

CONFIDENTIAL ITEMS 2003 – MAY 2026

#	Date	Item Title	Confidential Order Details	Item being kept confidential - Agenda/ Attachment/ Minutes	Reason regarding retention or recommend-action to release	Resolution Regarding Action	Last Review Date	Next Review Date	Date Released
316	4 May 2026	Personal Affairs – Outcome of Behavioural Complaint – First Complaint and Second Complaint	1. <u>Pursuant to Section 90(3)(a)(h)</u> Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except Acting Chief Executive Officer, and Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.2 Confidential Item: Personal Affairs: Outcome of Behavioural Complaint – First Complaint and Second Complaint The Council is satisfied that pursuant to Section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead) being information concerning a complaint which would be unreasonable to disclose at this time noting the requirements of the Council's Behavioural Management Policy and that the Council has not yet made a determination in relation to the matter; The Council is satisfied that pursuant to Section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda item is legal advice; The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of details of what may prematurely be disclosed before the matter has been concluded.					Within 12 months	<i>Report and attachment released on website 1 June 2026</i>

18.2	REPORT TITLE:	CONFIDENTIAL ITEM: PERSONAL AFFAIRS: OUTCOME OF BEHAVIOURAL COMPLAINT – FIRST COMPLAINT AND SECOND COMPLAINT
	DATE OF MEETING:	4 MAY 2026
	FILE NUMBER:	DOC/26/47560
	ATTACHMENTS:	1. FINDINGS LETTER BY PERSON RESPONSIBLE FOR MANAGING THE COMPLAINTS (DOC/26/55346)
	<u>Key Contact</u>	Alison Hancock, Acting Chief Executive Officer

Recommendation A:

That Council:

1. Pursuant to Section 90(3)(a)(h)

Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except Acting Chief Executive Officer, and Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.2 Confidential Item: Personal Affairs: Outcome of Behavioural Complaint – First Complaint and Second Complaint

The Council is satisfied that pursuant to Section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead) being information concerning a complaint which would be unreasonable to disclose at this time noting the requirements of the Council's Behavioural Management Policy and that the Council has not yet made a determination in relation to the matter;

The Council is satisfied that pursuant to Section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda item is legal advice;

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of details of what may prematurely be disclosed before the matter has been concluded.

Administrative Note: STEP 1

Recommendation B:

That Council:

1. Receive the Findings Letter prepared by Mr Stephen Plummer person responsible for managing the complaints referred to as:

- a. First Complaint; and
- b. Second Complaint

made by former Councillor Rebecca Hewett on 15 July 2025 against Mayor David Leach.

2. Notes the recommendations from the person responsible for managing the complaints as set out in paragraphs 223 and 224 of the Findings Letter.

Administrative Note: STEP 2

Council to determine to either Take No Action or Take Action

PATHWAY 1 - Take No Action

Recommendation C:

That Council:

3. Determine to take no action in the matters of the First Complaint and Second Complaint.

That Council:

1. Having considered Agenda Item 18.2 Confidential Item: Personal Affairs: Outcome of Behavioural Complaint – First Complaint and Second Complaint in confidence under 90(2) and 90(3)(a) and 90(3)(h) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the report, documents and minutes relating to this item be retained in confidence until further order of Council and that this order be reviewed every 12 months.
2. The Council delegate to the Chief Executive Officer the power to revoke this order in whole or in part.

Administrative note: The item concludes; the matter remains confidential.

OR

PATHWAY 2 - Take Action

Recommendation C:

That Council:

- 3. Determine to take action in the matters of the First Complaint and Second Complaint in accordance with the recommendations of the Findings Letter.**

Recommendation D:

That Council:

- 4. That Council determine pursuant to Section 262C(1) of the Local Government Act 1999 that the following action be taken:**

Administrative note: The actions that are available to the Council are limited to those actions listed in Section 262C(1) of the Act, namely:

- 1) passing a censure motion in respect of the member;*
- 2) requiring the member to issue a public apology (in a manner determined by the Council);*
- 3) requiring the member to undertake a specified course of training or instruction;*
- 4) remove or suspend the member from one or more offices held in the member's capacity as a member of the Council or by virtue of being a member of the Council (other than the office of member of the Council)*

Recommendation E:

That Council:

- 5. Notes the report presented to Council at its meeting of 4 May 2026, including the findings made by [insert External Consultant] in relation to the complaint received from [insert Councillor] (considered at this meeting), concluding/finding that [insert Council Member], has on the balance of probabilities, breached clause x of the Behavioural Standards.**
- 6. Resolves the action Council has required [insert Councillor] to take the following action:
(include the action Council requires the Councillor to take)**

Administrative note: The item concludes; The Council has deliberated on what action to take (if any) whilst in confidence (as is required), because only after it resolves to take that action is it permitted (and required) to disclose the outcome publicly. The outcome will be disclosed publicly via the minutes. The agenda item and Findings Letter will be released via the Released Confidential Items page of the Council website in due course.

Previous Decisions By/Information Reports to Council

Meeting Date	4 August 2025 resumed 11 August 2025	CM Reference	DOC/25/107044
Title	Confidential Item: Delegation of Complaint Management		
Purpose	To notify the Council of three complaints received regarding the alleged conduct of the Mayor and [REDACTED] Mayor and to seek a resolution of the Council to appoint a person responsible for managing the complaints in accordance with the Council Members' Behavioural Management Policy.		

Andrew Wells Chambers

STEPHEN PLUMMER

BARRISTER

ABN: 48 707 357 645

26 March 2026

Mount Barker District Council

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By email to: [REDACTED]@mountbarker.sa.gov.au

Dear Ms [REDACTED]

1. The following is my report in relation to the management of two complaints for the Mount Barker District Council.

INTRODUCTION

2. I was engaged by Mount Barker District Council (MBDC) as the person responsible for managing two complaints which had been made by Cr Rebecca Hewett (Cr Hewett), who was a Council member of MBDC.
3. The first of the complaints made by Cr Hewett (the first complaint) is against the Mayor of MBDC, David Leach (Mayor Leach).
4. The first complaint relates to the behaviour of Mayor Leach, including an allegation that Mayor Leach attempted to silence Cr Hewett through 'intimidation, threats and lying' in the council chamber during a council meeting on 20 January 2025. Cr Hewett also complains about emails and 'phone messages' sent by Mayor Leach prior to the meeting on 20 January 2025. Cr Hewett complains that Mayor Leach 'used the [REDACTED] to attack me four days later in an email because of the humiliation he felt surrounding the bad media coverage he received over the Survival Day event'. Finally, in relation to the first complaint, Cr Hewett complains that Mayor Leach used his position to 'uphold his personal bias' in the media in relation to the 'Survival Day' event and has not apologised for his treatment of Cr Hewett.
5. The second of the complaints made by Cr Hewett (the second complaint) is also against Mayor Leach. This complaint relates to Mayor Leach's behaviour at a meeting of council at Callington on 3 February 2025. Cr Hewett complains that Mayor Leach accepted five points of order against Cr Hewett. Further, Cr Hewett complains about emails sent by Mayor Leach on 3 and 5 March 2025.
6. The decision to refer both complaints to me was made by Council resolution on 11 August 2025.¹

¹ Council resolution number OM20250811.03 and OM20250811.04

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7. I have had access to documents and exhibits provided to me by [REDACTED] as attachments to emails dated 12 August 2025 and 15 August 2025. These documents include:
- 'Complaint 1 Mayor David Leach'
 - 'Second Complaint against Mayor'
 - 'Behaviour Management Complaint - 2025 2025 - Letter to Mayor Leach - 5 August 2025'
 - 'Behaviour Management Complaint - 2025 2025.07 - Letter to Councillor Hewett - 5 August 2025'
 - Email titled 'Confidential Complaint alleging breaches of the Behavioural Standards for Council Members' from astuart@mountbarker.sa.gov.au to Cr Rebecca Hewett dated 30 July 2025 attaching document 'Council-Members-Behavioural-Management-Policy.pdf'
 - Email titled 'Confidential Complaint alleging breaches of the Behavioural Standards for Council Members' from astuart@mountbarker.sa.gov.au to Mayor David Leach dated 30 July 2025 attaching document 'Council-Members-Behavioural-Management-Policy.pdf'
 - 'Council-Members-Behavioural-Management-Policy.pdf'
 - 'Letter to Councillor Hewett - Assignment of Person Responsible for Managing the Complaint(s) - 12 August 2025'
 - 'Letter to Mayor Leach - Assignment of Person Responsible for Managing the Complaint(s) - 12 August 2025'
8. I sought further information in relation to my consideration of the complaints on 20 August 2025. On 22 August 2025 I was provided with the following:
- Links to two YouTube videos on 20 January 2025 and 3 February 2025 relating to the two meetings complained about.
 - The contact details of Cr Hewett and Mayor Leach.
 - The content of the resolution passed by Council appointing me as the person responsible for managing these complaints.
 - Copies of emails between Cr Hewett and Mayor Leach.
 - Copy of an email chain commencing 5 March 2025 with email sent by [REDACTED] to Cr [REDACTED], Cr Hewett and Mayor Leach organising a meeting at the 'Mayor's Parlor' on 6 March 2025.
 - Copy of email chain commencing 15 February 2025 with email sent by Cr Hewett to Cr [REDACTED] (copied to [REDACTED], [REDACTED], Andrew Stuart).
 - The following additional information:
 - I was advised that [REDACTED] does not have:
 - Telephone messages relevant to the emails on 18, 19 and 20 January 2025.
 - Evidence of the Mayor making 'inaccurate public comments' to the media.
 - MBDC does not have a Behavioural Support Policy.
 - Confirmation that the Behavioural Management Framework is the Behavioural Management Policy.
 - Confirmation that the untitled documents 'Complaint 1 Mayor David Leach' and 'Second Formal Complaint Regarding Mayor David Leach' constitute Cr Hewett's first and second complaints.
 - There has been no request by Cr Hewett for her identity to be kept confidential.
 - The MBDC website lists a postal address of PO Box 54, Mount Barker SA 5251 and email address of council@mountbarker.sa.gov.au. Those addresses are included throughout the MBDC website. There is no specific email address or physical address for the receipt of Council complaints. [REDACTED] confirmed that between 1 January 2025 and 20 August 2025, there has been no other email or physical address published on the Council's website and no other email address relating to the receipt of complaints about members of council.

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9. On 27 August 2025, I was provided with a further document titled 'Key Issues in the Code of Practice vs. What Occurred' which had been an attachment to the original complaint email of Cr Hewett dated 15 July 2025.
10. On 28 August 2025, I was provided with a PDF document with email attaching the two complaints from Cr Hewett to MBDC dated 15 July 2025 with a time of 1.14 pm. The document has been redacted to remove any reference to any complaint about any other person.
11. On 17 September 2025, I sought further information from MBDC in the form of any policy relating to council members relating to the use of social media. I also sought any policy or guidance relating to what members of Council can and cannot say in a personal statement (beyond what is contained within the Code of Practice for Meeting Procedures). On the same date, I was provided with the following documents:
 - a. Council Members Media and Electronic Communications Policy
 - b. Information Sheet Email Use (updated Feb 2024)
 - c. Information Sheet Social Media (updated Feb 2024)
 - d. Meeting Procedures Handbook 2013 The Purple Book

THE FIRST COMPLAINT

12. The first complaint is a complaint made by Cr Hewett about Mayor Leach's behaviour in the days prior to, and during, a meeting of council on 20 January 2025.

Legislative and policy framework of my appointment in relation to the first complaint

13. Part A1 of Chapter 13 of the *Local Government Act 1999 (LG Act)* deals with Member behaviour. Section 262A states:
 - (1) *A person may make a complaint under this Division alleging that a member of a council has contravened or failed to comply with Chapter 5 Part 4 Division 2.*
 - (2) *A complaint to a council under this Division must be made in accordance with, and contain any information required by, the council's behavioural management policy.*
 - (3) *Subject to this Division, a council must deal with a complaint under this Division in accordance with the council's behavioural management policy (and a reference to dealing with a complaint includes a reference to refusing to deal with a complaint or determining to take no further action on a complaint).*
14. Chapter 5 Part 4 Division 2 of the LG Act includes section 75E 'Behavioural standards'. Relevant to this report, section 75E includes the following:
 - (1) *The Minister may, by notice published in the Gazette and on a website determined by the Minister, establish standards (the "behavioural standards") that—*
 - (a) *specify standards of behaviour to be observed by members of councils; and*
 - (b) *provide for any other matter relating to behaviour of members of councils.*
 - (2) *The behavioural standards may also specify requirements applying to behavioural support policies and behavioural management policies of councils.*
 - (3) *A member of a council must comply with the behavioural standards.*

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(4) *The Minister may, by further notice published in the Gazette and on the website referred to in subsection (1), vary or substitute the behavioural standards.*

15. On 17 November 2022, pursuant to section 75E of the LG Act, the Minister for Local Government (**the Minister**) established the Behavioural Standards for Council Members (**the Behavioural Standards**).
16. Section 75F of the LG Act provides that a council may prepare and adopt policies designed to support appropriate behaviour by members of the council (behavioural support policies). Pursuant to section 75F(4) a member of a council must comply with the council's behavioural support policies.
17. I am instructed that the MBDC does not have a behavioural support policy.²
18. Pursuant to section 262B of the LG Act, the MBDC has a 'behavioural management policy'. This behavioural management policy is titled 'Council Member Behavioural Management Policy'. This policy is dated 6 November 2023. The Council Member Behavioural Management Policy was current at the date of the first (and second) complaint and is not scheduled for review until November 2027.
19. The Council Member Behavioural Management Policy sets out the process to be adopted where there has been an alleged breach of the Behavioural Standards, the Council Member Behavioural Management Policy and/or any Behavioural Support Policy adopted by the Council (of which there is not presently one).
20. The Council Member Behavioural Management Policy does not apply to complaints about Council employees or the Council as a whole.
21. The Council Member Behavioural Management Policy provides for the Council to engage 'the assistance of skilled advisors and support persons in the assessment, investigation and resolution of Complaints and avoid adopting an unreasonably legalistic approach.'
22. The Council Member Behavioural Management Policy states that the 'Council will manage Complaints under this Policy with as little formality and technicality and with as much expedition as the requirements of the matter and the Local Government Act allow and with proper consideration of the matter. Council is not bound by the rules of evidence but will inform itself in the manner considered most appropriate given the nature of the Complaint.' I take into consideration this 'policy principle' and note that this does not derogate from my duty to consider the matter honestly, providing procedural fairness where appropriate to do so, and ensure that my consideration of the matter is consistent with the LG Act.
23. Further the Council Member Behavioural Management Policy provides for a 'Person Responsible for managing the complaint':

Person Responsible for Managing the Complaint: means, subject to any resolution of the Council to the contrary
 1. *the Mayor;*
 2. *if the complaint relates to or involves the Mayor, the [REDACTED];*
 3. *if the complaint relates to or involves the Mayor and [REDACTED], another council member appointed by Council.*
24. In the present case, the first complaint and second complaint relate to both the Mayor, and the [REDACTED] as well as other Council members. No other Council member has been appointed as

² Email [REDACTED] to Stephen Plummer dated 22 August 2025

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the 'Person Responsible for Managing the Complaint'. The Council has made a resolution to appoint me as 'the Person Responsible for Managing the Complaint'. I have managed the complaint consistent with my obligations under the Council Member Behavioural Management Policy.

