



District Council of
Mount Remarkable

**BY POST AND EMAIL
PRIVATE AND CONFIDENTIAL**

By email: waynehart01@gmail.com

8 April 2020

Mr Wayne Hart
PO Box 166
MEI.ROSE SA 5483

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Dear Wayne

Allegations – Your Employment

I write in relation to the Council's independent initial investigation into allegations regarding potential breaches of Section 107 of the *Local Government Act 1999* (SA) (the Act).

Given the potential seriousness of this matter, the Council has decided to continue to suspend your employment, with pay.

In the interests of procedural fairness, I write to you to give you an opportunity to participate in the investigation process, and request that you respond to the following allegations and questions as set out below:

Bullying culture in the workplace

1. It is alleged that you know, or ought have known that there is a culture of bullying and harassment in the Council, specifically from or within the operational works team? What actions have you taken to change the culture?
2. It is alleged that on 20 September 2016, you received a complaint (**enclosed**) from Mr Ian (David) Lambert which alleged that he was the victim of workplace bullying, intimidation and harassment by fellow Council employee, Mr John Hadley.
3. It is alleged that you failed to investigate, or direct an employee or engage an independent party to investigate Mr Lambert's complaint.
4. It is alleged that you knew, or ought to have known that there were serious concerns and allegations of bullying and harassment by Mr John Hadley, and failed to take appropriate action.
5. It is alleged that you knew, or ought to have known that if an employee raises serious concerns and allegations of bullying and harassment then it should be investigated and appropriately dealt with.
6. It is alleged that you failed to meet your contractual obligations, specifically, a requirement to maintain a work environment that facilitates the development and encourages people to perform at a high level.
7. It is alleged that you failed to meet your statutory requirements pursuant to Section 107 of the Act, specifically employees must be provided with safe and healthy working conditions.

8. It is alleged that you failed to meet your statutory requirements pursuant to Section 107 of the Act, specifically employees are provided with suitable processes to deal with grievances concerning working conditions or decisions of the supervisors. Specifically, it is noted many staff members requested that their names to remain anonymous as part of this investigation due to fear of reprisal in respect of confirming incidents referred to by Mr Lambert.

Staff Levels / Hiring Process and management of positions

9. Staff turnover has been abnormally high for the past three years, approximately 33% for indoor staff and 42% for outdoor staff. Could you please advise as to why you believe the staff turnover has been at these levels?
10. It is alleged that the high staff turnover levels is failure of your contractual obligations, specifically:
 - a. To ensure retention of staff and put Council in the position of being an “employer of choice”;
 - b. Regularly reviewing remuneration and conditions for senior management and ensuring they conduct similar reviews for their teams to increase retention rates; and
 - c. Monitoring and proactively managing staff turnover.
11. It is alleged that often when employees are promoted internally, that these employees do not stay in the Council’s employ for a long time.
 - a. As such, it is alleged that you have failed to meet your statutory requirements pursuant to Section 107 of the Act and contractual obligations, specifically employees are not given reasonable access to training and development to secure promotion and advancement.
 - b. Could you please advise examples of when you have internally promoted staff, given them training and these employees have retained employment with the Council.
12. It is alleged on September 2016, Mr Lambert’s position was unilaterally changed from Team Leader to Property Services Officer by Mrs Jessie White and Mr Hadley.
 - a. It is alleged that Mr Lambert’s position was changed due to an arbitrary decision of Council managers. As such, it is alleged that you have failed to meet your statutory requirements pursuant to Section 107 of the Act, specifically by ensuring that employees are treated fairly and consistently and are not subject to capricious decisions.
 - b. It is alleged that you have failed to have appropriate oversight of Council’s managers, specifically Mr Hadley and Mrs White.
 - c. It is alleged that you have failed to maintain a work environment that facilitates the development and encourages people to perform at a high level.
13. Mr Bruce Conry commenced in the position as a multi-skilled worker on 10 April 2017 and Mr Conry was offered and accepted to commence the position of Operations Manager on 1 May 2017, though this did not eventuate. Mr Hadley and Ms Jessie White decided to re-

advertise the Operations Manager Role, and another employee was appointed to the position, being Mark Dodman, and then Chris Kane.

- a. It is alleged that both Mr Dodman and Mr Kane did not last in the position, with a significant consideration being their treatment from Mr Hadley.
- b. It is alleged that Mr Conry's position was changed due to an arbitrary decision of Council managers. As such, it is alleged that you have failed to meet your statutory requirements pursuant to Section 107 of the Act, specifically by ensuring that employees are treated fairly and consistently and are not subject to capricious decisions.
- c. It is alleged that you have failed to have appropriate oversight of Council's managers, specifically Mr Hadley and Mrs White.
- d. It is alleged that you have failed to maintain a work environment that facilitates the development and encourages people to perform at a high level.

