

Complaint

I am alleging that Cr Deeming breached the elected Members Code of Conduct in respect of:

1. Releasing a complaint that I sent to the Mayor in respect of an incident of alcohol and violence in my community;
2. Providing false information in claiming that there had been an investigation when there had not;
3. Continuing to liaise with and advise the licensee who was the subject of the complaint while a member of the District Licensing Agency.

Evidence

I am providing as evidence:

1. A decision of the Human Rights Review Tribunal in respect of a breach of privacy. While the entire judgement is relevant I have highlighted those sections which are particularly relevant to this code of conduct complaint;
2. A series of emails primarily between Cr Deeming and Mr Ford Watson and my sister from around the time of the release [“the emails”] **{Ref B30}** and **{Ref A18}**;
3. A letter from Cr Deeming dated 7 September 2009 [“the letter”] **{Ref B12}**;
4. Other background information including media articles and letters from council employees.

Code of Conduct

The following is a point by point analysis of the breaches of the code that I am alleging.

Part 1: Public Interest

Through the release and further by continuing to liaise with the licensee Cr Deeming conferred both a disadvantage to me and an advantage to the licensee in that a genuine complaint was never actioned.

In short, a complaint in respect of alcohol and violence in my community, a matter of strong public interest, was never acted on by Whangarei District Council as a result of Cr Deeming’s conduct.

Of course, this is not solely the responsibility of Cr Deeming, but it is also a complete dereliction of duty by WDC. It is firmly in the public interest that alleged incidents involving alcohol and violence are properly investigated by the bodies responsible. Cr Deeming’s actions, and council’s inaction, by people fully aware of the facts, many of whom were sitting around this table at the time and still are, prevented this.

Her continuing to liaise with the licensee, to my disadvantage, is made clear in “the emails”. It is not in the public interest that a member of the District Licensing Agency continue to liaise with and advise a licensee who is subject to a complaint in respect of his license. In particular her offer of support *“both personally and in my council role”* is inappropriate and wrong and her sending of this to the news media makes it doubly

so. It is in the public interest that councillors and, particularly, members of the Agency remain neutral.

Part 1: Honesty and Integrity

“The emails” and the findings of the Tribunal point to a complete lack of both. “The letter” claims that an investigation had been carried out – this statement is utterly false and this has been confirmed through requests made under the LGOIMA.

Cr Deeming continues to claim that she released the complaint in order to effect an investigation but her emails tell a different story:

“400 Mid Western rugby fans will not be pleased – tee hee”

“I will let the locals know they have a viper among them”

“This is likely to cause some angst”;

In terms of integrity, each of the sections of the code that I have noted demonstrate a complete lack of it.

Part 1: Objectivity

At the time of this incident Cr Deeming was a member of the District Licensing Agency. The manner of her liaising with this licensee (who, it was established by the Tribunal, is a close personal friend) demonstrated by “the emails”, seriously calls into question any understanding or practise in respect of her objectivity in respect to her professional obligation to make decisions on merit and without fear nor favour.

As an example, Cr Deeming continued to advise the rugby club in respect of taking legal action against a person who had lodged a complaint with her council to the extent of referring to a report on one of her council meetings and suggesting that the club take action for slander.

Aside from that being a complete nonsense, it is hardly an act of great objectivity.

On Friday 21 August 2009, she apologised to the club and highlighted that the club had her full support *“both personally and in my council role”*. This was at a time when one could reasonably have expected that Council were considering a complaint laid with the District Licensing Agency of which she was a member.

And to understand this fully, she also apologised for being herself as the club was *“an unfortunate victim of angst towards the mayor and me”*. While this is simply a fanciful notion existing only in her mind, Cr Deeming, clearly, didn’t understand the irony that if that was the case (and it was not) it was only due to her improper action that this supposed angst manifested itself.

And to underline just how lacking in objectivity she was, Cr Deeming also sent a copy of this email to the local newspaper whose editor at the time was Cr Deeming’s daughter – fortunately she demonstrated the objectivity that Cr Deeming lacked and did not publish it.

