



Report into Allegations of Serious Misconduct by Councillors of the City of Perth between 21 and 24 October 2017

18 December 2017



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Corruption and Crime Commission

| | | | |
|-----------------------|---|---------------------|--|
| Postal Address | PO Box 7667 Cloisters Square PERTH WA 6850 | Email | info@ccc.wa.gov.au |
| Telephone | (08) 9215 4888 1800 809 000 (toll free for callers outside the Perth metropolitan area) | Website | www.ccc.wa.gov.au |
| Facsimile | (08) 9215 4884 | Twitter | @CCCWestAus |
| | | Office Hours | 8.30 am to 5.00 pm, Monday to Friday |

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CORRUPTION AND CRIME COMMISSION

Mr Nigel Pratt
Clerk of the Legislative Council
Parliament House
Harvest Terrace
PERTH WA 6000

Ms Kirsten Robinson
Clerk of the Legislative Assembly
Parliament House
Harvest Terrace
PERTH WA 6000

Dear Mr Pratt
Dear Ms Robinson

As neither House of Parliament is presently sitting, in accordance with the *Corruption, Crime and Misconduct Act 2003* (CCM Act) s 84, the Commission hereby transmits to you a copy of its Report into Allegations of Serious Misconduct by Councillors of the City of Perth between 21 and 24 October 2017.

The Commission notes that under the CCM Act s 93, a copy of a report transmitted to a Clerk of a House is to be regarded as having been laid before that House.

Yours sincerely

John McKechnie, QC
Commissioner

18 December 2017

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INTRODUCTION

[1] On Saturday 21 October 2017, elections were held for four council positions on the City of Perth. Councillors (Cllrs) Steven Hasluck and Alexis (Lexi) Barton were elected to council for the first time. Cllrs Dimitrios (James) Limnios and Reece Harley were re-elected. They joined Cllrs Janet Davidson, Jimmy (Jim) Adamos, Lily Chen and Jemma Green.

[2] Cllr Limnios had been elected Deputy Lord Mayor in 2015.

[3] The position of Lord Mayor remains, but at the time of the election, Cllr Lisa Scaffidi had stood aside pending a decision on an appeal against suspension from holding office.

[4] It was known by all that on Tuesday 24 October 2017, a Special Council Meeting would be held immediately following the swearing-in of recently elected councillors.

[5] The purpose of the meeting was twofold: to elect a Deputy Lord Mayor; and to allocate council positions on committees.

[6] Councillors receive an attendance fee or allowance of \$31,364 per annum. The Deputy Lord Mayor receives an additional allowance of \$33,977.25, equivalent to 25% of the Lord Mayor's annual allowance.

[7] A City of Perth councillor is required to serve on at least one of the five standing committees of council:

- Finance and Administration;
- Planning;
- Marketing, Sponsorship and International Engagement;
- Audit and Risk; and
- Works and Urban Development.

[8] In addition to those committees, there are a number of statutory bodies, regional local governments, city convened working groups and external organisations which require City of Perth representation.

[9] Some pay the nominated councillor modest attendance fees, though two, Tamala Park Regional Council and Mindarie Regional Council, pay significant attendance fees of \$10,455 and \$10,300 respectively per annum, plus entitlement to minor reimbursements.

- [10] A deputy council member for each of the Regional Councils receives an attendance fee of \$236 (Tamala Park) and \$140 (Mindarie) per meeting attended in place of the nominated councillor.
- [11] The Special Council Meeting opened at 6.11 pm on 24 October 2017 and was attended by all councillors. An attempt to elect a Deputy Lord Mayor by secret ballot produced a deadlock of four votes each for Cllrs Limnios and Harley. Council adjourned to meet privately. The discussions took some time.
- [12] At 9.09 pm, Council reconvened. Cllr Green was nominated unopposed for the position of Deputy Lord Mayor. The CEO duly declared Cllr Green Deputy Lord Mayor for a term expiring on 19 October 2019. The appointment is uncontroversial and no allegation has been made about it. Council then filled the various committee positions.

Background to the allegations

- [13] Before the 21 October 2017 election, it was widely believed that Cllrs Limnios and Harley would offer themselves as candidates for Deputy Lord Mayor.
- [14] On Sunday 22 October 2017, Cllr Harley contacted each councillor to advise them that he would stand for election as Deputy Lord Mayor and to ask if they had any preference to serve on any particular committee. He met with, or spoke by phone or text to every councillor before the Special Council Meeting.
- [15] He met with Cllr Limnios at the Dome café in Northbridge on Sunday at around 5.30 pm.
- [16] On 27 October and 7 November 2017, the CEO of the City of Perth, Mr Martin Mileham, notified the Commission of allegations of serious misconduct by Cllrs Harley and Limnios.
- [17] The allegations arose from events between the announcement of the results of the election late on Saturday evening, 21 October 2017, and the Special Council Meeting of Tuesday evening, 24 October 2017.
- [18] An allegation is based on reasonable suspicion.¹ The making of an allegation does not imply that there is substance to it. Reporting an allegation of serious misconduct is a statutory duty imposed on the CEO.

¹ CCM Act 2003 s 28(2).

Allegation by Councillor Harley in respect of Councillor Limnios

[19] An allegation was made by Cllr Harley that in discussions with Cllr Limnios, he was offered a financial inducement to not contest the Deputy Lord Mayoral position by either Cllr Limnios splitting the Lord Mayoral allowance (\$33,977.25 per annum) with Cllr Harley, or by Cllr Limnios putting him on a consultancy.

[20] It is common ground that Cllr Harley met Cllr Limnios at about 5.30 pm at the Dome café in Northbridge on Sunday 22 October 2017, and that they sat together in a booth.

[21] It is also common ground that Cllr Harley had a list of committees and names which he showed to Cllr Limnios. It is common ground that they discussed their claims to be Deputy Lord Mayor.

[22] Cllr Harley gave evidence that during the course of the conversation, Cllr Limnios said "Look mate if it's about the money, I'm happy to split the deputy allowance with you or put you on a consultancy". Cllr Harley gave evidence that his immediate response was "Look James I don't think it's appropriate to talk about financial transactions", and Cllr Limnios said "No, no, no, that's not what I meant".²

[23] Cllr Limnios gave unequivocal sworn evidence; there was no such conversation and no such offer made by him.

[24] There is no direct evidence other than that of the two participants.

[25] Cllr Adamos recollects that just before the Special Council Meeting, Cllr Harley said to him "... James has just offered me \$50,000 and a job, you know, for me to pull out of the race".³

[26] Cllr Barton acknowledged she could not remember the conversation very well because of the circumstances she was in. Her recollection is that in the course of a conversation about Cllr Davidson, Cllr Harley told her Cllr Limnios had offered him a job:

... I think through Councillor Limnios's father's company; so I don't know how he would have done that, but ---

...

He said it was essentially, not really a job, it was just a way of getting cash to him, kind of thing. Those weren't his exact words, but that was - the gist of the conversation ...⁴

² R J Harley transcript, private examination, 13 November 2017, p 42.

³ J Adamos transcript, private examination, 21 November 2017, p 21.

⁴ A L F Barton transcript, private examination, 20 November 2017, p 11.