14. It is alleged that there is a culture of unfair and differential treatment within the Council, specifically with outdoor staff. It is alleged that you have failed to demonstrate appropriate leadership and lack appropriate oversight of the operations of outdoor staff.

Leave Access

15. Please advise the process you undertake to have your annual leave and other leave approved.
16. It is alleged that your leave applications are signed off by an employee subordinate to you. It is alleged that this is not in accordance with general HR practices or the requirements of Section 107 of the Act.

Next Steps

You are required to respond to the above allegations in writing by **5.00pm** on **21 April 2020**. Please direct your written responses via email to pmheaslip@mtr.sa.gov.au. Once you have provided a written response to the allegations, I may arrange a meeting with you to discuss the allegations and your responses. You may bring a support person with you to this meeting, should you choose to do so.

I wish to emphasize that the Council has not made any determination regarding your conduct at this time, other than that the matter is a serious conduct issue if the allegations are substantiated. The Council will not reach any conclusion in respect of disciplinary action (which may include termination of your employment), and will not do so until we consider your response. Should I not receive a response by **5.00pm** and **21 April 2020**, the Council will make a decision based on the information currently before it.

Furthermore, the investigation is confidential. You are required to keep the matter confidential, and you are not permitted to communicate about this matter (the fact of the investigation or its content), in any way, with any other employee or third party, with the exception of a support person or representative however this direction applies to them too. If you or your support person/representative do not adhere to this direction, you may be subject to disciplinary action (which may include termination of your employment).

During the suspension period you must remain available to answer any work related matters that may be put to you by Mr Colin Davies, Acting Chief Executive Officer.

I will endeavour to keep you informed regarding the progress of the investigation, which will be undertaken as soon as possible.

I await your response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Phillip Heaslip', written in a cursive style.

Phillip Heaslip
Mayor

Encl.



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**BY POST AND EMAIL
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By email: waynchart01@gmail.com

28 April 2020

Mr Wayne Hart
PO Box 166
MELROSE SA 5483

Dear Wayne

Further Allegations

Since your employment was suspended and allegations provided to you, as part of our ongoing investigation, further serious allegations have come to light.

In the interests of procedural fairness, I write to you to give you an opportunity to participate in the investigation process, and request that you respond to the further allegations and questions as set out below:

Breach of confidentiality

In my letter of 8 April 2020, the following direction was made:

Furthermore, the investigation is confidential. You are required to keep the matter confidential, and you are not permitted to communicate about this matter (the fact of the investigation or its content), in any way, with any other employee or third party, with the exception of a support person or representative however this direction applies to them too. If you or your support person/representative do not adhere to this direction, you may be subject to disciplinary action (which may include termination of your employment).

1. It is alleged that, through your lawyer, Mr Greg Griffin, you are in breach of this direction in that Mr Griffin appeared on ABC Radio and discussed the investigation, and was clearly noted as acting on your behalf.
2. It is alleged that Mr Griffin, acting on your behalf, breached the direction in an attempt to influence, interrupt or end the investigation.
3. It is alleged that Mr Griffin, acting on your behalf, breached the direction in an attempt to pressure elected members in relation to the investigation.

Accessing Grace Days

4. During the most recent Christmas closure, it is alleged that you accessed three paid "grace days" which you are not entitled to in accordance with your contract of employment.

5. It is alleged that you have been in receipt of a monetary benefit which you knew or ought to have known you were not entitled to pursuant to your contract of employment.

You are required to respond to the further allegations at the same time of responding to the initial allegations Please direct your written responses via email to:
pmheaslip@mtr.sa.gov.au

I wish to emphasize that the Council has not made any determination regarding your conduct at this time, other than that the matter is a serious conduct issue if the allegations are substantiated. The Council will not reach any conclusion in respect of disciplinary action (which may include termination of your employment), and will not do so until we consider your response. Should I not receive a response by stipulated time, the Council will make a decision based on the information currently before it.

Furthermore, I again reinforce that the investigation is confidential. You are required to keep the matter confidential, and you are not permitted to communicate about this matter (the fact of the investigation or its content), in any way, with any other employee or third party, with the exception of a support person or representative however this direction applies to them too. If you or your support person/representative do not adhere to this direction, you may be subject to disciplinary action (which may include termination of your employment).

During the suspension period you must remain available to answer any work related matters that may be put to you by Mr Colin Davies, Acting Chief Executive Officer.

I will endeavour to keep you informed regarding the progress of the investigation, which will be undertaken as soon as possible.

I await your response.

Yours sincerely

Phillip Heaslip
Mayor