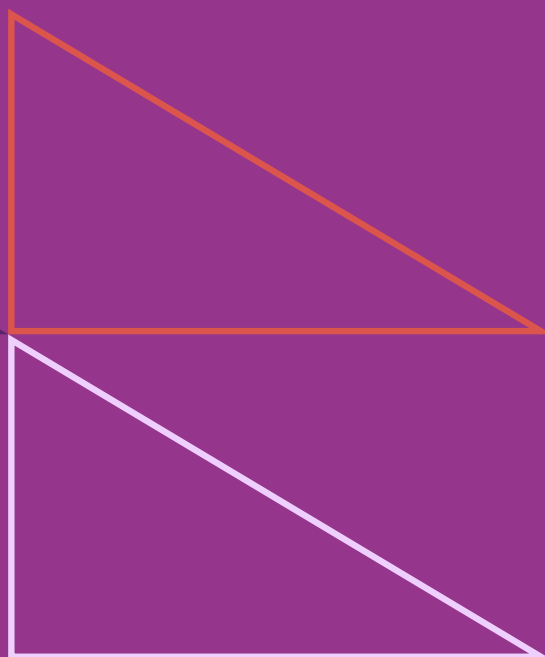




INVESTIGATION



Operation Leo

October 2024

Special report

Acknowledgement

IBAC acknowledges the Traditional Custodians of the lands on which we work and pays respect to Elders past, present and emerging. We recognise and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of Victoria.

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Letter of Transmittal

To
The Honourable President of the Legislative Council
and
The Honourable Speaker of the Legislative Assembly

Special report on Operation Leo

In accordance with section 162(1) of the *Independent Broad-based Anti-corruption Commission Act 2011*, I present IBAC's special report on Operation Leo.

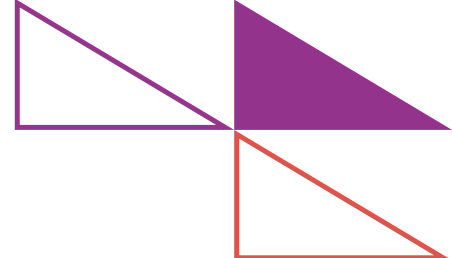
IBAC's findings and recommendations are contained in this report.

Yours sincerely

A handwritten signature in purple ink that reads "Victoria Elliott". The signature is written in a cursive style with a large initial 'V'.

Victoria Elliott
Commissioner
Independent Broad-based Anti-corruption Commission

Glossary



Term	Explanation
MVCC	Moonee Valley City Council
ERSC	Essendon Royals Soccer Club
IBAC Act	<i>Independent Broad-based Anti-corruption Commission Act 2011</i>
Local Government Act	<i>Local Government Act 2020 (Vic)</i>
General conflict of interest	Under the Local Government Act, a general conflict of interest arises if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.
Material conflict of interest	Under the Local Government Act, a material conflict of interest arises where there is a conflict of interest that would result in a person gaining a benefit or suffering a loss depending on the outcome of a matter.
NoM	A Notice of Motion is the proposal that councillors intend to table for decision at council meetings. Councillors may vote on the NoM or propose amendments and vote on those. A majority of a quorum is required to pass a NOM or amendment.

Introduction

This report sets out the findings of the Independent Broad-based Anti-corruption Commission (IBAC)'s investigation Operation Leo, which examined allegations of bribery and misconduct by councillors in the Moonee Valley City Council (MVCC).

The investigation explored whether some MVCC councillors used their positions as elected officials to seek or obtain preferential outcomes for the Essendon Royals Soccer Club (ERSC). Operation Leo also examined whether MVCC councillors sought to obtain financial benefits or other inducements in return for favourable votes.

IBAC found that some MVCC councillors used their positions to inappropriately influence MVCC decisions in favour of third parties and at the expense of other local sporting groups and the wider municipality.

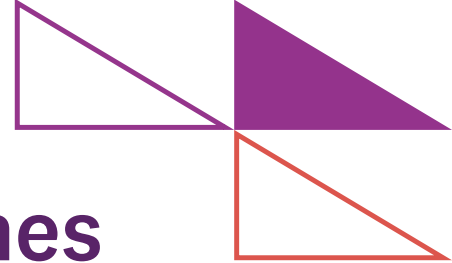
IBAC has previously highlighted similar concerns within Victoria's local government sector. In 2023, IBAC published a special report on Operation Sandon, an investigation into whether councillors at the City of Casey had accepted payments, gifts or other benefits, including political donations, in exchange for supporting council decisions. Operation Sandon identified corruption risks and issues, including councillors misusing their positions and failures of council governance.

IBAC made recommendations following Operation Sandon to strengthen governance within Victoria's local government sector. Some of these recommendations are being addressed through reforms to the *Local Government Act 2020* (Local Government Act), which have recently been considered by Parliament.

Operation Leo highlights the importance of progressing local government reforms to address enduring concerns with councillors misusing their positions for personal advantage and at the expense of public interest.

IBAC is choosing to publicly report on Operation Leo to highlight that public trust can be significantly eroded when elected officials misuse their positions, and to demonstrate how these identified risks remain an ongoing concern for the local government sector in Victoria.

1. Summary of investigation and outcomes



1.1 Overview of the allegations and IBAC's investigation

In May 2023, IBAC commenced Operation Leo to investigate allegations that the president of the ERSC ('the ERSC president') intended to influence MVCC with financial inducement in return for favourable decisions for the ERSC.

IBAC's investigation included four witness interviews, and six witnesses summoned to attend private examinations under Part 6 of the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act) to assist the investigation, conducted in February 2024. IBAC also executed eight search warrants and one summons.

Allegation 1

IBAC received information that indicated the ERSC president was intending to bribe MVCC councillor Cameron Nation and two other councillors through his associate, a construction manager ('the construction manager') known to the councillors. These council decisions included the ERSC being awarded infrastructure funding and preferential full-time access to Cross Keys Reserve sports facility, including a multi-purpose pavilion, which was shared with a cricket club.

Allegation 2

Operation Leo also investigated allegations that MVCC councillors engaged in corrupt conduct to assist with the property development and rezoning of a number of properties owned by the construction manager.

In the course of Operation Leo, IBAC also investigated allegations that some MVCC councillors had received other benefits from the ERSC in exchange for securing council decisions.

1.1.1 Key individuals and entities

Cameron Nation

Cameron Nation served as Mayor of MVCC from October 2020 to October 2021. He resigned from MVCC in March 2024.

Mr Nation was the subject of allegations involving receiving bribes from the construction manager and the ERSC president in return for support on MVCC decisions in favour of the ERSC.

He was also alleged to have directly influenced decisions regarding property-related matters on behalf of the construction manager in exchange for cocaine.

Councillor Narelle Sharpe

Narelle Sharpe is currently serving as Deputy Mayor of MVCC.

Councillor Sharpe and the ERSC president were alleged to have had a relationship that presented a general conflict of interest, over a period of 18 months and commencing in 2021. During this time, she was alleged to have been a strong advocate for securing favourable votes on MVCC decisions relating to the ERSC. She was also the subject of allegations that she and other MVCC councillors received benefits from the ERSC without declaring them under MVCC policy.

Councillor Jacob Bettio

Jacob Bettio is currently a serving councillor at MVCC.

Councillor Bettio was the subject of allegations that he and other MVCC councillors received benefits from the ERSC without declaring them under MVCC policy.

The ERSC president

The ERSC president was alleged to be involved in a bribery scheme with the construction manager to bribe certain MVCC councillors in exchange for favourable votes to award the ERSC access to the Cross Keys Reserve sports facility and pavilion.

He is the co-owner of a restaurant with the ERSC Advisory Board chairperson.

The construction manager

The construction manager is an associate of the ERSC president. He was alleged to have been involved in facilitating a scheme to bribe MVCC councillors to vote on MVCC matters in favour of the ERSC.

The construction manager was further alleged to have supplied Mr Nation with cocaine in exchange for his assistance on several property-related matters, including influencing the outcome of MVCC applications.

The ERSC Advisory Board chairperson

The ERSC Advisory Board chairperson is a major sponsor of the ERSC and co-owns a restaurant with the ERSC president.

He was alleged to have been involved in discussions with Councillor Sharpe in relation to influencing MVCC decisions in favour of the ERSC.

The business associate

The business associate is an associate of the construction manager. He was alleged to have been involved in facilitating drugs for the construction manager to provide to Mr Nation, in exchange for influencing MVCC decisions in relation to several properties.

Essendon Royals Soccer Club (ERSC)

The ERSC is a community soccer club in Melbourne's inner north-west. It was alleged that the ERSC president sought to bribe MVCC councillors in exchange for the ERSC to gain exclusive access to the Cross Keys Reserve sports facility and pavilion.

1.2 What the investigation found

1.2.1 Overview of findings for property-related matters

Mr Nation first formed a friendship with the construction manager in 2020. He was introduced to the construction manager through the business associate and his spouse. The construction manager regularly supplied Mr Nation and his partner with cocaine and Xanax.

