. Mr Demeo said he and the Director, Business Services would have robust discussions and work through issues in a transparent manner. Mr Demeo did not agree with the Director, Business Services' statement at interview, and said he is 'not one to hide anything'.

229. The former Council HR Coordinator told investigators the Council's policy and processes were robust, but Council officers like Mr Demeo did not always follow them. The HR Coordinator said 'I hope that there can be some change. I sort of feel bad that I'm being honest, but there just needs to be change'.

230. After Mr Demeo's interview, his lawyer wrote to investigators to clarify some matters. The lawyer said Mr Demeo described himself as an 'old school' style of manager who looks after his staff, buys coffees and nurtures professional relationships, has strong bonds with some work colleagues, entertains colleagues in his home and visits them at home. Mr Demeo said he did not seek to hide his connections with the officers described in this report, and that those 'around and above' him knew about those connections.

231. The lawyer asserted Mr Demeo had not advanced anyone with whom he has had a professional or personal association 'outside of the proper processes of appointment'. The lawyer also said Mr Demeo did not act to benefit himself or improperly benefit anyone else, and the appointments were made on merit.

232. The lawyer acknowledged that Mr Demeo should have declared his relationships to the Council:

[W]ith the benefit of further reflection and having consulted the City of Ballarat's Code of Conduct and the broader definition of conflict of interest which it contains, Mr Demeo accepts that there is the potential for a perception that his level of personal association with [Officer A] and [Officer B] and [Officer C] ... might have influenced his decision making about them, and that it would have been appropriate for him to have completed a conflict of interest form so that his level of association with them was formally documented.

... it hasn't been Terry trying to be dodgy ... It's more about getting works done because he's under pressure to get works done quickly.

Director, Business Services

Findings

233. The investigation substantiated the allegations that Mr Demeo acted improperly in connection with the recruitment of his friends and former colleagues, Officer A, Officer B and Officer C, to senior roles at Ballarat Council.

234. Mr Demeo's relationships with these people varied in intensity, but all had the flavour of friendships or personal associations that existed before their recruitment to the Council.

Officer A and Officer A's company

235. Mr Demeo was conflicted regarding Council's engagement of Officer A through Officer A's company. This conflict arose from Mr Demeo's personal friendship with Officer A, which extended beyond simply having worked together at Geelong Council. Mr Demeo should have formally declared and transparently managed this conflict, ideally by removing himself from decisions about Officer A's company.

236. Instead, the evidence shows Mr Demeo:

- Invited Officer A to work for the Council.
- Agreed to pay Officer A's company a higher rate than Officer A was paid for similar work at Geelong Council.
- Did not take steps to identify competitive rates for the work.
- Chaired a Tender Evaluation Panel that subsequently selected Officer A's company as a preferred supplier to Council.

237. Mr Demeo did not inform Council's then CEO of his personal contact with Officer A when discussing Officer A's initial engagement. He did not declare his relationship with Officer A when signing the later tender documents.

238. The Council's Code of Conduct directs Council officers to 'avoid situations that create [a] conflict of interest', to declare any 'potential conflict between your personal interests and the performance of your duties', and to 'remove yourself from any position of influence in the tendering or selection process'. It does not provide exceptions based on perceived degrees of friendship. Clause 6.4.4 of the Code states:

Conflict of interest arises when you encourage Council to develop a working relationship with a business that you, your friends, family or associates:

Own shares in;

Have a financial interest in;

Participate in the business of;

Conduct private business with.

239. Mr Demeo's actions contravened clause 6.4.4. They also appear to contravene the conduct principles in section 95(1) of the Local Government Act, which require Council staff to 'act impartially' and 'with integrity including avoiding conflicts of interest' in the course of their employment.

240. Mr Demeo responded to these findings as follows:

We did not have a personal friendship and so there was no actual conflict ... I accept as a matter of process I should have made formal declarations. The suggestion that I should have removed myself from any decision about [Officer A] and [Officer A's company] lacks practical reality ... it was a[n urgent] project in my portfolio and it is not realistic to suggest I should have stood aside from it, or that I should have excluded [Officer A] from being of potential assistance merely because we had worked together in some respects before.

241. Mr Demeo pointed out that '[t]he project was delivered on time and on budget, and in circumstances where my past association with [Officer A] was known'. However, the urgency of the project was no reason for Mr Demeo to fail to declare and manage his conflict of interest.

The suggestion that I should have removed myself from any decision about [Officer A] and [Officer A's company] lacks practical reality ... it was a[n urgent] project ...

Terry Demeo

Officer B

242. Mr Demeo was also conflicted regarding Council's engagement of Officer B because of their personal friendship. Mr Demeo should have declared and transparently managed this conflict in connection with any decision making regarding Officer B's employment.

243. Instead, the evidence shows Mr Demeo:

- Invited Officer B to apply for the Site Supervisor position.
- Chaired a Selection Panel comprised of two people, in breach of clause 6.2.1 of Council's Recruitment and Selection Policy.
- Obtained the CEO's agreement to extend Officer B's contract. Mr Demeo conceded the projects allocated to Officer B could have been completed by more junior Council officers, although he said they did not have capacity.
- Gave Officer B preferential treatment, by allowing him to continue working away from Council's main office.

244. Clause 6.2.1 of the Recruitment and Selection Policy requires that '[w]here panel members know applicants for positions personally, they must declare this knowledge prior to the commencement of interviews'. The Policy states that '[w]here such knowledge is likely to inhibit the objectivity of a panel member, or be seen as a conflict of interest by others, they must not participate in the selection panel'. Even if Mr Demeo told the second Panel member, Council's leadership team and the CEO that he knew and had previously worked with Officer B, he did not disclose the full nature of their personal relationship. Mr Demeo's failure to do so contravened clause 6.2.1 of the Council's Recruitment Policy and its Code of Conduct.

245. Mr Demeo's conduct also constituted preferential treatment to a personal friend or associate in contravention of clause 6.4.4 of Council's Code of Conduct. Mr Demeo's actions in respect of Officer B's employment also appear to be contrary to the conduct principles set out in section 95(1) of the Local Government Act, specifically the obligations for Council staff to 'act impartially' and to 'act with integrity including avoiding conflicts of interest' in the course of their employment.

Officer C

246. Mr Demeo also had a conflict of interest regarding Officer C arising from their personal association. Mr Demeo was not involved in Officer C's initial recruitment to Ballarat Council, but was involved in promoting Officer C to positions in his team. He should have declared and transparently managed his conflict in connection with his decision making.

247. Instead, the evidence shows Mr Demeo:

- chaired or was on Selection Panels that recommended Officer C's promotions
- changed the Position Description for the Manager position to suit Officer C's skills and experience, after Council's HR Team raised concerns about her suitability for the role
- failed to declare a conflict of interest.

248. Mr Demeo's actions tainted the recruitment processes involving Officer C, regardless of the merits of her candidature. His actions contravened clause 6.2.1 of Council's Recruitment and Selection Policy and clause 6.4.4 of the Code of Conduct. Mr Demeo's submissions acknowledged he had not given adequate consideration to the perception of a conflict of interest in this instance.

249. Mr Demeo also appears to have misused his position by changing the Position Description for the Manager role to provide an unfair advantage to Officer C. These actions contravened clauses 6.4.1(iii) and 6.4.5 of the Council's Code of Conduct. These clauses state that Council employees are under a duty of care, diligence and honesty (including the public's entitlement to expect Council business to be conducted impartially and with integrity, and for Council employees to obey 'the spirit and letter of the law') and must not use their position 'to create any private advantage for themselves or any other person'.

250. Mr Demeo's actions also appear to have contravened the conduct principles in section 95(1) of the Local Government Act, specifically the obligations for Council staff to 'act impartially' and to 'act with integrity including avoiding conflicts of interest' in the course of their employment.

Mr Demeo's response

251. In response to the draft report, Mr Demeo submitted that on reflection, he 'could see the perception [of a conflict of interest] that was put to me by the investigators and in light of that agree that it may have been better in retrospect to declare a notional conflict of interest given it would [have] avoided this process'.

252. He concluded his responses to the draft report:

I deny that I had any improper involvement of the recruitment of [Officer B], [Officer A] and [Officer C]. I reject that my association with them at the time of the appointments could be fairly characterised as friendship. We were not friends. In the case of [Officer B] and [Officer A], I had worked with them before. In the case of [Officer C], I was aware of her but not friends with her. I do accept that there was a deficiency in the composition of the panel for [Officer B]'s appointment. I take responsibility for that deficiency.

I also accept that there was the potential for perception of conflict and that I should have completed a formal statement or declaration but I do not accept that I was wrong to play the parts that I did in their respective recruitments.

253. Mr Demeo's belated acceptance that he should have declared these conflicts does not fully acknowledge the impact of his conduct on the outcomes of the recruitment processes, on the professional reputations of the successful applicants or on the culture and practices at Council.

I ... accept that there was the potential for perception of conflict and that I should have completed a formal statement or declaration but I do not accept that I was wrong to play the parts that I did in their respective recruitments.

Terry Demeo

254. Mr Demeo should have declared and transparently managed his conflicts of interests in respect of the recruitment processes for Officer A, Officer B and Officer C. He could have done this by completely removing himself from all first round Selection Panels and processes. It may have been appropriate for him to have subsequently participated in second round interviews.

255. If Mr Demeo felt that he had to be involved in first round interviews, he nonetheless failed to ensure the presence of two independent and empowered panel members.

Alleged splitting of purchase orders to avoid public tender

256. Another public interest complaint alleged that in 2017 and 2018, Mr Demeo was improperly involved in splitting purchase orders for repairs to the Ballarat City Oval to avoid a public tender process. The investigation confirmed Mr Demeo's team managed the repair works. It examined the procurement process for the works and whether it complied with Council's Procurement Policy and integrity obligations.

City Oval repair works

257. Ballarat Council funded the \$1.6 million Ballarat City Oval Reconstruction Project in 2017 to provide better conditions for athletes and greater capacity for football. The project needed to be finished in time for the first game at the Oval on 4 May 2018. However, the original project tender did not fully anticipate necessary rectification works, which remained outstanding when contractors left the site.

258. Mr Demeo's team did not manage the original project, but was brought in to manage the repairs.

259. On 24 January 2018, one of Mr Demeo's Team Leaders met with Council's Project Manager and a recreation officer. The Team Leader identified the following repairs were required before the public could access the Oval:

- resurfacing a paved area damaged by heavy vehicles in front of the grandstand along Mair Street
- replacing drainage to address longstanding flooding issues around half of the Oval
- removing soft clay left by contractors around the Oval where the public parked during the football season

- curbing/channelling a gap where spectators stood to watch the game between the Oval fence, where the Oval had been lowered.

