



8 December 2023

Mr Stephen Dunshea
General Manager
Shoalhaven City Council

Dear Stephen

Ultimatum to me from your Ms Hamilton

I received an email from Kerrie Hamilton, Director - City Performance on 23 November, disturbed about the tone of my communication with your People and Culture staff. I've not responded, and I now respond to you, over a week later, concerned about Ms Hamilton's wellbeing, evident in the first line of her email to me asserting that *"my name is Kerrie Hamilton and I am the Director of City Performance here at Shoalhaven City Council"*, when her name is Kerrie.

I've attached the email trail. It comprises an email from me to Ms Crangle at 10:20am on Monday 20 November, a follow-up after receiving no response at 4:53pm on Wednesday 22 November, and a response from Ms Crangle at 9:22am on Thursday 23 November, which is where the problem began.

All Ms Crangle needed to do was reply that the majority of people were happy with the template (which was news to me) and I would have accepted that. Instead, she felt obliged to use the word "unreasonable" in relation to my request, twice no less, and said *"we have been very accommodating of your requests to date"*, which is untrue.

I responded in a civil and professional manner immediately. I invite you to read the trail.

You ignored my request to cease the rollout. Its disingenuous to start rolling out a new process at the same time you invite employees with questions to raise them with their managers - it's too late then. I asked you to not do so number of times and then, running out of options because you were rolling out the process concurrently, I filed an industrial dispute.

We became adversaries. That's how industrial disputes work. The Council is not unfamiliar with being taken to the IRC by unions.

Ms Hamilton purports to have placed a ban on communications with me. I'm writing to you because if the Council wants to refuse to communicate with an official of one of the unions representing its staff, that's a decision that needs to be made by the GM. It would be an unusual decision with significant implications. She threatened she would *"be speaking to the Commissioner about this also"*, something that would be regarded by the Commission as unacceptable unless we were returning to the Commission, which we weren't. She also threatened to make *"a formal complaint to safework (sic) NSW"*.

I refuse to accept her threats and I've listed below 23 considerations so you understand why I have done so

- 1 The Council, without any consultation with staff, or it seems any consideration of the wellbeing of staff, began rolling out new email signature blocks that alarmed members of ours who regularly find themselves dealing with aggrieved complainants, or applicants, or any other range of people unhappy with being required to do things by regulators that they don't want to do. Their wellbeing was compromised and they made that clear to me, as did members of other unions to their officials.
- 2 At the same time the Council rolled out the changes to signature blocks, employees were advised that they should raise any questions with their Managers. It was a bit late, at this stage, is disingenuous and disrespectful to employees concerned about privacy and being vulnerable to harassment and abuse.
- 3 On that basis I wrote to you asking that amongst other things, you cease the roll out, for the obvious reason that if it's rolled out and needs to be rolled back its a more difficult process than putting a temporary stop on it. It would also have been respectful of the concerns of members who were alarmed about being vulnerable if their Council mobile number was publicly available.

Clause 37 Grievance and Dispute Procedures of the State Award provides at 37(v) provides "while the matter is in the course of negotiation, conciliation and/or arbitration, the work practices existing prior to the dispute shall as) to proceed as normal".

And as of you've now discovered, it's common practice industrially if there is a grievance or a concern, and certainly if there is a dispute before the IRC, for the Commission to recommend the employer (usually) revert to the status quo prior to the offending action by the employer, while the dispute is managed.

- 4 I said this in an email to you on 21 September, and I've highlighted the critical words:

Stephen, I should have mentioned this in my email just sent, but it would help in this process if the Council just doesn't continue rolling the thing out, while the consultation phase and the representations to the Managers is occurring. This does need to be a genuine process, and it doesn't look genuine or consultative, if it continues regardless.

