



REPORT OF THE INTEGRITY COMMISSION

NO. 1 OF 2022 / 29 SEPTEMBER 2022

A summary report of own-motion Investigation Fisher, into any misconduct committed by Derwent Valley Council Councillor Paul Belcher relating to his relationship with a property developer



INTEGRITY
COMMISSION

TASMANIA



The objectives of the Integrity Commission are to:

- ▼ improve the standard of conduct, propriety and ethics in public authorities in Tasmania
- ▼ enhance public confidence that misconduct by public officers will be appropriately investigated and dealt with, and
- ▼ enhance the quality of, and commitment to, ethical conduct by adopting a strong, educative, preventative and advisory role.

We acknowledge and pay our respects to Tasmanian Aboriginal people as the traditional owners of the Land upon which we work. We recognise and value Aboriginal histories, knowledge and lived experiences, and commit to being culturally inclusive and respectful in our working relationships with all Aboriginal people.

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This report and further information about the Commission can be found on the website www.integrity.tas.gov.au

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29 September 2022

President
Legislative Council
Parliament House
HOBART TAS 7000

Speaker
House of Assembly
Parliament House
HOBART TAS 7000

Dear Mr President,

Dear Mr Speaker,

In accordance with s 11(3) of the *Integrity Commission Act 2009*, the Integrity Commission presents *Report 1 of 2022* to Parliament, a summary report of own-motion investigation Fisher, into any misconduct committed by Derwent Valley Council Councillor Paul Belcher relating to his relationship with a property developer.

Yours sincerely,

Aziz Gregory Melick AO SC
Chief Commissioner
On behalf of the Board

Michael Easton
Chief Executive Officer

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EXECUTIVE SUMMARY

This is a report of an own-motion investigation into any misconduct committed by then Derwent Valley Council Councillor Paul Belcher or other public officers, in relation to their contact with Roostam Sadri, a property developer.

In July and August 2020, Commission staff received information from the Office of Local Government about then Councillor Belcher's connection with Mr Sadri.

Our investigation showed evidence of sharing of confidential information by Councillor Belcher. Subsequently, the Board extended the scope of the investigation to consider any misconduct committed by Councillor Belcher relating to sharing confidential Derwent Valley Council (Council) information, especially with Damian Bester, a former councillor and local journalist.

The investigation found that then Councillor Belcher failed to disclose or manage a conflict of interest arising from his association with Mr Sadri. It also found that Councillor Belcher agitated for Mr Sadri's interests and pressured Council employees on behalf of Mr Sadri, while Councillor Belcher had a personal and financial association with Mr Sadri.

This was a conflict of interest between his role as a councillor and his personal interests.

Councillor Belcher also received \$5,000 from Mr Sadri when Councillor Belcher was running for council. Councillor Belcher used at least part of this gift for his re-election campaign.

Councillor Belcher resigned from Council in December 2021. Some of the information we found about Councillor Belcher sharing confidential Council information was shared with the Office of Local Government. In August 2022, Councillor Belcher pleaded guilty to two breaches of section 338A(1)(b) of the *Local Government Act 1993*.

We found no evidence that any other public officers engaged in misconduct relating to contact with Mr Sadri.

The systems issues that relate to this investigation are covered in detail in the accompanying Research Report, which contains a range of recommendations to address gaps in the current legislative instruments.

PART A INTRODUCTION

1. About the Integrity Commission

The Integrity Commission (the Commission) is an independent statutory authority established by the *Integrity Commission Act 2009 (Tas) (IC Act)*.

The Commission accepts, and investigates, complaints of misconduct in the Tasmanian public sector. The Board may also undertake investigations of its own-motion, based upon information it receives and misconduct risk areas. In each investigated complaint, we strive to identify systemic issues and misconduct risks. This helps public sector organisations to prevent future misconduct, and informs us in our educative work.