260. The Team Leader said the Project Manager told him the repairs had to be completed by the first game of the football season – which at that time was 10 weeks away.

261. The Team Leader said he advised Mr Demeo in early February 2018 that the quote he was preparing for the repair works would be between \$250,000 and \$300,000. This estimate proved accurate. According to the Team Leader, the works were completed for 'a touch over \$300,000, maybe \$305,000'.


262. Section 186 of the Local Government Act required a tender process for contracts for the carrying out of works valued at \$200,000 or more. Council's Procurement Policy required a tender for works in excess of \$125,000.

263. The Team Leader said a tender process would have taken up to three months, as it would have involved advertising and obtaining Council's sign-off. He said when he met with the Council's Project Manager in January 2018, the Project Manager said, 'this job cannot go out to tender because they haven't got the time to do it'.

This job cannot go out to tender because they haven't got the time to do it.

Team Leader Construction

Figure 3: Media alert regarding City Oval opening after upgrades (emphasis added)



CITY OF
BALLARAT

Sustaining growth. Strengthening communities.

MEDIA ALERT

Date: Friday 4 May 2018

City Oval upgrades to be officially opened

WHAT: Official opening of City Oval redevelopment

WHO: City of Ballarat Councillor Belinda Coates

WHEN: 5.30pm, Saturday 5 May 2018

WHERE: City Oval, Lake Wendouree

The City of Ballarat's single biggest investment in sport and recreation infrastructure in 2017/18 will be unveiled this weekend, with the redevelopment of City Oval to be officially opened on Saturday (5/5).

The \$1.6 million upgrade, fully funded by the City of Ballarat, will be formally opened ahead of the first Ballarat Football League match to be played on the redeveloped ground, between Redan and Lake Wendouree.

The upgrade included the installation of new sub-surface drainage and irrigation, and re-surfacing of the oval, semi-professional 200 lux lights and towers, and new boundary fencing.

The match is the first to be played at the ground under the newly installed lights.

Photographs of Ballarat City Oval prior to and during upgrade works



Source: Ballarat Courier

Decision to use preferred suppliers

264. The Team Leader told investigators that two weeks after his conversation with Mr Demeo about his quote for the works, Mr Demeo asked him about the progress of the repairs and how he planned to complete them. The Team Leader replied he would use preferred suppliers and buy the materials for the work.
265. The Team Leader said he rarely used preferred suppliers for jobs valued at \$300,000. He said that work of this value would usually be completed in-house by Council construction teams. However, he said at that time, Council's teams were locked into jobs and did not have capacity to complete the work.
266. The Team Leader said:
- As long as we didn't pay one contractor on this job more than the \$125,000 threshold, we weren't breaking any of the rules ... We can have ten contractors on this job ... Once I'd done the estimate, I knew then that not one of the contractors, and they're all preferred suppliers, ... not one of them was going to get \$125,000, not one. Because the work wasn't there.
267. The investigation identified that the Director, Business Services and Director, Community Development also knew about the Team Leader's decision to use preferred suppliers this way, rather than going to tender.
268. The Director, Business Services said at interview that in February 2018, he and the Director, Community Development met with the Team Leader about completing the repairs 'because obviously if it was going to be a major cost we would have to go out for another tender'.

As long as we didn't pay one contractor on this job more than the \$125,000 threshold, we weren't breaking any of the rules ...

Team Leader Construction

269. The Team Leader also recalled that sometime in February 2018, Mr Demeo came to his desk and took him to see the Director, Business Services. The Team Leader said:
- Now what [the Director, Business Services] wanted to know was how was I going to do this legally ... [The Director, Business Services] wanted to be assured that I was going to use preferred suppliers and not one single contractor was going to get paid more than \$125,000, to keep this legal.
270. The Director, Business Services said by this time he knew the cost of the repairs was \$300,000, but there was no discussion of whether the work should go to tender 'because [the Team Leader] would have been the best one to work out how he would deliver it and I just assumed [he] was going to deliver a lot of the work with his own staff'. He said:
- He [the Team Leader] would have told us to go to tender if it had been needed. If any of those suppliers had been in excess of the thresholds we would have gone to tender ... If [he] had said we needed to go to tender, we would have gone to tender.
271. The Council's Procurement Officer was not consulted about the decision. The Director, Business Services told investigators he did not consult the Procurement Officer on this matter because Council was dealing with the matter in-house.

Perspectives on validity

272. Different Council officers provided varying interpretations about the Team Leader's decision to use preferred suppliers, instead of a public tender.

273. Although the Council's Procurement Officer was not consulted at the time, at interview he said combined repair works totalling more than \$125,000 should have gone to tender, and Mr Demeo and the Director, Business Services should have known this. He told investigators:

If I had been asked, I would have said, 'Yes we need to go to tender' because of the fact that as a cumulative, those works are over \$125,000.

... If the works were for \$300,000 they should have gone to tender for those works. Full stop. No questions asked ... The thing is when you go to a tender, that's three months from the Request for Tender by the time it gets signed off. Before you can even put a shovel in the ground. That's what a lot of people don't like.

274. Mr Demeo and the two other Council Directors disagreed with the Procurement Officer. Mr Demeo said the specifics of how a project is delivered, either by a tender process or using an in-house team, is beyond the remit of the Procurement Officer. Mr Demeo, the Director, Business Services and the Director, Community Development submitted the Procurement Officer had not accounted for work being performed by Council's in-house team.

275. Mr Demeo and the Director, Business Services contended that the use of preferred suppliers to deliver other elements of the work was appropriate and complied with Council's Procurement Policy. Both argued that the repair work should be seen as a number of projects rather than a single project.

If the works were for \$300,000 they should have gone to tender for those works. Full stop. No questions asked.

Procurement Officer

276. Mr Demeo stated:

There were individual elements of repair which were separate and managed in-house with a combination of the in-house work team, which undertook the major part of the drainage repair, and preferred suppliers, with Council acquiring rock and pipes. This is how smaller projects are managed to deliver value to the organisation.

277. The Director, Business Services also noted the urgency of the work. He said :

[W]e didn't have the time [for a tender]. Plus, it would have been multiple little tenders because it wasn't one job. [The Team Leader] project-managed all these little jobs. If we'd gone to tender, we would have tendered separately for the bitumen, drainage and landscaping.

278. Mr Demeo, the Director, Business Services and the Team Leader repeatedly stated their understanding of the legislation was that even if the total cost of the repairs exceeded the tender threshold, a tender was not required where individual contractors were not paid more than the tender threshold.

279. Investigators asked the Council's Procurement Officer if it was reasonable to interpret the procurement threshold of \$125,000 as applying to individual payments to preferred suppliers, rather than to the total cost of the project. He said:

Yes, it's a reasonable position but not a practical position. You could argue that ... any job they do that costs \$250,000 to \$300,000 is made up of little bits so why tender, why not go to preferred suppliers? Because the job is over our threshold.

Purchase orders exceeding tender threshold

280. Investigators obtained Council records indicating the Council raised purchase orders between \$138,000 and \$158,000 for one preferred supplier in connection with the City Oval repairs. Payment of these orders would have exceeded the \$125,000 threshold in Council's Procurement Policy, and potentially the Local Government Act threshold of \$150,000.

281. The Director, Business Services said that no preferred supplier working on the City Oval repairs had been paid more than \$125,000. He explained that some of the purchase orders obtained by the investigation overestimated the volume of material required, and the actual payments were substantially lower than the purchase order amounts.

282. Invoices obtained by the investigation confirmed the Director, Business Services' evidence. However, it is concerning that a tender process was apparently not contemplated, despite the Council raising purchase orders for a preferred supplier exceeding \$125,000.

Other procurement matters

283. In the course of investigating the allegations involving the City Oval, investigators observed concerns about two other council procurement processes.

Request to split invoice in similar job

284. In April 2018, the Team Leader completed outstanding repairs on another Council project which were needed to ensure an early learning centre could open on schedule. The repairs were valued at approximately \$53,000.

285. In an email dated 16 January 2018, copied to Council staff including Mr Demeo, a Council officer wrote:

Hi [Team Leader] thanks for the quote. [U]se your preferred suppliers by cutting the job into manageable non-tenderable rates such that we can deliver the project promptly.

286. The Council officer who sent the email told investigators she was committed to following Council policy, and she did not recall why she would have sent such an email. She noted '[t]he level of expenditure [\$53,000] did not even trigger a tender requirement under the policy'.

[U]se your preferred suppliers by cutting the job into manageable non-tenderable rates such that we can deliver the project promptly.

Excerpt from a Council officer's email to another Council officer

287. At interview, the Director, Business Services' response to the email was:

I'm not impressed with the comment because we don't do that ... Because that thing is just not acceptable. We don't stand for that.

288. The Council Procurement Officer's response was 'I am actually gobsmacked that it's written there'.

289. At interview, Mr Demeo acknowledged he had seen this email, but he said he could not recall it and had not taken any action. When investigators pointed out the words 'cutting the job into manageable non-tenderable rates', Mr Demeo denied that Council used that approach to avoid tenders.

I am actually gobsmacked that it's written there ...

Procurement Officer

290. In Mr Demeo's response to the draft report, he said:

I do not read the email from [the Council officer] as in any way sinister or any evidence of wrongdoing. The intent of the email in my view was to ask [the Team Leader] to use his preferred supplier list. Clearly there were no tenderable dollar amounts because the size of the project was well under the thresholds as set out above.

Failure to tender for another project

291. On 2 April 2019, this office received another complaint that in July 2018, Council failed to seek tenders for work relating to the Creswick Road Carpark, a project valued in excess of \$714,000.

292. An Executive Manager in Mr Demeo's team told investigators that when the project commenced, the capital works were anticipated to be less than \$200,000. The Executive Manager explained the scope of the works increased significantly during the project. By the time the project was completed in June 2019, the cost of the project was \$714,481.

293. The Executive Manager acknowledged this project should have gone to tender and said Council had since reviewed its procurement processes and implemented changes.

Potential systemic issues

294. Investigators asked the Director, Business Services, who oversees procurement at Council, about compliance with procurement rules at Council. He said:

Local Government has changed dramatically in the last five to ten years and [staff] fully understand that we have to follow these rules ... [W]hen we find someone not following the rules, they're dealt with pretty severely. I've sacked a couple of managers for deliberately avoiding the policy and trying to hide that ... [W]e've got a culture that if you're caught not following the rules, you'll be dealt with.

295. By contrast, the Council's Procurement Officer said:

I would be lying if I said it [avoiding a tender process] didn't happen [at Council] ... A lot of the people on the ground who are doing things correctly are doing as they're told. No, I wouldn't say it's a standard practice, I would say that it does happen ... but the people who are actually doing it are doing as they're told.

