

Behavioural Standards Panel



Interim Report

Council Member	Severina Burner
Council	City of Salisbury
Referral by	Mayor Gillian Aldridge
Panel Reference	23BSP-0002
Date Received	2 March 2023
Issues	Alleged serious misbehaviour by a member of a council

September 2023



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1. Interim Report

- 1.1 This interim report has been prepared on an inquiry undertaken by the Behavioural Standards Panel (**the Panel**) following multiple referrals made by the City of Salisbury (**the Council**) in 2023 in relation to Ms Severina Burner (**Ms Burner**).
- 1.2 Ms Burner was elected as a member of the Council at the November 2022 local government periodic elections. However, Ms Burner's office as a member of the Council became vacant on 13 June 2023, as she was removed from office by the Council on the ground that she had been absent, without leave of the Council, from three or more consecutive ordinary meetings of the Council, under section 54(1)(d) of the *Local Government Act 1999* (**the Act**).

2. Background

- 2.1 Section 262Q of the Act provides that a complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour may be referred to the Panel by a resolution of the council; the principal member of the council; at least 3 members of the council; or, a responsible person in accordance with section 75G(5) of the Act.
- 2.2 Section 262E of the Act provides that '**serious misbehaviour** means a failure by a member of a council to comply with section 75G'.
- 2.3 Section 75G(1) of the Act provides that a council member must—
 - (a) take reasonable care that the member's acts or omissions do not adversely affect the health and safety of other council members or council employees; and
 - (b) comply, so far as the member is reasonably able, with any reasonable direction that is given by a responsible person for the purposes of ensuring that the member's acts or omissions do not adversely affect the health and safety of other council members or council employees.
- 2.4 In March 2023, the Panel received multiple complaints from Mayor Gillian Aldridge, the principal member of the Council, alleging that Ms Burner (then Cr Burner) had failed to comply with section 75G of the Act, over a period from December 2022 to March 2023.
- 2.5 Under section 262T of the Act, the Panel determined to inquire into these complaints.
- 2.6 The Panel determined to deal with the complaints lodged on 2 March 2023, 17 March 2023, 29 March 2023 and 30 March 2023 as one complaint, which the Panel conducted an inquiry into.

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- 2.7 Material submitted to the Panel contained information regarding the identity of people who had made complaints to the Council. Under the Council's Behavioural Management Policy, Mayor Aldridge has the responsibility for managing complaints made to the Council, and determining whether the identity of these complainants should remain confidential. As Mayor Aldridge determined that the identity of these complainants shall remain confidential, the Panel is also of the view that these details will remain confidential.
- 2.8 The Panel noted that at all times of the alleged serious misbehaviour, Ms Burner was an elected member of the Council.

3. Inquiry

- 3.1 Under section 262T(1) of the Act, the Panel may inquire into a complaint referred to the Panel in such a manner as the Panel considers appropriate.
- 3.2 The Act also provides that, in exercising or performing a power or function in relation to inquiring into a complaint, the Panel—
- must proceed with as little formality and technicality and with as much expedition as the requirements of the Act or any other Act and a proper consideration of the matter permit; and
 - is not bound by rules of evidence but may inform itself of any matter in any manner that the Panel considers appropriate (section 262U(4) of the Act); and
 - the inquiry must be conducted in accordance with the principles of procedural fairness (section 262T(2) of the Act).
- 3.3 The Panel—
- Assessed the complaints lodged against Ms Burner.
 - Considered the Act, the Behavioural Standards Panel Guidelines and Practice Directions.
 - Assessed further information provided by the Council.
 - Sought further information from the Council.
 - Viewed footage of the 'Adelaide Freedom Rally of 25 February 2023'.
 - Listened to audio footage of the Council Policy and Planning Committee meeting of 20 March 2023.
 - Provided Ms Burner with the opportunity to respond to allegations through written submissions.
 - Met to discuss determinations relating to the matter.
 - Prepared this interim report.

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4. Standard of Proof

4.1 The standard of proof applied by the Panel in their inquiry and investigation process is on the balance of probabilities.

5. The Complaints

5.1 As noted in Section 1, the Panel received numerous complaints alleging Ms Burner's failures to comply with section 75G of the Act. The Panel determined to inquire into six allegations as follows—

5.2 Allegation One – Serious Misbehaviour 75G(1)(a)

It is alleged that on 20 February 2023 Ms Burner attended the Council Governance and Compliance Committee meeting in her capacity as a member of the Council and acted in an inappropriate manner by making verbal negative comments and being argumentative with other members of the Council. In doing so, she failed to take reasonable care that her acts did not adversely affect the health and safety of other members or employees of the Council and thereby contravened section 75G(1)(a) of the Act, and thereby committed serious misbehaviour.