- [27] Cllr Green's recollection was that on the night of the Special Council Meeting, Cllr Harley told her that Cllr Limnios had tried to bribe him not to run for Deputy Lord Mayor, and that he was going to or had told the CEO.⁵
- [28] Cllr Harley's evidence was that he told Cllr Barton and Cllr Adamos that he had been offered money by Cllr Limnios.⁶
- [29] A person who promises, offers or suggests a reward for, or on account of, or to induce, electoral conduct or a promise of electoral conduct is guilty of the offence of bribery.⁷
- [30] The Commission has taken into account the evidence of Cllrs Adamos and Barton. Cllr Harley's evidence that a bribe was offered is credible. Cllr Limnios' denial that a bribe was offered is also credible. In the absence of a verified recording of their conversation, the Commission is unable to determine which account is correct.
- [31] In considering the evidence, the Commission applies a standard of proof on the balance of probabilities recognising the seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, and the gravity of the consequences flowing from an opinion of serious misconduct.⁸
- [32] Having regard to those considerations, the Commission does not form any opinion of serious misconduct in respect of Cllr Limnios.

Allegations by Councillor Limnios in respect of Councillor Harley

- [33] An allegation was made by Cllr Limnios that Cllr Harley co-ordinated the allocation of elected member appointments to certain paid external committee positions, in return for supporting Cllr Harley's candidacy for the Deputy Lord Mayoral position.
- [34] The Commission examined on oath every councillor of the City of Perth. Leaving Cllr Limnios to one side for the moment, every councillor gave evidence that Cllr Harley did not offer them any committee position, paid or otherwise, in return for their vote for him as Deputy Lord Mayor. Every councillor gave evidence that they were not induced by any other councillor to vote in a particular way in return for any proffered favour.

⁵ J M Green transcript, private examination, 20 November 2017, p 14.

⁶ R J Harley transcript, private examination, 13 November 2017, p 52.

⁷ *Criminal Code* s 96.

⁸ *Re Day* [2017] HCA 2; (2017) 91 ALJR 262 [14 - 16]; *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* [1992] HCA 66, (1992) 67 ALJR 170; *Briginshaw v Briginshaw* (1938) 60 CLR 336, 362.

[35] Cllr Limnios made a second allegation arising from the Dome café meeting. In his letter of complaint to the CEO, he stated 'Councillor Harley confirmed that if I did not pursue my nomination for Deputy Lord Mayor, Councillor Harley would not run as Lord Mayor and would ensure I was nominated to the committees that I desired'. In his evidence, Cllr Limnios did not repeat this allegation:

I can only say what he's told me, he told me to withdraw my nomination for deputy lord mayor and he would support me in whatever I wanted to, and not only that, he wouldn't run against me for lord mayor, and I said to him, "I'm not interested in what you have to offer or what you have to say," and I was thinking to myself, who the hell are you? You know, he was trying to shake me down, that's what he was doing. He could sniff, he could sniff an opportunity and he was trying to jump at it.⁹

[36] Cllr Harley denied that this conversation occurred. Even if it did occur, the offer of support cannot amount to an offer of a bribe. It cannot amount to serious misconduct. It is part of the democratic process.

[37] It is unlikely that Cllr Harley offered Cllr Limnios any inducement. He did not do so to any other councillor. The substantial probabilities are that no inducement of the kind alleged by Cllr Limnios was offered. Cllr Harley gave evidence that during the course of the meeting at the Dome café, he said that for financial and other reasons, he would not run for Lord Mayor if a vacancy arose.

[38] On a number of occasions during his evidence, Cllr Limnios allowed speculation and conjecture to distort the actual facts. For example:

... he wouldn't run against me for lord mayor, and I said to him, "I'm not interested in what you have to offer or what you have to say," and I was thinking to myself, who the hell are you? You know, he was trying to shake me down, that's that he was doing. He could sniff, he could sniff an opportunity and he was trying to jump at it.¹⁰

... He – did he say, "I have promised"? I can't recall exactly the specifics. That was fresher in my mind at that time. It could've been my assumption, "I'll give her" and I've called – I've read it as "promised" but "I'll give her that role".

Or "back her" which is the expression you used earlier. Would you agree there's a difference between backing someone and promising them a position?--Yes, sir.

How did you understand Councillor Harley could possibly give you what you want?

--I understood that he couldn't but he was – in my view, he was taking leadership over this process and was basically trying to tell me, "Listen, back off. I've got this – I'm going to take this role but let's do it in a nice way."

⁹ D A Limnios transcript, private examination, 29 November 2017, p 15.

¹⁰ Ibid.

When you say he was taking leadership, do you think perhaps he was showing leadership - -?---No.

--- in instigating this conversation with the councillors?---No, he was – he was trying to stand over me. He was trying to dominate me. He was trying to tell me, "You don't have the numbers. I've got Janet locked away – I've got Janet locked in behind me."

When you say you understood that he couldn't do this, did you say that to him, that he couldn't ensure that you had a certain position?---That's right, because it's determined by council.

...

*Did you say it to him on the night?---Yeah, I've told him. I said, "It's all determined by council." I said, "I don't know what you're talking about, you know. We can't, you can't, nobody can. It's all on the night what's going to happen."*¹¹

*Where's the evidence or indication that deals were being done?---Okay. This is a direct response to me saying, "Mate, I don't do any of these deals," and him thinking, thinking, thinking, thinking, thinking - -*¹²

[39] To his credit and towards the end of his evidence, Cllr Limnios conceded that he may have misinterpreted the facts.

Do you think that that sort of stress and anxiety might lead you on occasion to distort otherwise normal conversations or matters?---Sir, there's no – there's no doubt that with - under pressure and anxiety and stuff like that that you might not intentionally distort but - - -

*No, not intentionally?--- - - - misinterpret something or you may feel that something else was meant but that something else was said, yes, sir.*¹³

[40] Cllr Harley did try to co-ordinate the appointment process. He says he did this to fill a leadership void. He was also open about his intention to offer himself for election to Deputy Lord Mayor. Some councillors found his approach helpful; others less so, but all swore that he did not offer them any committee position in return for their vote.

[41] The Commission has formed an opinion that there is no evidence to support the allegations of serious misconduct by Cllr Harley.

[42] Cllr Limnios also alleged that Cllr Harley 'has been spreading false and harmful allegations against me, in an attempt to sway the votes of councillors leading up to the Deputy Lord Mayor election'.¹⁴

¹¹ D A Limnios transcript, private examination, 29 November 2017, pp 17-19.

¹² D A Limnios transcript, private examination, 29 November 2017, p 22.

¹³ D A Limnios transcript, private examination, 29 November 2017, p 44.

¹⁴ Letter from Councillor Limnios to Mr Martin Mileham, CEO, City of Perth, 30 October 2017.

- [43] The Commission has serious doubt that this allegation, if proved, could amount to serious misconduct.¹⁵ However, assuming favourably to Cllr Limnios that the allegation could amount to serious misconduct, the evidence does not support such an opinion.
- [44] The allegation referred to by Cllr Limnios is the allegation made by Cllr Harley and reported to the CEO, who notified the Commission. Cllr Harley also told Cllrs Adamos and Barton of the Dome café conversation before the Special Council Meeting.
- [45] Because the evidence as to whether Cllr Limnios offered Cllr Harley a bribe is in equipoise, the Commission cannot determine if the statements by Cllr Harley are false. It does not have jurisdiction to determine defences under the *Defamation Act 2005* s 30.
- [46] The Commission therefore forms no opinion of serious misconduct in respect of Cllr Harley in relation to this allegation.

Why the Commission investigated and is reporting

- [47] The City of Perth is the capital city of Western Australia.¹⁶ The Council comprises the Lord Mayor and eight councillors. Council is responsible for a budget of nearly \$200m per annum.¹⁷
- [48] The notifications received by the Commission concerned two of these councillors, one of whom had previously held the office of Deputy Lord Mayor.¹⁸
- [49] The allegation that Cllr Harley had tried to bribe councillors with committee positions received extensive media coverage during the week in which the Special Council Meeting was held. The coverage alleged Cllr Davidson, a long time councillor and former Deputy Lord Mayor, may be implicated.
- [50] Since the Commission's report on the City of Perth Lord Mayor on 5 October 2015, controversy and allegations have from time to time swirled around the council. The coverage before the Special Council Meeting fuelled further controversy.
- [51] While the Commission will generally report when it has formed an opinion of serious misconduct, there are times when the public interest

¹⁵ CCM Act s 4(a)-(c).