IBAC found that on multiple occasions between 2020 and 2022, Mr Nation bypassed proper MVCC processes by directly progressing property-related applications and influencing an MVCC decision on behalf of the construction manager. IBAC heard evidence that Mr Nation, on occasion, received cocaine in exchange for his assistance.

Parking matter

In March 2021, Mr Nation assisted the construction manager with a matter related to parking bays located outside of a business in the municipality, owned by the construction manager's relatives.

IBAC heard that council officers updated the parking signage outside the business in the municipality to reflect shorter timing restrictions and allow for increased customer turnover.

In early March, the business associate messaged Mr Nation, saying, 'We need to sort out parking at [street address of the business in the municipality]'.

Four days later, Mr Nation responded to the construction manager and the business associate, offering to manage the parking issue in exchange for cocaine:

[My partner] wants a little bit of cheek [cocaine]...

I'll sort out [street address of the business in the municipality] for it.

Evidence shows that Mr Nation's partner retrieved cocaine from the construction manager's house the same day.

The MVCC submitted to IBAC that council officers did update the relevant parking signage, although this followed an assessment of options that was unrelated to Mr Nation's intervention, and that officers were professional and independent in this process.

IBAC acknowledges MVCC's submission. However, in text messages, Mr Nation and the construction manager discuss enquiries made by Mr Nation to council officers in relation to the parking. This demonstrates that Mr Nation was acting for and on behalf of the construction manager to advance his interests.

When examined by IBAC, Mr Nation explained the parking matter as a 'misalignment issue', whereby the public parking spots were incorrectly attributed to titles for private property owners. However, Mr Nation conceded that the construction manager was the only person to raise concerns with him regarding the parking bay and that only the business in the municipality owned by relatives of the construction manager, was impacted by the issue.

Initially in his evidence, Mr Nation also denied that he assisted the construction manager on the basis that he would receive cocaine in return. However, when referred to his messages to the construction manager and the business associate, he accepted that the messages demonstrate a clear offer of assistance in exchange for cocaine.

Planning application and graffiti matter

Evidence received by IBAC showed that on multiple occasions, Mr Nation enquired with council staff on the progress of a planning application for the development of townhouses, submitted by the construction manager in relation to a property owned by his relative. Messages exchanged in June 2021 between the construction manager and Mr Nation reference Mr Nation receiving drugs in exchange for progressing the planning application.

In June 2021, the construction manager messaged Mr Nation, stating: ‘Can u [sic] check where it is at please...I will fix u up...7 [grams] of the best’.

When examined by IBAC, Mr Nation acknowledged that his direct intervention in escalating the planning application bypassed proper MVCC processes, and that council staff had no awareness of his relationship and the rewards he was receiving in exchange for assisting the construction manager.

Further, IBAC received evidence that Mr Nation enquired about a Notice to Comply issued by MVCC to remove the graffiti from the rear of the same property owned by the construction manager’s relative. The notice was eventually withdrawn, although this was the result of a general policy reassessment, rather than a response to any perceived influence by Mr Nation.

However, Mr Nation claimed credit for the notice withdrawal. In reference to the parking bays matter, he stated in a message to the construction manager:

Can’t believe I’m that efficient. Gold medal standard, that and the graffiti. God status.

When examined by IBAC, Mr Nation acknowledged that this message referred to actions he had taken to assist the construction manager as a friend and in exchange for cocaine.

These matters demonstrate Mr Nation’s clear awareness of his conduct and willingness to misuse his position to bypass proper council processes.

Other property-related matters

Evidence showed that Mr Nation was involved in progressing and enquiring about MVCC matters relating to properties that were of interest to the construction manager and the business associate.

In March 2021, Mr Nation and the business associate discussed developing apartments on a vacant lot of land. The business associate sought Mr Nation’s help to make an application to MVCC to increase height restrictions, which would have allowed for additional apartments to be built on the site. IBAC did not find evidence that the request was made by Mr Nation on the business associate’s behalf, and did not find evidence that the height restrictions were increased. However, Mr Nation shared site plans of the vacant lot with the business associate, describing the issue in a message as an ‘easy fix’.

In May 2021, the construction manager sought Mr Nation’s help on planning approvals and permits required to build a shop on the vacant land. Mr Nation enquired with council staff on whether a planning application was required. Mr Nation advised the construction manager of the progress of the application in a message:

...still waiting for planning to tell me how we can get around things.

Need to talk to them in person so no paper trail.

IBAC did not find evidence that the construction manager purchased or developed the vacant land as intended, or that MVCC’s planning staff were aware of Mr Nation’s intentions to bypass council processes. However, Mr Nation’s reference to a ‘paper trail’ demonstrates an intentional attempt to conceal his involvement in the matter by avoiding a written record of his conversations to MVCC planning staff.

In December 2021, the construction manager sought Mr Nation’s help to support a planning permit application submitted by the construction manager’s relative for a building project. The construction manager advised Mr Nation that an MVCC planner was preventing approval of the permit due to floodplain guidelines. In exchange for supporting the permit application, Mr Nation was offered ‘14 of the best’, a reference to 14 grams of cocaine. In response, Mr Nation requested the address of the property. IBAC was unable to determine if this matter progressed further following this discussion.

IBAC found that Mr Nation's frequent discussions with the construction manager, and on occasion the business associate, demonstrate that Mr Nation was an aware and willing participant in efforts to bypass formal MVCC processes. Additionally, Mr Nation intentionally failed to declare any conflicts of interest and repeatedly used his position as councillor and mayor to benefit his personal relationships and, at times, did so in exchange for cocaine.

1.2.2 Overview of findings related to the ERSC

IBAC found that Mr Nation, Councillor Sharpe and Councillor Bettio used their positions to influence MVCC decisions in favour of the ERSC and at the expense of other local sporting groups and the wider municipality. These councillors consciously engaged in voting on MVCC matters related to the ERSC, despite receiving undeclared hospitality from the ERSC, and they actively sought to secure votes to grant the ERSC exclusive access to Cross Keys Reserve and Pavilion, outside of formal MVCC meetings.

IBAC examined events between 2021 and 2023 where councillors advocated for decisions preferential to the ERSC. It was alleged that during this time, a councillor discussed payments from the ERSC between \$15,000 and \$50,000 in exchange for securing these votes and advocating on behalf of the ERSC at MVCC meetings.

IBAC did not find any evidence that MVCC councillors received payments from the ERSC president or any of his associates, including the construction manager. However, IBAC found that several MVCC councillors received other inducements, including dinners paid for by the ERSC, free memberships to the ERSC and an invitation to an event.

These matters are explained in further detail below.

Ormond Park realignment

In March 2021, MVCC passed a resolution to commission a report on the potential realignment of sporting fields at Ormond Park, a sporting reserve in Moonee Valley. The purpose of this review was:

...to ensure existing tenants and sporting codes can share the grounds fairly and equitably whilst catering for seniors and juniors of both codes.

Realignment of the sporting grounds would result in the ERSC losing access to the grounds for junior games and limit the size of the ground available for senior players' games. In response to this resolution, the ERSC put forward a proposal to MVCC seeking access to the Cross Keys Reserve for 45 weeks a year, to allow the ERSC year-round access to the sporting ground, as opposed to the current seasonal allocation.

IBAC found that councillors used their positions to advocate on behalf of the ERSC at MVCC meetings, with an intention of influencing the realignment of Ormond Park in favour of the ERSC. Some councillors who had established relationships with the ERSC manipulated proper MVCC processes by discussing the ERSC's access to Cross Keys Reserve outside of formal MVCC meetings, including at times directly with ERSC officials.

IBAC received evidence that between March and June 2021:

- Councillor Sharpe and the ERSC president had an undisclosed relationship that presented a general conflict of interest.
- ERSC officials, including the ERSC president and the ERSC Advisory Board chairperson, contacted several MVCC councillors individually to discuss the realignment issue, including Councillor Sharpe.
- The ERSC provided a proposal to all councillors. The ERSC's proposal was considered by MVCC in April 2021.
- The ERSC Advisory Board chairperson advised Councillor Sharpe that another MVCC councillor has a relative associated with another soccer club.

- Councillor Sharpe and the ERSC Advisory Board chairperson exchanged multiple messages in April, prior to the MVCC meeting. In these messages, they discussed the ERSC coming to a ‘deal’ with councillors, including the following messages:

The ERSC Advisory Board chairperson: *We really need the Council committed to making a deal. That will keep the footy club happy and Royals will compromise without a fight.*

Councillor Sharpe: *I’m happy with a deal. There a just [sic] a few fruit loops that you will have to deal with...*

The ERSC Advisory Board chairperson: *As long as they are all there and they know why we are having the meeting. I need them committed to a resolution. Not more council politics.*

...they won’t need a report if we can agree to something. The footy club will get what they want.