25. The decision to refer the first complaint and second complaint to me was made by Council resolution on 11 August 2025. The resolution was as follows³:

Moved Councillor Szilassy that Council:

2. Pursuant to the Council Member's Behavioural Management Policy (the BM Policy) appoints Steven Plummer at Andrew Wells Chambers as the person responsible for managing the complaint made by Councillor Rebecca Hewett

on 15 July 2025 against the Mayor titled First Formal Complaint Regarding Mayor David Leach (the First Complaint) and Second Formal Complaint Regarding Mayor David Leach (the Second Complaint).

3. Authorises Steven Plummer at Andrew Well Chambers to discharge all the powers, functions and responsibilities of the person responsible for managing the complaint under the BM Policy in relation to the First Complaint and Second Complaint.

Seconded Councillor Voogt CARRIED

OM20250811.03

26. I note that the resolution appointing me as the Person Responsible for Managing both complaints does not authorise me to depart from the Council Member Behavioural Management Policy.

The complaint

27. I was provided with a document titled 'Complaint 1 Mayor David Leach' (**the first complaint document**). This document was undated, unsigned, and did not include the name of the author. I subsequently wrote to [REDACTED] on 20 August 2025 requesting the origins of this document, including whether it was an attachment to an email or letter, and if so, that all relevant information relating to this document be provided to me. On 22 August 2025, I was instructed that the first complaint document was sent 'via email' and that the document constitutes Cr Hewett's first complaint.
28. On 28 August 2025, I was provided with the email attaching the first complaint document. The email was sent at 1.14pm on Tuesday 15 July 2025 by Cr Hewett to the email address council@mountbarker.sa.gov.au and copied to [REDACTED]@mountbarker.sa.gov.au with the Subject: 'CONFIDENTIAL Council Member Complaints'.
29. The email relates to all three complaints (including the two complaints for which I am the person responsible). Significantly, the email refers to Cr Hewett's 'objective with these complaints' as '...for them to take accountability for their actions. I would like this to go before the Behavioural Management Panel due to the seriousness of Mayor Leach's offending in order to stop their toxic behaviors [sic] once and for all. We don't want to have any more elected members resign or staff members resign because of the toxic environment created by the Mayor.'
30. Attached to the email were four documents. One of those documents has been redacted from the email and not provided to me. I am instructed that this document does not refer to the two complaints that I have been asked to review and is irrelevant to my consideration of the complaints. I am instructed that the document has not been provided to me to maintain confidentiality.⁴ The other three documents are titled: 'Complaint 1 Mayor David Leach' (which is the first complaint document); 'Second Complaint against Mayor' (**the second complaint document**); and 'Key Issues in the Code of Practice vs. What Occurred'. I have considered each of those documents and the

³ As instructed by email [REDACTED] to Stephen Plummer dated 22 August 2025

⁴ As instructed by telephone attendance with Felice D'Agostino 28 August 2025

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content of the email of 15 July 2025. I attach those documents relating to both complaints as Annexures A1 and A2.

31. The first complaint document is addressed to Andrew Stuart, who is the Chief Executive Officer of the MBDC. The letter states that it is a 'formal complaint about the behaviour of the mayor regarding his repeated attempts to silence me through intimidation, threats and lying in the chamber during a public council meeting on January 20th 2025.'
32. The letter refers to this being the first of three complaints: 'I have another complaint about the Mayor and a complaint about the [REDACTED].'⁵ Cr Hewett states that, 'The other elected member [sic] were active participants in my further complaints and as such, I am not confident to have these complaints handled by another elected member as they have an established bias against me.' Cr Hewett requested that a third party manage her complaints.
33. Cr Hewett provides some background to the complaint, which I summarise:
- 'On the 18th of January 2025, I consulted my community via a Facebook poll asking if they agreed with the council funding a 'survival day' event on Australia Day for people who did not want to attend the planned Australia Day event.'
 - At 7.36 pm on 18 January 2025, the complainant states that she received an email from Mayor Leach asking her to take down the post.
 - At 9.52 am on 19 January 2025, the complainant states that she received another email from Mayor Leach, 'this time more menacing', demanding that she take down the post immediately as the complainant had breached the council's behavioural standards.
 - At 8.37 am on 20 January 2025, the complainant states that she received another email demanding that she take down the posts, 'threatening mitigation if I didn't also post a retraction on Facebook.' The complainant does not state whether Mayor Leach sent this email.
 - The complainant states that, 'Within the space of 48 hours, I had 2 phone messages and 3 emails, all pressuring me to delete my posts. I felt threatened and stressed by the pressure he was applying to force me to do something against my will.' The complainant does not state who sent the phone messages, whether they were voice or text, the content of the messages, or the time and date of those messages.
 - On an unknown date and time, the Mayor sent an email saying that he 'would allow me to give a personal statement at the council meeting on the 20th January, but then went on to list all the things I couldn't say. He said I was only allowed to issue an apology, and I could not speak on the matter at all.' The complainant states that this is a 'serious breach of an elected members right to fulfill their duties'.
34. Cr Hewett alleges that at a 'meeting that evening' she was given leave to give a personal statement for five minutes. Cr Hewett complains that at that meeting, the Mayor:
- 'brazenly lied multiple times, weaponizing his authority to silence me'
 - 'used a standover tactic where he stood and told me he was standing, and he would remain standing.' The complainant states that this made her feel intimidated and unsafe.
35. Cr Hewett states that she believes that the 'Mayor used the [REDACTED] to attack me four days later in an email because of the humiliation he felt surrounding the bad media coverage he received over the Survival Day event.'
36. Cr Hewett states that there have been the following impacts on her as a result of the behaviour:
- She has felt unsafe to attend council meetings and briefings in person
 - 'watching online triggers panic attacks'

⁵ I note that I am not the person responsible for managing the 'third complaint'

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- c. 'It has seriously impacted my mental health, home life and my capacity to function in my role of representing my community as I feel I can't attend community meetings in my ward in fear that he will be present.'

37. Cr Hewett refers to the following 'Breaches of Regulation to Support My Complaint':

Local Government Act Section 75E**Behavioural Standards for Council Members.****Discharge Duties Conscientiously (1.1;1.3;1.4;2.1;2.5;2.6;2.73.1;3.2)**

The mayor used intimidation and weaponised his position to silence me

Inaccurate Information (1.1;1.2;1.3;1.4;2.1;2.2;2.3;2.4;2.6)

The mayor intentionally lied several times in the chamber to silence me.

Act in a reasonable, just, respectful and non-discriminatory way (1.1;1.4;1.5;2.1;2.6;3.1;3.2)

The mayor showed prejudice against me because he didn't share my view.

Inaccurate public comments to the media (1.1;1.2;1.3;1.4;1.5;2.1;2.2;2.3;2.4;2.6)

On 5AA and in the newspapers the mayor used his position to uphold his personal bias and make it out what he said to be a fact in order to control the narrative. The facts are people cannot be hurt or harmed by words; they can only take offence. The bias is that he only cared about a minor section of the community and did not care about the harm holding a 'survival day' event had to the majority of the community.

Correct the public record (1.1;1.2;1.3;1.4;1.5;2.1;2.2;2.3;2.4; 2.5; 2.6; 2.7)

The mayor has at no time publicly apologised for his treatment of me, nor has he owned up to lying in the chamber or admitting to his bias towards his Aboriginal 'friends'.

Relationships of respect & trust with council members (1.1;3.1;1.4;2.1;2.4;2.6;2.7;3.1; 3.2)

The mayor has repeatedly bullied, intimidated and told lies; he weaponised his position to take away my voice and the voice of the community I represent. I have found his behaviour threatening, distressing and humiliating.

It has affected my health, my home life and my capacity to function in my role. (Please refer to 75G of the Act – serious misbehaviour)

Informal action

38. The Council Member Behavioural Management Policy encourages the informal resolution of concerns regarding behaviour alleged to be contrary to the behavioural requirements. The policy states that: 'If the Mayor or person responsible for managing the Complaint considers that access to resources to support impacted parties and facilitate early resolution of the matter should be provided, the Mayor or person responsible for managing the Complaint will request the CEO to facilitate access to relevant resources. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.'
39. I considered whether informal action was appropriate in relation to this complaint. The Council Member Behavioural Management Policy does not provide the Person Responsible for Managing the Complaint with any guidance as to which complaints are appropriate for informal action. I note that although both complaints are characterised by Cr Hewett as 'formal complaints' that does not prevent me (in line with the Council Member Behavioural Management Policy) from undertaking informal action in relation to each complaint.
40. I consider the following as some of the matters relevant to my consideration of informal action:
- The principle that complaints under the Council Member Behavioural Management Policy will be managed with as little formality and technicality and with as much expedition as the requirements of the matter and the LG Act allow with proper consideration of the matter.
 - That Cr Hewett has raised this complaint as a 'formal complaint'.
 - The nature of the allegations.
 - The outcomes sought by the complainant.

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- e. The information available to me at the time of my decision in relation to taking informal action.

41. In the circumstances, I decided not to immediately proceed to informal action prior to considering the receipt of the complaint and performing an initial complaint assessment.

Formal action

42. The process for formal action in response to a complaint is set out at paragraph 6.5 of the Council Member Behavioural Management Policy.

Receipt of complaint

43. As the 'Person Responsible for Managing the Complaint' I must manage the first complaint in accordance with the Council Member Behavioural Management Policy.

44. The Council Member Behavioural Management Policy sets out the roles and responsibilities of the Person Responsible for Managing the Complaint':

- a. Perform the tasks bestowed upon the person responsible for dealing with a Complaint pursuant to this Policy
- b. In consultation with the CEO, facilitate access to resources to support impacted parties and resolve the concerns raised in a timely manner prior to the matter becoming serious, or escalating to a formal Complaint.
- c. In consultation with the CEO, engage external resources to assist with investigation and resolution of matters.

45. The Council Member Behavioural Management Policy states that 'a complaint made in accordance with this Policy must be lodged within 6 months of the behaviour that is inconsistent with the behavioural requirements occurring. A decision may be made to accept a Complaint lodged more than 6 months after the behaviour that is inconsistent with the behavioural requirements occurring on a case-by-case basis, at the discretion of the person responsible for managing the Complaint.'

46. The behaviour complained about prior to, and at the meeting of, council is alleged to have occurred on 18,19 and 20 January 2025. The complaint was then made on 15 July 2025. Accordingly, the complaint was made within time.

47. I have considered the requirements of a complaint made under the Council Member Behavioural Management Policy. A complaint made under this policy must:

- a. be received in writing. Subject to an alternative resolution of the Council, a complaint should be marked with "Confidential Council Member Complaint" and forwarded to the relevant email or physical address as published on the Council's website.
- b. Provide the name of the Council Member who has allegedly breached the **behavioural requirements**, the name and contact details of the complainant, the name and contact details of the person submitting the complaint (if different to the complainant) and the name and contact details of any witnesses or other persons able to provide information about the complaint.
- c. Complaints submitted without the name and contact details of the complainant will be deemed as anonymous and as such will not progress through the formal process.
- d. Be specific (including identifying the **behavioural requirements** the complainant alleges have been breached).
- e. Provide as much supporting evidence as possible to assist an investigation, including the grounds and circumstances of the complaint (e.g. where, when, impact of the behaviour, actions taken to try to resolve the issue, relevant records or documents).
- f. Identify the outcome being sought.

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- g. Be lodged within six (6) months of the alleged conduct occurring on the basis that it is important to address alleged breaches of ***behavioural requirements*** in a timely manner (with discretion provided to the person responsible for managing the complaint to allow a longer time limit to apply in particular cases. This will be assessed on a case-by-case basis).

48. The first complaint:

- a. Was received in writing (email) and was marked 'CONFIDENTIAL Council Member Complaints' in the 'Subject' of the email. The complaint was sent to email address council@mountbarker.sa.gov.au which was (and is) the only relevant email address published on the Council's website.⁶
- b. Included the name of the council member who has allegedly breached the behavioural requirements, the name and contact details (email) of the complainant (which are the same as the person submitting the complaint). No names and contact details of witnesses were included in the complaint. However, I do not consider that when making a complaint under the Council Member Behavioural Management Policy that the complainant must necessarily provide the name and contact details of any witnesses or other persons able to provide information about the complaint in circumstances in which there are no such persons, or the identity of such persons is not known to the complainant. In this complaint, the other elected members were witnesses to the alleged behaviour (which was recorded and publicly available). The complaint refers to the other elected member [sic] as active participants in the body of the first complaint, and the [REDACTED] by name.
- c. The complainant's name and contact details (email) were included in the email.
- d. Is specific and includes the behavioural requirements that the complainant alleges have been breached.
- e. Supporting evidence was included in the email or the attachment to the email in relation to the complaint in the form of the email itself, attachment, and the analysis contained within those two documents. I note that the Facebook posts and emails referred to by the complainant were not provided, nor was any news article or link to any audio of an interview with Cr Hewett and/or Mayor Leach.⁷ I also note that no email alleged to have been sent 'four days later' in which it is alleged that Mayor Leach used the [REDACTED] 'to attack' Cr Hewett was provided by Cr Hewett. The Council Member Behavioural Management Policy states that a complaint must provide 'as much supporting evidence as possible to assist an investigation, including the grounds and circumstances of the Complaint (e.g. where, when, impact of the behaviour, actions taken to try to resolve the issue, relevant records or documents)'. Otherwise, the Council Member Behavioural Management Policy does not provide any other guidance as to what supporting evidence is sufficient to satisfy the requirements. I am satisfied that there is sufficient supporting evidence to satisfy the requirements of the Council Member Behavioural Management Policy but only as it relates to events at the meeting of

⁶ I note that the Council Member Behavioural Management Policy does not provide an email or physical address for the receiving of complaints about Council Members. However, the Policy does state that a complaint made under the policy must 'be received in writing. Subject to an alternative resolution of the Council, a Complaint should be marked with "Confidential Council Member Complaint" and forwarded to the relevant email or physical address as published on the Council's website. The MBDC website as at the date of this report does not have a webpage specifically for the receiving of complaints about council members. The only information published on the MBDC website relating to complaints at all is a page titled 'Complaint, Request and Feedback Form'. The form is electronic and includes the option of 'Making a complaint' and a free-text box to include further information. There is no option to make a complaint about a member of council. At the bottom of this page is a postal address and email address. Both addresses appear to be generic addresses that do not specifically relate to complaints. There is no explanation on the MBDC website as to how to make a complaint about a member of the Council. It is a matter for Council as to whether, given the prescriptive wording in the LG Act, and the Council Member Behavioural Management Policy, the process for the receipt of complaints may be improved to more easily facilitate the receiving of complaints.