- 5.2.1 On 20 February 2023 at approximately 7.26 pm, Ms Burner attended the Council Governance and Compliance Committee meeting in her capacity as a member of the Council. Present at this meeting were both members and employees of the Council.
- 5.2.2 At the meeting, Ms Burner was argumentative and made negative verbal comments. Ms Burner referred to being treated as a “scum of the earth” by the elected members. Ms Burner also stated words to the effect that her emails and computer had been deliberately hacked, that there had been “secret meetings” without her knowledge or involvement, and that she had been deceived by members of the Council, including a senior council employee. Ms Burner spoke to the senior council employee in a belittling manner by stating words to the effect that he should “be using some brain power” while repetitively pointing her index finger at her forehead while she said those words.
- 5.2.3 At the meeting, Ms Burner stated that the Council had deliberately set her up to fail. Ms Burner interrupted the speakers, including an elected member of the Council when she was delivering a right of reply, and accused elected members of bullying and harassing her.
- 5.2.4 Ms Burner ought reasonably to have known that her conduct as described in paragraphs above could adversely affect the health and safety of members or employees of the Council who were present at the meeting.
- 5.2.5 By failing to comply with section 75G(1)(a) Ms Burner committed serious misbehaviour as defined in section 262E of the Act.

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5.3 Allegation Two – Serious Misbehaviour 75G(1)(a)

It is alleged that on 20 February 2023 Ms Burner attended the Council Policy and Planning Committee meeting in her capacity as a member of the Council and acted in an inappropriate manner by making verbal negative comments and being argumentative with other members of the Council. In doing so, she failed to take reasonable care that her acts did not adversely affect the health and safety of other members or employees of the Council and she thereby contravened section 75G(1)(a) of the Act, and thereby committed serious misbehaviour.

- 5.3.1 On 20 February 2023 Ms Burner attended the Council Policy and Planning Committee meeting in her capacity as a member of the Council. Present at this meeting were members and employees of the Council.
- 5.3.2 At the meeting, Ms Burner was argumentative and made negative verbal comments. At the meeting, and in the presence of other attendees, Ms Burner accused an employee of the Council of organising “secret meetings” (or words to that effect), that he had excluded her from a prior CEO briefing session and that he was not being truthful.
- 5.3.3 Ms Burner ought reasonably to have known that her conduct as described above could adversely affect the health and safety of members or employees of the Council who were present at the meeting.
- 5.3.4 Ms Burner breached her statutory obligation under section 75G(1)(a) of the Act in that by engaging in the conduct set out in paragraph 5.3.2 she failed to take reasonable care that her acts did not adversely affect the health and safety of members or employees of the Council present at the meeting.
- 5.3.5 By failing to comply with section 75G(1)(a) Ms Burner committed serious misbehaviour as defined in section 262E of the Act.

5.4 Allegation Three – Serious Misbehaviour 75G(1)(a)

It is alleged that between 10 January and 25 February 2023, Ms Burner in her capacity as a member of the Council, sent seven emails to members and employees of the Council in which she wrote to the recipients in a manner that was inappropriate, aggressive and/or rude. In doing so, she failed to take reasonable care that her acts did not adversely affect the health and safety of other members and employees of the Council and she thereby contravened section 75G(1)(a) of the Act, and thereby committed serious misbehaviour.

- 5.4.1 On 10 January 2023 at 12.12 pm, whilst acting in her capacity as a member of the Council, Ms Burner sent an email to an employee of the Council, and copied into this email a senior employee of the Council and multiple other employees of the Council. In this email Ms Burner wrote to the recipients in a manner that was inappropriate, aggressive and rude.

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- 5.4.2 On 23 January 2023 at 10.50 pm and 24 January 2023 at 2.23 pm, whilst acting in her capacity as a member of the Council, Ms Burner sent two emails to a senior employee of the Council and copied into this email an employee of the Council. In both emails, Ms Burner wrote to the recipients in a manner that was inappropriate, aggressive and hostile.
- 5.4.3 On 6 February 2023 at 9.47 am, whilst acting in her capacity as a member of the Council, Ms Burner sent an email to an employee of the Council and copied into this email a senior employee of the Council. In this email Ms Burner wrote in an inappropriate manner by making a serious and unsubstantiated allegation that “there has been a large campaign by the Mayor, Deputy Mayor and other Councillors to bully, intimidate and harass us”, (referring to herself and Councillor Grace Bawden).
- 5.4.4 On 25 February 2023 at 8.09 am, whilst acting in her capacity as a member of the Council, Ms Burner sent an email to an elected member of the Council, copying in a senior employee of Council and an employee of the Council. In this email, Ms Burner wrote to the elected member in a manner that was inappropriate, aggressive and rude.
- 5.4.5 On 25 February 2023 at 7.44 am, whilst acting in her capacity as a member of the Council, Ms Burner sent an email to an employee of the Council, a senior employee of the Council and another employee of the Council and the joint email address for all members of the Council. In this email, Ms Burner included a joint statement from herself and Councillor Grace Bawden that had been, or was to be, publicly released which made inappropriate, aggressive and offensive comments about the Council and its members.
- 5.4.6 On 25 February 2023 at 7.27 am, in her capacity as a member of the Council, Ms Burner sent an email to various members and employees of the Council. In this email Ms Burner wrote to the recipients in a manner and that was inappropriate, aggressive and rude.
- 5.4.7 Ms Burner ought reasonably to have known that her conduct as described above could adversely affect the health and safety of members and employees of the Council who received her emails.
- 5.4.8 Ms Burner breached her statutory obligation under 75G(1)(a) of the Act in that by engaging in the conduct set out in paragraphs 5.4.1 to 5.4.6 above she failed to take reasonable care that her acts did not adversely affect the health and safety of members of the Council in receipt of her emails.
- 5.4.9 By failing to comply with section 75G(1)(a) Ms Burner committed serious misbehaviour as defined in section 262E of the Act.