Councillor Sharpe: *it will still have to come back to council for a formal decision.*

The ERSC Advisory Board chairperson: *Yes but we want to meet with the Councillors to make a deal.*

- In March 2021, prior to the formal MVCC meeting, Councillor Sharpe, Mr Nation, the ERSC president and another councillor met to discuss the realignment of Ormond Park. During this meeting, food and drinks for Councillor Sharpe and Mr Nation were paid for by the ERSC president, neither of whom declared the food and drinks as they were required to do under the MVCC policy.
- Councillor Sharpe, Councillor Bettio and another councillor met prior to the formal MVCC meeting to discuss the realignment option. At this meeting, the councillors discussed amendments that would commit MVCC to reconsider the realignment of Ormond Park if the ERSC were unable to access Cross Keys Reserve 45 weeks in a year. These amendments were put forward by Councillor Bettio and Councillor Sharpe at the MVCC meeting held in April 2021.¹

The ERSC ultimately did not achieve year-round access to Cross Keys Reserve as intended. This was primarily due to relationships between the club and councillors souring, following backlash against councillors from ERSC fans on social media and contention between the ERSC president and a councillor over the ERSC’s response to the realignment. During this time, Mr Nation and Councillor Sharpe separately engaged in discussions with ERSC officials and their associates regarding the matter.

In May 2021, Councillor Sharpe messaged the ERSC Advisory Board chairperson, advising him that ‘[The ERSC president] wants me to chat about this [Councillor] issue with you’.

In June 2021, Mr Nation and the construction manager exchanged a series of related messages:

Mr Nation: *Royals have fucked this by attacking all Councillors. They’ve done it the complete wrong way. Gonna [sic] be hard to recover.*
....

The construction manager: *are u goin [sic] to see [the ERSC president] or you want to wait...*
....

Mr Nation: *I’ll see him tomorrow for a chat but i don’t think I can get the other Crs to vote for full time cross keys. They kinda [sic] shot themself in the foot.*

Although the ERSC was unsuccessful in securing year-round access to Cross Keys Reserve, the amendments put forward by Councillor Bettio and Councillor Sharpe in April 2021 were passed through a majority vote, with six councillors voting in favour.² A majority vote (five out of nine councillors) is required for a MVCC Notice of Motion (NoM) or amendment to pass.

This allowed the ERSC extended access to the sporting ground for training beyond just the winter allocation, and committed MVCC to consider longer seasonal allocation to soccer clubs as part of its sporting field allocation policy.³

¹ Moonee Valley City Council meeting minutes, 13 April 2021, pp 22–23.

² Moonee Valley City Council meeting minutes, 13 April 2021, pp 22–23.

³ Moonee Valley City Council meeting minutes, 13 April 2021, p 24.

When examined, Councillor Bettio agreed that the proposed amendments were beneficial to the ERSC. While he conceded that his involvement was in some respect to support Councillor Sharpe, who he claimed requested he put forward the amendments, he told IBAC that he was ‘generally sold on their [ERSC]’s needs’.

The evidence suggests that Councillor Sharpe sought the support of Councillor Bettio to put forward the amendments on her behalf, as she lacked MVCC support at the time and considered they would be more likely to pass if put forward by Councillor Bettio.

When examined by IBAC, she rejected the proposition that the ERSC Advisory Board chairperson advised her of another councillor’s ‘conflict of interest’ to alert her to potential opposition to the ERSC proposal being approved, and to exclude the councillor from voting on the issue. Councillor Sharpe also denied that her interactions with ERSC officials presented a conflict of interest, and that her involvement in providing advice on the MVCC proposal was inappropriate.

IBAC did not find evidence to suggest that Councillor Sharpe made any attempt to exclude this councillor from voting on the MVCC NoM, based on the alleged conflict of interest raised by the ERSC Advisory Board chairperson. However, Councillor Sharpe knowingly continued to vote on matters and sought the assistance of Councillor Bettio to seek outcomes that were preferential to the ERSC over other sporting clubs, despite having an undeclared conflict of interest with the ERSC president.

IBAC found that Councillor Sharpe, Councillor Bettio and Mr Nation, who was Mayor at the time, used their positions to advocate on behalf of, and to seek favourable outcomes for, the ERSC. At times this involved directly engaging with ERSC officials and their associates to discuss official MVCC matters related to the ERSC. None of the councillors declared these actions, nor any conflict of interest at any time, nor abstained from voting on matters related to the ERSC.

This is discussed in further detail in the following section.

Attempts to influence councillors through gifts/ financial inducements

On 11 March 2023, the ERSC hosted a season launch event at a restaurant owned by the ERSC president. Councillor Sharpe and Councillor Bettio attended, along with three other councillors.

During this dinner, the ERSC president discussed the ERSC’s objectives with the councillors, particularly obtaining year-round access to the Cross Keys Reserve and Pavilion. As part of these conversations, Councillor Bettio and the ERSC president discussed Fairbairn Park, an alternative sporting ground, as an option to provide the ERSC with more soccer pitches.

The ERSC president gifted Councillor Sharpe and Councillor Bettio an ERSC membership card. The membership entitled the councillors to a full membership of the ERSC valued at \$250 each. In contrast, IBAC was informed by another councillor that they were offered a membership on a different occasion, and refused it on the basis that they did not believe it was ‘appropriate for a councillor to receive such a gift’.

IBAC heard evidence that on 13 March 2023, Mr Nation, Councillors Sharpe and Bettio, and two other councillors met informally to discuss budget allocation for Fairbairn Park, another sporting reserve. Councillor Bettio gave evidence that during this meeting, he proposed that a budget of \$300,000, initially proposed for allocation to JH Allan reserve, be re-allocated to Fairbairn Park. Under the master plan for MVCC’s soccer strategy, this would allow for two new soccer pitches to be established at Fairbairn Park.

In his evidence, Councillor Bettio acknowledged that Fairbairn Park was discussed with the ERSC during the season launch. He told IBAC that while the ERSC was ‘amicable to the idea’, its primary objective was to gain year-round access to Cross Keys Reserve.

When questioned on whether the budget re-allocation for Fairbairn Park was to the advantage of the ERSC, Councillor Bettio denied the proposition that he intended to benefit the ERSC specifically over other soccer clubs. The budget NoM was ultimately passed on 9 May 2023.⁴

⁴ Moonee Valley City Council meeting minutes, 9 May 2023.

In the days following the season launch, Councillor Sharpe facilitated a meeting between the ERSC president and select councillors to discuss ERSC's access to Cross Keys Reserve. On 15 March 2023, Mr Nation, Councillors Sharpe and Bettio, and three other councillors attended a dinner at a restaurant co-owned by the ERSC president. With the exception of one councillor, the councillors in attendance had all voted in support of the NoM put forward by Councillor Bettio previously in 2021, in relation to the realignment of Ormond Park.

During the course of this dinner, the ERSC president sought the support of the councillors in granting the ERSC exclusive access to Cross Keys Reserve, including the pavilion.

One councillor was unaware of the purpose of this meeting and was uncomfortable with the attendance of the ERSC president and six councillors. They commented with words to the effect, 'we have a majority of the councillors here. Somebody is going to need to be the adult in the room, I am going to leave'. The councillor decided to leave the event. Another councillor also left.

When examined, Councillor Bettio acknowledged that Cross Keys Reserve and Fairbairn Park were discussed during the dinner, and he accepted that the councillors present were 'like-minded' in their views on the ERSC needing more access to soccer facilities. However, he denied that the councillors made any commitments or agreements to the ERSC that it would receive exclusive access to Cross Keys Reserve or Fairbairn Park. He told IBAC that there was a 'general understanding of what they [ERSC] wanted, and a sense that other councillors would support that'.

Councillor Sharpe similarly gave evidence that some councillors engaged in conversations with ERSC officials during dinner regarding Cross Keys Reserve. However, she denied participation in these discussions.

The councillors present at the dinner were aware that they were meeting with the ERSC to discuss the club's objectives, outside of formal MVCC meetings and in the absence of council staff or other MVCC councillors who had previously been opposed to an amendment that was favourable to the ERSC.⁵

Following the dinner, Mr Nation sent the following message to Councillor Sharpe in reference to another councillor's support for voting in favour of the ERSC:

...has me a little concerned that [they are] a YES, YES, YES but when it comes to the crunch, NO.

Further, the evidence demonstrates an active participation on the part of councillors to influence MVCC decisions, by strategising with ERSC officials and its associates on how to achieve their objectives through MVCC NoMs.

On 30 March 2023, Mr Nation and the construction manager discussed securing another Councillor's vote with respect to Cross Keys Reserve access in a telephone call. During this conversation, Mr Nation advised the construction manager:

I reckon I can get the Cross Keys piece... I reckon I'm four votes, because I reckon I've got to get another one, [name of another councillor]. [They are] almost there.

During the course of the phone call, Mr Nation makes reference to the ERSC president and requests that the construction manager, 'tell him [the ERSC president] Cam's doing a lot of stuff in the background'.