¹⁶ *City of Perth Act 2016*.

¹⁷ \$197,217.302: www.perth.wa.gov.au/annual-budget-2017-2018.

¹⁸ The Commission is to have regard to the seniority of any public officer to whom the allegation relates and the nature of the serious misconduct: CCM Act s 34(2)(a).

is served in knowing that the Commission has thoroughly investigated an allegation, or allegations, and either formed no opinion of serious misconduct or concluded there is no evidence of serious misconduct.

[52] This is such a case.

CHAPTER ONE

The jurisdiction of the Commission and the investigation

[53] The Commission has jurisdiction in respect of public officers including City of Perth councillors.¹⁹

[54] The term of a councillor elected in an ordinary election (which this was), concludes on the third Saturday in October in the fourth year after the year in which the term began, and begins on the day after the ordinary elections. On Sunday 22 October 2017, both Cllrs Limnios and Harley became public officers.²⁰

[55] The Commission assessed the two notifications received from the CEO and decided to conduct an investigation into possible serious misconduct by Cllr Limnios and Cllr Harley.

[56] The Commission gathered documentation and other relevant materials including emails, text messages, Facebook pages and council documents. The Commission took evidence in private examination from every councillor:

- Reece James Harley (13 November 2017)
- Steven Jeffrey Hasluck (20 November 2017)
- Jemma Marie Green (20 November 2017)
- Alexis Louise Foster Barton (20 November 2017)
- Jimmy Adamos (21 November 2017)
- Lily Chen (21 November 2017)
- Janet Elizabeth Davidson (21 November 2017)
- Dimitrios Athanasios Limnios (29 November 2017)

[57] The events the subject of each notification occurred between late evening on Saturday 21 October 2017, and the conclusion of the Special Council Meeting on 24 October 2017.

[58] Although the Commission took evidence about matters outside this time period, this report concentrates on the events leading up to the Special Council Meeting.

¹⁹ CCM Act s 3; *Criminal Code* s 1.

²⁰ *Local Government Act 1995* s 2.28.

CHAPTER TWO

The Special Council Meeting - 24 October 2017

- [59] The main purposes of the Special Council Meeting were to elect a Deputy Lord Mayor and to appoint councillors to standing committees and other bodies and committees. All councillors were present.²¹
- [60] The minutes record that after the reading of the prayer at 6.11 pm, the CEO declared the meeting open. The CEO announced that nominations for Deputy Lord Mayor were about to close and that nominations had been received from Cllr Harley and Cllr Limnios.
- [61] After the close of nominations, a secret ballot was conducted. Following the count of votes, the returning officer declared that Cllr Harley and Cllr Limnios received an equal number of votes. It was agreed the meeting be closed with votes to be cast a second time at a Special Council Meeting to be held later in the evening of 24 October 2017.
- [62] The minutes record that at 7.56 pm the CEO declared the meeting open. The CEO asked council whether more time was required to consider nominations for the office of Deputy Lord Mayor. Council requested the meeting be adjourned for one hour. The CEO announced that the meeting would be adjourned to allow elected members to consider nominations for the office of Deputy Lord Mayor. At 7.58 pm, the CEO declared the meeting adjourned.
- [63] Councillors gave consistent evidence about the adjourned discussions. Over the next three hours, every councillor was considered for the position of Deputy Lord Mayor in turn, except for the newly elected Cllrs Barton and Hasluck. At times, discussions in smaller groups took place. At one point, Cllr Green was approached to allow her name to go forward. She discussed the matter with her husband and declined. Discussions continued. It has been described as "cathartic". Eventually, Cllr Green was approached again and this time, she did not demur.
- [64] The minutes record that at 9.09 pm, the CEO declared the meeting open and announced that in accordance with the *Local Government Act 1995*, nominations for the office of Deputy Lord Mayor were about to close. Cllr Harley nominated Cllr Green for the office of Deputy Lord Mayor. Cllr Green accepted the nomination. The CEO called for further nominations. No nominations were received. The CEO declared the nominations for the office of Deputy Lord Mayor closed. There being

²¹ Except the Lord Mayor who had stood aside.

only one nomination, the CEO declared Cllr Green Deputy Lord Mayor for a term expiring on 19 October 2019. Cllr Green took the Declaration of Office.

- [65] At 9.10 pm (the minutes say 10.10 pm), the CEO left the chair and Deputy Lord Mayor, Cllr Green, assumed the chair. There was no other substantive business of council other than items 8.2 to 8.5, dealing with appointments to various committees, regional councils, statutory bodies, working groups and external organisations. Council proceeded with those items of business and, where there was more than one nomination, elected by show of hands councillors to the various bodies. The council minutes record the meeting as closing at 9.44 pm.
- [66] Every councillor gave evidence to the Commission that they were offered no inducements or incentives to vote for a particular person, nor did they hear any inducements or incentives being offered to any other person.
- [67] The Commission's conclusion is that the council approached its task in appointing a Deputy Lord Mayor conscientiously, mindful that the first vote had not produced a Deputy Lord Mayor. Council was keen not to draw names out of a hat and approached the task with diligence, considering all options.
- [68] Cllr Green was elected by consensus. Her election was fair and untainted.

CHAPTER THREE

Allegations by Councillor Limnios that Councillor Harley tried to bribe councillors with offers of committee positions

Relevant conversations - Saturday 21 October 2017

[69] Counting of votes following the election for four council positions on the City of Perth continued at Council House well into the night. It was some hours before a final result was known. During this time, there were many conversations between candidates and other people. Cllr Harley gave evidence that during the election night, Cllr Barton and Cllr Limnios had a discussion with Cllr Harley to the effect that Cllr Barton had been previously working as a solicitor, she had a baby, she was on maternity leave and that the law firm had said they did not want a councillor working for them. She had been elected and they were going to finish her employment. Cllr Harley gave evidence "On the Saturday night James said to me that Lexi wanted to be on both of those paid [Regional Council] positions".²²

[70] In her evidence, Cllr Barton confirmed that as of her swearing-in, she had to resign her position as a solicitor as a result of becoming a councillor. Cllr Limnios is a close friend of Cllr Barton's husband, Charles Hopkins and of her father-in-law, Chas Hopkins. She said that she had campaigned with Cllr Limnios months before the election. During that time, she mentioned she was interested in the Tamala Park Regional Council as it was a good council for someone who is a new councillor. She understood the issues to be simpler and she had been advised that Mindarie had more complex issues to be addressed. In her evidence, she said:

I think I briefly mentioned to [Cllr Limnios] that I was interested in a number of committees and - Tamala Park as well just in passing. ... It most likely was either on election day or after election day and before the swearing-in.²³

[71] She did not recall a discussion with Cllr Limnios and Cllr Harley together.

[72] Cllr Limnios has no recollection of such a discussion.

Relevant conversations - Sunday 22 October 2017

[73] Commencing early Sunday, Cllr Harley set about contacting all councillors to get an indication about the committees that would

²² R J Harley transcript, private examination, 13 November 2017, p 28.