296. The Procurement Officer said he runs a 'Cumulative Spend Report' every six months which is provided to the CEO and Directors. He also audits expenditure on preferred suppliers within the two year period set by Council's Policy. However, he said he does not audit total project costs, which would identify where projects costing more than \$125,000 had not been tendered. He said he did not have the resources to specifically audit whether invoices were being split, but said something 'may catch his eye' when he audits the Cumulative Spends.

Findings

297. The Council's 'carve-up' of the City Oval repair works, a project with an estimated cost of \$300,000, was a deliberate plan to avoid a public tender process.

298. The available evidence shows the Team Leader was responsible for the proposal that Council use preferred suppliers for the repair works, rather than a tender process.

299. However, responsibility for this decision should not rest with the Team Leader. Mr Demeo, the Director, Business Services and the Director, Community Development were aware of the course undertaken. As Directors of the relevant areas of Council for this project, they were ultimately responsible.

300. In response to the draft report, the Director, Business Services maintained that works valued in excess of \$125,000 that are managed in-house do not require a public tender, if the value of procurement from any individual supplier does not exceed \$125,000. He reiterated his view that there was no overall contract for the delivery of works as this was managed as an in-house project and as a result, the tender requirements under the Local Government Act did not apply.

301. Mr Demeo also asserted there was no breach of tender requirements. He submitted that a tender was not required for repairs costing \$300,000, on the basis that the repairs consisted of multiple and distinct works individually valued at less than \$125,000. This contention runs contrary to claims that these works should have been included in the scope of the original City Oval reconstruction, which was a single project that went to tender.

302. This interpretation potentially undermines the purpose of procurement controls in the section 186 of the Local Government Act and the spirit of Council's Procurement Policy. It is also questionable whether such an interpretation, apparently for the sake of completing projects quickly, complies with Council officers' obligations in the Council's Code of Conduct. In particular, clause 6.4.1(iii) of the Code of Conduct requires, amongst other things, that Council officers:

obey the spirit and the letter of the law and, in particular, the provisions of all relevant statutes, ordinances, regulations and instruments

Not act for an improper or ulterior purpose, or on irrelevant grounds.

303. Mr Demeo's team also used preferred suppliers to complete repairs for an early learning centre project. Even though the total cost of the repairs in this case did not come close to triggering a tender process, the request to split the purchase orders is suggestive of a commonly used and accepted practice to avoid the tender process. At the very least, this conduct appears to be inconsistent with the conduct principles set out in section 95(1) of the Local Government Act.

... obey the spirit and the letter of the law ...

Clause 6.4.1(iii) of the Code of Conduct

304. The effectiveness of Council's procurement audits to prevent such conduct appears limited. The evidence suggests that fragmenting the cost of works is an accepted practice for time-sensitive matters, at least for some Council officers.

Alleged misuse of Council Purchasing Card

305. The final allegation concerning Mr Demeo was that he misused Council's Purchasing Card. Investigators obtained and reviewed records of Mr Demeo's Purchasing Card use from 2016.

Council policy

306. Council introduced Purchasing Cards to assist the efficiency and effectiveness of purchasing and payment processes. The cards streamline the process for low value, high volume transactions, and help Council record and report on these transactions.
307. Council's Corporate Purchasing Card Policy states these cards are intended to be used for 'genuine business purposes and as required within the cardholder's position and authority'.
308. The Policy defines 'appropriate purchases' to include: low value/high volume items; stationery and office supplies; computer and trade consumables; small tools, equipment and furniture; subscriptions and memberships; training courses, seminars and workshops; business-related expenses including airfares, taxis, accommodation and meals in accordance with Council's Travel Policy; and business-related catering.
309. The Policy bans some transactions on Purchasing Cards. These include personal transactions and transactions outside the scope of the cardholder's position or in excess of the transaction limit.
310. The Policy states that misuse of Purchasing Cards will be investigated, and may lead to internal disciplinary action.

Mr Demeo's spending

311. Investigators identified the following purchases by Mr Demeo using Council's Purchasing Card as raising concerns.

Alcohol

312. On 29 July 2016, Mr Demeo purchased 'farewell drinks' costing \$360. At interview, he said that Council policy on alcohol spends was 'not explicit'. He said although it was rare that he would spend Council funds on alcohol, he 'made the call that that was an appropriate spend' and 'reasonable' for the departure of a long-term manager.
313. The Director, Business Services, who is responsible for auditing Council's Purchasing Card use, said the purchase of alcohol for functions 'may be appropriate'. He said Council staff could arrange to have functions in-house or attend a venue and invoice the cost to Council. In his view, spending several hundred dollars of Council funds to pay for farewell drinks for a former Director and a former Executive Manager was reasonable and not out of the ordinary, given the number of staff who attended.
314. Mr Demeo submitted these purchases were sanctioned by the CEO, do not conflict with Council policy and were internally audited by Council without concerns being raised.

Town Hall refurbishment

315. Mr Demeo also purchased some items for the Ballarat Town Hall. These were a Flemish Light Chandelier valued at \$950 for a meeting room in the Town Hall and cushions, plate stands and plants. Mr Demeo said Council was refurbishing the upper level of the Town Hall 'to bring it into a period that is befitting of the property'.
316. At interview, Mr Demeo said he agreed to collect the chandelier from Melbourne to save courier costs for Council. He said:
- Having arrived at the site to pick it up, I ... was not aware that it was not paid for. So the only mechanism that I had available to me at that time was to pay for it on the credit card, so I used that.
317. Mr Demeo said there had been 'a couple' of similar requests that he pick up items for the Town Hall. He acknowledged this was 'not usually' something a Director would do and he would not normally make such purchases. He agreed it was probably not a good use of his time.
318. The Director, Business Services told investigators that some of Mr Demeo's purchases were not appropriate and should have been purchased 'by Civic Support' at Council. He said it was likely Mr Demeo bought them because the Mayor wanted them for the Town Hall.
319. In a submission to the investigation, Mr Demeo agreed his actions were unusual, but maintained this expenditure was neither inappropriate nor improper.

Coffees, meals and beverages

320. Mr Demeo also purchased coffees, meals and beverages for various stakeholders, including Councillors. From his appointment to the Director role in 2016 until October 2018, these expenses totalled approximately \$7,000.
321. The Director, Business Services told investigators Council staff used cafés because Council lacked adequate meeting space, and it was more cost effective than hiring office space to meet stakeholders. He said Mr Demeo had many meetings with Councillors, including in his office, on a daily basis. He said Mr Demeo takes Councillors to Oscar's Hotel for portfolio meetings and Mr Demeo also met developers for discussions regarding the Ballarat West Link Road Project at a café, because it was easier to go to a café than to come back into town.
322. At interview, Mr Demeo estimated that approximately 80 per cent of his meetings were at Council and 20 per cent were offsite. He said the Ballarat West corridor was a major part of his work and he met with consultants, landowners and developers who are 'external to the office component'. Mr Demeo denied any improper use of Council funds for food and beverages.

Oversight of Purchasing Cards

323. At interview, the Director, Business Services said his staff audit Purchasing Card use; the CEO gets all card statements monthly; and the Victorian Auditor-General's Office and Council's internal auditors also audit the Purchasing Cards. He said his staff had not raised any issues about Mr Demeo's Purchasing Card use.

Findings

324. Mr Demeo used Council's Purchasing Card for beverages, meals and coffees. These purchases appear to be inappropriate and not in accordance with Council's Corporate Purchasing Card Policy. However, while the purchases may evidence poor judgement on Mr Demeo's part, they do not appear to constitute 'improper conduct' for the purposes of the Protected Disclosure Act.
325. Mr Demeo's purchase of items for the Town Hall refurbishment, including a chandelier costing nearly \$1,000, does not appear to have been prohibited under Council policy. It was nonetheless unusual for Mr Demeo, a Council Director, to be personally involved in this purchase.

Allegations concerning the Chief Executive Officer

326. Ms Linley has been CEO of Ballarat Council since 23 May 2016. She is the only staff member appointed directly by the elected members of Council. Her responsibilities include managing Council's organisational structure, ensuring the implementation of Council decisions, providing advice to Council and the day-to-day management of Council's operations.

327. Before joining Ballarat Council, Ms Linley was the CEO at Northern Grampians Shire Council from 2010 to 2016. She also worked at Northern Grampians Council as a manager earlier in her career, from 2003 to 2006 and in 2009.

328. Ms Linley has been involved with a local government professional development association, LGPro since approximately 2009.

329. This section examines allegations that Ms Linley was improperly involved in engaging or promoting six friends and/or former colleagues to senior roles at Ballarat Council. The report refers to the six officers as Officer D, Officer E, Officer F, Officer G, Officer H and Officer I. It examines Ms Linley's involvement in their employment and whether she complied with her integrity obligations.

Alleged improper advancement of personal associates and former colleagues

Officer D

330. Ms Linley and Officer D met at Northern Grampians Council and worked there together for two and a half years between 2003 and 2006 (excluding a period when Officer D was on leave). They initially worked as colleagues. When Ms Linley became a Director, Officer D reported to her.

331. Ms Linley and Officer D also saw each other outside work. Ms Linley said their children went to the same school, their families attended dinners, they may have celebrated their birthdays together and she attended a barbecue at Officer D's home. She said she did not socialise with Officer D 'more than you would with other colleagues'.

332. Ms Linley said after leaving Northern Grampians Council in 2006, she maintained contact with Officer D and visited her home. She continued to take an interest in Officer D's work and career, informally mentoring her. Current and former Ballarat Council officers said it was general knowledge that Officer D was friends with Ms Linley from their Northern Grampians Council days, and Officer D told staff they were friends.

333. Work phone records show that soon after Ms Linley joined Council as the CEO, she and Officer D were in daily contact. They sometimes spoke several times a day.

334. Ms Linley submitted she had frequent cause for work-related discussions with Officer D. She attributed the level of contact to the notification of an IBAC investigation, the resignation of two key executive officers, and the Mayor and two other executive officers being overseas and/or on leave during that period. Ms Linley said Officer D was 'someone I could talk to' and that they were friends, but their relationship was 'not ridiculously close or very close'.

335. Officer D also submitted workplace responsibilities necessitated frequent contact with Ms Linley. She said 'my position and knowledge would have been of significant interest to any new CEO of the organisation'. She also said during the seven years she had worked at Council, she felt Council's management 'was not seeing my potential and was holding me back'.