When referred to his phone call under IBAC examination, Mr Nation did not accept the proposition that the conversation indicated a lack of transparency in his efforts to secure another councillor's support to vote in favour of the ERSC's objectives. However, he acknowledged that he was not having similar conversations with other soccer clubs regarding MVCC's soccer strategy or grounds allocation, and that the other soccer clubs were unaware of his conversations with the ERSC.

On 27 April 2023, a NoM was proposed seeking a report on how to prioritise the use of pavilions by soccer clubs during the summer period. Subsequently, an amendment was passed by MVCC granting the ERSC priority access to the pavilion.

In the weeks leading up to the meeting, Mr Nation and Councillor Sharpe, Councillor Bettio and another councillor discussed putting up an amendment to MVCC's Draft Community Facilities Report. Mr Nation put forward the idea to circumvent the potential opposition of council staff, from whom they were facing resistance.

⁵ Moonee Valley City Council meeting minutes, 13 April 2021, pp 22-23.

Mr Nation stated in his messages to the councillors:

They can't strike it out for 'financial implications' because it is a standard report... And they can't refuse it on grounds they could refuse a NoM.

Putting forward an amendment instead of a NoM allowed councillors to bypass the prior involvement and potential scrutiny of council staff.

The amendment was put forward by Councillor Sharpe and seconded by Mr Nation in the meeting of 27 April. It stated:

Soccer Clubs who share their home ground with overflow clubs (ie. clubs that have a home ground and club rooms elsewhere and use the ground as a secondary/overflow venue) shall have first right of access and priority use of the Pavilion during both summer and winter seasons, should the Soccer club apply to use the Pavilion. Change rooms are to remain available for use by the overflow club.⁶

Six councillors voted in favour of the amendment.⁷

In the week following the MVCC meeting, Councillor Sharpe exchanged a series of messages with the ERSC Advisory Board chairperson:

Councillor Sharpe: *No ground allocation motion but I got up a motion to ensure Pavilion access 12 months of the year...which is a start.*

The ERSC Advisory Board chairperson: *It's a great start! Amazing. It's actually a great move... chipping away at it rather than asking for the burger with the lot.*

Councillor Sharpe: *That's the aim.*

When examined, Councillor Sharpe denied that the amendment effectively granted the ERSC the first right of priority and access to the pavilion. This included access to the bar located inside the pavilion, allowing the ERSC to host functions. She told IBAC that the amendment allowed three soccer clubs, including the ERSC, first right of access if they chose it. Despite her awareness that the ERSC had been seeking exclusive access to Cross Keys Reserve and the pavilion since 2021, she claimed that MVCC's decision did not specifically benefit the ERSC, stating, 'if they choose it, they would have the first right of access and priority use, if they chose it. This doesn't dictate whether they choose it or not'.

Councillor Sharpe also disagreed that the messages demonstrate a lack of transparency in her effort to assist the ERSC in seeking their objectives. She asserted that her conduct did not exclusively benefit the ERSC and that her decisions were always made to benefit the entire soccer strategy.

IBAC found that the councillors generally displayed a poor understanding of their obligations with respect to conflicts of interest, as well as declaring gifts and hospitality.

MVCC's Code of Conduct outlines that councillors are to avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits and hospitality of any kind, is attempting to gain favourable treatment.⁸ MVCC's *Councillor Gift Policy* also outlines clear guidelines for councillors to refuse a gift (or offer of a gift) that creates a real, potential or perceived conflict of interest.⁹

All councillors who received an ERSC membership failed to declare it, as well as the hospitality paid for by the ERSC at the season launch event. When examined, Councillors Sharpe and Bettio both attributed their failures to declare the membership to an unawareness of the membership's value or entitlements.

Similarly, Mr Nation, Councillor Sharpe and Councillor Bettio did not declare the free dinner and drinks received. When questioned by IBAC, Mr Nation and Councillors Bettio and Sharpe cited the \$50 threshold in MVCC's gift policy as the reason for failing to declare the dinner and drinks, as their individual meals would have amounted to less than this amount.

⁶ Moonee Valley City Council meeting minutes, 27 April 2023, pp 16–17.

⁷ Moonee Valley City Council meeting minutes, 27 April 2023, p 17.

⁸ City of Moonee Valley 2021, *Councillor Code of Conduct*, p 17.

⁹ City of Moonee Valley 2023, *Councillor Gift Policy*, p 6.

When asked about the potential perceptions of the dinner, Councillor Bettio acknowledged that in hindsight, the ‘optics’ of councillors conducting MVCC business at a restaurant with stakeholders was inappropriate. Councillor Bettio initially disagreed that his attendance at the dinner constituted a conflict of interest. However, he ultimately accepted that he should have declared his presence at the dinner, and in turn, abstained on voting on matters in relation to the ERSC.

Councillor Bettio also acknowledged that the councillors present at the dinner were ‘of the same train of thought’ that the ERSC needed more access to club rooms. Councillor Bettio was asked if he considered whether others who were paying to use the pavilion were disadvantaged by the amendment passed in April. He told IBAC that it was not brought to his attention when considering the matter, but that he should have considered it.

In her evidence, Councillor Sharpe maintained the view that she did not have a conflict of interest in voting on matters related to the ERSC, stating that her voting decisions were ‘completely separate’ to her association with the ERSC and its officials.

Mr Nation similarly told IBAC that he had not considered his association with the construction manager to be a conflict of interest when voting on matters related to the ERSC. He did not display a strong understanding of the conflict of interest policy when examined.

Under MVCC policies and obligations under the Local Government Act,¹⁰ the councillors may not have been required to declare the dinner or membership received if it did not meet the required thresholds or they were genuinely unaware of the membership’s value. However, MVCC’s gift policy also requires councillors to consider:

- who is providing the gift and their relationship to the councillor
- if they are seeking to gain an advantage or influence their decisions or actions
- if they are seeking a favour in return for the gift, benefit or hospitality; and
- if accepting the gift, benefit or hospitality would diminish public trust.¹¹

In accordance with the policy, the councillors should have been cognisant to avoid the perception of favourable treatment and should have declared the gifts and hospitality to promote transparency. This was particularly relevant in circumstances where the seasonal allocation of access to MVCC facilities was a contested issue for the local community.

Although some evidence heard demonstrated a poor understanding for policy obligations, IBAC is not satisfied that the failures to declare gifts, hospitality and conflicts of interest were due simply to a lack of awareness or consideration. The evidence rather suggests that failures to disclose conflicts of interest and gifts were more likely the result of intentional efforts to conceal such conflicts and relationships by councillors.

Those in attendance at the dinner in March 2023 made up a majority vote of like-minded councillors who were aware and supportive of the ERSC’s objectives. Councillors had participated in several conversations with ERSC officials and their associates about access to Cross Keys Reserve and the pavilion, including in 2021. Councillors had attended events hosted and paid for by the ERSC, including the season launch days before. Councillors discussed how to pass MVCC NoMs favourable to the ERSC outside of formal MVCC meetings, in the absence of other MVCC councillors or staff who would have made record of the meeting and provided independent advice on the matters. None of these attendances nor discussions were disclosed at MVCC meetings.

Councillors present at the dinner failed to declare the hospitality, did not declare a conflict of interest and did not withdraw from voting on MVCC matters related to the ERSC. Instead, they continued to participate in voting on, and putting forward, proposals that were preferential to the ERSC.

¹⁰ Local Government Act 2020 (Vic), s 128.

¹¹ City of Moonee Valley 2023, Councillor Gift Policy, p 8.

Bribery scheme

IBAC heard evidence that in March 2023, the construction manager and the ERSC president discussed bribing councillors to secure favourable votes for the ERSC.

Based on financial analysis and the evidence of witnesses, IBAC could not substantiate that any payments were ultimately made. However, evidence suggests an intent on the part of the construction manager and the ERSC president to bribe councillors in exchange for awarding the ERSC access to Cross Keys Reserve and the pavilion.

IBAC heard that the possible bribes discussed ranged from \$15,000 to \$50,000, to be split among Mr Nation and two other councillors as an incentive to vote favourably for the ERSC. The construction manager additionally sought \$10,000 for his role as 'middleman' between the ERSC and councillors.

IBAC did not substantiate allegations that any councillors other than Mr Nation engaged directly in conversations with the ERSC or the construction manager regarding bribes.

In an intercepted telephone call between the construction manager and the ERSC president in early April 2023, the construction manager alleged that Mr Nation and a second councillor explicitly requested payment to get a third councillor 'on board' and secure the vote in favour of the ERSC at the upcoming MVCC meeting in May 2023. The conversation was alleged to have taken place during a walk between Mr Nation, the second councillor and the construction manager the day before.

The construction manager and the councillors allegedly discussed bribes of \$15,000 each per year, or a one-time payment between \$40,000 and \$50,000, to be split among Mr Nation and two other councillors. The construction manager also stated that he provided Mr Nation with seven grams of cocaine during this conversation, with a value of \$2000.

When referred to the telephone intercept under examination, Mr Nation was adamant that he did not request any monies for himself nor that he requested any payment to secure another councillor's vote. Mr Nation did not recall going on any walks with the construction manager, or receiving any drugs from the construction manager during this time. During examination, Mr Nation gave an explanation that the construction manager may have referenced his name, and other councillors, because he was acting out of self-interest to achieve his own desired outcome.