⁷ In response to my request for submissions on the draft report, Cr Hewett has provided me with a 'screenshot' of a Facebook post said to be the 'original post' which includes a comment by Cr Hewett on Facebook with a poll. The post includes: 'I am interested in hearing the community's thoughts....Should Mt Barker council fund a "Survival Day" event for those who don't want to attend its Australia Day event on January 26th?' Cr Hewett also provided a summary of part of an interview with 5AA. I considered that further information, and all of the submission made to me by Cr Hewett prior to the finalization of this report. The further information does not change my factual findings or recommendations.

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council on 20 January 2025. I consider that any emails, telephone calls, or other actions before or after the meeting may be relevant to my later consideration of that complaint. I have access to the emails between Cr Hewett and Mayor Leach referred to above, Facebook posts of Cr Hewett and a link to a publicly available recording of the 20 January 2025 meeting of council amongst other materials provided to me by the MBDC for the purpose of instructing me in this complaint. Those materials are relevant, but I disregard them for the purpose of assessing whether the complaint was made according to the Behavioural Management Policy.

- f. The outcomes sought by the complainant included for the complained about behaviour 'to stop' and that 'council engage a third party to manage these complaints'. The content of the email includes the objective of 'them to take accountability for their actions'. Further, the complainant states that their 'objective with these complaints is for them to take accountability for their actions. I would like this to go before the Behavioural Management Panel due to the seriousness of Mayor Leach's offending in order to stop their toxic behaviours once and for all.'
- g. Complied with the time frame of six months since the alleged conduct.

49. Section 262A(2) of the LG Act states that a complaint to a council under this Division must be made in accordance with, and contain information required by, the council's behavioural management policy. I consider that the first complaint, which includes the email sent by Cr Hewett on 15 July 2025 and attachments was made in accordance with the council's behavioural management policy, the 'Council Member Behavioural Management Policy'.

Initial complaint assessment

50. I note that an '...initial assessment is not an investigation or adjudication of a Complaint and no findings as to the merits of the Complaint will be made at this stage.'
51. Pursuant to the requirements of 'Step 1 of the Initial Complaint Assessment' of the Council Member Behavioural Management Policy I am to undertake an assessment of the complaint to determine whether the content of the Complaint relates to the behavioural requirements and whether the conduct occurred in the context of the Council Member carrying out their official functions and duties.
52. In undertaking the assessment, I am to have regard to the following matters:
- a. the person that is making the complaint (or on whose behalf the complaint has been made) has a sufficient interest in the matter
 - b. the complaint is trivial, frivolous or vexatious or not made in good faith
 - c. the complaint has been lodged with another authority
 - d. the subject matter of the Complaint has been or is already being investigated by the Council or another body
 - e. it is unnecessary or unjustifiable for the Council to deal with the complaint
 - f. the council has dealt with the complaint adequately
 - g. whether the council has obligations to report the matter to either the Local Government Association Mutual Liability Scheme (LGAMLS) or the Local Government Association Workers Compensation Scheme (LGAWCS), pursuant to the Rules of those Schemes and council's agreement with those bodies.
53. I have considered all matters referred to above and make the following observations:
- a. Cr Hewett has a sufficient interest in the matter.
 - b. There is no information before me to suggest that the complaint is trivial, frivolous, vexatious or not made in good faith.
 - c. I have no information before me to suggest that the complaint has been lodged with another authority.

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- d. I have no information before me to suggest that the complaint has been or is already being investigated by the Council or another body.
 - e. I do not consider it is unnecessary or unjustifiable for the Council to deal with the complaint.
 - f. I have no information before me to suggest that the Council has dealt with the complaint but for receiving the complaint and authorising me as the person responsible for managing the complaint.
 - g. I have had regard to whether the council has obligations to report the matter to either the Local Government Association Mutual Liability Scheme (LGAMLS) or the Local Government Association Workers Compensation Scheme (LGAWCS), pursuant to the Rules of those Schemes and council's agreement with those bodies. Generally, a report would be made in circumstances in which the complaint may give rise to a claim. However, I have not been provided with the relevant Rules of those Schemes, nor have I been provided with the council's relevant agreement with those bodies. That is a matter that ought to be considered by the council on receipt of this report.
54. Significantly, as part of the initial complaint assessment, I have considered whether the content of the complaint relates to the behavioural requirements and whether the conduct occurred in the context of the Council Member carrying out their official functions and duties.
55. The 'behavioural requirements' are defined at paragraph 4 of the Council Member Behavioural Management Policy as: 'in this document refers collectively and individually to the Behavioural Standards for Council Member s⁸, [sic] the Behavioural Management Policy⁹ and any Behavioural Support Policies adopted by the council¹⁰.'
56. I consider that the content of the first complaint does relate to the behavioural requirements. Cr Hewett has listed the Behavioural Standards for Council Members that she alleges Mayor Leach has breached.¹¹ Without making any finding as to whether those breaches are made out, I consider those alleged breaches to relate to the behavioural requirements.
57. Further, Cr Hewett complained that those breaches occurred in a council meeting and in emails whilst Mayor Leach was acting in the capacity of Mayor. I consider that the conduct complained of, again without making any findings as to whether the behaviour complained of occurred, is alleged to have occurred in the context of the Mayor carrying out their official functions and duties.
58. I then proceed to 'Step 2' and consider whether the matter warrants further consideration.¹² I consider that the complaint does warrant further consideration for the following reasons:
- a. The allegations are serious.
 - b. Cr Hewett complains that the alleged behaviour has made her feel intimidated and unsafe. Cr Hewett refers to the alleged behaviour impacting her ability to perform her role.
 - c. The matters addressed by me above in relation to Step 1.
 - d. The further consideration of the complaint is consistent with ensuring that council can perform its functions in accordance with the principal role of council as prescribed in section 6 of the LG Act.
59. Step 2 of the Council Member Behavioural Management Policy requires that I advise the person complained about that a complaint has been received and is undergoing an initial assessment. Accordingly, on 29 August 2025, I wrote to Mayor Leach and advised him of that information. As

⁸ Defined as 'The **Behavioural Standards for Council Member s**, determined by the Minister for Local Government, which apply to all Council Member s in South Australia'

⁹ Defined as 'The mandatory **Behavioural Management Policy** (this document) relating to the management of behaviour of Council Member s and adopted pursuant to section 262B of the Local Government Act'

¹⁰ Optional **Behavioural Support Policy** (or policies) designed to support appropriate behaviour by Council Member s and adopted pursuant to section 75F of the Local Government Act. I am instructed that the MBDC does not have such a policy.

¹¹ 1.1; 1.2; 1.3; 1.4; 1.5; 2.1; 2.2; 2.3; 2.4; 2.5; 2.6; 2.7; 3.1; 3.2;

¹² The Council Member Behavioural Management Policy, para 6.5.2

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required, I provided a summary of the matter, at a sufficient level of detail, to understand the nature of the allegations and enable Mayor Leach to provide a preliminary response.

60. The Council Member Behavioural Management Policy states that, 'This may be achieved by a discussion between the person responsible for managing the Complaint and the person complained about, taking into account the principles of this Policy. The person complained about may have a support person present during any discussions.' I note that the language is discretionary. I decided to seek a response from Mayor Leach in writing given the nature of the complaint.
61. I received a response from Mayor Leach on 29 August 2025 stating that my request for a response by 5pm on Wednesday 3 September 2025 was unreasonable. Accordingly, I provided Mayor Leach with a longer period of time to respond of 5pm 12 September 2025.
62. On 3 September 2025, I received an email from Mayor Leach requesting 'a full copy of the Complaint, including the outcomes being sought by the Complainant, and the specific behavioural requirements the Complainant alleges have been breached.' On 4 September 2025, I replied to Mayor Leach advising the following:

I have decided to not provide you with a full copy of the two complaints at this time. As per my letter to you dated 29 August 2025, the two complaints are undergoing an Initial Assessment in accordance with the Council Member Behavioural Management Policy.

I note that an Initial Assessment is not an investigation or adjudication of a complaint and no findings as to the merits of the complaint will be made at this stage.

In accordance with Step 2 of the Initial Complaint Assessment I have advised you that the complaints have been received and are undergoing initial assessment. I have provided you with a summary of the matter, at a sufficient level of detail, to understand the nature of the allegations and enable you to provide a preliminary response. This may be achieved by a discussion; however, I have decided to write to you and seek your response in writing.

Neither complaint has proceeded to formal consideration.

Nevertheless, I am happy at this stage to provide you with the behavioural standards the complainant alleges to have been breached.

In relation to the first complaint, it is alleged that you have breached behavioural standards 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 3.1, 3.2.

In relation to the second complaint, it is alleged that you have breached behavioural standards 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.4, 2.6, 3.1, 3.2.

63. On 4 September 2025, I received a response from Mayor Leach to my email of 4 September 2024, that included the following:

Quite the scattergun of behavioural standards that Cr Hewett has provided you.

Have you considered accessing resources to support an early resolution of the matter Mr Plummer?

Have you discussed the possibility of an informal resolution with the Complainant?

If the Mayor or person responsible for managing the Complaint considers that access to resources to support impacted parties and facilitate early resolution of the matter should be provided, the Mayor or person responsible for managing the Complaint will request the CEO to facilitate access to

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relevant resources. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

An informal resolution is the best way of resolving a Complaint Mr Plummer, less cost, better chance of a continuing working relationship.

I am willing to take part in mediation to resolve this Complaint.

64. I replied to Mayor Leach on 5 September 2025, advising him that I would consider the points that he raised in my review of the complaints.

65. I received a further email from Mayor Leach on 5 September 2025 that included the following:

In my past few emails, I have requested you provide me with an assurance that you have explored an early resolution of the Complaints by seeking access to resources from the CEO that could facilitate early resolution.

My position is you should do this before considering the Complaint.

I have also requested you provide me with the outcomes sought by the Complainant.

If you do not have those outcomes – you do not have a valid Complaint.

If you do have those outcomes sought, provide them to me and I may just satisfy them instantly, if I consider them reasonable.

For example, if it is an unconditional apology that is sought, I will deliver that immediately, and we can all run a line under this mess.

Based on this email, there is no good reason for you to not provide me with the outcomes sought.

Please provide me with this information before you consider the Complaints.

I am not keen to waste money on answering these Complaints until these questions have been answered.

66. On 8 September 2025, I responded to Mayor Leach's email of 5 September with information including the following:

As the person responsible for managing the two complaints, I am managing both complaints consistent with the Council Member Behavioural Management Policy and consistent with the law. I am not obliged to provide you with the information that you seek.

I have decided that both complaints were made and received in accordance with the Council Member Behavioural Management Policy. I have decided that both complaints warrant further consideration.

Following the receipt of your response to support the initial assessment I will determine what action will result from the initial assessment. The possible actions are set out in the Council Member Behavioural Management Policy. Your response will inform my decision in that regard.

67. Mayor Leach responded to my email of 8 September 2025 on the same day noting my responses to his request for further information.

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68. On 12 September 2025, I received a letter from solicitor [REDACTED]. In that letter, [REDACTED] states that she acts for Mayor Leach in relation to the two complaints made by Cr Hewett. In that letter, [REDACTED] states that the complaints set out in my letter to Mayor Leach of 29 August 2025 do not meet the definition of 'complaint' pursuant to section 6.5 of the Council Member Behavioural Management Policy. [REDACTED] states that, 'These failures alone ought to have given you cause for concern and a basis to determine that no further consideration was necessary.' [REDACTED] complains that her client is 'being called upon to respond to complaints in circumstances where there has been a failure to identify not only the specific section that has been breached but the particular act or omission that is the subject of the complaint. Putting aside the requirements of the Council Member Behavioural Management Policy, the rationale for this requirement is so an accused knows what he is being called upon to meet.'¹³ [REDACTED] states that 'the responses that follow are necessarily limited because much of what appears in your letter is vague and ambiguous.' [REDACTED] stated: 'We respectfully submit that you ought to determine to take no further action. Alternatively, our client has indicated a preparedness to apologise and/or mediate and remains prepared to do so.'
69. I considered the preliminary matters raised by [REDACTED]. I have set out the reasons for why I have determined that the first complaint is made under the Behavioural Management Policy above. I have set out in my emails to Mayor Leach, and I repeat here, that an initial assessment is not an investigation and no findings as to the merits of the complaint will be made at this stage.
70. The Initial Complaint assessment is a two-step process that involves: firstly, an assessment of the complaint to determine whether the content of the complaint relates to the behavioural requirements and whether the conduct occurred in the context of the council member carrying out their official functions and duties; and secondly, if the person responsible for managing the complaint considers the matter warrants further consideration, to advise the person complained about that a complaint has been received and is undergoing an initial assessment, to provide them with a summary of the matter 'at a sufficient level of detail, to understand the nature of the allegations and enable them to provide a preliminary response.' The Council Member Behavioural Management Policy does not require that the whole of the complaint is provided to the person complained about at this stage.
71. As a result of the preliminary matters raised by [REDACTED], I did not change my opinion that the first complaint is a complaint for the purposes of the Council Member Behavioural Management Policy. I also did not change my opinion that at this stage, any more information (including the whole of the complaint) must be provided to Mayor Leach.

Action from Initial Assessment

72. I considered the material provided by Mayor Leach (and his lawyer on his behalf) in determining the action resulting from the initial assessment. I considered whether instead of proceeding to formal consideration there were grounds to take one of the following actions pursuant to section 262B(2)(b) of the LG Act:
- Refuse to deal with the complaint
 - Determine to take no action
 - Refer to an alternative resolution mechanism or to propose training for relevant parties
 - Refer the matter to another agency (e.g. the Ombudsman SA or the Behavioural Standards Panel).
73. I considered each of those actions and I determined that there were grounds to take one of those actions. I formed the view that the optimal way to deal with the complaint was to implement an alternative resolution mechanism, namely a mediation. I formed that view not having made any findings of fact, but on the basis of the material available to me without providing interested parties with the opportunity to comment beyond seeking a preliminary response from Mayor Leach.