Appointment as Acting Chief Financial Officer

336. Officer D had been working at Ballarat Council for approximately seven years when Ms Linley joined as CEO. At that time, she was Manager of Economic Development and Infrastructure.
337. On 11 July 2016, around seven weeks after Ms Linley began working at Council, Officer D commenced as Acting Chief Financial Officer (CFO) for four weeks. There was no Expression of Interest process for the role. Officer D received a higher duties allowance which increased her effective salary to \$199,087 for the period she was acting in this role. At the time, this salary was comparable to that of an experienced Director who had been in their role for several years.
338. The available evidence does not suggest Ms Linley made the decision to appoint Officer D to the role. The Director, Business Services gave evidence that he made the decision. Ms Linley approved the higher duties allowance.
339. The view of some former Council officers was that the appointment was a strategic move by Directors to favourably position themselves with Ms Linley. One recalled the Director, Business Services saying Officer D did not have the skills or qualifications, but would get the job. Some officers said it was unusual for Managers to act in Director-level roles outside their usual portfolio area and Officer D had no experience for this role. One said Council had never previously paid an officer in an acting position a higher duties allowance at the 'top of the salary band'. The officer told investigators that '[t]he writing was on the wall that those who were friends with Justine were going to be looked after'.

340. Officer D, the Director, Business Services and Ms Linley rejected these views. Officer D described it as 'nothing more than idle speculation', asserting that she had been appointed on merit. She submitted she had developed 'strategic financial management skills and capabilities' in a previous role. She added it was possible other Council staff 'were not aware of my full skillset, and for this reason were dubious about my appointment'.
341. The Director, Business Services said a former Council officer had acted in the CFO position at a time when she was 'no better equipped or experienced to perform the role than [Officer D] was on this occasion'. The Director, Business Services also said he appointed Officer D in 'approximately' March 2016, before he was aware that Ms Linley had applied for the CEO position. Ms Linley's appointment was made public on 6 April 2016.
342. Ms Linley also said the Director, Business Services made the decision before she started work at Council, and doubted he was currying favour with her.
343. No supporting evidence was provided to confirm when the Director, Business Services made the decision to appoint Officer D.

Appointment as Acting Director

344. Shortly after Officer D's Acting CFO role concluded, she received another Acting role, this time in a Director position. She acted as Director, Major Projects and Communication for 19 days in August 2016. On this occasion, she received a higher duties allowance based on a total remuneration package of \$164,000 per year.

345. Ms Linley recalled being involved in this appointment, but said this was only to approve the recommendation of the Council HR Manager and the Director, Business Services. Ms Linley could not recall declaring her friendship with Officer D but said '[p]eople would have known that we had worked together and we were friends' and would have seen them together in Ballarat.

346. Telephone contact between Ms Linley and Officer D increased markedly when Officer D commenced in this second Acting position. This reached a peak on 8 August 2016, when Ms Linley's phone records showed 10 contacts with Officer D throughout the day and into the night, including one 40 minute call.

Promotion to Director role

347. Ms Linley told investigators that in September 2016, she restructured Council and reviewed its pay structures. The total remuneration packages (TRPs) for senior Council officers increased substantially - to \$145,000 for a Senior Executive Officer, \$165,000-\$185,000 for an Executive Manager and \$230,000-\$265,000 for a Director. Ms Linley initially filled some Director roles on an Acting basis. In February 2017, Council advertised those roles on a permanent basis.

348. Officer D applied for the permanent Director role dealing with development and planning. There were 18 applicants for the role. Three applicants, including Officer D, were shortlisted for interview. Officer D was successful and, on 14 March 2017, she was appointed to the role.

349. The investigation identified three concerns with the selection process.

Officer D's qualifications and experience

350. The investigation noted Officer D had less relevant qualifications than the other shortlisted applicants. She had a Bachelor of Business Management and was completing a Master of Business Administration. The other applicants had Planning qualifications - a Bachelor of Arts and Master of Urban Planning in one case, and a Bachelor of Applied Science and Planning in the other.

351. Officer D also had less relevant career experience than the other two shortlisted candidates. Her relevant experience consisted of her Acting Director experiences. The other two applicants were a Director and a former Director, both with 25 years' experience in planning.

352. At interview, Ms Linley acknowledged Officer D's qualifications came from 'a different discipline area' and the other two applicants had more relevant qualifications. She said key considerations were 'organisational fit and culture and the other component parts in the position description requirement for the role'. Ms Linley said Officer D had 'demonstrated an ability to operate at that level'.

353. Officer D submitted that current Council staff:

are usually given an interview when they apply for a new role. I also consider that my position as a current Council employee would have made me a strong candidate in terms of cultural fit and local knowledge/experience.

The timing of the CEO's conflict of interest declaration

354. Ms Linley said she 'found out about [Officer D] being short listed on 27 February 2017 and declared my conflict of interest the following day'.

355. However, there is evidence that Ms Linley had already been involved in decisions regarding the recruitment process.

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356. Ms Linley said the Position Description was drafted by her, two other Directors and Council's HR staff. She submitted she did not declare a conflict when the role was advertised as there was no basis to do so at that point.
357. The former Council HR Manager also told investigators Ms Linley shortlisted candidates for interview.
358. Ms Linley told investigators she delegated this task to Mr Demeo and the Director, Business Services and was not involved. She said '[w]hen I realised that [Officer D] had put forward, I wanted to make sure that it wasn't something that I was directly involved in'.
359. Documentary evidence conflicts with Ms Linley's account. An email from Ms Linley to Mr Demeo dated 27 February 2017, entitled 'Shortlist - As discussed with Terry', listed three shortlisted applicants. Officer D was the third applicant. Ms Linley's email stated: 'If you have any objections to the list ... please advise'. When shown this email at interview, Ms Linley said she had discussed with Mr Demeo 'who he would recommend' and 'also asked [the Director, Business Services]'.
360. The HR Manager, who was managing the recruitment process, told investigators she strongly counselled Ms Linley to make a declaration earlier in the process. She said Ms Linley resisted. The HR Manager said she approached the Director, Business Services regarding a declaration by Ms Linley, after which she was removed from the process.
361. By email dated 27 February 2017, Ms Linley directed the former HR Coordinator to keep the recruitment 'in confidence between yourself, [the Director, Business Services] and the interviewers from now on and no other liaison with staff/managers in HR'.
362. At interview, Ms Linley denied there was any request for her to provide a declaration, or any resistance on her part. She pointed out the former Council HR Manager had a conflict regarding a concurrent recruitment process at Council, suggesting this was the reason for the former Council HR Manager's removal. In her submissions, Ms Linley stated the Director, Business Services made the decision to remove the former Council HR Manager. She also submitted that her email dated 27 February 2017 was 'out of concern that the HR Coordinator, who was a close friend of the former HR Manager, would divulge information about the process (even inadvertently)'.
363. The Director, Business Services confirmed the former Council HR Manager was removed from a concurrent recruitment process due to a conflict of interest. However, it is not clear from his submissions why this conflict of interest also required the former Council HR Manager's removal from the process involving Officer D.
364. The Director, Business Services also submitted the former Council HR Manager 'complained when she was removed from the recruitment process'. This submission is contrary to the former Council HR Manager's evidence and conduct at interview, where she voluntarily disclosed the existence and nature of her conflict of interest.

Continued participation on Selection Panel

365. Although Ms Linley declared her conflict of interest, she decided to remain on the Selection Panel for the role. Her email to the Director, Business Services read:

This is a notification to advise that I have a pre-existing work-related friendship with [Officer D] ... This friendship was established following several years working with [Officer D] as a colleague at Northern Grampians Shire Council. [Officer D] at that time reported to me ... This friendship does not impede my ability to assess and/or manage [Officer D]'s performance, nor does it mean that [Officer D] is afforded preferential treatment at any stage.

It is important that as CEO I am directly involved in the recruitment process for Director positions as the role reports directly to me. However, in order to ensure transparency, I will put in place the following checks and measures in the recruitment process for the role.

*As Chair of the Panel, I will ask questions but will not score or rate the applicants.

*An external, at arms' length, Panel member will be present. That Panel member is the ... CEO of the Committee for Ballarat.

*The recommendation for any appointment to the role will come only from the two Panel members to me as Chair and as CEO.

*An independent observer, drawn from the City of Ballarat Compliance Unit will be present throughout the interview with [Officer D] and during any post-interview discussion between Panel members.

*All Panel members will be made aware of this declaration.

If you have any concerns regarding this proposed process and this declaration could you please advise me as to an alternative approach that would satisfy any concerns.

366. The Director, Business Services responded that an independent observer would not be necessary.

367. Ms Linley told investigators she sought advice from the Director, Business Services about how to manage the conflict. The Director, Business Services confirmed this, and said Ms Linley opted for 'a conservative approach which was her right'.

368. Ms Linley attended the interviews as Chair with two other Panel members – Mr Demeo and the independent panel member. She said the Panel did not discuss interviewees in her presence; and when they scored and rated the applicants at the end of the interviews, she left the room.

369. Ms Linley said Mr Demeo and the independent panel member ultimately recommended Officer D as the preferred candidate, which she approved.

370. In response to the draft report, Mr Demeo said he 'certainly agreed that Officer D was an appropriate candidate to be shortlisted' and recalled that '[Officer D] was the best-performing candidate at interview'.

Perceptions at Council

371. Despite Ms Linley's evidence that her actions were appropriate, some Council officers perceived that the process was tainted.

372. A former senior Council officer told investigators the independent panel member told them no applicant was outstanding. Another Council officer said the independent panellist told them Officer D was not the preferred candidate and they had not supported the appointment. The independent panel member did not respond to the investigation's numerous requests for contact.

373. The former HR Coordinator told investigators she did not believe Officer D had the requisite experience for the role:

She only has an Eco Dev background. This role also included statutory planning, strategic planning ... She had Economic Development experience and that was it, and Planning within the City has always been a really hot topic from a resident's perspective.

374. A former senior Council officer said when Officer D was appointed to the Director role, there was 'a general feeling of unease around the organisation as there was a perception that it was potentially someone with a relationship with the CEO that had been recruited'. The officer described this as a general perception:

I find it very hard when you have a Director who works with the CEO, the CEO and one independent, there's always the potential to be two versus one which will sway an outcome ... [The role] is a planning portfolio mostly and the skills required ... in the most part are planning related ... I would want an absolute planner sitting in the role ... that actually had the planning portfolio ... To see someone that doesn't have a planning portfolio and potentially doesn't have an MBA ... is unusual.

375. Ms Linley, Mr Demeo and Officer D disputed the evidence of current and former Council officers about the process.

There was a general feeling of unease around the organisation as there was a perception that it was potentially someone with a relationship with the CEO that had been recruited.