²³ A L F Barton transcript, private examination, 20 November 2017, p 5.

interest them. He explained a leadership void exists at the moment at the City of Perth with the Lord Mayor stood down from duty. Traditionally, the Lord Mayor has taken a leading role after an election in communicating with councillors about boards and committees. He described his experience on joining the council in 2013, which he said he did not really enjoy. He said he wanted to take a different approach after the election and seek preferences from people regarding the committees and boards they were interested in. He wanted to be very open and transparent with that process, as compared to his own previous experience:

Generally, the mayor would take the lead in kind of working everything out. There wasn't a mayor and I wanted to demonstrate that I had a different approach to things; ... I texted everyone or called everyone ... to try and arrange a time to either catch up or speak over the phone about what they were interested in for boards and committees.

... there was a leadership void ... Which I was hoping to fill as nominating myself for the deputy mayor, and therefore acting mayor. I thought, if you wanted to be the acting mayor, you better step up and show a bit of leadership in this situation.²⁴

[74] He said that there was no deliberate order to his meetings and the arrangements were made subject to people's availability.

Evidence of councillors

Councillor Steven Jeffrey Hasluck

[75] Cllr Hasluck had campaigned with Cllr Harley before the meeting of 24 October 2017. He was given a document prepared by the City of Perth which listed the special committees and boards. It was given to him to read in preparation for the Special Council Meeting.²⁵ On Sunday 22 October 2017, Cllr Harley contacted Cllr Hasluck by text message and they met at Cllr Hasluck's house at about 1.30 pm:

I found the meeting quite useful because being a new councillor, reading through the documentation of the board positions available was one thing, but having them actually explained to you, the actual time taken involved, etc. I had a lot of questions and Councillor Harley was available for that but he did reach out to me.²⁶

[76] The meeting lasted for about half an hour. Cllr Hasluck said they went through the positions and discussed what time they were likely to take up as he is a small business owner, and wanted to make sure that the

²⁴ R J Harley transcript, private examination, 13 November 2017, p 18.

²⁵ S J Hasluck transcript, private examination, 20 November 2017, p 3.

²⁶ S J Hasluck transcript, private examination, 20 November 2017, p 5.

board positions were not too time intensive given his day to day activities.

[77] Cllr Hasluck was emphatic:

... [Cllr Harley] made it very clear that it was entirely up to me what I wanted to put my hand up for and was not a matter of someone else deciding for me. It was my prerogative. He was simply acting, I believe, in a friendly capacity to give me some guidance in terms of what he genuinely believed was right for me because he has already experienced some of those things.²⁷

[78] Cllr Harley did not indicate to Cllr Hasluck that particular positions were earmarked for other councillors.

[79] For the Deputy Lord Mayoral position, Cllr Hasluck knew before the election that Cllr Harley would nominate. "Did he offer you anything at that time in return for supporting him? No not at all. Did he offer you anything after that time to support him in that position? No not at all."²⁸

[80] Cllr Hasluck emphasised that nobody offered him anything. He was contacted by Cllr Limnios on 24 October 2017, and visited him at his office on the tenth floor of Council House to talk about the Deputy Lord Mayoral position. "Did Councillor Limnios offer you anything to change your mind? Absolutely not no. Did he try to change your mind? No he told me he respected my decision."²⁹ It was a quick meeting, five minutes.

[81] Cllr Hasluck, along with every other councillor, received an email from Cllr Harley on 23 October 2017 titled 'Council Committees / Boards'. In the email Cllr Harley wrote 'I wanted to provide you with a summary of people's indicated preferences regarding Boards and Committees'.³⁰ Referring to his earlier conversation with Cllr Harley, Cllr Hasluck acknowledged "Preferences. Yes, definitely preferences is a correct term. Yes, I would suggest preferences was probably the perfect term for the conversation".³¹

Councillor Jemma Marie Green

[82] Cllr Green was first elected in October 2015. She gave evidence of her relationship with Cllr Harley:

When I decided to run I reached out to the councillors to have an introductory chat with them and [Cllr Harley] responded and so I'd had, I don't know, maybe

²⁷ S J Hasluck transcript, private examination, 20 November 2017, p 7.

²⁸ S J Hasluck transcript, private examination, 20 November 2017, p 11.

²⁹ S J Hasluck transcript, private examination, 20 November 2017, p 12.

³⁰ Email from Councillor Harley to all councillors, 23 October 2017.

³¹ S J Hasluck transcript, private examination, 20 November 2017, p 14.

two or three meetings with him prior, maybe four or five probably, before being elected on council. The other councillors hadn't been willing to engage with me or meet with me.

So you had reached out to all of them and Councillor Harley was the only one who'd responded?---Yeah, and subsequent to my being elected I contacted them and asked for an introductory coffee and some of them till just a few weeks ago I hadn't actually had an introductory coffee with them at all. Some of them met me but told me that they were instructed by the lord mayor not to meet with me and not to talk with me. So it was not a very – it was a pretty hostile situation I would say. So Councillor Harley was the only person really on council that was willing to engage with me.³²

[83] Cllr Green knew that both Cllrs Limnios and Harley intended to nominate for Deputy Lord Mayor and they were calling around to canvass for support following the election on 21 October 2017:

... I got a text message from James asking me for his support and I went back to him virtually instantly that night and said that I would be supporting Reece in his run for the deputy lord mayor, because from the get-go since I've been on council, he had been very respectful of me and actually been very supportive of me ...³³

[84] Notwithstanding, Cllr Limnios still tried to persuade Cllr Green by text message.

[85] Cllr Green was definite that Cllr Harley did not ask her to vote for him because she was going to vote for him anyway. "Did Councillor Harley offer you anything to support him in the deputy lord mayor's position? No."³⁴

[86] Cllr Harley called on Sunday and told Cllr Green:

... he was going to do a ring around and see what committees people might be interested to be on and what committees would I be interested to be on and I said that I was interested to be on the finance and admin and planning committee and he asked me if I wanted to stay on the Heritage Perth board and I said no, I didn't...³⁵

[87] In the course of their conversation, Cllr Green gave evidence that Cllr Harley said:

Lexi had just lost her job as a lawyer. Because she was on council they said that they weren't – they weren't going to continue her employment and so she'd lost her job and she's got a baby and James was asking if Lexi could have one of the paid committees, one of the two \$10,000 committees and I said to Reece, "Yeah,

³² J M Green transcript, private examination, 20 November 2017, pp 6-7.

³³ J M Green transcript, private examination, 20 November 2017, p 11.

³⁴ J M Green transcript, private examination, 20 November 2017, p 27.

³⁵ J M Green transcript, private examination, 20 November 2017, p 27.

*absolutely; she's just had a baby and she hasn't got a job, I'm totally fine with giving her a paid committee.*³⁶

[88] Cllr Green was asked about the paid committee positions and what Cllr Harley said:

Reece said he went to Jim Adamos and asked him, would he be willing to forego a paid committee so Lexi could have it, and Jim had said yes, and then his wife had basically got really angry about this, and Jim basically came back and said his wife's gotten angry, she wants him to have a paid committee, and then Reece said, I think it was with Janet, "Could you" - Reece said, "Jim, could you and Janet discuss between you who will get the paid committee?"

... Reece said, "Look, they can sort it out between them as to who will get the, maybe second paid committee."

...

Did you get the impression that Councillor Harley was trying to get certain people in certain positions?---No. ... I got the impression he was trying to organise something, rather than try to orchestrate an outcome.