¹³ [REDACTED] cites *Kirk v Industrial Relations Commission of NSW* (2010) 239 CLR 531

74. I make it clear that where I have made conclusions or statements of fact in this portion of the report, those conclusions or statements of fact are made by me for the purpose of determining the action from the initial assessment only, and are not a finding of fact or conclusion that is made for the purpose of my final opinion in relation to any aspect of the complaints. I note that there is no mechanism within the Council Member Behavioural Management Policy for seeking information from the complainant at this stage of the management of the complaint or prior.
75. I now set out the reasons why I came to the view that a mediation is the optimal way to deal with the complaint.
76. The gravamen of the first complaint, as I see it, is that on 20 January 2025, Mayor Leach prevented Cr Hewett from speaking on the matter of whether the community agreed with the MBDC funding a 'Survival Day' event on Australia Day. I understand the complaint to be that Mayor Leach did so prior to the 20 January 2025 meeting of Council by email and telephone, and at the meeting by what Mayor Leach said and did. I also understand Cr Hewett to complain about Mayor Leach's behaviour after 20 January 2025 in a radio interview and an email allegedly involving the [REDACTED]. Cr Hewett did not provide sufficient evidence of the events alleged to have occurred after the 20 January 2025 meeting, as such I have not considered those aspects of the complaint in conducting my preliminary assessment. I have considered the allegations relating to the emails prior to 20 January 2025 as relevant to the matters alleged at the meeting of council on that date. I have no information in relation to the content of telephone calls alleged to have been made that are apparently relevant to this complaint. I note that I have been provided with some Facebook posts by the MBDC for the purpose of instructing me in the management of this complaint. Those Facebook posts are annexed to this report as Annexure B. It is obvious to me that I did not have available to me the original Facebook post in which it is suggested that Cr Hewett sought feedback from members of the community via an online poll.
77. The behaviour complained about by Cr Hewett is alleged to breach the following Behavioural Standards: 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 3.1, 3.2. With those alleged breaches in mind, I then turn to the respective roles of the principal member and members of council generally.
78. Section 58 of the LG Act states that the role of the principal member (in the case of the MBDC, 'the mayor') of a council as leader of the council is, amongst other things, to provide leadership and guidance to the council; and to lead the promotion of positive and constructive working relationships among members of the council; and to provide guidance to council members on the performance of their role, including on the exercise and performance of their official functions and duties.
79. Section 59 sets out the role of members of councils. Amongst other roles, a council member is to act with integrity; ensure positive and constructive working relationships within the council; to recognise and support the role of the principal member under the Act; to participate in the deliberations and activities of the council; to keep the council's resource allocation, expenditure and activities and the efficiency and effectiveness of its service delivery, under review; to serve the overall public interest; as a person elected to the council – to represent the interests of residents and ratepayers of the council, to provide community leadership and guidance, and to facilitate communication between the community and the council.
80. A council member is also to ensure, as far as is practicable, that the principles set out in section 8 are observed. I do not set out the whole of section 8 but note that a council member must act to uphold and promote observance of the principles within section 8 in the performance of its roles and functions. Those principles include to provide open, responsive and accountable government; be responsive to the needs, interests and aspirations of individuals and groups within its community;

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and manage its operations and affairs in a manner that emphasises the importance of service to the community.

The emails

81. Having summarised the respective roles of council members and the principal member, I turn then to the emails apparently sent by Cr Hewett and Mayor Leach. I have before me emails as provided to me by the MBDC and annexed to this report as Annexure C. I was provided with the same emails by [REDACTED] on behalf of Mayor Leach with two additional emails: an email sent by Cr Hewett to Mayor Leach and copied to [REDACTED] and Andrew Stuart at 2.08 pm on 20 January 2025; and an email sent by Mayor Leach to Cr Hewett and copied to [REDACTED] and Andrew Stuart at 3.16 pm on 20 January 2025. I have annexed the emails provided to me by [REDACTED] amongst the whole of the submission of [REDACTED] as Annexure D.

82. The first email was sent by Mayor Leach on 18 January 2025 and attaches a 'screen shot' of what appears to be Cr Hewett's Facebook page. The Facebook page includes a 'post' by Cr Hewett referring to a poll relating to the council funding a 'Survival Day Event'. The post encourages the readers to 'email or ring the other elected members to let them know how you feel' with a link to the contact details on the council's website. In his email to Cr Hewett, Mayor Leach states the following:

'Good evening Councillor Hewett

I draw your attention to S75E of the Local Government Act.

Please consider taking down the posts as a precaution and possible mitigation.

Please consider contacting myself, CEO Stuart or [REDACTED] for advice.

Happy to discuss f2f or phone on weekend....'

83. The second email was sent by Mayor Leach to Cr Hewett on 19 January 2025 that included the following:

'Good morning Councillor Hewett

Council resolved in our August 2024 meeting to fund \$5,000 for the Survival Day to be held next week by local First Nations members.

Your actions in the attached Facebook post are not acceptable and a breach of the Behavioural Standards for Council Members.

Please take the posts down immediately Councillor....'

84. The third email was sent on 19 January 2025 by Cr Hewett to Mayor Leach and included the following:

'Can you please reference which part of the behavioural standards for council members I have breached?

I've looked at the LGA and it says in section 59 Pt B Roles for Members and it says that I am allowed to consult with my community.

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"as a person elected to the [council](#)—to represent the interests of residents and [ratepayers](#) of the [council](#), to provide community leadership and guidance, and to facilitate communication between the community and the [council](#)."

Residents called me very unhappy about this event being held on Australia Day, so I thought I better do some research and see how many others felt the same way, so I decided to run the poll.

All I did was ask a question.....

I acknowledge that I voted for this event but I did not know that it was going to be run on Australia Day. Had I of know this I would not have voted for it.

Are you saying I can't go out and consult with my community?

Would appreciate some clarification please....'

85. The fourth email was sent by Mayor Leach to Cr Hewett on 20 January 2025 and included the following:

'Your Facebook posts could be seen, by a reasonable person, to breach, at least, 1.2 and 2.1 of the Behavioural Standards for Council Members. Copy of the Behavioural Standards attached.

Please read the Behavioural Standards document.

I understand you had a conversation with staff yesterday and gave an undertaking to remove the posts.

I again, request you take down the posts, and in mitigation also consider a retraction on Facebook. You also have an opportunity tonight to make a personal statement to Council, where you may choose to apologise for your actions.

I have also suggested you discuss this matter with EM [REDACTED] as Head of Governance. You should consider doing so again today.

I will contact you later today to discuss further, after I have sought advice on this matter.'

86. The fifth email¹⁴ was sent by Cr Hewett to Mayor Leach on 20 January 2025 and included the following:

'I would like to accept your offer to ask for leave of the meeting for maybe 5 minutes to allow me to apologise for any harm I have inadvertently caused.'

87. The sixth email was sent by Mayor Leach to Cr Hewett on 20 January 2025 and included the following:

'Any member can make a personal statement to Council – the subject matter will be recorded in the minutes.

That personal statement must not be defamatory, misleading or bring Council into disrepute.

I caution you to not repeat what you have stated in your Facebook posts, I again request you consider removing the post(s) and delivering an unqualified apology.

¹⁴ As provided to me by [REDACTED] for Mayor Leach

To ensure you have little doubt I have been contacted by members of the community who have expressed to me, in clear terms, that they have been hurt by your actions, it is not a case of “any harm”. The effect of your posts has caused harm.

I am sure that [REDACTED] or I are available to provide you feedback on your personal statement prior to its delivery.

I am requesting you do not cause further embarrassment to yourself or Council in your personal statement.

Your five minutes is not a platform for a political speech, it is for the purpose you have requested, an apology.’

88. Mayor Leach asserts in his emails to Cr Hewett that Cr Hewett’s actions are: not acceptable, a breach of the Behavioural Standards for Council Members, and could be seen by a reasonable person to breach at least 1.2¹⁵ and 2.1¹⁶ of the Behavioural Standards for Council Members. Cr Hewett asserts in her emails to Mayor Leach that pursuant to section 59 of the LG Act, she is entitled to consult with the community.

89. Mayor Leach seeks the following from Cr Hewett in relation to the Facebook posts:

- a. ‘take the posts down immediately Councillor’
- b. ‘take down the posts, and in mitigation also consider a retraction of Facebook’
- c. ‘You also have an opportunity tonight to make a personal statement to Council, where you may choose to apologise for your actions’
- d. ‘I have also suggested you discuss this matter with [REDACTED] as Head of Governance. You should consider doing so today.’
- e. Encourages Cr Hewett to read the ‘Behavioural Standards document’
- f. To ensure that a personal statement ‘must not be defamatory, misleading or bring Council into disrepute. I caution you to not repeat what you have stated in your Facebook posts, I again request you consider removing the post(s) and delivering an unqualified apology...I am requesting you do not cause further embarrassment to yourself or Council in your personal statement. Your five minutes is not a platform for a political speech, it is for the purpose you have requested, an apology.’

The 20 January 2025 meeting of council

90. I have reviewed the footage of the 20 January 2025 meeting of council. The footage was provided to me by the MBDC and is available online.¹⁷ The footage depicts Cr Hewett making a personal statement following leave of the council. The emails referred to above are relevant to the context of the personal statement. The personal statement was made following an invitation by Mayor Leach to Cr Hewett to ‘make a personal statement to Council, where you may choose to apologise for your actions.’ This offer was accepted by Cr Hewett: ‘I would like to accept your offer to ask for leave of the meeting for maybe 5 minutes to allow me to apologise for any harm I have inadvertently caused.’ Mayor Leach told Cr Hewett by email that, ‘Your five minutes is not a platform for a political speech, it is for the purpose you have requested, an apology.’ It is apparent from reviewing the footage of Cr Hewett’s personal statement, that the content of that personal statement went beyond merely an apology and included content that related to Cr Hewett’s position following the seeking of community feedback in relation to the Survival Day event and her subsequent Facebook posts. Cr Hewett also referred to communications with Mayor Leach on the matter during her personal

¹⁵ Act in a way that generates community trust and confidence in the Council.

¹⁶ Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.

¹⁷ The relevant footage commencing from 9.20: [20 January 2025 - MBDC Council Meeting](#)

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statement. I turn then to the relevance of the emails preceding the 20 January 2025 meeting of council before returning to the personal statement.

91. The procedures in relation to members addressing the Council are set out in Regulation 15¹⁸ and include that:

- (1) A member must not speak for longer than five minutes at any one time without leave of the meeting.*
- (2) A member may, with leave of the meeting, raise a matter of urgency.*
- (3) A member may, with leave of the meeting, make a personal explanation.*
- (4) The subject matter of a personal explanation may not be debated.*
- (5) The contribution of a member must be relevant to the subject matter of the debate.*

92. Regulation 28¹⁹ provides the process to be followed for a point of order. A point of order relates only to a breach of the provisions of the Act or Regulations. Regulation 28 provides that:

- (1) The presiding member may call to order a member who is in breach of the Act or the Regulations.*
- (2) A member may draw to the attention of the presiding member a breach of the Act or the Regulations and must state briefly the nature of the alleged breach.*
- (3) A point of order takes precedence over all other business until determined.*
- (4) The presiding member will rule on a point of order.*
- (5) If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately.*
- (6) The presiding member is entitled to make a statement in support of the ruling before a motion under subregulation (5) is put.*
- (7) A resolution under subregulation (5) binds the meeting, and, if a ruling is not agreed with (a) the ruling has no effect; and*
(b) the point of order is annulled.

93. Regulation 29²⁰ provides the process to be followed relating to the interruption of meetings by members. Regulation 29 provides (relevantly) that:

- (1) A member of a Council or Council Committee must not, while at a meeting—*
 - (a) behave in an improper or disorderly manner; or*
 - (b) cause an interruption or interrupt another member who is speaking.*
- (2) Subregulation (1)(b) does not apply to a member who is—*
 - (a) objecting to words used by a member who is speaking; or*
 - (b) calling attention to a point of order; or*
 - (c) calling attention to want of a quorum.*
- (3) If the presiding member considers that a member may have acted in contravention subregulation (1), the member must be allowed to make a personal explanation.*
- (4) Subject to complying with subregulation (3), the relevant member must leave the meeting while the matter is considered by the meeting.*
- (5) If the remaining members resolve that a contravention of subregulation (1) has occurred, those members may, by resolution:*
 - (a) censure the member; or*
 - (b) suspend the member for a part or the remainder of the meeting.*

¹⁸ Local Government (Procedures at Meetings) Regulations 2013

¹⁹ Ibid

²⁰ Ibid

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94. There are five occasions during the personal statement of Cr Hewett that Mayor Leach interjects²¹. I have included the transcript of the interjections, and in brackets where Cr Hewett has responded to the interjections. I do not repeat the content of the personal statement in this report; however, I have considered the content:

10.55 'It is very rare that I would do this but if you are going to say something, I have alerted in an email to you earlier that you must not make a misleading statement. I did not say those words.'

11.32 'I did not do that. You have been warned in an email before this meeting tonight to make sure that you do not make misleading statements or ones that bring this council into disrepute.'

('Apologies')

Your apology is accepted however you did say to me that the purpose of your personal statement was to make an apology

(I'm getting to it Mayor).

Then I wish you'd get to it pretty quick.'

12.24: 'It has now proceeded to...deliver your apology and then resume your seat.'

13.22: Mayor Leach stands. 'I'm standing. The statement you just made is not correct. This is a community event. You have made an inaccurate statement. You have made several inaccurate statements before. I will give you one more chance to deliver your apology or I will have...you resume your seat.'

14.00 Mayor Leach stands and remains standing until the end of the personal statement. 'I have now asked you three times'

('Yeh, its right here, I'm on my last paragraph').

'Then I will remain standing and if you don't proceed immediately to the apology you will be resuming your seat.'

95. On each of the five occasions listed above, Mayor Leach interrupted Cr Hewett during the making of a personal statement. Pursuant to Regulation 29, a member of a council must not, while at a meeting cause an interruption or interrupt a member who is speaking. Subregulation (1)(b) does not apply to a member who is objecting to words used by a member who is speaking; or calling attention to a point of order; or calling attention to want of a quorum. It is apparent that the interruptions by Mayor Leach were objections to the words used by Cr Hewett and as such, exceptions to the prohibition against interruptions. However, for the purpose of the initial assessment, I considered that the act of standing and remaining standing whilst stating to Cr Hewett, 'Then I will remain standing and if you don't proceed immediately to the apology you will be resuming your seat' could be considered disrespectful and possibly contrary to Behavioural Standard 1.4. I consider that is more likely to be so in the context of what was said by Mayor Leach in the previous interruptions, including at 12.24: 'deliver your apology and then resume your seat' and standing at 13.22 and stating: 'I'm standing....you resume your seat'.