Former senior Council officer

376. Ms Linley submitted she was 'highly sceptical of this hearsay evidence', noting the recruitment process was subject to a 'strict confidentiality protocol'. She said she considered it highly unlikely the independent panellist, whom she described as 'a highly respected professional', would have breached confidentiality obligations. She described the former senior Council officer's view as 'misinformed' and noted the HR Coordinator was not involved in the recruitment process. She asserted there was no issue of 'two versus one' on the Panel because she did not score the candidates, and 'no evidence that has been put to me that I coerced either panellist to vote or score in a particular way (which would be denied in any event)'. The investigation does not suggest that Ms Linley coerced the other Panel members.

377. Mr Demeo submitted the views of the former senior Council officer were 'speculation, unnamed and third hand. They have no place in a report of this nature'. He added the interview panel 'could not control who applied for the position, and were entitled to assess those who did against the relevant criteria.' He submitted Officer D 'performed better than the other candidates and I was very comfortable in her being the recommended candidate'. He noted the independent panellist also recommended her appointment.

378. Officer D disputed the suggestion there was any 'general feeling of unease' at Council about her appointment. She submitted:

No one ever made or reported to me any statements or feelings to this effect and there was no push back from any Executive Manager. Staff within the Division (particularly the Planning staff) were very supportive of my appointment and made regular statements to me to that effect.

Other matters

379. In the course of investigating the allegations regarding Officer D, investigators identified two other occasions on which Officer D appeared to receive more favourable treatment.

Response to bullying allegations

380. In April 2017, Officer D was the secondary subject of bullying allegations made against her and another Council officer. An external investigation recommended Officer D be given a first written warning for not supporting a staff member who had been bullied by the other officer.

381. At interview, Ms Linley told investigators she gave Officer D a verbal warning and told her a record would be placed on her HR file. Ms Linley did not provide such a record to the investigation. There is no evidence that any written warning was issued to Officer D.

382. Ms Linley subsequently submitted she gave the verbal warning in the presence of another Council officer, and she had expected this officer to record the warning on Officer D's file. Ms Linley's submissions did not address why she determined to give Officer D a verbal warning, rather than the recommended written warning.

Salary doubling

383. When Ms Linley commenced at Council in May 2016, Officer D's substantive role was as a Manager and her TRP was \$114,383. Less than 12 months later, she had been promoted to Director level and her TRP had doubled to \$230,000. Ms Linley approved a 1.6 per cent increase on 30 October 2017 and a further 6.5 per cent increase on 1 July 2018, on the recommendation of other Council staff. By 1 July 2018, Officer D's salary was \$247,818.

384. The Director, Business Services submitted the increase in Officer D's salary when appointed to these roles 'was appropriate given that the remuneration was based on consideration of the appropriate benchmarks in the industry'. He said Council's HR department was a party to discussions about the salary package. He submitted it was 'commensurate with that paid for similar roles at other comparable local government entities'.

385. Officer D submitted that she had no role in determining her salary.

Officer E

386. Ms Linley and Officer E did not work together before Ballarat Council, but knew each other through the local government association LGPro.

387. Ms Linley said she first met Officer E at an LGPro networking event in approximately 2015, two years before he joined Ballarat Council. She said Officer E also attended Northern Grampians Council as part of a Young Professionals or Leadership Program when she was CEO. Ms Linley's initial impression of Officer E was that he was outgoing, engaged and 'a good networker'. She said '[i]t was pretty hard not to' know of Officer E, and 'there was a general knowledge that he was out there'. She said she and Officer E were not friends, and she 'didn't really know [him] except in passing'.

388. In response to a draft of this report, Ms Linley submitted that she knew of Officer E because he had received an achievement award from LGPro, and that she only recalled having met him at two events prior to his application for employment at Ballarat Council.

389. In Officer E's response to the draft report, he submitted he only attended three events over three years at which Ms Linley was present. He said his association with Ms Linley 'extended no further than being two people in the same sector'.

Recruitment as Deputy Director

390. Ms Linley created a new Deputy Director, Policy and Innovation role as part of her Council restructure in late 2016.
391. Ms Linley was involved in drafting the Position Description and was listed as the contact person for the role. She told investigators she was 'fairly sure' she was involved in shortlisting candidates for interview, and she also chaired the Selection Panel.
392. The Council received eight applications for the role and shortlisted three applicants for interview, including Officer E. Officer E was the successful candidate and started work at the Council in May 2017.
393. The investigation identified two concerns with this process.

Officer E's qualifications and experience

394. The investigation noted Officer E had less relevant qualifications and experience than the two other shortlisted applicants.
395. The first Key Selection Criterion for the position was 'Tertiary qualifications in business management or related field, with post-graduate management qualifications highly regarded'. At the time, Officer E did not satisfy this criterion, although he had almost completed a Bachelor of Laws. The second candidate had a Master of Business Administration. The third candidate had a Bachelor of Business, Accounting and Graduate Diplomas in Business Administration, Strategic Management and Regional and Community Development.
396. Ms Linley submitted she understood tertiary qualifications 'were "highly regarded", but not mandatory'. She said she assumed the two other Panel members 'held a similar view', given they agreed on the shortlisted candidates. Such an understanding of the Key Selection Criterion was incorrect.
397. Officer E also had less relevant work experience than the other two candidates. Officer E told investigators he had 10 years' experience in local government, including managerial roles 'in areas directly aligned to the role' and some private sector experience. The second candidate was an internal applicant who had 17 years' experience in local government and had been acting in essentially the same role for approximately 12 months. The third candidate had 26 years' experience, including in the private sector and in local and state government management roles.
398. The Selection Panel's interview notes record Officer E had been responsible for a \$4 million budget, whereas the other two applicants had managed a \$73 million budget and two budgets totalling \$70 million respectively. The Director, Community Development, who was also on the Selection Panel, submitted the role had a relatively small annual budget of \$4 million and marking candidates 'simply on a dollar figure would not be aligned with the inherent requirements of the role'. Ms Linley submitted financial management 'was not a significant requirement for this role'. However, the fourth Key Selection Criterion for the position was 'Expert skills in financial management, monitoring and reporting'.
399. At interview, Ms Linley said her recollection of the interviews was Officer E 'answered questions exceptionally well' and 'there was organisational fit'. She said Officer E was not the only candidate who could have performed the role, but he was the preferred candidate.

400. Ms Linley also submitted 'it was abundantly clear that cultural change was required' when she commenced at Ballarat Council. Her submissions reiterated the organisation 'needed someone with strong skills in cultural change', which in her view Officer E possessed. Ms Linley said Officer E had won an award for his cultural change and diversity work at another council, and she had heard 'senior local government department staff' discuss and praise his work in the area.

401. The Director, Community Development also submitted that 'motivational fit, organisational fit and verbal communication' were relevant parts of a behavioural-based interview guide. He said he 'left the interview having a strong sense of confidence that my recommendation to appoint Officer E was correct and in the best interest of Council'.

No conflict of interest declaration

402. Ms Linley told investigators she did not consider declaring a conflict of interest regarding her involvement in Officer E's recruitment.

403. She told investigators that Officer E contacted her on LinkedIn during the recruitment process, but she did not reply to his message. She could not recall if she had spoken to Officer E before his interview, although she said that she had spoken to a number of people who enquired about the role. She said she didn't know Officer E 'any more than anyone else in the room' before he joined Council. She said if she should have declared a conflict, it ought to have been in relation to the internal applicant.

404. In Officer E's response to the draft report, he submitted that he did not have 'a very strong connection' with Ms Linley prior to his appointment as Deputy Director.

Perceptions at Council

405. The investigation identified a perception amongst some other Council officers of a connection between Ms Linley and Officer E before Officer E joined Ballarat Council.

406. The former Council HR Manager told investigators 'there were whispers' at Ballarat Council that Ms Linley and Officer E had 'a very strong connection' through LGPro.

407. The unsuccessful internal applicant for the position also told investigators that, after the interview, he became aware there may have been a professional relationship between Officer E and Ms Linley through LGPro. In addition, he told investigators he understood that Officer E had worked at a lower level in his previous role. The unsuccessful internal applicant believed that Officer E would not have had the depth of experience, qualifications and variety of examples he had at interview. He added that, at the time of the interview, Officer E had not yet completed a tertiary degree as required by the first Key Selection Criterion for the position.

408. Ms Linley queried how the internal applicant could have formed this view when he was not privy to the other candidates' interviews. The Director, Community Development submitted the internal applicant could not have been privy to Officer E's application unless it had been 'sourced inappropriately' from another former Council officer. The information cited by the internal applicant is on Officer E's LinkedIn profile, which is publicly accessible. There is no evidence to suggest he had improper access to any information.

409. Ms Linley added that the internal applicant had been offered another role at Ballarat Council. She submitted that he had been 'clearly disgruntled' about not obtaining the position and had resigned shortly afterwards.

410. The Director, Community Development said he was 'supremely confident' the process had been fair and the best candidate had obtained the position.

Relationship at Council

411. Following Officer E's commencement in May 2017, Ms Linley described their relationship as 'a CEO-direct report relationship'. When investigators asked if they socialised outside work in this period, she responded, 'Not more so than with any other Directors'. Ms Linley told the investigation she had only known Officer E for the last year and a half and had the same type of relationship with the Director, Community Development, the Director, Business Services and possibly Mr Demeo. She said the Directors 'had the occasional drink' and she socialised with them both as a group and individually, but was closest to Officer D.

412. The former Council HR Manager told investigators she believed Ms Linley engaged Officer E to help her gain an executive role at LGPro, and that following his appointment, Officer E worked to promote Ms Linley within LGPro. Both Ms Linley and Officer E were elected to the LGPro board in 2017.

413. Ms Linley rejected any suggestion that Officer E assisted her in becoming a Board member of LGPro in November 2017, or subsequently being elected as President of LGPro.

414. Officer E also denied assisting Ms Linley to obtain a role at LGPro, noting that Board positions are elected by members of the association.

415. However, the investigation obtained emails between Officer E and Ms Linley between 31 August 2017 and 6 September 2017, in which Officer E twice offered to nominate Ms Linley for election to the LGPro Board (see next page). On 31 August 2017, Officer E forwarded to Ms Linley an email from LGPro encouraging members to nominate candidates for the Board elections. Officer E's email asked 'Shall I nominate you? We must do before you go away.' On 5 September 2017, Officer E sent another email titled 'LGPro Board General Election' to Ms Linley, asking 'Would you like me to arrange for you to be nominated? [Officer D] and I can do it and scan for you to sign ... Close Monday'. The following morning, Ms Linley emailed 'yes please'.

416. These emails do not establish that Officer E took any other steps to assist Ms Linley in obtaining a role on the LGPro Board. However, it appears Officer E instigated Ms Linley's nomination. At the time, Officer E was a Board member with LGPro. These factors may have contributed to perceptions of his closeness and assistance to Ms Linley. Officer E's action suggests a distinct familiarity with Ms Linley, even though he had only been working at the Council for a short time.