*In particular in relation to those paid positions, did you get the feeling or impression that Councillor Harley had a view about who should have what?---No, I did not. No, I felt like he was quite agnostic, he didn't really care.*³⁷

[89] Cllr Green recounted a conversation with Cllr Davidson on the night of the Special Council Meeting:

*Janet, ... came into my office for a chat and talked with me, and she for 20 minutes, ... and then later Reece popped into the office – this was before the council meeting on the Tuesday night when the decision around the deputy lord mayor was decided, and – she came into my office, and subsequently I met with Reece in his office, and then Janet popped in towards the end, and in that conversation Reece brought up the fact that James was suggesting that Reece had tried to bribe or buy votes for the deputy lord mayor in exchange for paid committees, and actually it had been going on in the media that day and the day previous, so stuff had been leaked to the media, like that email that Reece had written, and Janet said James had been calling her up, trying to find out whether Reece had been offering her an inducement in exchange for her vote as deputy lord mayor, and Janet said, you know, it's absolutely false, it's just not true whatsoever. And I said to her James was, because he had called me and suggested to me that Reece had tried to bribe Janet, and Janet just categorically said to me that was just not true at all.*³⁸

[90] Cllr Davidson did not seek Cllr Green's support in relation to any position.

[91] Cllr Green was asked:

³⁶ J M Green transcript, private examination, 20 November 2017, p 28.

³⁷ J M Green transcript, private examination, 20 November 2017, p 29.

³⁸ J M Green transcript, private examination, 20 November 2017, p 30.

Were you promised or given anything by Councillor Harley or anybody else to vote for him?---No.

You didn't feel pressured or induced at all to do that?---No.

So were you promised or given any inducements by Mr Limnios to vote for him?---No, I was not.

Are you aware of any other councillor being offered or given anything, financial or otherwise, to vote for either Councillor Limnios or Councillor Harley?---No.³⁹

[92] During the discussions in the adjournment, Cllr Green did not observe anybody being offered anything to nominate for the position of Deputy Lord Mayor.

Councillor Jimmy Adamos

[93] Cllr Adamos was first elected in October 2011 and his present term expires in October 2019. He gave evidence that Cllr Harley tried to contact him by text during Sunday, but they did not connect until Sunday night by telephone. Cllr Harley asked what boards and positions Cllr Adamos wanted, to which Cllr Adamos responded that he did not care, "I just want the status quo ... I'm just happy to be on what I'm on or I'm happy to have none".⁴⁰

[94] Cllr Adamos was asked:

With the new council or several new councillors, did you see anything wrong in somebody asking people what they would like to do?---I don't think I saw anything wrong in that. I just – I just – I just thought, "Why is this happening today? Like the election was only last night, why he's ringing? Who kind of gave him the authority to do it? Really why are we doing all this?" but I just - you know, I was - I don't know why. I didn't ask him. I just thought, "What's - why is this happening?" I mean, I was quite shocked because - you know, like people – Judy McEvoy – you know, I got on well with her at council and she didn't get re-elected, so I was kind of still reeling from that and then he starts calling me and saying, "What committees do you want?" I just found that odd.⁴¹

[95] Subsequently, Cllr Adamos sent a text message to Cllr Harley:

... the text messages said something to the effect of, you know, "On second thoughts, I would like to keep" – I think in the text message I said I'd like to keep Tamala Park, but I actually was referring to Mindarie Regional Council, I'd like to keep that, and I think I said Janet has been on it for a long time, it's unfair, and comments like that. Also, like, in my mind I was thinking, well, we were in the middle of a tender process for Mindarie Regional Council about a waste energy

³⁹ J M Green transcript, private examination, 20 November 2017, p 35.

⁴⁰ J Adamos transcript, private examination, 21 November 2017, p 5.

⁴¹ J Adamos transcript, private examination, 21 November 2017, p 7.

*tender, and we'd developed relationships and we were going through the process, so I just wanted to maintain that.*⁴²

[96] Cllr Adamos was asked directly:

*Did he say, "If you do that, then there would be something for that"?---I don't remember him saying if – I don't remember him saying, "If you do this," – he didn't say to me, I suppose you're asking the question, "If you support me for DLM you will get these roles." He didn't say that.*⁴³

[97] Cllr Adamos was asked "By the time of the Special Council Meeting were there any agreements in place that you're aware of about any of those committee or board positions? No, never".⁴⁴

[98] Cllr Adamos gave evidence that people were ringing him to support Cllr Limnios for Deputy Lord Mayor:

What was your response to them?---I just said, "Look, I don't know." I said, "Look, I don't know" – I said, "I still" – I said, "I'm" – I said, "I'm disappointed I'm not going to put up my hand for DLM but I know I haven't got the numbers." So I said, "Look, I have to vote for someone," and I said, "I still haven't decided," and I said, "I don't think I want to vote for Reece and I don't think I'm going to vote for James," you know, because on that Monday – the Monday was after that sort of Tweet and understanding more the stuff that was going on, and I just kind of had a gutful with it. All this stuff was going on in the background and strange - people I haven't spoken to for like two years are ringing me up and saying, "Who are you going to vote for for DLM?" and I'd go, "Why are you ringing me? Has James asked you to ring me or" – yeah, "Who's asked you to ring me?" "No, no, no. I just wanted to ring you and just talk to you about your vote," and all that and I thought, "Why are you ringing me?"

Has that happened before?---Never. I've never had anyone ring me and say, like a third party endorsement, you know, you should vote for James because, you know, although he's done this, he's done this, he's still, you know, better than him and better than that, and so ---

*How many calls did you get?---I think I got three.*⁴⁵

[99] Cllr Adamos was asked "... had you been offered anything, any inducement, by either party in respect of the DLM role? No; no".⁴⁶

Councillor Lily Chen

[100] Cllr Chen was elected to the City of Perth in 2011 and her current term expires in October 2019.

⁴² J Adamos transcript, private examination, 21 November 2017, p 8.

⁴³ J Adamos transcript, private examination, 21 November 2017, p 10.

⁴⁴ J Adamos transcript, private examination, 21 November 2017, p 16.

⁴⁵ J Adamos transcript, private examination, 21 November 2017, p 19.

⁴⁶ J Adamos transcript, private examination, 21 November 2017, p 23.

[101] She gave evidence that she met with Cllr Harley in Subiaco at a coffee shop. Cllr Chen thought that Cllr Harley:

... probably he wanted to achieve a consensus with everyone and tell everyone, "This committee, we already got three and Lily Chen wants to be the chair because she has been the chair for many years." Probably she would say – he would say to someone, to other – to other councillors similar things.

*Is that how it has happened before? Is that how it normally works?--In the past, yes.*⁴⁷

[102] Cllr Chen did not see anything wrong with Cllr Harley's approach.

[103] At the meeting, Cllr Harley told Cllr Chen that Cllr Barton had lost her job and wanted a paid position. Cllr Chen did not have a problem with that:

Did Councillor Harley ask you to support [Cllr Barton or Cllr Davidson] for those positions?--He didn't ask me, he just told me.

He told you what?--He told me Councillor Barton wants this position, paid position, and Councillor Davidson, that's it.

All right, so he was just telling you what they had told him?--Yeah.

*He wasn't telling you that they were going to get them?--No.*⁴⁸

[104] The email subsequently sent by Cllr Harley did not cause Cllr Chen any concerns.

[105] Cllr Chen gave evidence that Cllr Harley in his discussions with her did not offer her anything to try to convince Cllr Chen to support him.

[106] Cllr Chen concluded her evidence by offering this assessment of Cllr Limnios and Cllr Harley, "... both of them very good and very good, very good young people and then they are keen and willing to do good things for the City. The only problem is between them, yeah".⁴⁹

Councillor Janet Davidson

[107] Cllr Davidson is a very long serving councillor. She has previously served as Deputy Lord Mayor.

[108] Cllr Davidson met with Cllr Harley at his request at Council House on Sunday afternoon. Cllr Harley said he wanted to streamline the process for the Tuesday meeting in relation to the committees.