Initial complaint assessment

96. I note the principle that complaints under the Council Member Behavioural Management Policy will be managed with as little formality and technicality and with as much expedition as the requirements of the matter and the LG Act allow with proper consideration of the matter. Taking into consideration the matters raised above, and this policy principle, I considered that this is a matter that could potentially benefit from an alternative resolution mechanism; specifically in relation to two

²¹ Mr Kelleedy, on behalf of Mayor Leach, has objected to the use of the term 'interject' or 'interrupt'. I imply no pejorative meaning by the use of the word 'interject'. I use the term simply to refer to occasions when Mayor Leach speaks, or interrupts, during Cr Hewett's personal statement.

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matters: tone/content of the email sent by Mayor Leach on 19 January 2025; and the manner in which objections were taken by Mayor Leach at the 20 January 2025 meeting of council.

97. The Council Member Behavioural Management Policy states that the person responsible for managing the complaint should discuss the use of a proposed alternative resolution mechanism with the complainant and the person complained about to determine whether there is support for this approach. Accordingly, on 18 September 2025 I wrote to the complainant to determine whether she supported this approach. I wrote to Mayor Leach's lawyer on the same date advising [REDACTED] that I had formed the view that the optimal way to deal with both complaints was to implement an alternative dispute resolution mechanism, namely a mediation. I advised that I considered it appropriate that I conduct the mediation. In my letters to both parties I advised that I intended to confine the mediation to the following issues in the first complaint:
- a. The emails sent between Cr Hewett and Mayor Leach between 18 January 2025 and 20 January 2025).
 - b. The five interjections by Mayor Leach during the personal statement of Cr Hewett during the 20 January 2025 meeting of council. In particular, the act of standing and remaining standing whilst stating to Cr Hewett, 'Then I will remain standing and if you don't proceed immediately to the apology you will be resuming your seat.'
98. In my letters to both parties I advised that I intended to raise the following topics generally:
- a. Possible training and education that can be recommended.
 - b. Other forms of support for both parties.
99. On 22 September 2025, I received a response to my letter of 18 September 2025 from Cr Hewett. Cr Hewett advised me that she is 'amenable to participating in a mediation as the first step in your process of dealing with my complaints'; however, raised various concerns about the efficacy of a mediation.
100. On 25 September 2025, I received a response to my letter of 18 September 2025 from [REDACTED] acting for Mayor Leach who informed me that Mayor Leach remains willing to participate in a mediation and for me to liaise with Mayor Leach's executive assistant to organise a mutually convenient place and time.
101. On 14 October 2025, I wrote to both parties seeking their availability to attend a mediation. On the same day, Mayor Leach advised that he would be available on 31 October 2025. On 15 October 2025, Cr Hewett emailed me requesting an initial meeting over video link but did not provide me with her availability. I subsequently sought Cr Hewett's availability to attend a mediation on 31 October 2025.
102. On 22 October 2025, I telephoned Cr Hewett to follow-up my request for her availability to attend a mediation. Cr Hewett advised me, and subsequently confirmed by email on the same date, that she did not wish to participate in a mediation in which the parties were co-located. Cr Hewett declined to participate in the mediation. In my email correspondence with Cr Hewett, I offered participation in a mediation over a video-link. This offer was declined. I subsequently offered to hold the mediation in what is described as a 'shuttle mediation' in which I would meet with each party separately. Both Cr Hewett and Mayor Leach agreed to this proposal. Accordingly, I met with Cr Hewett on 28 October 2025, and with Mayor Leach on 31 October 2025. I then spoke with both Cr Hewett and Mayor Leach on 4 November 2025 to conclude the mediation.

The mediation

103. I met with Cr Hewett on 28 October 2025 in relation to both complaints. I explained to Cr Hewett that the mediation is a confidential process. I explained that neither she nor I could discuss

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with others what was raised in the mediation. I explained that there are some exceptions in the context of the shuttle mediation, in that there might be matters that are intended to be raised with the other party. I explained that I would make it clear to her if there were matters that were to be raised with Mayor Leach and that I would seek her consent to do so. I also explained that depending on the outcome a report may be provided to the MBDC in my responsibility managing the complaint. That report, under certain circumstances, may become publicly available. In that report I will be including reference to the mediation and the outcome. I explained that if the matter cannot be resolved at mediation then I will decide on the next steps, which include formal consideration (which would include providing the complaint to Mayor Leach), taking no further action, refusing to deal with the complaint, referring to another form of alternative dispute resolution, or referring the matter to another body or agency.

104. I noted that one of the outcomes that Cr Hewett was seeking according to the complaint documentation was that she wanted Mayor Leach referred to the Behavioural Standards Panel. I explained that (consistent with the explanation in the Council Member Behavioural Management Policy) section 262G of the LG Act states who and how a complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour by a member of a council may be referred to the Panel. I explained that as the responsible person for managing the complaint, that does not make me a 'responsible person' for the purposes of the definition of 'responsible person' in section 75G(2).
105. I also explained that I am not responsible for Mayor Leach's employment. In my role as mediator, I will be attempting to help the parties come to an agreed outcome to the dispute. If an outcome cannot be reached, then I will proceed to continue to manage the complaint as per council policy and consistent with the LG Act.
106. I then provided Cr Hewett the opportunity to discuss the complaint with me. I do not repeat that conversation as it is confidential.
107. I met with Mayor Leach on 31 October 2025. I explained the process and confidentiality with Mayor Leach in the same way as I have described above in relation to Cr Hewett. I then provided Mayor Leach the opportunity to discuss the complaint with me. I do not repeat that conversation as it is confidential.
108. The outcome of the mediation process was that the parties could not resolve the dispute. The matters discussed at the mediation are confidential. I do make the comment that both parties willingly participated in the mediation process.
109. On 4 November 2025, I became aware that Cr Hewett had resigned from her position as a member of the MBDC.

Formal consideration

110. Following the mediation process, I again considered the actions that may be taken from initial assessment. I considered the impact of Cr Hewett's resignation on my decision. I note that the complaint process within the LG Act relates to a complaint made by a 'person' and the Council Member Behavioural Management Policy is silent on whether a complaint may proceed in circumstances in which the complainant is a Council Member and that complainant has resigned. The resignation is relevant to what outcome might be achieved to resolve the dispute to ensure that the Cr Hewett and Mayor Leach might work effectively together.
111. I determined not to refuse to deal with the complaint, take no further action, refer to another form of alternative dispute resolution or refer to another agency or body (including the Behavioural Standards Panel). I determined that the matters raised by the complainant, and the information available to me, was sufficient to proceed to formal consideration but only in relation to the matters

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addressed by me above at paragraph 97. Accordingly, I wrote to Mayor Leach on 5 and 10 November 2025. Mayor Leach was provided with the Council Member Behavioural Management Policy, my contact details, and a summary document setting out the specific provisions of the behavioural requirements alleged to have been breached, and the circumstances where this breach is alleged to have occurred. As the complainant has not requested their identity be kept confidential, I determined to provide a copy of the complaint in full. I made it clear in my correspondence that in relation to this complaint I had decided to proceed to formal consideration in relation to two issues.

112. I sought a response from Mayor Leach by close of business on 17 November 2025. I agreed to an extension by Mayor Leach, and then by his legal advisor (now Michael Kelledy of Kelledy Jones) before receiving submissions to my letter on 21 November 2025. I have considered those submissions and I have included the whole of those submissions in this report as Annexure E²². In some instances I have referred to particular submissions made. Just because I have not referred to individual submissions, does not mean that I have not considered them in my consideration of this matter.
113. Also on 5 November 2025, I contacted the complainant to advise of the decision to proceed to formal consideration and to provide my contact details.

The emails sent between Cr Hewett and Mayor Leach between 18 January 2025 and 20 January 2025

114. Mr Kelledy has submitted that the emails need to be read together because they show an escalating seriousness and risk of breaching behavioural standards the longer the Facebook post remained publicly available. Further, Mr Kelledy submits, 'That is a reasonable, just and respectful attitude and language to use in the circumstances.' In relation to the 20 January 2025 email, Mr Kelledy submits that the language struck an appropriate balance between the urgency of the matter and the Mayor complying with the various Behavioural Standards that apply to him in his office. The Mayor used pleasantries and engaged professionally, directly and without emotions with the Complainant's email 19 January 2025. The email was informative, to the point and engaged directly with the Complainant's email. That is collaborative and cooperative communication with the Complainant.'
115. I considered, on the information available to me, Mayor Leach's email communications with Cr Hewett to be consistent with the Council Member Behavioural Management Policy in that Mayor Leach considered there had been behaviour that was inconsistent with the behavioural requirements (the posting on Facebook in a manner that Mayor Leach considered to breach the behavioural requirements) and then seeking to raise the issue with the Council Member concerned without the need to lodge a complaint under the policy. That is not to say that Mayor Leach necessarily turned his mind to whether he was seeking to resolve the dispute or complaint in this way. In my opinion some of the language used by Mayor Leach in his email of 19 January 2025, and the tone that an objective person might imply from that language, could be considered as inconsistent with the Council Member Behavioural Management Policy in that it did not constructively raise the issue with Cr Hewett in a 'proactive, positive and courteous manner'. I refer specifically to: 'Your actions in the attached Facebook post are not acceptable and a breach of the Behavioural Standards for Council Members. Please take the posts down immediately Councillor.'
116. I have reviewed the MBDC 'Information Sheet Email Use' which provides advice in relation to use of emails within the MBDC. Relevantly, the document states: 'Consider the tone of and language used in emails and how this could be interpreted by recipients, oversight bodies and the community

²² I considered all the matters raised by [REDACTED] in relation to the first and second complaint. In particular, I relation to the first complaint, I note the submission that Cr Hewett breached various provisions of the Behavioural Standards for Council Members, breached the LG Act, undermined the work of the Council and was 'contrary to her statement to our client and others that he would apologise.' I note that this submission provides relevant context; however, I have no responsibility for the management of any complaint about Cr Hewett.

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generally. Emails can often be misunderstood...Avoid using emails to convey criticism or negative feedback. Do not conduct arguments via email. If you find yourself reacting emotionally to an email, do not respond to the email straight away. Reflect and respond when you are no longer emotional.' Language might be intended as direct, but interpreted as abrupt, aggressive or rude.

117. I note that the email of 19 January 2025 was the second email sent by Mayor Leach on the topic after he had not received a reply to his earlier email on the subject. I also note that in his correspondence with Cr Hewett, Mayor Leach offered for he and [REDACTED] to provide feedback on a personal statement and for Cr Hewett to contact himself, [REDACTED] or the CEO for advice. They are proactive and positive ways of dealing with the issue.
118. I have turned my mind to the issue of whether it was appropriate for Mayor Leach to request that Cr Hewett 'take down' the Facebook posts. Mayor Leach states in his emails to Cr Hewett the reason for his request for the posts to be removed: 'Your Facebook posts could be seen, by a reasonable person, to breach, at least, 1.2 and 2.1 of the Behavioural Standards for Council Members.' In those circumstances it was appropriate for Mayor Leach to raise the issue with Cr Hewett. Cr Hewett accepted the offer of making an apology. If Cr Hewett disagreed with Mayor Leach's complaint, it was available to her to disagree with Mayor Leach and not accept the offer to make an apology.²³
119. I have reviewed the Council Members Media and Communications Policy (the **Communications Policy**). This policy applies to council members in carrying out their functions as public officers. The policy does not relate to the use of social media to express opinions in a personal capacity. The purpose of the Communications Policy is twofold:
- a. to provide Council Members with guidance for appropriate use of the Council's internal electronic communication systems in the conduct of Council business; and
 - b. to outline the agreed protocols and legal considerations when engaging with the community through social media and traditional forms of media.
120. Relevantly, the Communications Policy states under the heading of 'Conduct when utilising Media and Social media: 'All interactions through Media and Social media must ensure that the content of any engagement...complies with Council's policies and the Behavioural Standards for Council Members...does not damage Council's reputation...ensures that personal comment on Council decisions and other matters, clearly indicate that it is a private or personal view...provides information which generates community trust and confidence in the Council...deals with information received in the capacity of Council Member, in a responsible manner.'
121. Having reviewed the Facebook posts available to me purported to have been made by Cr Hewett, I consider that the Facebook post dated 18 January 2025 could have been perceived by Mayor Leach to have been in breach of the Communications Policy. I do not make a finding in relation to that issue. Cr Hewett has provided a submission to me that a lack of consultation about the Survival Day event and contact made with her by several upset ratepayers led her to decide to conduct the poll to 'get an understanding to how ratepayers felt about this council decision'. Cr Hewett states that 'it was not divisive it was transparency of a council decision which the community was not consulted about'. Posts made by Cr Hewett do not form part of the complaint to me. The Facebook post had the potential to provide information that undermined community trust and confidence in the Council in circumstances in which I understand there had been an appropriate avenue to raise concerns about the event at a prior meeting of council. I also note that, on the information before me, there is nothing within the relevant Facebook post that suggests that Cr Hewett posted the Facebook post in a personal capacity. The post was apparently sent by the name: Rebecca Hewett-Councillor for Mt Barker South Ward. The content of that Facebook post was as follows:

²³ I note that Cr Hewett has provided a submission in relation to the draft report provided to her that she disputes that it was available to her to disagree with Mayor Leach. Cr Hewett states that she felt forced to call her personal explanation an apology. This submission does not change my decision in relation to any finding or recommendation.