417. Investigators also located an earlier chain of emails between Ms Linley and Officer E late on 18 May 2017, in which Ms Linley offered to introduce Officer E to a number of her political contacts.

Emails between Officer E and the CEO in which he twice offers to nominate her for election to the LGPro Board

Officer E

wrote:

Hi Shall I nominate you?

We must do before you go away...

Officer E

From: President [mailto:President@lgpro.com]

Sent: 30 August 2017 12:31 PM

To:

Subject: LGPro Members: Be Part of a Diverse, Representative Board

LGPro Members

You may have received an email recently from the LGPro office, letting you know that nominations for the 2017 LGPro Board elections are now open.

On 6 Sep 2017, at 12:09pm, Justine Linley <JustineLinley@ballarat.vic.gov.au>

yes please 😊

On 5 Sep 2017, at 12:47 pm, **Officer E**

wrote:

Hi

Would you like me to arrange for you to be nominated?

and I can do it and scan for you to sign.... Close Monday 😊

Officer E

.

From:

Sent: 18 August 2017 3:08 PM

To: **Officer E**

Subject: LGPro Board General Election

Dear **Officer E**

LGPro Board Election

The three year term of the current LGPro Board expires on 7 December 2017.

In accordance with the Rules governing LGPro we are inviting nominations for the LGPro Board. Click here to access the rules.<<https://protect-au.mimecast.com/s/AG1eBXCoZd4H1?domain=lgpro.com>>

Reclassification to Director level

418. On 26 September 2017, less than five months after Officer E joined Ballarat Council, Ms Linley advised him she had reclassified his role from Deputy Director to Director level. Officer E was given additional duties for the Council's HR and communications teams. The reclassification took effect on 6 November 2017 and Officer E's annual TRP increased from \$175,000 to \$230,000.
419. Ms Linley said she made this decision to reclassify Officer E's role in conjunction with an external HR consultant assisting with the Council's restructure. She said she wished to ensure a greater focus on organisational development by transferring the HR function from the Director, Business Services' area into a combined area.
420. Council's former HR Coordinator raised two concerns about this process.

Officer E's experience

421. The former HR Coordinator said while Council's HR Team was long-standing and experienced, Officer E came from a communications background. She said he had 'no HR experience, had no understanding of HR and how it operates'.
422. Ms Linley submitted the HR function was reallocated to Officer E to manage, and he 'was not required to perform the HR function'. She added she believed the Director, Business Services, who was previously responsible for HR, did not have any formal HR background or qualifications. She noted 'Council was about to implement significant changes to IT and enterprise systems' which were within the Director, Business Services' portfolio. She advised:

The considerations relevant to the reclassification related to the addition of further staff reports and business units and the evening out of managerial responsibilities across the Directorates to provide balance.

The reclassification process

423. Section 94B of the Local Government Act provides that a CEO may only appoint a person to be a senior officer of a Council:
- after she or he has invited applications for the position in a notice in a newspaper circulating generally throughout Victoria and has considered all applications received by her or him that comply with the conditions specified in the notice.
424. Ms Linley recalled there was a process behind the 'reclassification' of the role. But there is no evidence the position was advertised or that there was any competitive process associated with the new role.
425. The former HR Coordinator told investigators:
- [A]t that point in time I remember speaking to [another officer] going, 'This fundamentally is wrong in my mind because you are completely changing the role. If anything, it should be made redundant and advertised as per the senior officer requirements under the Act'. ... It's getting whole new teams and whole new portfolios ... I know all positions can have a small change to them but ... this is getting new portfolios.
426. She said she rang Council's lawyers and was told the role should be readvertised, but the lawyer asked her 'How much do you want to rock the boat?'

This fundamentally is wrong in my mind because you are completely changing the role. If anything, it should be made redundant and advertised as per the senior officer requirements under the Act.

Former HR Coordinator

427. In her submissions, Ms Linley stated she was not aware of this conversation. She said she was not aware of any formal legal advice having been sought or provided on this matter, as such advice would ultimately have been provided to her as CEO. She submitted the former HR Coordinator's comments were only an opinion 'formed without all information', given that she was not involved in the process. The investigation notes that the former HR Coordinator's comments are based on her relevant experience and direct knowledge of processes that Council should follow in such circumstances.

428. Ms Linley said if the role was 'substantively a new role', advertising and a new recruitment process would have been needed. In response to a draft of this report, she submitted:

[Officer E] was already employed as a 'Senior Officer'.

I reject the assertion that the role was a new position. The role had increased responsibility (reflected in the remuneration increase), but the key duties remained the same.

429. The investigation notes that any person appointed to the Director role would be a 'senior officer' for the purposes of the Local Government Act, based on the TRP for that position. It appears the position could not be considered anything other than 'substantively a new role' when it was expanded to include responsibilities for Council's HR functions, when those responsibilities were not part of the original position description, and when it involved a salary increase of over \$50,000.

Salary increases

430. Before Officer E joined Ballarat Council, he had an annual TRP of \$120,000 (inclusive of superannuation). When he obtained the Deputy Director role in 2017, his TRP increased to \$175,000 per year.

431. The reclassification process later that year raised Officer E's TRP from \$175,000 per year to \$230,000 per year- an increase of 31.6%.

432. On 1 July 2018, Officer E recommended his salary be increased a further 5.9 per cent. Ms Linley approved this recommendation and in a letter dated 26 September 2018, advised Officer E that his annual TRP would increase from \$230,000 to \$242,818 effective 1 July 2018, following a performance review. Ms Linley told interviewers said she had undertaken a review of all salary packages and remuneration 'with some independent assistance'.

Officers F, G, H and I

433. The available evidence does not support a conclusion that Ms Linley was improperly involved in, or improperly influenced, the recruitment of Officer F, Officer G, Officer H or Officer I to Ballarat Council.

434. Ms Linley previously worked and associated with Officer F, Officer G and Officer H at Northern Grampians Council. However, she was not directly involved in their recruitment to Ballarat Council. The available evidence indicates all three were suitably qualified for their positions at Ballarat Council.

435. Ms Linley had no association with Officer I before Officer I commenced employment at Ballarat Council.

436. However, two observations warrant comment. In both instances, Ms Linley appears to have made or approved decisions that, in the circumstances, could be perceived to involve preferential treatment.

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437. In the first case, Ms Linley invited Officer F to apply for a Manager position at Ballarat Council, and then approved a decision to pay them at a higher salary than advertised. The position was advertised internally, with external candidates only able to apply by invitation. Officer F was an external candidate and apparently applied for the role at Ms Linley's suggestion.
438. Officer F was the second-placed candidate for the role, but was offered the position after the successful candidate left prematurely. Ms Linley sought to have Officer F seconded to Ballarat Council. When that could not be arranged, Officer F was offered the role. Officer F negotiated a significantly better remuneration package than they would have received had they succeeded in the initial recruitment process. Ms Linley's only involvement was to approve the terms of Officer F's employment. However, given Ms Linley's prior association with Officer F, it is understandable that she might be perceived by some as conflicted in her actions.
439. In the second case, Ms Linley did not follow a recommendation to terminate Officer H's employment following an external investigation into bullying at Council. The investigation substantiated or partially substantiated some allegations of bullying by Officer H. Officer H had only recently joined Ballarat Council and was still in their probationary period. The external investigation recommended Ms Linley terminate Officer H's employment.
440. Ms Linley instead issued Officer H a 'show cause' letter inviting an explanation as to why they should not be dismissed. Ms Linley's evidence was that she understood such a letter was a necessary part of the process. She said after receiving Officer H's response, she determined not to dismiss Officer H.

441. There appears to be no record of why, or on what basis, Ms Linley chose to depart from the bullying investigation's recommendation (noting she was not obliged to follow it). Given her previous association with Officer H, it would have been prudent for her to have recorded the reasons for her decision. In the absence of reasons, it is understandable that Ms Linley's decision might be perceived by some as preferential treatment, due to her personal association with Officer H.

Perceptions at Council

442. Despite the evidence not substantiating all of the allegations involving Ms Linley, the investigation identified a clear perception amongst some Council officers that she had conflicts of interest.
443. Ms Linley responded to the perception she was bringing her friends or personal associates from Northern Grampians Council to Ballarat Council based on her conduct with these officers. She said she had 'similar relationships', 'banter' and 'encouragement' with other staff at Council, which she said 'far outstrips' interactions with the staff from Northern Grampians Council. Ms Linley said she was 'available for all of those people' to mentor, support and encourage them to get involved in leadership programs.
444. At interview, Ms Linley made the following statements about her understanding of what kinds of relationships could give rise to a conflict of interest:

A conflict of interest is 'close family relationships and a very close friendship'.

It's been drilled into me but also quite a number of other senior execs in local government that the declaration of conflict and the decision wholly rests with the person ...[under] the Local Government Act ... It clearly rests with the perception, the belief of the person and that can be very subjective particularly when you are thinking about someone else's perception.

I don't think that way ... when I think about people who I've worked with in the past – they're people I've worked with in the past. So it surprises me there can be a perception that it's untoward, and maybe I'm just naïve. But if in going through a process which is less confrontational, so rather than saying 'Have you a conflict to declare?', I personally don't feel I've got a conflict. But if you ask a question along the lines of 'Have you worked with this person before? How long have you worked with that person? Have you mentored that person before? Do you coach them?', that's quite different and that can be part of a declaration. I'm more than happy to include those types of things that ... increase transparency and that make it clearer for everyone in terms of going through a recruitment process.

... when I think about people who I've worked with in the past – they're people I've worked with in the past. So it surprises me there can be a perception that it's untoward, and maybe I'm just naïve.

Justine Linley

Findings

445. The investigation did not substantiate all of the allegations against Ms Linley. It did not find evidence that she was improperly involved in the recruitment of her former colleagues/personal associates from Northern Grampians Council to Ballarat Council – Officers F, G or H. It did not find evidence of any prior association with Officer I.
446. However, it did find evidence Ms Linley was involved in certain employment decisions regarding her friend and former colleague, Officer D, and fellow LGPro associate, Officer E, that were unwise at best, and may have been improper.
- ### Officer D
447. Ms Linley had a conflict of interest regarding employment decisions concerning Officer D which she didn't declare or manage appropriately in a timely way. Ms Linley met Officer D at Northern Grampians Council in 2003 and they became friends. Their personal relationship appears to have been generally known to Ballarat Council staff when Ms Linley joined the Council.
448. The evidence shows that soon after Ms Linley's arrival at Council, she approved Officer D being paid a higher duties allowance at the top of the salary range during Officer D's period as Acting CFO, an appointment made by the CFO. Officer D's remuneration almost doubled overnight. There were questions about Officer D's qualifications for this role.
449. The evidence shows Ms Linley then approved the appointment of Officer D to a second acting Director position, albeit one that appears to have been a more appropriate placement. Officer D was proposed for the role by the Director, Business Services and Council's Manager at the time.
450. These acting roles gave Officer D relevant experience to support her application for the permanent Director role she obtained in March 2017.