[109] Cllr Davidson went through the list of committees and boards and marked the paper of those committees she was on, and comfortable

⁴⁷ L Chen transcript, private examination, 21 November 2017, p 5.

⁴⁸ L Chen transcript, private examination, 21 November 2017, pp 7-8.

⁴⁹ L Chen transcript, private examination, 21 November 2017, p 21.

staying on. She underlined those committees. She did not understand that Cllr Harley could influence the vote, "... he's only one of nine".⁵⁰

[110] He mentioned that Cllr Barton wanted to have two paid positions. "Did Councillor Harley make any suggestion to you about the way you two should deal with that particular position, given you both wanted it? No."⁵¹

[111] Cllr Davidson said she and Cllr Limnios arranged to meet at 11.00 am on Monday morning. She may have been mistaken and the meeting occurred on Tuesday. They met on level 10 in a small lounge at the end of the councillors' dining room. Cllr Limnios was seeking her support for Deputy Lord Mayor:

I had seen Councillor Limnios on the Monday morning and he did say to me that all this stuff, you know, about votes and promises, is sort of CCC stuff and I stopped him in his tracks and said, "Well, it's not CCC stuff for me because I have not accepted any gifts or promised anything."

...

*"Statutorily, I only need – I only need to be on one internal committee."*⁵²

[112] The meeting ended because Cllr Harley came in and Cllr Limnios said "I've been ambushed". Cllr Davidson said "Well, no intention of ambush,"⁵³ by which time he was going through the door. She had arranged to meet Cllr Harley at 12.00 pm.

[113] The process adopted by Cllr Harley was a little unusual but it did not concern Cllr Davidson:

*... because I took it in good faith. We've tried to be as consensus as we can, as collegiate as we possibly can, you know, since the election; that we've tried to, you know, focus ourselves on the dealings of the council and not necessarily on the personalities.*⁵⁴

[114] Cllr Davidson said nobody else approached her for discussions on committees, and neither Cllr Harley, Cllr Limnios nor anybody else offered anything in return for her support.

[115] There were no agreements as to committee positions.

⁵⁰ J E Davidson transcript, private examination, 21 November 2017, p 5.

⁵¹ J E Davidson transcript, private examination, 21 November 2017, p 6.

⁵² J E Davidson transcript, private examination, 21 November 2017, p 7.

⁵³ J E Davidson transcript, private examination, 21 November 2017, p 9.

⁵⁴ J E Davidson transcript, private examination, 21 November 2017, p 13.

Councillor Alexis Louise Foster Barton

- [116] Cllr Barton was elected on 21 October 2017. As a result of her swearing-in, she had to resign her employment at a law firm.
- [117] She had discussed being interested in the Tamala Park Regional Council with Cllr Limnios on occasion during the election campaign.
- [118] Following the election, Cllr Harley approached her "... about trying to determine who was interested in what, being on which committees and boards and things like that".⁵⁵
- [119] She met Cllr Harley:

... in West Perth and he had a list together of all of the committees – he had previously contacted me as well on the telephone asking what I was interested in. He said that he was trying to get a feel as to what committees and boards everyone was – and I feel like I have to give a bit of a history, because of the turbulent media interest in council prior to this, we initially wanted the swearing in and that needing to go very smoothly, and we wanted a unanimous vote of deputy lord mayor, because we wanted things to – you know, it's a new council, we wanted to put forward a new face, and so it was as if he was just sort of getting a feel as to what committees and boards people were interested in.⁵⁶

- [120] Cllr Barton asked a few questions about some of the committees and boards she was not too sure about, as to the amount of involvement required and indicated which ones she would be interested in. She found it was a useful meeting:

Did Councillor Harley encourage you in relation to any particular positions, to go for any particular positions?

---Not that I recall, no.

Did he discourage you in relation to any positions?---No, he – as I said, he said, you know, that there are a couple of boards that are not – are less desirable than others, but that, you know, they need a member, and so we'll see. Some of us would need to be on those boards.⁵⁷

- [121] Cllr Harley told Cllr Barton that Cllrs Adamos and Davidson were also interested in Tamala Park and Mindarie and said "... something about they would need to discuss between the two of them what ones they were interested in, and figure it out".⁵⁸

⁵⁵ A L F Barton transcript, private examination, 20 November 2017, p 5.

⁵⁶ A L F Barton transcript, private examination, 20 November 2017, pp 5-6.

⁵⁷ A L F Barton transcript, private examination, 20 November 2017, pp 7-8.

⁵⁸ A L F Barton transcript, private examination, 20 November 2017, p 8.

- [122] At the end of the meeting, Cllr Barton knew that she was going to nominate for the Tamala Park Regional Council. Cllr Harley did not say anything that gave an indication of what the result would be.
- [123] Cllr Harley said that he was going to nominate for Deputy Lord Mayor but this did not come as a surprise. Cllr Barton told him that she believed Cllr Limnios was the best candidate to continue to be Deputy Lord Mayor, and that she was voting for him. Cllr Harley did not try to change her mind, or offer her anything to change her mind.
- [124] Cllr Limnios had never offered anything for her support either. She told Cllr Limnios she had run through the committees and boards with Cllr Harley, and he did not suggest that that was inappropriate.
- [125] In relation to the discussions during the adjournment, Cllr Barton did not witness any offers being made to people to nominate or not nominate for the Deputy Lord Mayor or any discussion along those lines.
- [126] In relation to the email sent by Cllr Harley, Cllr Barton noted that some of the preferences he had alluded to, were incorrect in the email. That was her only concern:

Did you feel it was an email that was attempting to influence anybody?---Yes and no. I mean, I think, really, it was more because he wanted everyone to understand where everyone's interests lie. That was my sort of feeling behind that email; it just could be construed differently.⁵⁹

The Harley email

- [127] At 12.57 pm on Monday 23 October 2017, Cllr Harley sent an email to all councillors:

----- Forwarded message -----

From: **Reece Harley** Date: Mon, Oct 23, 2017 at 12:57 PM

Subject: Council Committees / Boards

Hi everyone,

As you know i've met or spoken with all of you either yesterday or today and I wanted to provide you with a sumary of people's indicated preferences regarding Boards and Committees. I know this level of openness is unusual but I am hoping that at Tuesday's meeting we can approve all positions with a consensus vote to demonstrate to the community that we can all get along and work together professionally and appropriately in the bests interests of the City.

The following is a rough summary. The more experienced among us have a

⁵⁹ A L F Barton transcript, private examination, 20 November 2017, pp 17-18.

responsibility and a duty I believe to pick up some of the other committees that no-one has expressed an interest in yet, so please consider taking one each so that we're not left without candidates.

The Tamala Park / Mindarie regional Council Boards are still up in the air though have received expressions of interest from Lexi, Janet & Jim.

Standing Council Committees

- Marketing: Lily, Lexi, Jim
- Works: Reece, ?, ?
- Finance & Admin: Janet, Reece, Jemma
- Planning: Steve, ?, ?
- Audit & Risk: Jemma, ?, ?
- CEO Perf Review: All Crs

Statutory Appointments

- Local Emergency Management Ctee: 1 + Deputy
- Central Perth Land Ctee: 3 EMs
- Perth Theatre Trust: Jim & Janet (current Crs remain given uncertainty of Org in coming months)
- Central Perth Planning Cte: ?
- Library Board WA: Lexi?
- LDAP: 1 alternate member to replace Judy
- EPCSG: 1 member
- Heirisson Island Sculpture Park: 1 member
- Heritage Perth: Reece + ?
- Local Chambers: 2 members
- Metro regional Road Group: 1 member
- OHP Board: Reece
- PCB Board: Lily / Jim?
- PPAF: Steve / Lexi?
- Swan Bells Inc: 1 member
- Taxi Council WA: 1 member
- WALGA Central Zone: Janet + ? + ?
- Study Perth: Lily, others?
- Liquor Accord: ?