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'Thank you to everyone who chose to take part in today's poll. Final result was a resounding "NO!" to council funding a "Survival Day Event" alongside "Australia Day". You can email or ring other elected members to let them know how you feel. Contact details are available on the councils website <https://www.mountbarker.sa.gov.au/council/councilmembers>'

122. It is apparent that Cr Hewett felt aggrieved that she was prevented in consulting the community in relation to the issue of the 'Survival Day' funding. Regulation 4 prescribes guiding principles that should be applied with respect to the procedures to be observed at a meeting of a Council or a Council committee:
- procedures should be fair and contribute to open, transparent and informed decision making;
 - procedures should encourage appropriate community participation in the affairs of the Council;
 - procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting; and
 - procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.
123. Nevertheless, for reasons that I have outlined above, the way in which Cr Hewett communicated through her social media account was objected to by Mayor Leach. I do not consider, for the purpose of the management of the complaint, that there was any breach of the behavioural requirements in Mayor Leach making the requests that he did of Cr Hewett. Although, I have raised one matter in relation to the tone/content of the email sent by Mayor Leach on 19 January 2025.
124. I have decided not to make a finding that the email communications sent by Mayor Leach to Cr Hewett between 18 and 20 January 2025 breached behavioural standards 1.4, 2.1 or 3.1. The context of those emails is important. The emails were sent by Mayor Leach in the context of him raising an objection to Cr Hewett's use of social media in a manner that, at least in the mind of Mayor Leach, had the potential to provide information that undermined community trust and confidence in the Council. The language used by Mayor Leach throughout the emails was direct. The email of 19 January 2025, in particular the language: 'Your actions in the attached Facebook post are not acceptable and a breach of the Behavioural Standards for Council Members. Please take the posts down immediately Councillor.', expressed an opinion as fact and conveyed an objection in a manner that could be interpreted by the receiver as impolite. The fact that a complaint was made highlights the importance of the MBDC policies relating to communication and email use. Despite there being no finding of a breach of the Behavioural Standards in this regard, this complaint should serve as a reminder of the impact that language and tone can have when information is conveyed by email.

The five interjections by Mayor Leach during the personal statement of Cr Hewett during the 20 January 2025 meeting of council. In particular, the act of standing and remaining standing whilst stating to Cr Hewett, 'Then I will remain standing and if you don't proceed immediately to the apology you will be resuming your seat.'

125. Mr Kelledy has submitted that a Council member does not have a right to speak above all other procedures and rules governing council meetings and that the Mayor called Cr Hewett to order on each occasion 'in properly exercising his authority and discretion. Each point of order was raised with formality appropriate to the nature of the Complainant's conduct, and gave sufficient certainty to the Mayor's rulings, with explanations, and to give the community and decision-makers confidence in the deliberations undertaken at the meeting.'
126. Further, Mr Kelledy submits that Mayor Leach's act of standing to rule on the fourth point of order 'struck to the heart of the guiding principles of how council meetings are regulated' in that 'it objectively gave sufficient certainty about what conduct is and is not permitted by elected members; and it showed respectful tolerance of the Complainant's unacceptable behaviour by informing her

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and allowing her to continue speaking rather than exercising more powerful discretion to remove the Complainant from the Chamber.'

127. The 'Meeting Procedures Handbook 2013 – Purple Book' (the **Purple Book**) is a 'guide for members of Councils and Council Committees and Council officers providing advice on meeting procedure'. The Purple Book is a 'tool' to assist Council members in their decision-making responsibilities, but is not a substitute for the LG Act and corresponding regulations. The Purple Book states the following under the heading of 'Managing the meeting':

In a Council or Committee meeting it is the responsibility of the presiding member to ensure that:

- *the provisions of the Act and Regulations and any Council determined meeting procedures are adhered to;*

- *the business of the meeting is conducted in a proper and orderly manner;*
- *the views of the meeting on the business before it are determined;*
- *all members who wish to contribute to the debate have an opportunity to do so;*
- *all motions moved are legal, clear and able to be implemented; and*
- *the discussions are kept to the subject being discussed and irrelevant and repetitious discussions are prevented.*

Keeping control of a Council or committee meeting is the responsibility of the presiding member. Regulation 29 gives some power to the presiding member to control members' behaviour.

Regulation 29 states that a member must not:

- (a) *behave in an improper or disorderly manner; or*
- (b) *cause an interruption or interrupt another member who is speaking.*

This does not apply to a member who is—

- (a) *objecting to words used by a member who is speaking; or*
- (b) *calling attention to a point of order*
- (c) *calling attention to want of a quorum.*

If the presiding member considers a member may be behaving in an improper or disorderly manner or causing an interruption to the meeting he or she must allow the member to make a personal explanation. The member must then leave the meeting while the matter is considered by the meeting.

128. An alternative means of addressing the matters raised by Cr Hewett was, in accordance with the regulations, to have directed Cr Hewett be excluded from the meeting room. That was available to Mayor Leach but was not done. Pursuant to Regulation 28A, before giving a direction under that subsection, the presiding member must allow the member to make a personal explanation. I disagree with the submission that Mayor Leach 'showed respectful tolerance' in the context of an appropriate alternative.
129. I find that the act of standing and remaining standing whilst stating to Cr Hewett, 'Then I will remain standing and if you don't proceed immediately to the apology you will be resuming your seat' was contrary to Behavioural Standard 1.4 (General Behaviour) in that Mayor Leach acted in a manner that was not respectful. Further, I find that the same behaviour was a breach of Behavioural Standard 3.1 (Relationship with fellow Council Members). I make that finding on the basis that Mayor Leach acted in a way towards Cr Hewett that was not respectful and contrary to the Behavioural Standard that a Council Member is to establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.
130. I make that finding in the context of what was said by Mayor Leach in the previous interruptions, including at 12.24: 'deliver your apology and then resume your seat' and standing at 13.22 and stating: 'I'm standing...you resume your seat'

131. I repeat that it is the role of the principal member of a council as leader of the council, inter alia, to lead the promotion of positive and constructive working relationships among members of the council; and to provide guidance to council members on the performance of their role, including on the exercise and performance of their official functions and duties.²⁴

THE SECOND COMPLAINT

132. The second complaint was made by Cr Hewett and relates to the behaviour of Mayor Leach at a meeting of council at Callington on 3 February 2025. Cr Hewett complains that Mayor Leach accepted five points of order against her during the meeting of council.

Legislative and policy framework of my appointment in relation to the second complaint

133. The legislative and policy framework of my appointment is the same as for the first complaint. I do not repeat that content of this report.

The complaint

134. I was provided with a document titled 'Second Complaint against Mayor' by the MBDC (the second complaint document). This document was undated, unsigned, and did not include the name of the author. I subsequently wrote to [REDACTED], on 20 August 2025 requesting the origins of this document, including whether it was an attachment to an email or letter, and if so, that all relevant information relating to this document be provided to me. On 22 August 2025, I was instructed that the second complaint document was sent 'via email' and that the document constitutes Cr Hewett's second complaint.
135. On 27 August 2028, I was provided with a further document titled 'Key Issues in the Code of Practice vs. What Occurred' which had been an attachment to the original complaint email of Cr Hewett dated 15 July 2025.
136. On 28 August 2025, I was provided with the email of 15 July 2025 attaching the first complaint document, second complaint document and the document titled 'Key Issues in the Code of Practice vs. What Occurred'. The email was sent at 1.14pm on Tuesday 15 July 2025 by Cr Hewett to the email address council@mountbarker.sa.gov.au and copied to [REDACTED]@mountbarker.sa.gov.au with the Subject: 'CONFIDENTIAL Council Member Complaints'. I have set out relevant content and details of this email in relation to the first complaint which I do not repeat.
137. The second complaint document has the heading: 'Second Formal Complaint Regarding Mayor David Leach'. The document is addressed to Andrew Stuart, who is the Chief Executive Officer of the MBDC.
138. Cr Hewett states that the document is a 'formal complaint about the behaviour of the mayor regarding his attempt to silence me through intimidation and threats and the weaponizing of the LGA'. The letter contains a request 'that the council engage a third party to manage this complaint, as all the other members have been complicit to a certain degree, aligning with the mayor against me.'
139. Cr Hewett complains that:
- 'At the Callington council meeting on the 3rd February 2025, the Mayor accepted 5 points of order against me, which were unsubstantiated.'

²⁴ Section 58 of the LG Act

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- b. 'The Mayor constantly interrupted me, not allowing me to speak to my motion on notice. He weaponized his position of authority to rule and speak over me, not allowing me the 5 minutes to speak to my motion. Elected members have the right to speak for up to 5 minutes without interruption, but this did not occur.'
140. Cr Hewett has included in her letter an 'analysis of points of order during council meeting at Callington' with reference to times of those points of order during the recording of the meeting. In relation to each point of order, the complainant has provided a summary of the context, the point of order, and an analysis.
141. Cr Hewett expressed how she felt about this behaviour, stating 'I felt blindsided by what appeared to be an orchestrated, premeditated attack.' Cr Hewett states that 'I believe that the [REDACTED] earlier email was the precursor to this brutal assault on my ability to perform my duties.' The complainant does not state what this email contained or when it was sent.
142. Cr Hewett states that they believe that the mayor, '...used the [REDACTED] to attack me because of the humiliation he felt surrounding the media coverage of the Survival Day event, making him look so bad. The mayor has repeatedly used elected members to do his bidding, previously making this a common pattern of behaviour.'
143. The complainant refers to the impact of this behaviour:
- 'I felt attacked, frustrated, marginalised and alone. I was left with no choice but to leave the meeting.'
 - 'I could not stop crying for hours, I am still amazed that I managed to drive home safely.'
 - 'I felt so broken when I left that meeting but took so much comfort from how the community rallied around me. I received so many phone calls, texts and emails from people outraged at what had just happened. The question they would ask me was "How was this allowed to happen?" I am hoping that by lodging this complaint, this can never happen again.'
 - 'The Callington meeting broke me. I was fearful of attending further council meetings/briefings in person. Listening online via Zoom would trigger me into panic attacks when I heard the way the mayor spoke to people.'
 - 'I was too scared to go to my community group meetings or even attend the Crows pre-season game at the Summit out of fear of running into the mayor.'
144. Cr Hewett also complains about an email sent by Mayor Leach to the complainant on Monday 3 March 2025, 'in regards to my emails with [REDACTED] asking [REDACTED] to answer question in regards to [REDACTED] email.' The complainant provides the following text from that email.
- "Good afternoon, Rebecca and [REDACTED]. Please cease all emails on this matter right now. Both of you. I would like both of you to meet me in my office as soon as possible. I will be arranging for [REDACTED] to arrange a time with you to stop all talks of Complaints – it will be an informal chat – it will be done with me as Chair – it will be fair to both of you. Support persons not required, I will fulfil that role if needed. I have spent more time, effort, and money on Complaints this year than on any other matter. No more."*
145. Cr Hewett states that the '...aggressive tone of the mayor's email made me feel extremely anxious and upset to the point that I was unable to attend the scheduled council meeting that evening.'
146. Finally, Cr Hewett complains about the handling of a 'formal complaint against me' stating: 'The Mayor had me attend an informal meeting at the Pavillion on Tuesday 18th February 2025 at 11am. I was told that a complaint had been lodged against me in regards to what I had said about Survival Day. I was not provided with a transcript from the meeting, nor was I ever given an outcome of his investigation into the complaint. To this day I still have no idea what has transpired.'

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147. The complainant states that: 'My legal advisor has prepared the following analysis of the Mayor. I believe the Mayor has breached almost all of Section 75E of the LGA Sections 1.1; 1.2; 1.3; 1.4; 1.5; 2.1; 2.2; 2.3; 2.4; 2.6; 3.1; 3.2;'

Informal Action

148. I have considered whether informal action is appropriate in relation to this complaint. For the same reasons as I set out in relation to the first complaint, I determined to not proceed to informal action. I do not set out the same content in this portion of the report in relation to the relevant considerations under the Council Member Behavioural Management Policy.

Formal Action*Receipt of complaint*

149. As I have explained in relation to the first complaint, the process for managing a complaint about a Council Member is set out in the Council Member Behavioural Management Policy which states that 'a complaint made in accordance with this Policy must be lodged within 6 months of the behaviour that is inconsistent with the behavioural requirements occurring. A decision may be made to accept a Complaint lodged more than 6 months after the behaviour that is inconsistent with the behavioural requirements occurring on a case-by-case basis, at the discretion of the person responsible for managing the Complaint.'
150. The behaviour complained about is alleged to have occurred on 3 February 2025 and 3 March 2025. The complaint was then made on 15 July 2025. Accordingly, the complaint was made within time.
151. I have considered all the requirements of a complaint made under the Council Member Behavioural Management Policy which are set out in detail in relation to the first complaint. I do not repeat those requirements.
152. The second complaint:
- Was received in writing (email) and was marked 'CONFIDENTIAL Council Member Complaints' in the 'Subject' of the email. The complaint was sent to email address council@mountbarker.sa.gov.au which was (and is) the only relevant email address published on the Council's website.
 - Included the name of the council member who has allegedly breached the behavioural requirements, the name and contact details (email) of the complainant (which are the same as the person submitting the complaint). The complaint included the names of witnesses including each of the councillors who raised a point of order, the time of the point of order, analysis of that point of order, and an analysis of the mayor's handling of each point of order.
 - The complainant's name and contact details were included in the email.
 - Is specific and includes the behavioural requirements that the complainant alleges have been breached. Further, Cr Hewett has provided content of the email complained, the date of that email, and the details of the informal meeting scheduled for 18 February 2025.
 - Supporting evidence was included in the email or the attachments to the email including the document titled 'Key Issues in the Code of Practice vs. What Occurred', and the content of the relevant email.
 - The outcomes sought by the complainant included for the complained about behaviour 'to never happen again' and that 'council engage a third party to manage these complaints'. Further, the complainant states that their 'objective with these complaints is for them to take accountability for their actions. I would like this to go before the Behavioural Management Panel due to the seriousness of Mayor Leach's offending in order to stop their toxic behaviours once and for all.'

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g. Complied with the time frame of six months since the alleged conduct.

153. Section 262A(2) of the LG Act states that a complaint to a council under this Division must be made in accordance with, and contain information required by, the council's behavioural management policy. The second complaint, which includes the email sent by Cr Hewett on 15 July 2025 and attachments was made in accordance with the council's behavioural management policy, the 'Council Member Behavioural Management Policy'.