When questioned by IBAC, the second councillor did not know why their name had been referenced in the construction manager and the ERSC president's phone call, saying they had 'barely ever spoken to him [the construction manager]. I don't think I've ever really spoken to him'. The councillor stated that they had never gone for a walk with the construction manager and that the conversation regarding bribes had never occurred.

The construction manager also gave subsequent evidence that he had never had personal dealings with the second councillor, in contradiction to his conversation with the ERSC president where he alleged the councillor had sought payment for securing another councillor's vote. Under examination, the ERSC president denied that he personally, or the ERSC, provided the construction manager with money to bribe councillors. He denied any involvement or intent to bribe councillors in return for securing MVCC decisions to grant the ERSC exclusive access to Cross Keys Reserve.

In April 2021, Mr Nation, the ERSC president and the construction manager met to discuss the ERSC's access to sporting grounds. Mr Nation, the construction manager and the ERSC president exchanged several messages in relation to the Ormond Park realignment.

In examinations, Mr Nation told IBAC that the construction manager repeatedly raised the notion of paying councillors in exchange for favourable MVCC votes over text messages. He estimated the range of payments to be between \$30,000 and \$60,000. IBAC did not find evidence to substantiate that these payments were ever made.

Messages exchanged between the construction manager and Mr Nation in March 2023 similarly highlight explicit reference to the ERSC bribing councillors to obtain year-round access to Cross Keys Reserve:

The construction manager: *Get them [ERSC] to pay*

....

Mr Nation: *If I can get a way of giving them cross keys year round, then just before it happens you swing in and tell them they need to cough \$.*

....

The construction manager: *You tell me 2 weeks before you think u [sic] can make it happen... you leave the rest to me.*

When viewed in the context of the surrounding circumstances, the messages demonstrate an intent on Mr Nation's part to foster a payment arrangement through the construction manager, in exchange for facilitating exclusive year-round access to Cross Keys Reserve for the ERSC.

On 24 April 2023, three days prior to the MVCC meeting where an amendment related to Cross Keys Reserve Pavilion was put forward, the construction manager messaged Mr Nation asking that he call him. One message stated, 'I have 30k'. Mr Nation and the construction manager made arrangements to meet on the day of the MVCC meeting, however it is unclear if this meeting went ahead.

When referred to the messages, Mr Nation acknowledged that he was aware the construction manager was attempting to broker a payment deal on behalf of the ERSC. However, he rejected the claim that he had engaged in several conversations regarding financial inducements with the construction manager in the lead-up to the upcoming MVCC meeting and emphasised that only the construction manager had initiated conversations around payments in their interactions.

Under the MVCC's *Councillor Gift Policy*, councillors are required to report attempts, or perceived attempts, of bribery to the CEO or Public Interest Disclosure Co-ordinator.¹² While IBAC repeatedly heard from councillors that they were not involved in efforts to obtain bribes, the councillors failed to declare their awareness or concerns regarding attempts of bribery by the construction manager or the ERSC.

Mr Nation told IBAC that he did not report his concerns regarding the construction manager's proposal of \$30,000 to \$60,000. Despite his evidence that the construction manager persistently sought financial gain by utilising Mr Nation's relationship with the ERSC, he did not report any of these conversations, including the reference to \$30,000 days before the council meeting.

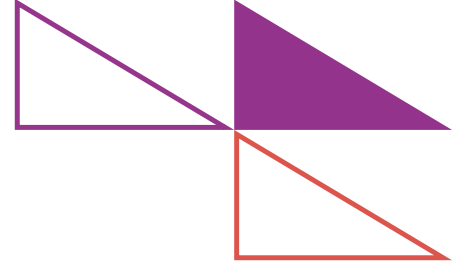
When examined, Councillor Bettio told IBAC that the business associate on one occasion requested his assistance in removing a street pole in front of his residence and stated, 'how much will it take'. Councillor Bettio said that he did not action the request and that he, 'sort of laughed it off'. Councillor Bettio did not report the business associate's offer of payment to anyone at MVCC.

Councillor Sharpe told IBAC that she first became aware of the alleged payment arrangement between the construction manager, Mr Nation and another councillor from the ERSC president, who told her about it in April 2023. When asked why she did not report the intended bribe to the CEO or anyone else at MVCC, Councillor Sharpe said she was fearful for her own personal safety. She told IBAC, 'I'd be involving myself, and I don't want to be involved in anything like that'.

IBAC also received confidential information indicating that other MVCC councillors held concerns regarding Councillor Sharpe's close association to the ERSC. However, these concerns were not reported.

¹² City of Moonee Valley 2021, *Councillor Code of Conduct*, p 9.

2. Systemic corruption vulnerabilities



Operation Leo highlighted risks associated with some councillors manipulating or bypassing appropriate processes to their personal advantage or the advantage of third parties.

These councillors were not acting in the interest of the community. Instead, they sought to influence MVCC decisions and sought preferential outcomes to benefit their personal relationships and interests.

The ways in which councillors misused their positions are outlined in the following sections.

Such behaviour has been previously highlighted in IBAC's Operation Sandon. Following that investigation, IBAC made recommendations to reform local council governance to strengthen corruption protections. While the scale of the behaviour identified in Operation Leo is not as broad as that identified in Operation Sandon, both investigations underline the urgent need for reform.

Operation Sandon

Operation Sandon was an investigation by IBAC into allegations of corrupt conduct involving councillors and property developers in the City of Casey (Casey Council) in Melbourne's south-east. It also examined the effectiveness of Victoria's systems and controls for safeguarding the integrity of the state's planning processes.

The investigation found several councillors within Casey Council accepted payments, gifts, or other benefits. These benefits included political donations in exchange for support on planning matters that favoured the interests of a property developer. These gifts and donations created conflicts of interest which the developer and his associates exploited to obtain decisions that prioritised the interests of the developer over broader community interests.

IBAC's investigation found that weaknesses in the Casey Council's processes and procedures enabled private interests to improperly affect council decision-making.

In response to the findings in Operation Sandon, IBAC made recommendations to help prevent and identify corruption across local government in Victoria. These reforms included:

- developing a councillor code of conduct and a set of governance rules to be adopted by all Victorian councils
- listing expectations about the interactions between councillors and council staff in the councillor code of conduct

- strengthening councillor training requirements on governance, leadership, and integrity
- improving the integrity of council meetings including tightening the regulation of pre-council meetings, prohibiting 'en-bloc' or collective voting where multiple agenda items are voted on at the same time, and improving record-keeping of meetings
- tightening governance of conflicts of interest including improving the transparency of conflict of interest disclosures, and prohibiting conflicted councillors from attempting to influence other councillors
- strengthening complaints processes and ensuring any sanctions for misconduct are adequate and transparent.

In response to these recommendations, the Government implemented reforms to the *Local Government Act 2020* to introduce mandatory training for elected representatives, a uniform Councillor Code of Conduct and strengthened powers for the Minister for Local Government to address councillor conduct. The Government has stated it will also develop regular mandatory training for councillors and mayors, including on conflicts of interest.

[More information about Operation Sandon and the related recommendations for reform is available on the IBAC website.](#)

2.1 Councillor integrity obligations

Councillors are elected officials and they are responsible for engaging with a wide variety of community stakeholders, council staff, and their fellow councillors in a lawful and constructive manner. The standards of conduct that councillors must uphold are outlined in the Local Government Act, associated regulations and individual councils' governance rules and codes of conduct.

The Local Government Act specifies that a councillor must not use their position to gain or attempt to gain a direct or indirect advantage for themselves for any other person; or cause, or attempt to cause, detriment to the council or another person.¹³ The Local Government Act states that council codes of conduct should specify 'the standards of conduct expected to be observed by councillors in the course of performing their duties and functions as councillors'.¹⁴

The standards of conduct that must be reflected in all councillor codes of conduct are detailed in the *Local Government (Governance and Integrity) Regulations 2020*.¹⁵ Those standards include:

- complying with any policy, practice or protocol developed and implemented by the council's Chief Executive Officer (CEO)
- enforcing the governance rules adopted by the council
- not discrediting or misleading the council or public.¹⁶

The MVCC's Code of Conduct had been signed by the councillors investigated during Operation Leo. The code includes a specific undertaking that councillors would uphold the public trust in the office of councillor by refraining from any action or behaviour that would bring MVCC into disrepute.¹⁷

IBAC identified some councillors contravened these obligations by failing to follow proper processes, not declaring conflicts of interest, not declaring gifts and hospitality and not reporting suspected corrupt conduct. Details of these contraventions are outlined in more detail in the following sections.

IBAC heard from some councillors that they were uncertain of their obligations under the code, or they considered that their actions were consistent with their obligations when IBAC considered otherwise. However, the evidence suggests that failures to disclose conflicts of interest and gifts were more likely the result of deliberate concealment by councillors.