Please have a think about these, in particular if you can write back to me letting me know if you're prepared to pick up one of the open positions listed above that would be a great help to allow things to proceed smoothly on Tuesday.

Many thanks,

Reece⁶⁰

- [128] The third paragraph is illuminating. It hardly suggests a deal for the paid Regional Council positions.
- [129] The email was sent to all councillors, including those Cllr Harley knew would not support him. While this email was met with different levels of appreciation by councillors, no one in their evidence, except Cllr Limnios, suggested there was anything sinister about it.
- [130] In evidence, Cllr Limnios accepted that the email on its face was innocuous and offered no evidence to support a theory that a deal was done between Cllrs Harley and Davidson:

If every councillor were to say nobody offered us anything for our vote or for his vote, or anything, would that change your mind?---Yes, sir. I would say, well, that's fair enough; I mean, if the majority perceives that it was nothing more than what was written there.

Not perceives but, for argument's sake, if every councillor were to come in here and say, "He came, he spoke, he made his pitch for lord mayor, he asked us what we want, he didn't offer us anything," that would, wouldn't it, if that happened, would give support to his memo being an unexceptional memo?---I agree with you, sir.⁶¹

Conclusions on the evidence

- [131] The three day period between Sunday and Tuesday evening became increasingly febrile as the rival candidates, Cllrs Limnios and Harley, sought support for their nomination for Deputy Lord Mayor.
- [132] Others were also interested in nominating for Deputy Lord Mayor, including Cllr Davidson.
- [133] As part of its investigation, the Commission obtained access to numerous private text messages between councillors.
- [134] There is no sufficient reason to disclose those private messages other than to comment that it seems clear most councillors had resolved their voting intentions before the meeting, and that neither Cllrs Limnios nor Harley could count on majority support.
- [135] Their voting intentions were not influenced by an offer of a position on a particular committee or board.

⁶⁰ Email from Councillor Harley to all councillors, 23 October 2017.

⁶¹ D A Limnios transcript, private examination, 29 November 2017, pp 45-46.

- [136] The absence of the Lord Mayor meant there was no tie-breaking role.
- [137] Cllr Harley asked each councillor for their support even though he knew that some were unlikely to give it.
- [138] Cllr Barton was closely allied with Cllr Limnios through friendship between her husband, her father-in-law and Cllr Limnios.
- [139] Cllr Adamos recalls being contacted by three people urging him to vote for Cllr Limnios and not to vote for Cllr Harley. He was annoyed by the calls.
- [140] Cllr Harley spoke with every councillor about committee positions. Some councillors were broadly aligned with him. Cllr Hasluck for example, had campaigned with Cllr Harley. Some councillors were aligned with Cllr Limnios. Cllr Barton for example, campaigned with Cllr Limnios.
- [141] Every councillor gave evidence that they were not offered any inducement to vote for Cllr Harley or Cllr Limnios.
- [142] Cllr Harley explained his intention in discussing committees and boards with councillors was to make the process more open than he had experienced in the past under Lord Mayor Scaffidi, a sentiment echoed by Cllr Green. Cllr Harley said he was doing it to fill a leadership void. He also advised the councillors of his intention to run for Deputy Lord Mayor and sought their support. No councillor said that he offered them any position on any committee or board, whether for reward or otherwise.
- [143] Some councillors thought he was trying to show that he was acting as a leader. Cllr Adamos seemed upset that Cllr Harley was acting in this manner.
- [144] What seems clear during the discussions leading to the Special Council Meeting on Tuesday, was that Cllr Harley did not have the numbers to deliver any committee positions and that he and other councillors recognised that fact. He was only one of eight votes.

CHAPTER FOUR

Media publicity affecting the election

The Carmody tweets

- [145] At some time on Monday 23 October 2017, someone told Ms Rebecca Carmody of the ABC about the meeting between Cllr Davidson and Cllr Harley, and supplied the media with a copy of the email Cllr Harley had sent. It was suggested that a deal was being made or had been made between Cllr Davidson and Cllr Harley, so that she would vote for him in return for one of the paid council positions.
- [146] The provision of this information to the media was mischievous. On the evidence available to the Commission, including the sworn evidence of all councillors, there is no basis for the assertions of a deal.
- [147] On Monday evening at 6.22 pm, Ms Carmody tweeted the following:
Alleged deal cut between Harley & Davidson on 9th floor of Council House. Davidson promised 3 board positions 2/2
- [148] Ms Carmody subsequently tweeted:
COP Update ... Scaffidi backers furious after hearing Cr Janet Davidson has flipped and will support Harley for Deputy 1/2
- [149] While the motive of whoever told Ms Carmody the information that formed the second tweet (assuming someone did) was obviously to damage Cllr Harley or Cllr Davidson, the logic is absurd.
- [150] The contents of the tweets are interesting. While the first refers to an 'alleged deal', the second reports as fact, 'Davidson has flipped'.
- [151] The content of these tweets were relied on in part by Cllr Limnios in his complaint to the CEO about Cllr Harley.
- [152] Cllr Limnios had publicly split from Ms Scaffidi months before, calling for her resignation. In October 2017, he could not be described as a 'Scaffidi backer'. Cllr Harley had stood against the Lord Mayor in the previous election and had publicly criticised her.
- [153] Cllr Adamos who might be so described, had mentioned to no one his own aspirations to be Deputy Lord Mayor. Cllr Chen, who would like to have been nominated, decided instead to back Cllr Limnios.
- [154] Cllr Green was known to be independent. Cllrs Barton and Hasluck were new, but already aligned with either Cllr Limnios or Cllr Harley.

- [155] In short, neither Cllr Limnios nor Cllr Harley would have been regarded as attractive to any so-called 'Scaffidi backers'.
- [156] Cllr Davidson's vote might have made a difference to one of the candidates, but no difference to any 'Scaffidi backers'. If there were 'Scaffidi backers', which is open to doubt, neither Cllr Limnios nor Cllr Harley would have been acceptable to them as candidates for Deputy Lord Mayor.
- [157] There is no evidence to suggest that Cllr Harley's meeting with Cllr Davidson on the ninth floor was in any way exceptional. He had said to councillors on Sunday by phone or text that he wished to meet with all of them to ascertain their preferences for committees and boards. He met or spoke with each of them, including Cllr Davidson, at places convenient to them.
- [158] He met Cllr Chen in a coffee shop in Subiaco, and Cllr Limnios at a coffee shop in Northbridge. He met Cllr Hasluck at his home.
- [159] Cllr Harley met Cllr Barton at the Tribe Hotel in West Perth. He met with Cllr Davidson at Council House on the ninth floor on Sunday. She had gone in to do some work on level 10.⁶² He spoke with Cllrs Adamos and Green by phone and text.
- [160] The selection of the ninth floor of Council House was no more sinister than any other place.
- [161] It would be odd for 'conspirators' to choose a place to meet, where they might be observed, and even odder, to document the 'agreement' in an open email which did not even reflect the alleged 'agreement'.
- [162] Somebody maliciously gave Ms Carmody information which was false.
- [163] Cllr Limnios has given sworn evidence that he did not do so.
- [164] The Carmody tweets and subsequent media may have damaged both Cllr Davidson's and Cllr Harley's reputations.
- [165] The Commission's investigation has found no factual basis to support a 'deal' between Cllr Harley and Cllr Davidson, or any evidence of impropriety on the part of any councillor in relation to the Special Council Meeting.