This is a summary of a report of an investigation for the Chief Executive Officer of the Commission, prepared pursuant to section 55(1) of the *IC Act*. The report relates to the conduct of Paul Belcher, a former councillor on Derwent Valley Council (the Council). Mr Belcher is referred to as Councillor Belcher through this report for ease. This includes the period when he was not a sitting councillor for part of 2018 and after he resigned from Council in December 2021.

2. The investigation

2.1. Jurisdiction

One of the Commission's principal objectives is to investigate and deal with allegations of misconduct appropriately. In performing its functions and exercising its powers, the Commission may inform itself of any matter in such a manner as it thinks fit.

In July and August 2020, Commission staff received information from the Office of Local Government in relation to, among other things, Councillor Belcher's connection with a local property developer, Roostam Sadri. The Commission's jurisdiction was invoked on determination of the Board to conduct an investigation into Councillor Belcher's conduct.

As a member of a council, Councillor Belcher was a designated public officer as defined in the *IC Act*.

During any investigation, the investigator may make any investigations they consider appropriate, conduct the investigation in any lawful manner they consider appropriate, and obtain information from any person in any lawful manner they deem appropriate, under section 46 of the *IC Act*. The conduct of the investigation was carried out in accordance with section 47 of the *IC Act*.

2.2. The scope of the investigation

In October 2020, the Board of the Commission (the Board) determined to undertake the own-motion investigation into any misconduct committed by Councillor Belcher or other public officers, in relation to their contact with Mr Sadri.

The Board determined that the investigation be into:

- ▼ any misconduct committed by Derwent Valley Council Councillor Paul Belcher, especially relating to, or arising from, his relationship or contact with Mr Roostam Sadri [section 45(1)(b)], and
- ▼ any misconduct or serious misconduct committed by other public officers or designated public officers in the Derwent Valley Council arising from or relating to contact with Mr Roostam Sadri [sections 45(1)(a)-(b)]

The Board noted that the investigation could result in advice on Council policies, practices or procedures relating to managing relationships with property developers and/or lobbyists.

Our investigation showed evidence of sharing of confidential information by Councillor Belcher. Subsequently, in November 2021, the Board extended of the scope of the investigation to consider any misconduct committed by Councillor Belcher relating to sharing confidential Council information, especially with Damian Bester, a former councillor and now local journalist.

Councillor Belcher resigned from Council in December 2021. Some of the information we found about Councillor Belcher sharing confidential Council information was potentially an offence under the *Local Government Act 1993* (Tas) (LG Act) and provided to the Office of Local Government. In August 2022, Councillor Belcher pleaded guilty to two breaches of section 338A(1)(b) of the *LG Act*. That section says that:

Except as required, or allowed, by this Act, another Act or any other law, a councillor must not disclose information that is, on the condition that it be kept confidential, given to the councillor by the mayor, deputy mayor, chairperson of a meeting of the council or council committee or the general manager.

Convictions were recorded for both charges. Councillor Belcher was fined \$2,000 and barred from nominating as a councillor for 5 years.

2.3. Allegations

Our investigators base their investigations around factual ‘allegations’. As such, the allegations:

- A. may not necessarily align with the contents of the complaint, and
- B. may change over the course of the investigation, on the basis of evidence received.

We align the factual allegations with the relevant parts of the definition of misconduct in the *IC Act*.

The investigator makes factual findings only. They do not make misconduct findings. Only an Integrity Tribunal has the power to make misconduct findings under the *IC Act*. A substantiated factual allegation does not necessarily mean that misconduct has occurred, as there may be mitigating factors.

Based upon the Board’s determinations, the investigator determined the allegations to be as set out in the following table.