Initial complaint assessment

154. I note that an initial assessment is not an investigation or adjudication of a complaint and no findings as to the merits of the complaint will be made at this stage.
155. Pursuant to the requirements of 'Step 1 of the Initial Complaint Assessment' of the Council Member Behavioural Management Policy I am to undertake an assessment of the complaint to determine whether the content of the Complaint relates to the behavioural requirements and whether the conduct occurred in the context of the Council Member carrying out their official functions and duties.
156. In undertaking the assessment, I am to have regard to the matters included in 'Step 1 of the Initial Complaint Assessment' of the Council Member Behavioural Management Policy and referred to above in relation to the first complaint. I do not repeat them.
157. I considered all those matters. I considered that the content of the second complaint does relate to the behavioural requirements. Cr Hewett has listed the Behavioural Standards for Council Members that she alleges Mayor Leach has breached.²⁵ Without making any finding as to whether those breaches are made out, I consider those alleged breaches to relate to the behavioural requirements.
158. Further, Cr Hewett complains that those breaches occurred in a council meeting in an email and otherwise whilst Mayor Leach was acting in the capacity of Mayor. I consider that the conduct complained of, again without making any findings as to whether the behaviour complained of occurred, is alleged to have occurred in the context of the Mayor carrying out their official functions and duties.
159. I then proceed to 'Step 2' and consider whether the matter warrants further consideration. I considered that the complaint does warrant further consideration for the following reasons:
- The allegations are serious.
 - Cr Hewett complains that the alleged behaviour has had a significant impact on her that has included crying for hours, feeling broken, experiencing panic attacks, and fearful of attending council meetings.
 - The matters addressed by me above in relation to Step 1.
 - The further consideration of the complaint is consistent with ensuring that council can perform its functions in accordance with the principal role of council as prescribed in section 6 of the LG Act.
160. Step 2 of the Council Member Behavioural Management Policy requires that I advise the person complained about that a complaint has been received and is undergoing an initial assessment. Accordingly, on 29 August 2025, I wrote to Mayor Leach and advised him of that information in the same letter as I advised Mayor Leach of the first complaint. As required, I provided a summary of the matter, at a sufficient level of detail, to understand the nature of the allegations and enable Mayor Leach to provide a preliminary response.

²⁵ 1.1; 1.2; 1.3; 1.4; 1.5; 2.1; 2.2; 2.3; 2.4; 2.6; 3.1; 3.2;

161. The Council Member Behavioural Management Policy states that, 'This may be achieved by a discussion between the person responsible for managing the Complaint and the person complained about, taking into account the principles of this Policy. The person complained about may have a support person present during any discussions.' I note that the language is discretionary. Again, in relation to the second complaint, as with the first complaint, I decided to seek a response from Mayor Leach in writing given the nature of the complaint.
162. I received email communications from Mayor Leach following my request for a response. I have set out the relevant communications in my assessment in relation to the first complaint. I do not repeat those matters here, but to say that my decisions and communications in response to those emails are relevant to the second complaint, as they are the first.
163. I received a response from [REDACTED] on behalf of Mayor Leach on 12 September 2025 in relation to both the first complaint and second complaint. I have set out the preliminary issues raised by [REDACTED] in relation to the first complaint. I do not repeat those matters but to say that my reasoning, as articulated in relation to the first complaint, is the same as for the second complaint.
164. I have considered the material provided by Mayor Leach in determining the action resulting from the initial assessment.

Action from initial assessment

165. I have considered whether the matter should proceed to a formal consideration. In doing so, I have considered whether there are grounds to take one of the following actions pursuant to section 262B(2)(b):
- refusing to deal with the Complaint
 - determining to take no further action
 - referring to an alternative resolution mechanism or to propose training for relevant parties (e.g. facilitated discussion, provision of training, mediation, arbitration, conflict resolution, etc.)
 - referring the matter to another body or agency (e.g., the Ombudsman SA or the Behavioural Standards Panel)
166. I considered each of those actions and I determined that there are grounds to take one of those actions. I formed the view that the optimal way to deal with the complaint is to implement an alternative resolution mechanism, namely a mediation. I formed that view not having made any findings of fact, but on the basis of the material available to me without providing interested parties with the opportunity to comment beyond seeking a preliminary response from Mayor Leach. I make it clear that where I have made conclusions or statements of fact in this portion of the report, those conclusions or statements of fact are made by me for the purpose of determining the action from the initial assessment only, and are not a finding of fact or conclusion that is made for the purpose of my final opinion in relation to any aspect of the complaints. I note that there is no mechanism within the Council Member Behavioural Management Policy for seeking information from the complainant at this stage of the management of the complaint or prior.
167. There are three aspects to the second complaint: Mayor Leach accepting five points of order against Cr Hewitt at a meeting of council at Callington on 3 February 2025 that were unsubstantiated and in doing so unfairly used his position to prevent Cr Hewett from speaking to her motion on notice; secondly, that on 3 March 2025, Mayor Leach sent an aggressive email to Cr Hewett; thirdly, that Cr Hewett has not been advised of a complaint that was made about her.

The Callington meeting of Council

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168. Cr Hewett brought a motion on notice that was seconded by Cr Cunningham. The motion was 'that Council undertakes a formal community engagement process to better understand how the community feels about the range of events that Mount Barker District Council supports. This process will be advertised broadly through various platforms including social media.' Cr Hewett then commenced speaking to the motion. Cr Hewett was interrupted on five occasions whilst speaking to the motion.
169. Pursuant to Regulation 15, a member must not speak for longer than five minutes at any one time without leave of the meeting. Pursuant to Regulation 29(1)(b), a member must not, while at a meeting, cause an interruption or interrupt a member who is speaking unless the member is objecting to words used by a member who is speaking, or calling attention to a point of order, or calling attention to a want of a quorum.
170. A point of order relates only to a breach of the provisions of the Act or Regulations. Regulation 28 provides that:
- (1) The presiding member may call to order a member who is in breach of the Act or the Regulations.*
 - (2) A member may draw to the attention of the presiding member a breach of the Act or the Regulations and must state briefly state the nature of the alleged breach.*
 - (3) A point of order takes precedence over all other business until determined.*
 - (4) The presiding member will rule on a point of order.*
 - (5) If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately.*
 - (6) The presiding member is entitled to make a statement in support of the ruling before a motion under subregulation (5) is put.*
 - (7) A resolution under subregulation (5) binds the meeting, and, if a ruling is not agreed with (a) the ruling has no effect; and (b) the point of order is annulled.*
171. If a member calls a point of order that is not a point of order as defined by the Regulations (ie it is not a breach of the Act or Regulations), the presiding member will reject it as a point of order. This does not amount to a ruling by the presiding member on a point of order that the meeting can disagree with.
172. On each of the five occasions that Cr Hewett was interrupted, those interruptions were in relation to points of order. I set out the details of those interruptions.²⁶
173. Interruption 1 occurred at 35.24. Prior to the point of order, the words spoken by Cr Hewett were as follows: 'The reason I'm bringing this motion to the chamber is quite obvious. We clearly got it completely wrong when it came to supporting the Survival Day event on January 26th.'
174. The point of order was as follows: 'I believe this has already been discussed and I think, very spurious²⁷ statement to make that allegation....chamber'. Mayor Leach ruled that the point of order 'is an order, please continue and I hope that you can avoid similar sort of inflammatory comments that are contrary to how this chamber usually operates.' The member making the point of order does not state how Cr Hewett breached the Act or the Regulations. The point of order was ruled upon without seeking clarification of the alleged breach. It should have been. I note that no objection was taken to the ruling of the presiding member pursuant to Regulation 28(5). That was the appropriate course in the event of a complaint with the ruling.

²⁶ The times referred to in this report relate to the corresponding times on the publicly available recording of the 3 February 2025 meeting of council.

²⁷ The audio is unclear and this word might be 'serious'. I consider both in my review of this matter.

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175. Interruption 2 occurred at 36.10. There were two points of order from two members. Prior to these point of order, the words spoken by Cr Hewett were as follows: 'As a council I believe we need to do a complete review of how we consult with the community. The anger from the community over the previous event shows that we are not know-it-all's in here in this chamber'.
176. The first point of order was as follows: 'Very similar to the previous one. I don't recall there being an ounce of anger at the previous year's Survival Day event.' Mayor Leach stated that the point of order was upheld. 'Can you please keep your comments to one that are not inflammatory or of a nature that are going to cause extreme unhappiness.'
177. A second point of order was not taken. The member making the point of order does not state how Cr Hewett breached the Act or the Regulations. The point of order was ruled upon without seeking clarification of the alleged breach. Again, I repeat that it should have been. I note that no objection was taken to the ruling of the presiding member pursuant to Regulation 28(5). That was the appropriate course in the event of a complaint with the ruling.
178. Interruption 3 occurred at 37.00. Prior to the point of order, the words spoken by Cr Hewett were as follows: 'For too long, Councils have had this slow march away from what could be considered democratic in the sense that we should consult the whole community and listen to what they have to say and then make decisions based on that feedback. There is no point in leading the troops.'
179. The point of order was as follows: 'We do consult district wide survey by the market...survey at a cost of about \$25000.' Mayor Leach asked the member: 'What is your point of order?' The member responded: 'That this is inaccurate information.' Mayor Leach then ruled on the point of order: 'I rule that the point of order by...that could be seem to be misleading the council by that statement and for the third time I request you to speak to the motion in a manner that is normally how we act in this chamber please.' I consider that no inaccurate information was put to the council by Cr Hewett in relation to this interruption. Cr Hewett was expressing an opinion to the council. Nevertheless, it is not my role to second-guess or conduct a merits review of Mayor Leach's ruling on the point of order.
180. Providing inaccurate information to the community is possibly a breach of behavioural standard 2.2 if made out and a failure to comply with the standards is a breach of the Act. Without making any finding as to whether Cr Hewett did commit any breach of the Act, the point of order was appropriate, as was the clarification of the point of order by Mayor Leach. No objection was taken to the ruling of the presiding member pursuant to Regulation 28(5). That was the appropriate course in the event of a complaint with the ruling. I do note that Cr Hewett appeared to object to the manner in which the points of order were taken generally in the interchange that followed (and which I refer to below in relation to interruption 4), however no clear objection was made to the ruling in relation to this point of order. If Cr Hewett wished to object to the ruling, she ought to have done so clearly, and immediately.
181. Interruption 4 occurred at 37.55. Prior to the point of order, the words spoken by Cr Hewett were as follows: 'So um Mayor I am trying to speak to the motions, and my motion was that we would consult more broadly to the community as it was communicated to me by the community that they did not have a say in this and a lot of people were very frustrated and contacted me, what I am trying to do.'
182. The point of order was: 'The community did have a say in the event program they could have been consulted with councillors prior to the August 2025 meeting.' Mayor Leach appropriately sought to clarify the point of order from the member. The member stated that the point of order was 'Inaccurate information. The community did have an opportunity...' Mayor Leach ruled that the point of order 'is an order' and stated to Cr Hewett that 'Cr Hewett, for the fifth time could you please speak to the motion that you put there concerning that the range of events that Mount Barker

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District Council support that this process be advertised...through various platforms including through social media.' I consider that no inaccurate information was put to the council by Cr Hewett in relation to this interruption. Cr Hewett was expressing to the council an explanation for her motion based on what she said had been expressed to her by the community. There was no statement of fact that the community did not have an opportunity to be consulted. Nevertheless, again, it is not my role to second-guess or conduct a merits review of Mayor Leach's ruling on the point of order. The appropriate course would have been for Cr Hewett to take an objection to the ruling. She did not do so.

183. Following this exchange, Cr Hewett stated the following: 'Mayor, I feel that you are only wanting to...to one side of the argument here, and I feel that the points of order are unfair.' Mayor Leach then quite appropriately explained to Cr Hewett the process for objecting to points of order. During that exchange Cr Hewett stated that she was not aware of the process. Despite having that process then explained to her by Mayor Leach, Cr Hewett did not seek to object to any of the rulings on the points of orders. Instead, Cr Hewett asked to speak to her motion.
184. Interruption 5 occurred at 39.36. Prior to that point of order, the words spoken by Cr Hewett were as follows: '...in local councils has been declining over the years and the minister for local government has even initiated a study into addressing.' No words were apparently spoken in support of the point of order and no reason given. The point of order was upheld without clarification. There should have been clarification of the point of order. There was nothing obviously in what was said by Cr Hewett in relation to this interruption that warranted a point of order. Nevertheless, the appropriate course was for Cr Hewett to object to the ruling pursuant to Regulation 28(5). She did not immediately do so.
185. There followed an exchange between Cr Hewett and Mayor Leach in which Cr Hewett appeared frustrated. Mayor Leach reminded Cr Hewett of the process for objecting to a point of order. Cr Hewett sought an objection; however, the motion lapsed for want of a seconder. I note the submissions of [REDACTED] in this regard. I also note [REDACTED] submission that Cr Hewett stated before leaving the meeting that she would go to the media, and [REDACTED] instructions that Cr Hewett did in fact appear on Sky News in which she allegedly referred to Mayor Leach as 'a piece of work'. I have considered no evidence of the media appearance in my consideration of this complaint.
186. The exchanges between Cr Hewett and Mayor Leach during this Council meeting demonstrate a lack of understanding on the part of Cr Hewett as to the appropriate meeting processes. I cannot comment on the reason for that lack of understanding. It might be that on receiving this report, the MBDC reviews their training and ongoing support for members in matters of this nature. Further, in relation to interruptions 1, 2 and 5 it was Mayor Leach's responsibility as the presiding member to ensure that the business of the meeting was conducted in a proper and orderly manner in accordance with the LG Act and corresponding regulations. That includes ensuring that points of order were in relation to a breach of the Act or the regulations and ruling accordingly. There is no information before me at this stage that suggests that the rulings on the points of order were motivated by Mayor Leach seeking to prevent Cr Hewett from speaking to her motion on notice.

3 March 2025 email

187. Cr Hewett complains that an email sent to her by Mayor Leach on 3 March 2025 was 'aggressive' and had an aggressive tone. The email was sent by Mayor Leach at 6.13pm to Cr Hewett. It is unclear to me whether the same email was copied or sent to anyone else. The content of the email is as follows:

Good afternoon Rebecca and [REDACTED]

Please cease all emails on this matter right now. Both of you.

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I would like both of you to meet me in my office as soon as possible.

I will be arranging for [REDACTED] to arrange a time with you to stop all talks of Complaints –

it will be an informal chat – it will be done with me as Chair – it will be fair to both of you.

Support persons not required, I will fulfil that role if needed.

I have spent more time, effort, and money on Complaints this year than any other matter.

No more.

See you soon.

Regards

David

188. I note that Mayor Leach stated that ‘Support persons not required, I will fulfill that role if needed.’ A further email was sent by Mayor Leach to [REDACTED] and Cr Hewett on 5 March 2025 that included the following: ‘I was intending for the meeting to be as informal as possible; I did suggest support persons would not be needed, I now retract that. If either of you feel the need to bring a support person, please do so and advise [REDACTED] of their name.’ I consider that it was appropriate to make that change to the proposed process for the meeting.