IBAC's investigation also highlights the importance of developing a uniform councillor code of conduct and a set of governance rules for all Victorian councils. This uniform code should be supported by additional councillor training on governance, leadership, and integrity.

2.2 Failure to follow proper processes

Council processes must be transparent to ensure that authority in councils is exercised appropriately and the community's trust is maintained. Without proper processes, there is a risk that council decisions might be improperly influenced. Poor governance can also undermine a council's effectiveness and allow decisions to be disputed. This can damage councillors' reputations and the community's trust in their local government.

Within a council, some decision-making authority and powers sit with the elected councillors and separate authority sits with council staff. Under MVCC's Code of Conduct, councillors could not direct a member of council staff in the exercise of a delegated power, or the performance of a delegated duty or function of Council.¹⁸

This separation between the duties and powers of councillors and council staff is important to promote confidence in the impartiality and rigour of council staff's advice and recommendations.

¹³ *Local Government Act 2020* (Vic), s 123(1).

¹⁴ *Local Government Act 2020* (Vic), s 139.

¹⁵ *Local Government (Governance and Integrity) Regulations 2020* (Vic), Sch 1.

¹⁶ The standards of conduct in *Local Government (Governance and Integrity) Regulations 2020*, reg 12 and Sch 1, cls 1(c), 2(b), 2(c), 3(a), 3(c), and 4(1) and (2) respectively, with reference to LGA 2020, ss 46 for policies developed by the CEO and 60 for governance rules adopted by the council.

¹⁷ City of Moonee Valley 2021, *Councillor Code of Conduct*.

¹⁸ City of Moonee Valley 2021, *Councillor Code of Conduct*, p 12.

In the council matters examined in Operation Leo, council staff provided impartial advice to the appropriate decision makers and appropriate governance around meetings. However, this advice and these processes were undermined by the undisclosed actions of councillors who sought to promote the interests of third parties in ways that were not transparent. Furthermore, some councillors deliberately excluded council staff from discussions, in instances where the councillors considered that the integrity of council staff members could represent a challenge to the councillors' objectives.

For example:

- Mr Nation assisted the construction manager to progress applications in several identified property-related matters within the Moonee Valley City local government area. While Mr Nation did not have the authority to grant approvals himself, he sought to influence a staff member who held this power in relation to one matter. This was inappropriate, not transparent, and inconsistent with his obligations under the MVCC code of conduct.
- Councillors discussed putting forward amendments instead of a NoM to circumvent potential opposition by council staff. IBAC considers that this represents an intentional act to avoid the impartial and rigorous input from council staff.
- Councillors discussed and sought to gain support for council matters informally ahead of meetings. This included when councillors met at a restaurant in 2023 to discuss ERSC-related matters and were provided with dinner and drinks that were paid for by the ERSC. Such discussions were not disclosed prior to any formal MVCC meeting.

IBAC's *Operation Sandon special report* recommended that the Minister for Local Government develop a Model of Transparency Policy to make clear that councillors must not discuss the substance of agenda items in private, and to highlight that deliberation, not just voting, in public is important.¹⁹

Open and transparent decision-making processes ensure councillors are accountable for the decisions they make on behalf of the community. People should be able to clearly see how and why a decision was made – what information, advice and consultation council considered, and which legislative requirements (when relevant) council followed.²⁰

By not following proper processes, the actions of some councillors involved in Operation Leo had the potential to undermine the community's trust in MVCC's decisions.

In addition to obligations in relation to decision making processes, MVCC's Code of Conduct also placed obligations on councillors around the misuse of information. Under the Code, councillors could not intentionally or recklessly disclose information that they knew, or should have reasonably known, was confidential information.²¹

IBAC identified instances of councillors inappropriately discussing MVCC business with constituents. For example:

- Councillor Sharpe updated ERSC officials on the progress of matters at council and on strategies to achieve exclusive access to the Cross Keys Reserve and the pavilion. Such discussions gave the ERSC an unfair advantage over other community bodies when seeking the allocation of MVCC resources.
- Mr Nation on several occasions discussed the progression of applications related to properties owned by the construction manager and his relatives. This involved Mr Nation sharing MVCC documents such as site plans with the construction manager and the business associate.

While the information shared in these instances was not confidential, it created a perception that the recipient of that information had been given an unfair advantage in relation to MVCC decision making.

¹⁹ Independent Broad-based Anti-corruption Commission 2023, *Operation Sandon special report*, IBAC, Melbourne, Recommendation 22, p 255.

²⁰ Municipal Association of Victoria, Victorian Local Governance Association, Local Government Victoria, and Local Government Professionals 2012, *Good Governance Guide*.

²¹ City of Moonee Valley 2021, *Councillor Code of Conduct*.

2.3 Conflicts of interest

Conflicts of interests occur when a public officer's private interests conflict with their public duties and their responsibility to act in the public interest. Councillors should appropriately identify, declare and manage any conflicts to reassure the public that decisions are made impartially.

The Local Government Act refers to two broad classes of conflicting interests:

- A *general* conflict of interest arises if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.²²
- A *material* conflict of interest arises if an affected person would gain a benefit or suffer a loss depending on the outcome of a matter.²³

The Act makes clear that, to manage a conflict of interest, a councillor must do two things:²⁴

1. Disclose the conflict of interest in the manner required by the council's governance rules.
2. Exclude themselves from the decision-making process in relation to that matter, including any discussion or vote on the matter at any council meeting or delegated committee, and any action in relation to the matter.

Under the MVCC Code of Conduct, councillors were directed not to participate in a decision on a matter in which the councillor had a conflict of interest.²⁵

In Operation Leo, IBAC identified several examples where councillors failed to declare or fully disclose their conflicts of interest, as well as instances of conflicted councillors attempting to influence other councillors. These included:

- Mr Nation using his position as Mayor to influence a matter on behalf of the construction manager and bypassing council processes, drafting correspondence to MVCC impersonating the construction manager and his wife.
- Councillors attending a dinner with, and paid for by ERSC officials, where council matters involving ERSC were discussed, prior to voting in support of a NoM favourable to ERSC.
- Mr Nation and Councillor Sharpe continuing to sit on MVCC, involving themselves in decisions concerning the ERSC and advocating in support of the ERSC, despite undisclosed personal relationships with ERSC officials and their associates.

Gifts, benefits and hospitality have the potential to create conflicts of interest. The Local Government Act requires gifts to be disclosed if they have a total value of \$500 or more.²⁶ However, the Act creates an exception for reasonable hospitality received by a councillor at an event or function that they attended in an official capacity.²⁷

The MVCC *Councillor Gift Policy* sets out guidelines to ensure councillors do not accept gifts or benefits that may result in a sense of obligation or could be interpreted as an attempt to influence.²⁸ The policy requires gifts or hospitality to be declared if they have a value of \$50 or more.²⁹ However, it states that councillors should not accept a gift (or offer of a gift) that creates a conflict of interest (real, potential or perceived).³⁰

For any benefits and hospitality valued under \$50, the policy also outlines that gifts may only be accepted if acceptance would not cause any real, potential or perceived conflict of interest, and the gift should not be a regular occurrence.³¹

²² *Local Government Act 2020*, s 127.

²³ *Local Government Act 2020*, s 128.

²⁴ *Local Government Act 2020*, s 130(2).

²⁵ City of Moonee Valley 2021, *Councillor Code of Conduct*, p 12.

²⁶ *Local Government Act 2020*, s 128.

²⁷ *Local Government Act 2020*, s 128.

²⁸ City of Moonee Valley 2023, *Councillor Gift Policy*, p 4.

²⁹ City of Moonee Valley 2023, *Councillor Gift Policy*, p 6.

³⁰ City of Moonee Valley 2023, *Councillor Gift Policy*, p 6.

³¹ City of Moonee Valley 2023, *Councillor Gift Policy*, p 7.

Under MVCC's Code of Conduct, councillors are directed to avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, was attempting to gain favourable treatment from an individual councillor or from Council.³² Furthermore, MVCC's *Procurement Policy* directs councillors to exercise the utmost discretion in accepting hospitality from organisations or individuals with whom they had official dealings.³³ Councillors are also directed to promptly alert the CEO to any irregular approaches from organisations or individuals, no matter how vague the evidence available.³⁴

During Operation Leo, IBAC identified instances of councillors receiving gifts, benefits and hospitality from organisations or individuals with whom they had official dealings. This included:

- councillors attending dinners that were arranged and paid for by the ERSC without declaring the hospitality to promote transparency, in line with the MVCC's Councillor Code of Conduct³⁵
- councillors receiving an ERSC membership without declaring the gift in accordance with MVCC's Code of Conduct and applicable policies.³⁶

In the course of Operation Leo, IBAC heard evidence from councillors that indicated they had a poor understanding of what constituted a conflict of interest and their obligations to declare gifts and hospitality. For example:

- Under examination by IBAC, Councillor Bettio stated that at the time of the events in question, it was not apparent to him that he should have declared a conflict of interest when he received hospitality from the ERSC prior to voting on matters connected to the ERSC.