#	Factual allegation
1.	Councillor Paul Belcher failed to declare and/or manage a conflict of interest relating to his association with Roostam Sadri.
2.	Councillor Paul Belcher acted as a representative or advocate for Roostam Sadri and/or improperly promoted Roostam Sadri’s interests.
3.	Councillor Paul Belcher voted on Derwent Valley Council motions relating to Roostam Sadri, when he had a conflict due to his relationship with Mr Sadri.
4.	Councillor Paul Belcher improperly accepted gifts or benefits from Roostam Sadri, including a gift of land and cash transactions.
5.	Councillor Paul Belcher shared confidential Derwent Valley Council information with Roostam Sadri.
6.	Councillor Paul Belcher shared confidential Derwent Valley Council information with Damian Bester.

The Board resolved also to investigate any misconduct by other Council public officers or designated public officers relating to contact with Mr Sadri. Although some Council staff and councillors did have contact with Mr Sadri, there was no evidence that any other public officers engaged in misconduct relating to this contact. There are no allegations about other staff or councillors referenced in this report.

2.4. Standard of proof

The standard of proof applied in this report to factual findings is the civil standard, that is, ‘on the balance of probabilities’. This requires only ‘reasonable satisfaction’, as opposed to ‘satisfaction beyond reasonable doubt’ (as is required in criminal matters).

In considering whether the civil standard of proof has been met, an investigator will bear in mind what was said in *Briginshaw v Briginshaw*:

Reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters “reasonable satisfaction” should not be produced by inexact proofs, indefinite testimony, or indirect inferences.

[(1938) 60 CLR 336, 362 (Dixon J)].

2.5. Procedural fairness

In accordance with section 46(1)(c) of the *IC Act*, the Investigator ‘must observe the rules of procedural fairness’ in undertaking the investigation. This report contains factual findings. Material that is adverse, credible and significant was put to Councillor Belcher during the investigation.

A draft of the report of the CEO to the Board was also provided to relevant parties, including Councillor Belcher, Mr Sadri and the current and former Mayors of the Council. Only Mr Sadri provided a response to the draft report, and this was considered by the Board.

3. Relevant legislation and policies

3.1. Local Government Act 1993

In summary, the *Local Government Act 1993* (the LG Act) provides that:

- ▼ councillors have the functions of
 - representing the community
 - acting in the best interests of the community
 - facilitating communication by the council with the community
 - participating in the activities of the council, and
 - undertaking duties and responsibilities as authorised by the council.
- ▼ councillors must not direct or attempt to direct an employee of the council in discharging their duties.
- ▼ councillors must declare and manage any pecuniary interest they have in a matter
- ▼ councillors must absent themselves from meetings and decision where they have a pecuniary interest
- ▼ councillors must not disclose information from meetings closed to the public or from information they receive on condition of confidentiality
- ▼ councillors must disclose gifts or donation valued over \$50 (this does not apply to candidates)
- ▼ the General Manager must keep registers of pecuniary interests and of gifts and donations
- ▼ candidates for local government must lodge a signed declaration stating the amount of their electoral advertising.

3.2. Councillor Code of Conduct

The Model Councillor Code of Conduct, introduced on 18 May 2017 ('Model Code'), requires a more proactive approach to conflicts of interest than the obligations prescribed under the *LG Act* for pecuniary interests.

In summary, the Model Code requires that councillors must:

- ▼ not be unduly influenced in public duty by their private interests
- ▼ act openly and honestly in the public interest

- ▼ uphold the principles of transparency and honesty and declare actual, potential or perceived conflicts of interest at any meeting they attend in their capacity as councillor
- ▼ act in good faith and exercise reasonable judgement to determine if they have a conflict of interest
- ▼ avoid, and remove themselves from positions of conflict of interest as far as reasonably possible
- ▼ not bring Council or the office of councillor into disrepute or use their position to gain unauthorised benefit for themselves or others
- ▼ only access or use Council information needed to perform his or her role and not for personal reasons or non-official purposes, and
- ▼ only accept a gift or benefit if it is directly related to the carrying out of the councillor's public duties and doesn't contravene any relevant legislation.

3.3. Council Records Management Policy

From May 2020, when Council's new Records Management Policy was approved, all councillors were required to use their Council-issued email accounts for Council business.