⁶² J E Davidson transcript, private examination, 21 November 2017, p 5.

CHAPTER FIVE

Reporting allegations to the Chief Executive Officer

Councillor Harley

[166] Cllr Harley says he reported his allegations briefly to the CEO on Tuesday, and made a formal report the following day. Mr Ridgwell, Manager Governance, was present at the second meeting and made a confidential file note.

Cr Harley stated he was meeting with each Councillor and Councillor Elect to show leadership and collaboration for the upcoming Special Council Meeting.

A discussion took place in which Cr Harley advised that he was looking to nominate for the Deputy Lord Mayor position but did not seek at this point in time to stand for Lord Mayor should it become available in the short term due to the financial costs of having undertaken three electoral campaigns in recent years costing in the order of \$40,000.

Cr Harley advised that both the physical and financial toll of the campaigns meant that with a young family he could not see himself running for Lord Mayor.

Cr James Limnios advised his intention to run for Deputy Lord Mayor as well as stating;

"Look if it is about money then I would be happy to split the Deputy Lord Mayoral Allowance or put you on a consultancy"

Cr Harley states that he said to Cr Limnios "It is not appropriate to discuss financial transactions about this." Cr Harley rejected the offer.

Cr Limnios stated it was his expectation that this would go on for only another 100 days so let him carry on in the role and then he would support Cr Harley in his election to the Deputy Lord Mayor role (once Cr Limnios is elected to the position of Lord Mayor).

Cr Harley advised he expressed discomfort with this conversation and declined the offer and moved onto other matters.⁶³

Councillor Limnios

[167] Cllr Limnios gave evidence that he did not say the words imputed to him and did not offer Cllr Harley any inducement.

[168] Cllr Limnios was advised of the substance of Cllr Harley's allegation at the council dinner following the Special Council Meeting on 24 October

⁶³ Mr Mark Ridgwell, Manager Governance, City of Perth, Confidential File Note, 25 October 2017.

2017. He was seated at a table with, among others, Cllr Chen who told him what Cllr Adamos had recounted to her.

- [169] Two days later on 26 October 2017, he advised the CEO in brief of his allegations against Cllr Harley, and subsequently lodged a formal complaint in a letter which contained a series of annexures.
- [170] The letter outlined the allegations investigated by the Commission and annexed supporting material:

Inducements to other Councillors

As set out above, Cr. Harley informed me that he had secured Cr. Davidson's support in return for her appointment to certain paid committee positions. The document he showed me indicated that he had held similar discussions with other Councillors and had made similar offers to them.

Recent reports in local media, including Oliver Peterson on 6PR, tweets from Rebecca Carmody of the ABC, and the article by Hannah Barry on the WA Today website, also support this position. The email which has been circulated by Cr Harley to all Councillors (23 October at 12:57pm) indicates that Cr Harley may have been attempting to induce Councillors prior to the Special Council Meeting about committee allocations. After this email leaked to the press (which did not come from me) Cr Harley sent me a text message telling me "James. I told you this in confidence!" at 7:48pm along with a screen shot of a tweet from Rebecca Carmody reading "Alleged deal cut between Harley & Davidson on 9th floor of council house. Davidson promised 3 board positions 2/2", tweeted by her at 6:22pm earlier that evening. This confirms my understanding of his deal with Cr Davidson and suggested to me that he knew that it was improper for him to engage in this behaviour.

It appears that Cr. Harley offered not only me an inducement to support his run for Deputy Lord Mayor, but likely approached other Councillors with similar overtures.⁶⁴

- [171] There were a number of annexures to the letter but only one is significant for this report.
- [172] The Commission notes that Cllr Limnios supported his allegation by reference to media reports, the Carmody tweets and the Harley email, now acknowledged as innocuous on its face.
- [173] Reliance on the contents of the tweets was misplaced.

⁶⁴ Letter from Councillor Limnios to Mr Martin Mileham, CEO, City of Perth, 30 October 2017.



Reece Harley

Monday 7:48 pm

James. I told you this in confidence!



Rebecca Carmody
@RebeccaCarmody

Alleged deal cut between Harley & Davidson on 9th floor of council house. Davidson promised 3 board positions 2/2

23/10/17, 6:22 pm

4 Retweets 1 Like



bernard.bernard @namelessguru • 45m

Replies to @RebeccaCarmody and @PaulMurrayWA

Harley Davidson , awesome. Absolutely awesome



- [174] By itself, the text from Cllr Harley stating 'James, I told you this in confidence!' followed by the Carmody tweet, as annexed by Cllr Limnios in his letter of complaint to the CEO, would appear to give some support to the allegation of a deal with Cllr Davidson.
- [175] However, that text was immediately followed by three more from Cllr Harley:

I did. I promise Janet anything. I asked her what she wanted - like I did with everyone.

You're the only person I told about level 9.

I didnt*

Indicating "I did. It" should read as "I didn't".

- [176] The texts were sent to Cllr Limnios and to Cllr Green.
- [177] This third text sent by Cllr Harley gives the complete picture.
- [178] It explains what was confidential 'You're the only person I told about level 9'.
- [179] The fact that it was copied to another person, Cllr Green, also reduces the inference that Cllr Harley was admitting to Cllr Limnios that he had made a deal with Cllr Davidson.
- [180] No one has suggested that Cllr Green has been, or would be, complicit in such an arrangement.
- [181] The day before he was to give evidence, the Commission requested that Cllr Limnios voluntarily give the Commission copies of all relevant text messages by him and to him. Cllr Limnios disclosed all text messages from Cllr Harley as part of a bundle (the Commission already had a copy of the messages).
- [182] He had the copy of the second, third and fourth texts when he reported his allegations but chose not to include them. Cllr Limnios had no satisfactory explanation for their exclusion from the material supplied to the CEO.
- [183] Texts and their twitter attachments demonstrate it is likely that Cllr Limnios or someone in a position to know his actions and intentions had communicated with Ms Carmody, at least in respect of some matters.
- [184] For example, on 23 October 2017 at 3.43 pm, Cllr Harley texted Cllr Limnios with a twitter attachment:

Mon, 23 Oct, 3:43 pm

Very very disappointed
in you james. I thought
you'd be better than
this.

City of Perth
shenanigans... Harley
tells Limnios if he drops
out of Deputy race, he'll
support him for Lord
Mayor.... offer rejected
1/2

 **Rebecca Carmody**
twitter.com

[185] On Monday 22 October:

Limnios threatens to
swing his votes behind
Scaffidi supporter Lily
Chin, who also wants to
be Deputy Mayor 2/2

 **Rebecca Carmody**
twitter.com

[186] They provide another illustration of the febrile nature of the race for Deputy Lord Mayor, and the potential for actions of others to be misconstrued leading to wrong assumptions.

Conclusion

- [187] There is no evidence to support Cllr Limnios' allegations against Cllr Harley. His letter to the CEO was selective and misleading.
- [188] Had he spoken with other councillors, and based on their sworn evidence to the Commission, each would have told him they were not offered any inducement to vote for Cllr Harley as Deputy Lord Mayor.
- [189] Cllr Harley did not offer them a committee position to buy their vote. Cllr Davidson would have told him the same thing.

- [190] Cllr Limnios read into the Harley email something sinister that bears no relationship to the actual words and to the recollections of individual councillors as to what Cllr Harley had said he was doing by contacting them.
- [191] There is no evidence to support the allegations of serious misconduct against Cllr Harley.
- [192] The Commission forms no opinion on the allegation of serious misconduct against Cllr Limnios.