- Councillor Sharpe displayed a narrow understanding of a general conflict when examined about her understanding of conflicts of interest under the Local Government Act. She maintained the view that she did not have a conflict of interest in voting on matters related to the ERSC.
- When examined on his understanding of the Local Government Act, Mr Nation could not clearly define what constituted a conflict of interest.

Where a councillor has a personal interest in a matter, the public is right to query whether those interests have affected a councillor's decision. Council policy requires councillors to be conscious of the perceptions of bias. Some MVCC councillors failed to disclose their conflicts of interest and exclude themselves from related decision-making processes. In turn, this created a perception that those processes may not have been fair.

The evidence heard in examinations reflects a poor awareness of responsibilities under legislation and MVCC policy. However, IBAC's findings reflect that failures to disclose gifts and conflicts of interest were more likely a result of intentional concealment by councillors. Councillor Sharpe and Mr Nation were experienced councillors, each having served for over 10 years in their positions and serving as Mayor during this time. Further, MVCC councillors received training on the Local Government Act in 2020.

Where councillors deliberately conceal conflicts of interest and continue to vote on matters or involve themselves in related council decisions, there is an opportunity to circumvent scrutiny or oversight by council staff or other councillors.

Some ambiguities within MVCC's related policies, and the claimed poor understanding identified among councillors regarding their obligations, highlight the need for stronger state-wide conflict of interest provisions for councillors.

32 City of Moonee Valley 2021, *Councillor Code of Conduct*, p 17.

33 City of Moonee Valley 2013, *Procurement Policy*, p 13.

34 City of Moonee Valley 2013, *Procurement Policy*, p 13.

35 City of Moonee Valley 2021, *Councillor Code of Conduct*, p 17.

36 City of Moonee Valley 2023, *Councillor Gift Policy*.

The required reforms include:

- improving the transparency of, and level of detail required in, conflict of interest disclosures
- developing conflict of interest training to be completed by all Victorian councillors
- prohibiting conflicted councillors from attempting to influence other councillors
- ensuring that contraventions of obligations are addressed in a timely and effective manner.

Following Operation Sandon, IBAC made recommendations for these reforms to the Minister for Local Government.³⁷ The Government subsequently proposed reforms to the Local Government Act to address these recommendations.³⁸

2.4 Failure to report corrupt conduct

Encouraging councillors and council staff to report suspected corrupt conduct and then providing effective processes to manage those reports is an important corruption prevention strategy.³⁹ Some Victorian councils include obligations to report corrupt or unethical conduct in their codes of conduct and policies.⁴⁰

However, there is no obligation under the Local Government Act for councillors to report suspected corrupt conduct if they become aware of it. Nor was there any obligation outlined in MVCC's Councillor Code of Conduct to make such reports.

Under MVCC's *Procurement Policy*, councillors are directed to promptly alert the CEO to any irregular approaches from organisations or individuals, no matter how vague the evidence available.⁴¹ MVCC's *Councillor Gift Policy* similarly contains requirements that a councillor who receives a gift offer that they believe is an attempted bribe, or believes another councillor has been solicited for an attempted bribe, must report the matter to the CEO or Public Interest Disclosure Co-ordinator, who should report any criminal or corrupt conduct to Victoria Police or IBAC.⁴²

In Operation Leo, some councillors became aware of suspected or alleged corrupt conduct, but did not report it to MVCC, Victoria Police or IBAC. For example:

- Councillor Sharpe became aware that another councillor was alleged to be involved in a bribery scheme but made no attempts to try and prevent it and did not report it. Councillor Sharpe's evidence was that she did not report her awareness of the scheme, as she was fearful for her safety.
- Councillor Bettio alleged that the business associate asked him what price it would take for his assistance in relation to a property matter. Councillor Bettio did not report this conversation.

Creating an obligation to report corrupt conduct recognises that councillors have an important role to play in corruption prevention and supporting ethical and honest cultures within local government.

Recommendation 1

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria includes in the Model Code of Conduct for Councillors a clear expectation that councillors report suspected corrupt conduct. The Model Code should include guidance on how councillors should report such conduct, including how to ensure compliance with the *Public Interest Disclosures Act 2012*.

³⁷ Independent Broad-based Anti-corruption Commission 2023, *Operation Sandon special report – Recommendations*, www.ibac.vic.gov.au/media/1177/download pp 7–9.

³⁸ Premier of Victoria, 20 March 2024, *Strengthening Planning And Local Government*, www.premier.vic.gov.au/strengthening-planning-and-local-government.

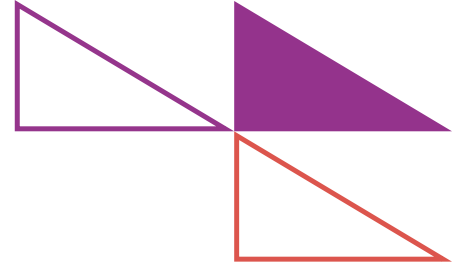
³⁹ Independent Broad-based Anti-corruption Commission, 2019, *Local government integrity frameworks review*, IBAC, Melbourne, pp 75–80.

⁴⁰ See for example Melbourne City Council 2020, *Councillor Code of Conduct*, p 14, South Gippsland Shire Council 2021, *Fraud and Corrupt Conduct Policy*, p 3, and Bayside City Council 2021, *Councillor Code of Conduct*, p 20.

⁴¹ City of Moonee Valley 2013, *Procurement Policy*, p 13.

⁴² City of Moonee Valley 2023, *Councillor Gift Policy*, p 9.

3. Conclusions



Operation Leo highlights how decision making in local government can be corrupted.

IBAC’s investigation identified that several councillors used their positions to influence MVCC decisions, bypass MVCC decision-making processes and inappropriately disclose MVCC information.

When councillors misuse their positions as elected officials, they undermine a council’s effectiveness and the community’s trust in their local government.

IBAC considers that reforms within Victoria’s local government sector are needed to strengthen corruption resilience and help prevent the type of conduct identified in Operation Leo and that have previously been highlighted in Operation Sandon.

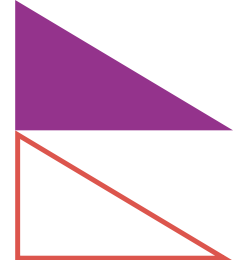
Following Operation Sandon, IBAC recommended extensive reforms to strengthen council governance. These proposed reforms included introducing consistent obligations across councils, improving transparency in decision making, preventing improper influence, improving reporting and data collection, strengthening processes for declaring and managing conflicts of interest, improving redress for improper conduct and ensuring associated penalties are adequate.

In response to some of these recommendations, in June 2024, the Government passed the *Local Government Amendment (Governance and Integrity) Act 2024* (The Amendment Act). The Amendment Act includes reforms to strengthen council leadership, capability and councillor conduct, improve early intervention and effective dispute resolution and strengthen oversight mechanisms.⁴³

These reforms help make Victoria’s local government sector stronger and more resilient to the actions of corrupt individuals. Such changes also encourage public confidence in the integrity of councils and public officials, and the important roles they play in our communities.

⁴³ *Local Government Amendment (Governance and Integrity) Act 2024*, www.localgovernment.vic.gov.au/council-governance/local-government-amendment-governance-and-integrity-bill-2024.

Appendix A: Natural justice requirements and responses



IBAC's obligations to persons and public bodies identifiable by the publication of a special report are set out in ss 162(2) to 162(4) of the IBAC Act. There are also constraints under s 162(7) of the IBAC Act on when IBAC may identify a person in a special report who is not the subject of an adverse comment or opinion which are explained below.

Where IBAC intends to include in a special report an adverse comment or opinion about a person or an adverse finding about a public body, ss 162(2) and 162(3) of the IBAC Act require IBAC to provide those persons/public bodies with a reasonable opportunity to respond to the relevant comments, opinions or findings and the evidentiary material on which they are based. In Operation Leo, IBAC did this by providing witnesses with extracts from a draft version of this report.

IBAC has a further obligation under ss 162(2) and 162(3) of the IBAC Act to fairly set out in this report each element of any response it receives.

IBAC also has an obligation under s 162(4) to notify persons who IBAC intends to identify in a special report who are not the subject of an adverse comment or opinion and provide such persons with the material in relation to which IBAC intends to identify them. In Operation Leo, IBAC also invited those persons to respond to the material.

IBAC received several responses to a draft version of this report (from adversely and non-adversely mentioned witnesses). Material changes have been made to the body of this report as a result of those responses. Elements of responses not incorporated in the body of the report, or not fully incorporated, are reflected in this Appendix. Elements of responses which IBAC considered extraneous to this report and its evidentiary basis are not reflected in this report.

Why IBAC has named some persons and not others in this report

Section 162(7) of the IBAC Act prohibits IBAC from identifying a person in a special report, who is not the subject of an adverse comment or opinion, unless IBAC is satisfied that:

- it is necessary or desirable to do so in the public interest;
- it will not cause unreasonable damage to the person's reputation, safety or wellbeing; and
- IBAC states in the report that the person is not the subject of any adverse comment or opinion.