It is significant that the Tribunal also felt moved to refer to her lack of objectivity by describing her personal animosity towards me as completely overriding any responsibility to her *“better judgement”*.

Part 1: Accountability

At no stage has Cr Deeming shown any level of accountability for her actions, quite the contrary.

This is despite a Privacy Commission decision, which preceded this Code of Conduct complaint, which found that her actions had breached privacy law and had harmed me as well as a decision of the HRRT which endorsed this and made adverse comment on her conduct.

And, sadly, nor has this council held her accountable in any way for her actions.

Although she travels daily past my property she has never once stopped to offer an apology nor to address ways in which she could assist us to overcome the effects of her actions. Despite her acknowledging, in the Stuff article published after the HRRT hearing, that after six years she could now see that her sending the email "*had caused upset*", she has still made no attempt to communicate, or accept accountability for the upset she has caused, in any way whatsoever.

Part 1: Openness

Cr Deeming has not been open about her actions at any time.

"The letter" claimed an investigation (even going as far to state the results) when no such investigation ever existed (established through LGOIMA requests).

Quite apart from the childlike nature of "the letter" and its lack of any semblance of understanding of her responsibility, its complete lack of openness is stark. All of her claims are completely at odds with the evidence available through "the emails". Her reference to an investigation is, simply, a lie and the irony that "further embarrassment" would not have occurred had she not deliberately leaked my complaint would be farcical if it wasn't so unprincipled.

Cr Deeming made no attempt to properly assist the Privacy Commission in its investigation. She was not open with the Commission to the extent that the Commission were not aware of her actions which were disclosed in "the emails".

But then, of course, nor was anyone else at Council open with anybody.

As Council's liaison with the Commission, Mr Adcock was more interested in attempting to mitigate Cr Deeming's actions through his claim that I had "*a somewhat negative reputation*" than he was in assisting their investigation by providing these emails. Of course, he made this up too.

Part 1: Respect for Others

"The emails" demonstrate, clearly, that not only did Cr Deeming treat my complaint, my right to make a complaint and my privacy with any respect the manner in which she referred to me in conversation ("the emails") was utterly disrespectful and the interactions between her and Mr Watson caused me and my family considerable grief.

The Tribunal found, not only were her actions deliberate and disrespectful she was also aware that they would incite community hostility hostile towards me:

"As mentioned, their email exchanges seemed to have anticipated with some relish that release of the information to Mr McDowell would lead to community hostility towards Mr Deeming, a hostility they obviously shared in somewhat undisguised terms"

Her actions in continuing to liaise with the licensee and her support *"in my council role"* showed no respect for the impartiality or integrity of Council.

The Tribunal were moved to observe that her actions *"did neither herself nor WDC any credit"*.

Part 1: Duty to Uphold the Law

Cr Deeming showed no respect for her duty to uphold privacy law and to uphold Council's own 'law' - its non-disclosure policy.

She didn't discriminate; she just deliberately trashed both and certainly did not act in *"accordance with the trust the public places in them"*.

As the Tribunal observed:

"There is no evidence that any regard was paid to the obligations imposed by the Privacy Act let alone the Council's own policy on protecting the identity of complainants. Personal animosity to Mr Deeming appears to have prevented better judgment being exercised. The consequences to Mr Deeming were both serious and foreseeable".

Part 1: Leadership

Cr Deeming made no effort to *'promote and support the proposals in her code of conduct by example'* nor did she act in the best interests of the community.

As the emails state her releasing of this information was solely as a result of perceived angst against her and the mayor (a situation that existed entirely in her mind) and its release was deliberate, malicious and engineered to cause harm to me.

The community are, rightly, concerned about abuse of alcohol and Cr Deeming's actions have resulted in my original complaint not being investigated, my wife and I harassed and intimidated and our being ostracised by a certain section of the community. The Mayor, at the time, was outspoken on this very issue.

Cr Deeming had an opportunity to show leadership on the issue of alcohol and violence by ensuring a legitimate complaint was handled with integrity; she did exactly the opposite.