Cr Hewett had not been advised of a complaint that was made about her

189. Cr Hewett makes the following complaint in relation to this matter: ‘The Mayor had me attend an informal meeting at the Pavillion on Tuesday 18th February 2025 at 11am. I was told that a complaint had been lodged against me in regards to what I had said about Survival Day. I was not provided with a transcript from the meeting, nor was I ever given an outcome of his investigation into the complaint. To this day I still have no idea what has transpired.’
190. I refer to the response provided to me by [REDACTED] on behalf of Mayor Leach. Mayor Leach acknowledges his failure to report back to Cr Hewett about the status of a complaint against her and states ‘That was an administrative oversight. The oversight has now been rectified.’
191. On 9 September 2025, I was copied to an email correspondence between [REDACTED] (Executive Assistant to Mayor Leach) and Cr Hewett. Attached to the email was a letter of the same date. The letter advised Cr Hewett that a complaint from two persons had been withdrawn against her. That complaint had been withdrawn in March of 2025. Mayor Leach states ‘At that time, I failed to notify you of their withdrawal of the complaints, and I now advise you that the Complaints are formally withdrawn.’ Mayor Leach apologised for failing to notify Cr Hewett and apologised for any distress caused.
192. It was appropriate for Mayor Leach to acknowledge and apologise for the failure to notify Cr Hewett of the withdrawal of the complaint. It was inappropriate that this was not done. I note that there is no reference to the appropriate course of action following a withdrawal of a complaint in either the LG Act, or the Council member Behavioural Management Policy. Nevertheless, a complaint process can be stressful for the accused and complainant. It was necessary that Cr Hewett was advised at the earliest opportunity of the withdrawal. I have not inquired any further into the reasons for the purported ‘administrative error’ that led to the failure to notify Cr Hewett.

193. I considered all the matters raised by [REDACTED] in relation to the second complaint. I refer to the content of this report in relation to the first complaint and the principle that complaints under the Council Member Behavioural Management Policy will be managed with as little formality and technicality and with as much expedition as the requirements of the matter and the LG Act allow with proper consideration of the matter. Taking into consideration the matters raised above, and this policy principle, I considered that this is a matter that could potentially benefit from an alternative resolution mechanism in relation to each of the three issues I have addressed above.
194. The Council Member Behavioural Management Policy states that the person responsible for managing the complaint should discuss the use of a proposed alternative resolution mechanism with the complainant and the person complained about to determine whether there is support for this approach. Accordingly, on 18 September 2025 I wrote to the complainant to determine whether she supported this approach. I contacted Mayor Leach's lawyer on the same date for the same reason. In my letters to both parties I advised that I intend to confine the mediation to the following issues in the second complaint:
- The five interruptions (points of order and rulings) whilst Cr Hewett spoke to her motion at the meeting of council on 3 February 2025.
 - The emails sent by Mayor Leach to Cr Hewett on 3 March 2025 and 5 March 2025.
 - The failure to notify Cr Hewett of the withdrawal of the complaint against her.
195. As with the first complaint, in my letters to both parties I advised that I intended to raise the following topics generally:
- Possible training and education that can be recommended.
 - Other forms of support for both parties.
196. Both parties responded to my invitation to attend a mediation in relation to both complaints. I do not repeat the content from the first complaint. The mediation in relation to the second complaint occurred simultaneously with the mediation in relation to the first complaint. The outcome of both mediations was the same.

Formal consideration

197. Following the mediation process, I again considered the actions that may be taken from initial assessment. I considered the impact of Cr Hewett's resignation on my decision as with the first complaint. I considered the same matters I raised above in relation to the first complaint.
198. I determined not to refuse to deal with the complaint, take no further action, refer to another form of alternative dispute resolution or refer to another agency or body (including the Behavioural Standards Panel). I determined that the matters raised by the complainant, and the information available to me, was sufficient to proceed to formal consideration but only in relation to the issue of the emails sent by Mayor Leach to Cr Hewett on 3 March 2025 and 5 March 2025.
199. Accordingly, I wrote to Mayor Leach on 5 and 10 November 2025 attaching a copy of the Council Member Behavioural Management Policy, my contact details, and a summary document setting out the specific provisions of the behavioural requirements alleged to have been breached, and the circumstances where this breach is alleged to have occurred. As the complainant has not requested their identity be kept confidential, I determined to provide a copy of the complaint in full. I made it clear in my correspondence that in relation to this complaint I had decided to proceed to formal consideration in relation to the two issues.
200. I sought a response from Mayor Leach by close of business on 17 November 2025. I agreed to an extension by Mayor Leach, and then by his legal advisor (Michael Kelliedy of Kelliedy Jones) before receiving submissions to my letter on 21 November 2025. I have considered those

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submissions. In some instances I have referred to particular submissions made. Again, just because I have not referred to individual submissions, does not mean that I have not considered them in my consideration of this matter.

201. Also on 5 November 2025, I contacted the complainant to advise of the decision to proceed to formal consideration and to provide my contact details.
202. Mr Kelledy has referred me to a broader email chain of communications commencing on 15 February 2024. I agree that the full extent of the email communications is relevant contextually. I make it clear that although those communications are relevant to context, it is not my role to make any findings in relation to behaviour of others in those emails.
203. Mr Kelledy has submitted that Mayor Leach's email at 1.58 pm on 3 March 2025 was 'decisive, used neutral language, and was an appropriate exercise of his higher office and burden as the principal member to show leadership and work to save the members' relationship'. I have been referred to section 58(1) of the LG Act. Section 58(1) refers to the role of the principal member of a council as the leader of the council and includes, inter alia:
- (a) *to provide leadership and guidance to the council; and*
 - (b) *to lead the promotion of positive and constructive working relationships among members of the council; and*
 - (c) *to provide guidance to council members on the performance of their role, including on the exercise and performance of their official functions and duties...*
204. It has been submitted that Mayor Leach's duties compelled him to respond to [REDACTED] in his 3 March 2025 email in line with his role as the presiding member.
205. I refer to the sentences of most concern in the email from Mayor Leach on 3 March 2025: 'I have spent more time, effort, and money on Complaints this year than any other matter. No more.' Those sentences follow an earlier sentence: 'I will be arranging for [REDACTED] to arrange a time with you to stop all talks of Complaints...' Undoubtedly, complaints and grievances amongst members of council is disruptive to the council as a whole; however, it was inappropriate of Mayor Leach to suggest that there would be 'no more' complaints as a result of the time, effort and money spent on complaints already that year. The complaint process is an important one. Council members are encouraged, in appropriate circumstances, to respectfully and constructively raise issues with the council member concerned without the need to lodge a formal complaint; however, participation in the formal (or informal) complaint process in appropriate circumstances is not something that should be discouraged by the presiding member of council.
206. Lastly, I again refer to the MBDC 'Information Sheet – Email Use': 'Consider the tone of and language used in emails and how this could be interpreted by recipients, oversight bodies and the community generally.' The tone of some of the content of the 3 March 2025 email sent by Mayor Leach could be considered aggressive and was considered aggressive by Cr Hewett. I refer specifically to the following: 'I have spent more time, effort, and money on Complaints this year than any other matter. No more.' I accept that Mayor Leach may not have intended to have conveyed an aggressive tone; however, I accept that Cr Hewett considered the email to have an aggressive tone, and it was reasonable for her to have done so.
207. I find that the email sent by Mayor Leach on 3 March 2025 was contrary to Behavioural Standard 3.1 (Relationship with fellow Council Members). I make that finding on the basis that Mayor Leach, in sending the 3 March 2025 email, acted in a way towards Cr Hewett that was

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contrary to the Behavioural Standard that a Council Member is to establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.

INVESTIGATION FINDINGS AND RECOMMENDATIONS**General comments**

208. A draft of this report, encompassing both complaints, was provided to Cr Hewett and Mayor Leach on 26 November 2025. I received submissions from both Cr Hewett and Mayor Leach and where I have considered it appropriate, I have made amendments to this report.
209. On 26 November 2025, I sought submissions in relation to the draft final report from Mayor Leach's lawyers seeking a submission by no later than 5pm Monday 8 December 2025.²⁸ I did not receive a submission by that date. I contacted Mayor Leach's lawyer on the evening of 8 December 2025 and asked whether Mayor Leach intended to seek an extension. I was advised that he did and I allowed an extension to 5pm on 9 December 2025. I did not receive a submission by that deadline.
210. I then wrote to Mayor Leach's lawyer on 10 December 2025 stating that I had not received a submission from Mayor Leach, nor had I been advised that a submission was delayed. I advised that I intended to progress the report at close of business that same day. I noted that the Council Member Behavioural Management Policy states: 'A copy of the draft report should be provided to the parties to the Complaint who should be given a reasonable opportunity, but no more than ten business days to make submissions in relation to the draft report.'
211. On 10 December 2025, I received an email from Mayor Leach's lawyer, including the following:

Further to our conversation just now, I confirm the Mayor is proposing to provide an unqualified, fulsome apology, including finding a breach has been found, if the matter may then be finalised on the basis of clause 6.5.4 of the Council's Behavioural Management Policy that provides:

Outcome – agreed actions (breach found)

Where the finding is that a breach of the behavioural requirements has occurred and the Complainant and the person complained about agree to a path for resolution, that agreement will be documented including matters such as:

- actions to be undertaken*
- responsibility for completing actions*
- timeframes for completion of actions*
- what will occur if there is a repeat of the behaviours complained about*
- monitoring arrangements for completion of actions*
- what will occur if the actions aren't completed*
- confirmation that the matter is considered resolved*

The agreement reached will be made in writing, including a commitment by parties to the Complaint to abide by the agreement (which may be by electronic means). A copy of the agreement will be retained by each party and a copy held in Council records.

The Complaint will remain confidential in accordance with the requirements of this Policy except at the request of the person complained about. If such a request is made, a copy of the Final Report will be tabled⁷ at the next practicable Council meeting. The matter must be reported in the Council's Annual Report which must contain the information required by the Regulations.

That is, there would then be no requirement for the matter to be considered by the Chamber.

²⁸ I note that I had previously received a submission from Mayor Leach's lawyers on 21 November 2025 in relation to the complaint but not in relation to the draft report.

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If the complainant does not agree to such a proposal (which, in our view, is both a reasonable and appropriate manner in which to conclude the matter and does give effect to your proposed recommendation to provide an apology), Mayor Leach wishes to reserve the right to provide a submission on the interim report.

In advising us of the same, the Mayor has confirmed he is truly remorseful for his actions (that he is prepared to convey to the complainant).

212. The Council Member Behavioural Management Policy provides for the steps to be taken upon a finding of a breach of the behavioural requirements. The options will be different depending on whether there is an agreed path for resolution, or not. On 10 December 2025, I spoke with the complainant who advised me that she did not accept the proposed agreed action. Further, she would accept an agreed action of the Mayor's resignation with an explanation as to why (being the breaches as described in the draft report). I spoke with Mayor Leach's lawyer, Tracy Riddle, and I agreed to a further extension to COB Wednesday 17 December 2025. I did not receive a submission by that deadline. I emailed Ms Riddle and asked whether Mayor Leach intended to provide a submission to the draft report. Ms Riddle responded that he did and sought an extension to COB Thursday 18 December 2025. I allowed that extension.
213. As I have made findings that there have been breaches of the behavioural requirements, I have considered whether there is any agreed action in relation to both complaints respectively. It was put to me, on behalf of Mayor Leach, that he proposes to 'provide an unqualified, fulsome apology, including finding a breach has been found, if the matter may then be finalised on the basis of clause 6.5.4 of the Council's *Behavioural Management Policy*'. That proposed agreed action was put to Cr Hewett on 10 December 2025, who declined the proposed action. In circumstances in which there is an agreed action, the complaint will remain confidential subject to the request of the person complained about. If there is no agreed action, the final report should be presented to Council for determination. As there is no agreed action, this report is provided to Council accordingly.
214. On 18 December 2025, Ms Riddle informed me of a challenge jurisdiction, that the process had erred and that there had been a failure to provide Mayor Leach with procedural fairness. I then received submissions in that regard. I have not included those submissions, or the content of the communications, as annexures to this report due to confidentiality provisions relevant to the content of those documents. I now provide this report to Council at the earliest possible opportunity.
215. I make the following comments in relation to both complaints. Mr Kelledy has submitted generally that Mayor Leach's conduct and language in both complaints did not offend the regime of behaviour and conduct that controlled him as an elected member of MBDC. Mr Kelledy refers to the Mayor's use of plain language in responding and reacting to Cr Hewett's conduct. It is submitted that any less decisive or plain use of language would have caused the Mayor to stray into other potential breaches of his obligations and the strict standards expected of him as Mayor.
216. I agree that Mayor Leach's behaviour in standing during Cr Hewett's personal statement, and his email of 3 March 2025 were both in reaction to Cr Hewett's behaviour. It is evident to me, having watched the relevant footage of the Council meeting, and having reviewed the relevant emails, that there was an obvious sense of frustration in those reactions. That possibly explains the reaction of Mayor Leach on both occasions.
217. I find that on two occasions, Mayor Leach's behaviour was contrary to the behavioural standards expected of council members. Both of those occasions were in dealings that Mayor Leach had with Cr Hewett.

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218. I consider Cr Hewett's two complaints to be genuine. I accept that Cr Hewett feels aggrieved by the behaviour of Mayor Leach. I accept that Cr Hewett has been deeply affected by some of her interactions with Mayor Leach.
219. Nevertheless, the complaints that I have reviewed do not demonstrate a course of conduct of bullying or harassment. I make no finding that Mayor Leach attempted to 'silence' Cr Hewett through 'intimidation and threats and the weaponizing [sic] of the LGA'. I make no finding that Mayor Leach showed prejudice towards Cr Hewett or intentionally lied to her.
220. Cr Hewett has requested that I refer this matter to the Behavioural Standards Panel. I do not do so consistent with my reasoning at paragraph 104.

Findings

221. I find that the act of standing and remaining standing whilst stating to Cr Hewett, 'Then I will remain standing and if you don't proceed immediately to the apology you will be resuming your seat' was contrary to Behavioural Standard 1.4 (General Behaviour) in that Mayor Leach acted in a manner that was not respectful. Further, I find that the same behaviour was a breach of Behavioural Standard 3.1 (Relationship with fellow Council Members).
222. I find that the email sent by Mayor Leach on 3 March 2025 was contrary to Behavioural Standard 3.1 (Relationship with fellow Council Members).

Recommendations

223. Pursuant to section 262C of the LG Act, the MBDC may do one or more of the actions listed within that section. However, before the Council considers an appropriate action, in circumstances in which a breach is found, the Council Member Behavioural Management Policy refers to different pathways depending on whether there can be an agreed path for resolution. Having conducted a mediation with the parties, there has been no agreed action or resolution of the complaint. Accordingly, this report is to be provided to council for determination.
224. I note that Cr Hewett has recently resigned from the MBDC. Regardless of Cr Hewett's resignation, I recommend that the MBDC require that Mayor Leach issue a public apology in relation to both breaches. I do not make any recommendations relevant to training or support.

Yours faithfully



Stephen Plummer

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