In addition to this statutory limitation, IBAC sometimes decides not to name a person who is the subject of adverse comment or opinion where naming that person would be unfair or unreasonable in the circumstances. For example, where a person is the subject of an adverse allegation but IBAC's investigation has uncovered no evidence of wrongdoing by that person and naming them may lead to unreasonable damage to their reputation.

People named or referred to in the report and responses to the draft report

Cr Jacob Bettio

Gifts/financial inducements

In his natural justice response Councillor Bettio submitted that natural justice requires that IBAC name all councillors referred to in Part 1.2.2, 'Attempts to influence councillors through gifts/financial inducements' contained at pages 10 to 13 (inclusive) of this report, or name none.

IBAC considers that fairness and compliance with the IBAC Act required IBAC to identify some but not all the councillors in this instance.

Cr Narelle Sharpe

Relationship between Councillor Sharpe and the ERSC President

In her natural justice response Councillor Sharpe submitted that the assertion contained at page 5 of Part 1.1.2 of this report (extracted below) that she had a relationship with the ERSC President for 18 months from March 2021 is incorrect.

Councillor Sharpe and the ERSC president were alleged to have had a relationship that presented a general conflict of interest, over a period of 18-months and commencing in 2021.

IBAC notes that the report refers to the relationship commencing in 2021 and does not mention a month. The duration of their relationship was established based on evidence obtained during the investigation.

27 April amendment

In reference to the amendment put forward by Councillor Sharpe and seconded by Mr Nation in the meeting of 27 April, at page 12 of Part 1.2.2 of this report Councillor Sharpe submitted that the report suggests she put forward the amendment because she was influenced, manipulated or directed by Mr Nation. Councillor Sharpe submitted that the amendment was her own and she was not directed to put it forward by Mr Nation.

IBAC notes that the report does not state that Councillor Sharpe was under the influence of, manipulated or directed by Mr Nation to put forward the amendment. The report sets out the evidence IBAC obtained about the events leading up to the amendment being approved. This includes communications among the councillors, including Mr Nation, to advance the amendment.

Concealment of conflicts and relationships by councillors

Councillor Sharpe submitted that the statement contained at page 13 of Part 1.2.2 of this report (extracted below) is not supported by the evidence she gave, and was put to her in her examination:

The evidence rather suggests that failures to disclose conflicts of interest and gifts were more likely the result of intentional efforts to conceal such conflicts and relationships by councillors.

Councillor Sharpe also submitted that while it may be the case that other councillors deliberately concealed gifts or conflicts, such a finding is not open with respect to her.

IBAC disagrees with this contention and relies on the evidence contained in this report.

Bribery scheme

In response to this report, Councillor Sharpe was concerned that she would be unfairly implicated in the bribery scheme in circumstances where there was no evidence to suggest that she was.

Councillor Sharpe submitted that IBAC should identify the councillors involved in the alleged bribery scheme for transparency and to remove the opportunity for ill-informed speculation. Councillor Sharpe took issue with IBAC not naming the councillor she referred to in her evidence about her knowledge of the alleged bribery scheme.

IBAC considers that fairness and compliance with the IBAC Act required IBAC to identify some but not all the councillors involved in the alleged bribery scheme.

IBAC further considers that the report is clear that there is no evidence to suggest that Councillor Sharpe was offered or requested a bribe, or was in any way involved in the alleged bribery scheme.

System corruption vulnerabilities

Councillor Sharpe submitted that the following extract in part two of the report 'System Corruption Vulnerabilities' gives the impression that bribes were received, and should be amended to present a more complete summary of the Commission's findings in relation to the Councillors' misuse of their position:

Operation Leo highlighted risks associated with some councillors manipulating or bypassing appropriate processes to their personal advantage or the advantage of third parties.

Councillor Sharpe submitted that she never asked for, received or was approached about a bribe. To the extent that she obtained personal benefit from her relationship with the ERSC, it was limited to hospitality worth less than \$50 (which is within the threshold for gifts and hospitality) and a club membership worth \$250 (which is a nominal value provided by the Club and the membership is valuable only because it permits admission to the games without a ticket which would be approximately \$10 to \$15 per game).

IBAC considers the report is clear regarding Councillor Sharpe's level of involvement in the matters investigated in Operation Leo.

In relation to why Councillor Sharpe did not report her awareness of the alleged bribery scheme, Councillor Sharpe submitted that she was fearful for her safety (which she expressed to IBAC in her private examination).

Councillor Sharpe submitted that IBAC's recommendation in this report (that the Model Code of Conduct includes a clear expectation to report corrupt conduct) be accompanied by the creation of necessary safeguards to protect the safety of the person making the report.

IBAC notes the provisions of the *Public Interest Disclosure Act 2012* which provides protections and supports people who make disclosures about corrupt or improper conduct.

Public bodies named or referred to in the report and responses to the draft report

Moonee Valley City Council

Background: City of Moonee Valley Protocol for Councillor and Council Staff Interaction

In its submission, the MVCC provided to IBAC background information regarding its Protocol for Councillor and Council Staff Interaction (the Protocol). In summary:

1. The Protocol was published in July 2021 following consultation with council staff and councillors.
2. The purpose of the Protocol is to provide clarity for councillors and staff about their respective obligations under the *Local Government Act 2020* (LGA), and relevant Codes of Conduct. The Local Government Inspectorate identified the Protocol as a best practice policy (www.lgi.vic.gov.au/best-practice-council-policies).
3. The Protocol emphasises that the LGA requires appropriate separation between the governance and administrative/operational functions of council, reflecting as it does best practice in governance and risk mitigation. The Protocol lists a number of potential risks that may arise when councillors have direct dealings with staff, and points out that these risks are magnified for less senior staff members because of the power imbalance between councillors and staff.
4. The Protocol acknowledges councillors' role as elected representatives of the community, and recognises that, in this capacity, they will be entitled to request action, advice and/or information on matters pertaining to the day-to-day running of council business. To ensure a consistent, coordinated and timely response, and to mitigate the potential risks identified, councillors and staff are required to comply with the arrangements detailed in the Protocol when dealing with a councillor request for any action, advice or information.
5. In recognising that risks are magnified for less senior staff members having direct contact with councillors, as a general rule councillors are only allowed to directly contact Executive Leadership Team (ELT) members when raising queries or seeking assistance, information or the like. But it also recognises that, at times, it will be beneficial for councillors to speak directly with other senior council staff when preparing for strategic briefings and meetings. This is acceptable provided that prior arrangements are made through the relevant director or other ELT member.
6. The Protocol also provides for exceptions where day-to-day interaction with councillors is inevitable due to the nature of the role. Direct contact is allowed with:
 - a. the Manager Planning and Building, in acknowledging the specialised expertise involved and frequency of planning matters brought to the Chamber for decision;
 - b. the Councillor Liaison Officer;
 - c. Appropriate members of the Governance team in relation to governance matters;
 - d. Appropriate members of the Communications team on urgent media or digital matters involving or concerning the Councillor;
 - e. Councillor Support Officers, as they provide day to day support to the Mayor and Councillors;
 - f. the Chief Information Officer (CIO); and
 - g. the Chief Financial Officer (CFO).

7. The Protocol also provides a table outlining who to contact with different types of requests. The Councillor Liaison Officer is the contact for operational requests / complaints from residents and community members escalated to councillors. The Protocol also outlines a detailed process and procedure regarding councillor requests and logging issues on behalf of residents/community, with the main emphasis on creating an appropriate separation between councillors and the operational level staff who are tasked with day-to-day decisions.
8. This background information regarding how the Protocol came into force and works is important, because it highlights the integrity of council's operation while recognising councillors' role as elected representatives of the community and their need to raise issues/ enquiries on behalf of their constituents.
9. Customer requests raised by councillors (referred to as 'Councillor CRMs') are centrally registered by the Councillor Liaison Officer, with progress reported to all councillors weekly. As per the Protocol, operational officers communicate with residents/ community members concerning progress and outcomes. As well as being transparent, this separation also aims to send a clear message to residents that regardless of whether they raise their issues through a council operational channel or through their ward councillors they will be treated consistently, therefore encouraging residents to report their requests or issues directly with council's operational areas or the customer service portal.

Graffiti matter

With respect to the graffiti matter, the MVCC submitted that it is satisfied that council staff acted appropriately and in accordance with the Protocol. The MVCC also submitted that the operational decision to withdraw notices to comply was in response to large number of graffiti issues reported both through community members and councillors, and the need to review an outdated Graffiti Management Policy.

The MVCC submitted that in mid-2021, the council's Graffiti Management Policy (adopted in 2015) and guidelines were reviewed (and amendments adopted in November 2022).

During this review period, notices to comply for removal of graffiti were not issued to residents. Any resident who had been issued with a notice to comply was advised that the notice to comply had been retracted, with no further action to be taken.



ibac

**Strengthening
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