Part 3: Relationships with the community

Cr Deeming did not ensure that I was accorded any respect whatsoever in my dealings with Council, quite the opposite.

This is supported by both “the emails” and the findings of the Tribunal. She did not listen to any concern that I had in respect of alcohol and violence and she certainly did not act in a manner that encourages and values community involvement in a major social issue.

In short she openly supported a section of the community, who were the subject of a complaint to her Council on their activities, to my disadvantage thus virtually disenfranchising those who, in the future, may have the courage to issue complaints in respect of alcohol and violence in their community.

Unfortunately, her conduct has set a benchmark for the way in which people expressing concern about alcohol and violence will be treated by this Council and that should cause shame to you all;

Part 3: Confidential Information

This section is specific as to the responsibilities and consequences. Suffice to say that Cr Deeming completely trashed her responsibility in this respect. There is, however, one rather disturbing aspect to this in that Cr Deeming claimed that she released the information as part of an investigation – a claim that she continued to make in an article in Stuff in January 2016: *“she believed that she was simply forwarding the complaint to the relevant people to address”*.

That this is arrant nonsense can be ascertained from “the emails” themselves *“I will let the locals know that they have a viper among them”* and an email to my sister *“This will no doubt attract more angst so I have forwarded it to make sure you are not caught on the hop”* – what was this going to address?¹

The point is, of course, that councillors are neither competent nor warranted to carry out investigations under the Sale of Liquor Act at any time and her claims to be doing so are without merit or, in fact far worse – tantamount to impersonating a warranted inspector.

Council maintains a staff of trained and warranted inspectors to investigate such complaints and does not rely on councillors to do so.

Further, the code is specific as to how confidential information is to be handled *“... will only be declassified for release when agreed by the Council or by the Mayor together with the Chief Executive Officer”*. Having been part of a council that agreed this code and having formally accepted the code at her swearing in, Cr Deeming is fully aware of this process.

¹ What is interesting here is that the email Mr Watson sent has been censored to read *“The latest from your pal”* whereas the original reads *“The latest from your perpetually peeved puerile, petulant pal”*. Perhaps Cr Deeming thought that that would be a bit much for my sister!

When the document was released neither the Mayor or CEO had any idea that it even existed much less approved its release and, it is plain, that Cr Deeming had no right to do so for whatever reason. Her claim to have released it in order to carry out an investigation is not only false but is, in any case, completely contrary to the process defined in the code.

The code is clear as to why provisions in respect of confidential information exist in the Code of Conduct: *"... that failure to observe these provisions will impede the performance of Council by inhibiting information flows and undermining confidence in Council"*; which is prophetic in that this is exactly what the Tribunal has observed has happened here.

Part 3: Ethics

"Whangarei District Council seeks to promote the highest standards of ethical conduct amongst its elected members".

The above demonstrate that Cr Deeming's conduct is hardly of the *"highest standard"*, more likely, of a *"gutter standard"*.

Sadly, she has been aided and abetted by senior people at a Council that has failed its own test and continued over a long period to act unethically and immorally.

Everyone at council who has been involved (and that includes those sitting around this table) should also be held to account for their failure to promote the *"highest standards of ethical conduct"*.

Finally

I believe that all of you should carefully read these emails and understand the lack of professionalism and level of gutter behaviour at the upper levels of council that they represent. Here we have senior people, including the former CEO, in my view, behaving like common thugs. This is best summed up by Mr Watson's line *"Any lynchings out your way this weekend"* after his friend Stephen Cook had published the article in *NZ Truth*.

One doesn't expect senior executives or senior councillors to behave in such a puerile, immature and disgraceful manner and that's why we have a code of conduct.

In short, I am contending that Cr Deeming's actions represent serious misconduct and have brought Council into disrepute. She has clearly trashed the code of conduct and must be held to account for her conduct.

As the Tribunal observed – *"The actions of Mr Watson and Councillor Shelley Deeming do neither themselves nor WDC any credit"*.

Wayne Deeming
29 June 2018