PART B FACTUAL BACKGROUND

4. Councillor Belcher’s background

4.1. Tenure as Councillor

Councillor Belcher was first elected to Derwent Valley Council in November 2014. When elected in 2014, Councillor Belcher was employed as a disability support worker.

He resigned from Council on 27 July 2018, declaring a possible conflict of interest due to his plans to work for a property developer. The developer was in the process of purchasing the Derwent Valley Resort (the Resort) from Mr Sadri.

Councillor Belcher was re-elected to Council in November 2018 and again resigned from Council in December 2021, during the Commission’s investigation.

Councillor Belcher performed some paid work for Mr Sadri at the Resort in early to mid-2020.

4.2. Performance as Councillor

This investigation has particularly focused on matters that have occurred since mid-2018, when Councillor Belcher started his association with Mr Sadri.

The General Manager in 2018, Greg Winton, said that Councillor Belcher would often turn up unannounced with a ratepayer – including Mr Sadri – seeking a meeting and solution to their concerns.

It is widely recognised that Councillor Belcher had a strained relationship with the former Mayor, Councillor Ben Shaw, who was Mayor from November 2018 until late 2021. Councillor Shaw, along with some staff and other councillors, felt that Councillor Belcher did not understand the role and functions of a councillor. He was alleged to have acted as an advocate for those whose cause he adopted, and his behaviour tended towards open criticism and undermining of staff.

When Councillor Shaw raised concerns, Councillor Belcher was evasive and uncooperative.

When current Council General Manager (from May 2020) Dean Griggs made genuine and documented attempts to understand the nature of the relationship with Mr Sadri, and assist Councillor Belcher to manage any conflict, Councillor Belcher consistently deflected the issue.

4.3. Approach to records management

Councillor Belcher was not required to use the Council-issued email account as his single point of contact prior to 21 May 2020. The situation changed when Council’s new Records Management Policy was approved.

Councillor Belcher refused to use his Council email address. Mr Griggs said that Councillor Belcher explained to him that he did not want to be monitored by Council.

Mr Griggs said this meant that, after 21 May 2020, Council had to provide records to Councillor Belcher in hard copy. Mr Griggs continued to encourage Councillor Belcher to use his Council-issued email account.

Mr Griggs engaged with the Office of Local Government about a range of issues involving Councillor Belcher, including his ongoing refusal to use his Council email account. The Director of Local Government wrote to Councillor Belcher about these issues on 10 September 2021. The letter put him on notice that failure to use the email account could constitute a breach of section 28 of the *LG Act*.

Councillor Belcher's ongoing refusal to use his Council email account had unfortunate consequences:

- ▼ after the adoption of the new Records Management Policy in 2021, Councillor Belcher risked being in breach of section 28 of the *LG Act*
- ▼ extra and unnecessary staff resources were needed to accommodate this refusal, and
- ▼ Councillor Belcher's refusal to use the Council-issued email address lacked transparency. It was a direct hindrance to evidence-gathering for this investigation.

5. Roostam Sadri's background

5.1. Companies and property interests

Mr Sadri is a property developer based in Adelaide and is the director of a significant number of companies. He and his family members, mostly through company interests, own or have owned a number of Derwent Valley properties for over a decade. Properties of note include the Resort and the surrounding former Gateway Estate (now 'The Mills') development on the south-eastern outskirts of New Norfolk.

The Resort was owned by one of Mr Sadri's companies from 2008 until 31 May 2018, when it was intended to be transferred to a company operated by another property developer. Councillor Belcher said this property developer's company went 'bust or declared bankruptcy', which complicated the transfer. Mr Sadri retained his interest and continued to operate the Resort between 2018 and 2021.

5.2. Interaction with Council

Evidence shows that Mr Sadri and members of his family were known in the Council and community. There is some evidence that indicates the Sadris have attempted to apply pressure to Council staff to get favourable decisions in relation to their developments.