5.5 Allegation Four – Serious Misbehaviour 75G(1)(a)

It is alleged on 25 February 2023, at the Adelaide Freedom Rally at the front of Parliament House, Ms Burner made public statements about the Council and its members that were offensive and asked members of the public present at the Rally to sign a petition that made unsubstantiated and serious claims against the Mayor and Deputy Mayor of the Council. In doing so, Ms Burner failed to take

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reasonable care that her acts did not adversely affect the health and safety of other members of the Council and thereby contravened section 75G(1)(a) of the Act, and thereby committed serious misbehaviour.

- 5.5.1 On 25 February 2023 Ms Burner attended the Adelaide Freedom Rally at the front of Parliament House on North Terrace, Adelaide (the **Rally**).
- 5.5.2 At the Rally Ms Burner stated to members of the public words to the following effect in relation to the Council and its members which were offensive:
 - i. “do not believe your mid-witted councils or cowardly councillors when they tell you that they have laws rules and regulations in place to protect you from the privacy breaches, constant surveillance and stalking, they will be stalking us”; and
 - ii. “most councillors are blissfully ignorant about the global political agenda operating above their heads but in plain sight a select few however have been on payrolls for at least a decade ushering in the global fascist utopia which will require you to seek permission to speak, to eat, to travel to work, to even raise a family that’s if your family’s not dead by then, sorry”.
- 5.5.3 At the Rally Ms Burner asked members of the public present to sign a petition against unsubstantiated bullying and harassment from the Mayor and Deputy Mayor of the Council.
- 5.5.4 Ms Burner ought reasonably to have known that her conduct as described above could adversely affect the health and safety of members of the Council.
- 5.5.5 Ms Burner breached her statutory obligation under 75G(1)(a) of the Act in that by engaging in the conduct set out above she failed to take reasonable care that her acts did not adversely affect the health and safety of members of the Council.
- 5.5.6 By failing to comply with section 75F(1) Ms Burner committed serious misbehaviour as defined in section 262E of the Act.

5.6 Allegation Five – Serious Misbehaviour 75G(1)(a)

It is alleged that on 27 February 2023 Ms Burner attended a council meeting in her capacity as a member of the Council and acted in an inappropriate manner by making verbal negative and offensive comments against other members and employees of the Council. In doing so, Ms Burner failed to take reasonable care that her acts did not adversely affect the health and safety of other members or employees of the Council, and thereby contravened section 75G(1)(a) of the Act, and thereby committed serious misbehaviour.

- 5.6.1 On 27 February 2023, Ms Burner attended a council meeting in her capacity as a member of the Council. Present at this meeting were members and employees of the Council.

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- 5.6.2 At the meeting, Ms Burner made negative verbal comments by accusing members present of being “liars”.
- 5.6.3 At or around the conclusion of the meeting Ms Burner behaved in an inappropriate and disorderly manner in the public hallway at the Council Chambers. Ms Burner yelled offensive language about other members and employees of the Council by shouting, “f**k off you all” and “you c**ts”.
- 5.6.4 Ms Burner ought reasonably to have known that her conduct described above could adversely affect the health and safety of members or employees of the Council who were present at the meeting.
- 5.6.5 Ms Burner breached her statutory obligation under section 75G(1)(a) of the Act in that by engaging in the conduct set out above she failed to take reasonable care that her acts did not adversely affect the health and safety of members or employees of the Council present at the meeting.
- 5.6.6 By failing to comply with section 75G(1)(a) Ms Burner committed serious misbehaviour as defined in section 262E of the Act.