451. Ms Linley declared her conflict after Officer D was shortlisted, but remained the Chair of the Selection Panel – asking questions, but not scoring candidates or taking part in the Panel discussion. These measures were inadequate to manage her conflict of interest. Under Council’s Recruitment and Selection Policy, Ms Linley should not have been on the Selection Panel, given her friendship with Officer D was likely to inhibit her objectivity and would reasonably be seen by others as a conflict of interest. Indeed, Ms Linley’s decision not to score the candidates suggests she was aware her friendship with Officer D would be perceived in those terms.

452. Ms Linley’s shortlisting of Officer D for interview for that role before declaring her conflict of interest, and continued involvement as Panel Chair, may have contravened clause 6.4.4 of the Council’s Code of Conduct and clause 6.2.1 of Council’s Recruitment and Selection Policy.

453. It was reasonable for Ms Linley as CEO to have the final say regarding the Director’s role. One way this could have been achieved would have involved Ms Linley arranging to meet with the Selection Panel’s recommended candidate after their interviews. This would have allowed her to personally assess the candidate’s suitability for the role, without the risk of compromising the integrity of the Selection Panel.

454. Finally, the evidence shows Ms Linley failed to record her reasons for departing from an external investigator’s recommendation to issue a written warning to Officer D in relation to bullying allegations. This would have mitigated any perception of preferential treatment of Officer D. Ms Linley should also have ensured her verbal warning was recorded on Officer D’s HR file, notwithstanding her asserted reliance on another Council officer to create that record.

Officer E

455. In the case of Officer E, the evidence shows that Ms Linley formed a favourable view from her observations and interactions with Officer E through LGPro. There was email evidence of a familiarity between them soon after Officer E commenced at Ballarat Council, exemplified by Officer E offering to nominate Ms Linley for election to the LGPro Board.

456. In response, Ms Linley submitted:

An offer to nominate me to run in the election to the LGPro board does not, with respect, demonstrate a ‘closeness’ of relationship. To run for election, an existing LGPro member must nominate you. [Officer E] nominated me, which allowed me to run. However, it was the 1100-strong membership that voted, which resulted in my successful appointment.

457. Ms Linley appears to have given preferential treatment to Officer E in respect of his recruitment to Ballarat Council as a Deputy Director; and it would have been prudent for her to declare a conflict of interest.

458. Ms Linley stated that Officer E was shortlisted and selected by a Panel. However, the evidence shows Officer E had not yet completed the tertiary studies necessary to satisfy one of the Key Selection Criteria for the role.

459. In response, Ms Linley submitted:

A desktop assessment of [Officer E]’s suitability for the position is entirely inadequate and fails to recognise the broader considerations of fit and capability.

460. Officer E submitted his appointment to the role was 'following a robust, meritocratic process':

by reason of my past experience, leadership style and qualities, and cultural fit, I was suitable to be appointed Deputy Director Policy and Innovation. My suitability assessed against the totality of the 11 Key Selection Criteria for the role by the interview panel deemed me to be the best applicant on the day.

461. Officer E submitted that his depth of experience was adequate to meet the selection criteria and qualify for interview. Officer E submitted the available evidence does not fairly support a conclusion that he had inferior qualifications or less experience compared to other candidates. It is difficult to accept this submission given the two other shortlisted candidates had superior qualifications and significantly greater experience at the relevant level.

462. This investigation makes no finding about Officer E's performance at interview.

463. The evidence shows that less than six months after Officer E's commencement, Ms Linley reclassified Officer E's role to Director level, increasing his responsibilities and increasing his salary by more than \$50,000. This was the creation of a new role rather than a reclassification of an existing one.

464. The occupant of this position would be a 'senior officer' for the purposes of the Local Government Act. By failing to invite and consider applications for this position, it appears Ms Linley may have contravened section 94B of the Local Government Act.

Observations

465. The evidence in this investigation and the submissions of officers in response to this report, raise issues beyond the specific allegations in the disclosures.

Conflicts of interest in local government

466. The realities of local government, particularly in regional Victoria, mean officers at senior levels often know one another. This reality reinforces the importance of Council staff, particularly senior officers and those in leadership roles, properly understanding, identifying and managing conflicts of interests.
467. Council officers should declare and manage actual or perceived conflicts of interests where these might reasonably be considered relevant to their decisions about employment or procurement. The importance of declaring and managing such conflicts only increases with seniority.
468. This investigation identified a number of cases at Ballarat Council where actual or perceived conflicts were properly disclosed. Officer D, in particular, appears to have appropriately disclosed potential conflicts of interest concerning candidates for interview where Officer D had previously worked with those individuals.
469. There will always be a degree of speculation about whether Council officers' relationships with colleagues and others affect their decisions. For precisely that reason, Council officers should be alert to the potential for conflicts, or perceptions of conflicts, arising from these associations. Council policies and procedures should encourage the reporting of conflicts and provide practical guidance on how they can be appropriately managed.

The impact of leaders' conduct

470. Senior officers in any organisation must lead by example. This includes scrupulous adherence to legislative requirements, policies and procedures, and avoiding the perception that decisions are tainted by personal interests. There can be substantial negative consequences for an organisation when senior staff are perceived not to be complying with probity requirements or using their position to assist themselves or their associates – not least of which is that such conduct may become more common or even normalised.
471. This investigation is a case in point. Mr Demeo recruited three former colleagues from Geelong Council. During Ms Linley's tenure as CEO at Ballarat Council, senior roles were filled by her former colleagues from Northern Grampians Council and in one case, someone she knew from LGPro. In some cases, the officers do not appear to have had the necessary skills or experience to satisfy the selection criteria for their positions. A number of Ballarat Council staff became concerned Mr Demeo and Ms Linley were employing their friends and personal associates.
472. The fact that so many similar complaints were made to IBAC and the Ombudsman indicates genuine concern about the integrity of the recruitment processes at Council.
473. Ms Linley's evidence at interview indicates a lack of appreciation of the perceptions that Council staff and the broader community could draw from her actions. Her conduct as CEO significantly shapes Council's workplace culture. Her position requires her to lead by example and model expected behaviours, particularly in relation to conflicts of interest. Although the conduct identified by the investigation is at the lower end of the spectrum of bad behaviour, it is damaging to public confidence – as expectations of a CEO are justifiably higher.

474. Conduct of senior Council officers in relation to the allegations concerning the City Oval Project repairs also suggests a disregard for processes and procedures intended to ensure Council's accountability to its community.

475. The investigation notes the recent findings of the IBAC Commissioner in Operation Royston, which exposed failures in Ballarat Council's procurement processes, including the management of conflicts of interest. It appears there is still more work to be done.

476. In his October 2019 report *Managing corruption risks associated with conflicts of interest in the Victorian public sector*, the IBAC Commissioner expressed the damage that can be done to the culture of public sector organisations when conflicts of interest are not declared or are mismanaged:

Failing to declare or manage conflicts of interest, either deliberately or because of a lack of understanding of obligations, leaves public sector agencies vulnerable to corrupt conduct. It also contributes to the wasting of resources, loss of staff morale and reputational damage when decisions are not made in the public interest. Mismanaged conflicts of interest are corrosive, potentially adversely impacting the decisions or actions connected with the conflict. They also undermine the integrity of the organisation and public trust in the broader public sector.

477. The number of complaints about Mr Demeo's and Ms Linley's conduct suggests the Commissioner's words reflect aspects of the culture within Ballarat Council.

Submissions about former Council officers

478. It is not unusual for employees of an organisation to express a different understanding or interpretation of events. This is especially true for investigations into allegations of misconduct. Personal sentiments can shape witnesses' accounts and opinions.

479. In this case, a number of senior Council officers made submissions in response to the draft report that went substantially beyond contesting other officers' recollections of events. Some accused individuals who assisted the investigation of acting improperly. No supporting evidence was offered for these claims. Some submissions displayed personal animosity towards particular officers.

480. For example, one senior officer suggested a former Council officer's opinion about Officer E's recruitment must have been based on improperly obtained confidential information. All of the information the former officer conveyed to investigators was publicly available through Officer E's LinkedIn account.

481. Another senior officer contended that a former Council officer was 'a bitter former employee who was negotiated out of the organisation because of poor performance' and that 'great care should be taken' in placing any weight on their evidence. No evidence was offered in support of this claim.

482. Senior officers also suggested the evidence of some Council officers was unreliable because:

- it was motivated by personal dislike of successful candidates for positions at Council
- the officers were 'disgruntled' former employees
- the officers failed to disclose relevant associations which may have altered or diminished the value or completeness of their evidence.

-
483. In contrast, the impugned former Council officers typically gave their evidence dispassionately. Where former Council officers had their own conflicts of interest, they openly disclosed them to investigators. Similarly, where those individuals were aware of gaps in their knowledge of events, or where the information they provided was based on hearsay, they typically identified this in their evidence without prompting.
484. Being the subject of, or even a witness, in an investigation into allegations of improper conduct is undoubtedly a difficult experience. It is understandable emotions may run high and people may feel wrongly accused or concerned for their reputations. People may feel a disclosure only provides part of the story, and they will be vindicated by the full facts of the matter. Even allowing for these considerations, it is disappointing that these senior officers apparently did not use this investigation as an opportunity to reflect on their conduct, and instead chose to focus on criticising witnesses.

Responses

485. At the conclusion of the investigation, the Ombudsman provided a draft of this report to the Council and Ms Linley (as CEO of the City of Ballarat) for their responses.

The Council's response

486. The Mayor's response dated 13 March 2020 noted the limits of Council's role as an employer under sections 94 and 94A the Local Government Act:

- The only member of Council staff employed and managed by the Council is the CEO.
- The CEO appoints and manages other members of Council staff. The response noted the Council has no power to interfere in the appointment, management or dismissal of other members of Council staff, or direct the CEO regarding such matters.

487. Given the Council's limited role, the response said the Council was not in a position to respond to the accuracy or otherwise of the report's factual findings.

488. However, the response said the Council was 'deeply concerned and disappointed' by the allegations and preliminary findings. It made three observations.

489. First, it said some decisions relating to recruitment and remuneration appear to have been based on 'something other than merit' and made 'without reference to accepted Council practice and policy'. It said this 'causes Council significant concern' and it was considering what, if any mechanisms, are available to address these matters.