Some officers at Council believe the Sadris have failed to deliver on promised community benefits, such as new supermarkets, in relation to their developments.

PART C ANALYSIS AND FINDINGS

6. Allegations and findings

Allegation 1: Councillor Belcher failed to declare and/or manage a conflict of interest relating to his association with Mr Sadri

Findings

From approximately September 2018, Councillor Belcher had both a personal and a financial relationship with Mr Sadri and his family.

Under the relevant codes of conduct, Councillor Belcher was required to transparently declare and manage this relationship.

Councillor Belcher was not transparent about his association with Mr Sadri.

Councillor Belcher did not declare the nature of his association with Mr Sadri, a prominent developer in the municipality, in writing.

Councillor Belcher did not avoid and remove himself from positions of conflict of interest as far as reasonably possible. Rather, his choices generated conflict of interest issues which he exacerbated by his advocacy with staff for Mr Sadri’s interests.

Allegation 2: Councillor Belcher acted as a representative or advocate for Mr Sadri and/or improperly promoted his interests

Findings

Councillor Belcher’s unauthorised engagement with staff in relation Mr Sadri’s interests did not indicate a sound understanding of the respective roles of employees and councillors.

Councillor Belcher’s lack of transparency and failure to declare the nature of his association with Mr Sadri meant staff who he engaged with in relation Mr Sadri’s interests did not know the nature and extent of his interest in Mr Sadri’s development activity.

Councillor Belcher’s advocacy was aimed at pressuring or influencing staff to benefit Mr Sadri (and himself), and at times was an attempt to direct staff in relation to the discharge of their duties.

By engaging with staff and advocating for Mr Sadri’s interests, Councillor Belcher was seeking to take advantage of his office to obtain preferential treatment for Mr Sadri.

By openly representing Mr Sadri’s interests, at times quite publicly, Councillor Belcher arguably brought his position and, to some degree, Council as a whole into disrepute.

Allegation 3: Councillor Belcher voted on Council motions relating to Mr Sadri when he was conflicted by his relationship with him

Findings

There is no evidence that Councillor Belcher has participated in Council proceedings while conflicted by his relationship with Mr Sadri.

Allegation 4: Councillor Belcher improperly accepted gifts and benefits from Mr Sadri, including a gift of land and cash

Findings

Councillor Belcher has received one gift from Mr Sadri when he was not a sitting Councillor, being \$5,000 received in September 2018.

Part of this \$5,000 was used to fund his 2018 election campaign.

There is no evidence that Mr Sadri gifted land to Councillor Belcher.

Allegation 5: Councillor Belcher shared confidential Council information with Mr Sadri.

Findings

On 19 February 2020, Councillor Belcher received a confidential Council email titled 'Gateway Estate Update' about Mr Sadri's developments as a result of his role as a councillor. He forwarded that confidential Council email to Mr Sadri on 19 February 2020.

There was no legitimate reason for Councillor Belcher to have forwarded the email to Mr Sadri.

Allegation 6: Councillor Belcher shared confidential Council information with Mr Bester.

Findings

Councillor Belcher forwarded 5 confidential Council emails to Mr Bester on the following occasions:

- Email dated 19 February 2020, titled 'Gateway Estate Update'
- Email dated 28 February 2020, titled 'Please read emails carefully!!!'
- Email dated 5 March 2020, titled 'DPIPWE Investigation'
- Email dated 17 March 2020, titled 'GM PD and Associated documents'
- Email dated 5 March 2020, titled 'DPIPWE Investigation'
- Email dated 1 April 2020, titled 'Special Council Meeting Agendas – 2 April 2020'

Councillor Belcher forwarded 2 Council emails that were not for general release to Mr Bester on the following occasions:

- Email dated 25 February 2020, titled 'I'm leaving!'
- Email dated 8 April 2020, titled 'A new acting General Manager!'

There was no legitimate reason for Councillor Belcher to have forwarded any of these emails to Mr Bester.