5.7 Allegation Six – Serious Misbehaviour 75G(1)(a) and 75G(1)(b)

It is alleged on 20 March 2023 Ms Burner attended via electronic video link the Council Public Policy and Planning Committee in her capacity as a member of the Council and acted in an inappropriate manner by making verbal negative comments and being argumentative with other members of the Council. In doing so Ms Burner failed to take reasonable care that her acts did not adversely affect the health and safety of other members or employees of the Council, and Ms Burner also failed to comply, so far as she were reasonably able, with a reasonable direction that was given by responsible persons for the purposes of ensuring that Ms Burner’s acts or omissions did not adversely affect the health and safety of other members or employees of the Council. Ms Burner thereby respectively contravened section 75G(1)(a) and section 75(1)(b) of the Act, and thereby committed serious misconduct.

- 5.7.1 At all material times, Ms Burner was required to comply with the direction issued to her on 14 March 2023 by Mayor Gillian Aldridge and Mr John Harry, Chief Executive Officer that Ms Burner must not “aggressively shout or yell at any other member of the Council or Council employee” (the Direction).
- 5.7.2 At all material times Ms Burner was required to comply with her statutory obligation under section 75(1)(b) of the Act which provides that a member of a council must “comply, so far as the member is reasonably able, with any reasonable direction that is given by a responsible person for the purposes of ensuring that the member’s acts or omissions do not adversely affect the health and safety of other members of the council or employees of the council”.
- 5.7.3 On 20 March 2023 Ms Burner attended the Council Public Policy and Planning Committee in her capacity as a member of the Council via an electronic video conferencing link. Present at this meeting were both members and employees of the Council.

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- 5.7.4 At the meeting, Ms Burner acted in an inappropriate manner by making argumentative and negative verbal comments. In response to discussion about future reports, Ms Burner yelled “don’t make it look like we’re idiots” referring to herself and Councillor Grace Bawden, and Ms Burner also yelled, “make it clear so that I’m not an idiot so I know what I’m voting for”.
- 5.7.5 At the meeting Ms Burner also yelled “both of us don’t want to participate as long as you guys continue to screw us around like this, enough is enough, when you learn to appreciate us, f**k off” and then Ms Burner disconnected her video link from the meeting.
- 5.7.6 Ms Burner ought reasonably to have known that her conduct described above could adversely affect the health and safety of members or employees of the Council who were present at the meeting.
- 5.7.7 Ms Burner breached her statutory obligation under section 75G(1)(a) of the Act in that by engaging in the conduct described above Ms Burner failed to take reasonable care that her acts did not adversely affect the health and safety of members or employees of the Council present at the meeting.
- 5.7.8 Ms Burner also breached her statutory obligation under section 75G(1)(b) of the Act in that by engaging in the conduct set out above she failed to comply, so far as she was reasonably able, with the Direction that was given by Mayor Aldridge and Mr Harry.
- 5.7.9 By failing to comply with section 75G(1)(a) and section 75G(1)(b) Ms Burner committed two counts of serious misbehaviour as defined in section 262E of the Act.

6. Procedural Fairness

- 6.1 The Panel wrote to Ms Burner on 12 May 2023 detailing the six allegations, providing Ms Burner with the opportunity to respond to the allegations set out in the letter (by close of business on 2 June 2023), and affording Ms Burner with the opportunity to inspect the complaints received by the Panel in person. (Note: The Panel determined to redact personal information to maintain confidentiality of complainants in all circumstances).
- 6.2 The Panel advised Ms Burner that it would consider any written submissions provided by that date as part of its inquiry into the complaints and that should Ms Burner choose not to make a submission, the Panel will conduct the inquiry into the complaints based on the information and advice available to the Panel.
- 6.3 The Panel did not receive a response from Ms Burner.
- 6.4 The Panel also wrote to the Council on 12 May 2023 advising the Council of the correspondence sent to Ms Burner and that no further information was required from the Council at that stage of the inquiry.

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7. Finalisation of Inquiry

- 7.1 The Panel may, after inquiring into a complaint referred to it, take action in accordance with section 262W of the Act.
- 7.2 On 6 June 2023, the Panel met to determine if the alleged behaviour by Ms Burner fell within the definition of serious misbehaviour under section 262E of the Act, and if it did, to consider appropriate actions to take in the circumstances.
- 7.3 The Panel was advised by Mayor Aldridge, in writing, on 19 June 2023, that Ms Burner had been removed from her office as member of the Council under section 54(1)(d) of the Act on 13 June 2023.
- 7.4 The Act does not provide the Panel with jurisdiction over former council members. Given this, the Panel could not finalise its determinations in relation to the allegations regarding Ms Burner and, accordingly, was unable to finalise its inquiry, including considering whether any action would be taken under section 262W of the Act.
- 7.5 The Panel was also advised that an application for a judicial review has been lodged in relation to the Council's decision to remove Ms Burner from office. The Panel is awaiting the outcome of this review and the impact (if any) it may have on whether it is able to recommence its inquiry in relation to Ms Burner.