490. Second, it said the comments in the draft report 'in their totality' indicate there may be 'a general lack of understanding' about the nature and importance of procurement obligations, particularly regarding use of panel arrangements. However, the Council said it was 'not entirely clear' that the purchases discussed in the report evidence artificial invoice splitting to avoid procurement obligations.

491. Third, the response acknowledged controls on use of Council purchase cards may be insufficient.

492. The Council's response concluded:

given Council's position as a government body, it is important that all decisions which involve the use of Council resources are made transparently and according to best practice.

... Council strives to deliver the highest level of facilities and services to its community and is proud of what it has achieved in recent years. The projects which have been delivered to date show that the staff responsible for them are highly driven and capable.

However, these achievements should not be at the cost of Council's statutory compliance, or processes that demonstrate good governance and observe best practice. Council is saddened at the prospect that these achievements might now be tainted by the matters identified in the draft Report.

It is unacceptable that the practices revealed by the draft Report have been allowed to occur and Council will be taking advice as to the steps available to it to address them.

The CEO's response

493. The CEO's response dated 15 April 2020 stated her 'disappointments in the investigation and the findings made'. The response expressed 'considerable concerns about the basis of those findings and the commentary of the investigator'.

494. The concerns raised in the CEO's response included:

- the use and acceptance of opinion evidence
- the report's comments on observations in submissions about individuals who had provided information to the investigation
- asserted failures to clarify 'inconsistencies' in draft reports provided for comment, or to provide the grounds upon which adverse findings were made about the unanimous decisions of Selection Panels
- Ms Linley's 'detailed responses to the preliminary findings' not being taken into account.

495. Subject to those concerns, the CEO's response made no comment in respect of the proposed recommendations.

496. The CEO's response concluded:

I take this opportunity to reiterate that my management and leadership philosophy is and has always been based on the notion of collegiality, collaboration and building the capacity of all people through coaching and mentoring. Being respectful, accountable and achieving results together are my core values.

Empowering people to be their best, to be compassionate, to have care for their colleagues, to be agile and to provide people-centred public service are the manifestations of this. Were this not the case, the City of Ballarat as an organisation would not be in the position it is today where it has been able to quickly adapt and operate with care and compassion providing direct community service and leadership in the midst of rapid change, immense anxiety and uncertainty.

497. Investigations into conflict of interest allegations necessarily obtain evidence of opinions and perceptions about conduct. That evidence is relevant to identifying actual conflicts of interest, or the reasonable perception of such conflicts. The investigation weighed this opinion evidence against other evidence, such as contrary opinions and documentary evidence, in reaching its conclusions. The same approach was taken in respect of the observations made about particular witnesses in various submissions, as addressed in the preceding section.

498. This report makes no adverse findings about the decisions of Selection Panels. The adverse findings concern conduct during other parts of recruitment and selection processes, such as shortlisting.

Recommendations

The subject matter and findings of this investigation give rise to two recommendations pursuant to section 23(2A) of the Ombudsman Act:

Recommendation 1

Establish an arrangement by June 2020 under which:

Council consider the findings of this report in respect of Council's CEO, Justine Linley, and take such action, if any, in respect of those findings as it determines is appropriate.

Council's response:

Accepted.

Recommendation 2

That the Council CEO consider whether to take disciplinary action or management action in respect of Council's Director, Infrastructure and Environment, Terry Demeo.

CEO's response:

No comment.

Appendix 1

Date received	Allegation	History	Investigation notified
2 January 2018	That from 2015-17, Director, Infrastructure and Environment, Terry Demeo was improperly involved in the recruitment of three friends to the Council – Officer A, Officer B and Officer C.	IBAC referred the allegation to the Ombudsman under section 73 of the IBAC Act. IBAC determined the allegation to be a protected disclosure complaint.	The Ombudsman notified the following people of her intention to investigate the allegation on 31 May 2018 – the then Minister for Local Government and the Mayor and Chief Executive Officer of the Council.
16 March 2018	That from December 2017 to April 2018, Terry Demeo was improperly involved in splitting purchase orders to avoid a tender process regarding a Council construction project.	The Victorian Ombudsman received the complaint and determined it to be an assessable disclosure. On 16 April 2018, the Victorian Ombudsman referred the matter to IBAC. On 18 May 2018, IBAC referred the allegation to the Ombudsman under section 73 of the IBAC Act. IBAC determined the allegation to be a protected disclosure complaint.	The Ombudsman notified the following people of her intention to investigate the allegation on 31 May 2018 – the then Minister for Local Government and the Mayor and Chief Executive Officer of the Council.
13 December 2018	That Terry Demeo misused a Council ‘purchase card’.	The Victorian Ombudsman received the complaint and determined it to be a ‘related disclosure’.	N/A
24 January 2019	That CEO Justine Linley was improperly involved in the recruitment of three friends to senior positions at the Council – Officer D, Officer E and Officer I.	The Victorian Ombudsman received the complaint and determined it to be an assessable disclosure. On 21 February 2019, the Ombudsman referred the matter to IBAC. On 1 March 2019, IBAC referred the allegation to the Ombudsman under section 73 of the IBAC Act. IBAC stated that it had determined the allegation to be a protected disclosure complaint.	The Ombudsman notified the following people of her intention to investigate the allegation on 13 March 2019 – the Minister for Local Government and the Mayor of the Council.

Date received	Allegation	History	Investigation notified
5 February 2019	That Justine Linley was improperly involved in the recruitment of friend Officer G, to the Council.	The Victorian Ombudsman received the complaint and determined it to be a 'related disclosure'.	N/A
25 February 2019	That Terry Demeo was improperly involved in the recruitment and preferential treatment of his friend, Officer B, at the Council.	IBAC referred the allegation to the Ombudsman under section 73 of the IBAC Act. IBAC stated that it had determined the allegation to be a protected disclosure complaint.	The Ombudsman notified the following people of her intention to investigate the allegation on 21 March 2019 - the Minister for Local Government and the Mayor and Chief Executive Officer of the Council.
25 March 2019	That in the previous two years, Justine Linley had engaged in nepotism in relation to the recruitment and promotion of Officer D and Officer G and two other people - Officer F and Officer H.	<p>IBAC referred the allegation to the Ombudsman under section 73 of the IBAC Act. IBAC determined that the allegation was not a protected disclosure complaint.</p> <p>The Ombudsman decided to investigate the matter under section 15B of the Ombudsman Act.</p>	The Ombudsman notified the following people of her intention to investigate the allegation on 9 May 2019 - the Minister for Local Government and the Mayor of the Council.
26 March 2019	That Terry Demeo was involved in the recruitment of a friend, Officer B, to the Council.	<p>The Victorian Ombudsman received the complaint and determined it to be an assessable disclosure.</p> <p>On 1 April 2019, the Ombudsman referred the matter to IBAC under the Act.</p> <p>On 15 April 2019, IBAC referred the allegation to the Ombudsman under section 73 of the IBAC Act. IBAC determined the allegation to be a protected disclosure complaint.</p>	The Ombudsman notified the following people of her intention to investigate the allegation on 25 June 2019 - the Minister for Local Government and the Mayor and Chief Executive Officer of the Council.

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2020

Investigation into three councils' outsourcing of parking fine internal reviews

February 2020

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Investigation of matters referred from the Legislative Assembly on 8 August 2018

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WorkSafe 2: Follow-up investigation into the management of complex workers compensation claims

December 2019

Investigation into improper conduct by a Council employee at the Mildura Cemetery Trust

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Revisiting councils and complaints

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OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people

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Investigation into Wellington Shire Council's handling of Ninety Mile Beach subdivisions

August 2019

Investigation into State Trustees

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Investigation of a complaint about Ambulance Victoria

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Fines Victoria complaints

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VicRoads complaints

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2018

Investigation into the imprisonment of a woman found unfit to stand trial

October 2018

Investigation into allegations of improper conduct by officers at Goulburn Murray Water

October 2018

Investigation of three protected disclosure complaints regarding Bendigo South East College

September 2018

Investigation of allegations referred by Parliament's Legal and Social Issues Committee, arising from its inquiry into youth justice centres in Victoria

September 2018

Complaints to the Ombudsman: resolving them early

July 2018

Ombudsman's recommendations – second report

July 2018

Investigation into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies

June 2018

Investigation into the administration of the Fairness Fund for taxi and hire car licence holders

June 2018

Investigation into Maribyrnong City Council's internal review practices for disability parking infringements

April 2018

Investigation into Wodonga City Council's overcharging of a waste management levy

April 2018

Investigation of a matter referred from the Legislative Council on 25 November 2015

March 2018

2017

Investigation into the financial support provided to kinship carers

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Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre

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Investigation into the management of maintenance claims against public housing tenants

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Investigation into the management and protection of disability group home residents by the Department of Health and Human Services and Autism Plus

September 2017

Enquiry into the provision of alcohol and drug rehabilitation services following contact with the criminal justice system

September 2017

Investigation into Victorian government school expulsions

August 2017

Report into allegations of conflict of interest of an officer at the Metropolitan Fire and Emergency Services Board

June 2017

Apologies

April 2017

Investigation into allegations of improper conduct by officers at the Mount Buller and Mount Stirling Resort Management Board

March 2017

Report on youth justice facilities at the Grevillea unit of Barwon Prison, Malmsbury and Parkville

February 2017

Investigation into the Registry of Births, Deaths and Marriages' handling of a complaint

January 2017

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Investigation into the transparency of local government decision making

December 2016

Ombudsman enquiries: Resolving complaints informally

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Investigation into the management of complex workers compensation claims and WorkSafe oversight

September 2016

Report on recommendations

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Investigation into Casey City Council's Special Charge Scheme for Market Lane

June 2016

Investigation into the misuse of council resources

June 2016

Investigation into public transport fare evasion enforcement

May 2016

2015

Reporting and investigation of allegations of abuse in the disability sector: Phase 2 – incident reporting

December 2015

Investigation of a protected disclosure complaint regarding allegations of improper conduct by councillors associated with political donations

November 2015

Investigation into the rehabilitation and reintegration of prisoners in Victoria

September 2015

Conflict of interest by an Executive Officer in the Department of Education and Training

September 2015

Reporting and investigation of allegations of abuse in the disability sector: Phase 1 – the effectiveness of statutory oversight

June 2015

Investigation into allegations of improper conduct by officers of VicRoads

June 2015

Investigation into Department of Health oversight of Mentone Gardens, a Supported Residential Service

April 2015

Councils and complaints – A report on current practice and issues

February 2015

Investigation into an incident of alleged excessive force used by authorised officers

February 2015

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