- 5 I made further requests for the you to answer my call to stop the rollout. This included asking you to deal with the request rather than disrespectfully ignore it, and then to reconsider it. In all, there were multiple requests made that were either ignored or rejected.
- 6 On that basis I filed an industrial dispute which was allocated to Commissioner Sloan. After the unions had stressed the significance of this matter, and the Council had the opportunity to respond, the Commissioner, despite the Council telling him at least three times during proceedings that they would not cease the rollout, made a recommendation that the Council do so.
- 7 The Council rejected the Commissioner's recommendation but has never accepted that either in the IRC, nor in any communication with the unions involved in the dispute. You just can't

ignore the Commission's recommendation and hope to get away with it. It doesn't work that way.

- 8 Communication between the parties needs to be civil and professional, and that's how the unions have behaved with the Council in the four decades I've been in this role. We are, after all, professional union officials who understand that.
- 9 After some statements acknowledging the concerns of the three unions, the Commissioner recommended that we confer. The unions were unhappy at the Council's first response that we would meet only HR representatives, because it's an important principle in these disputes that decision-makers need to be involved, and in response to our concerns the Council delegated the Director of Planning to represent their interests.
- 10 The Director advised us that there had been no triggering incident, or complaint from the Mayor or Councillors, nor or members of the public, about customer service. It had been asserted that this would improve customer experiences but there was no evidence of how this would happen, or how current customer experiences were quantified and valued or whether or not the existing arrangements needed improvement.

It was not an agenda item, it was spontaneously raised and everyone, thought it was a good idea. Not much respect for your employees in the position. Given that most councils in the state don't require employees to provide Council mobile numbers on their email signature block, it beggars belief that none of your directors thought there may be an effect on the well-being of your staff.

- 11 The Director was able to secure *in-principle* agreement with the three unions which he was to present to the Executive Leadership Team, on the first opportunity to seek their approval. The union officials present undertook that they would recommend and endorse the end is a suitable settlement of the dispute.

So confident were we went and that we had an agreement, I wrote to the IRC and asked them to vacate the time set and give us another week or so to take the pressure of the Council.

We also suggested it made sense for the unions to agree to what was being put by the Director so that there was no risk of miscommunication or misunderstanding.

- 12 At that meeting, the ELT rejected the Director of Planning's recommendation to endorse the *in-principle* agreement.
- 13 This was beyond disappointing. This is one of the obligations in an industrial dispute to bargain in good faith and the concept of endorsing one of your number to represent the Council, and then stepping away from the solution that had been negotiated, falls well short of the concept of bargaining in good faith and, for the union officials present, it was unprecedented.
- 14 We returned to the Commission, Commissioner Sloan agreed to continue conciliation and set the matter down in Parramatta requiring the attendance of a "*decision-maker*", so the parties would be able to reach agreement during conciliation.

- 15 The Commissioner's decision to require the attendance of a "decision-maker" assisted the parties to reach agreement. It encouraged the Council to improve the offer originally made.
- 16 The process described in the preceding points, and the responses of the Council could not accurately be described as "*very accommodating of your requests to date*," as Ms Crangle did in her email to me of 9:22am on 23 November.
- 17 Your Ms Crangle had opened the meeting we attended with the Director of Planning with advice that the Council had adopted a Zero Tolerance policy on violence and disrespect and then left it to the Director to resolve. The union officials felt that opening was unnecessary because up until this stage there had been reasonable and respectful full communication - other than that initiated by the CEO and the Council in doing the following: firstly, in ignoring our requests to stop the slowdown to allow discussion; secondly, in refusing the request when pressed to respond; thirdly, in then ignoring a request to reconsider over the weekend; fourthly in nominating one of their own to represent the Council in discussions and who was able to reach agreement in-principle agreement, and then fifthly, the Executive Team refusing to endorse it.
- 18 I've listed five examples of behaviour by the Council which were hostile and/or disrespected our legitimate approaches.
- 19 A resolution by the Council to adopt a Zero Tolerance policy does not mean the Council is now beyond criticism or complaint. It's not an opaque curtain, nor are you protected from legitimately being pressed, cajoled, pursued, criticised, or any other responses to an unreasonable decision, by Unions acting interests of the members. We are entitled even to scoff, we are not entitled, nor interested in abusing.
- 20 The Council can't criticise us for being disrespectful in the context of their acts in 17 above. You are welcome to provide me with what you believe to be unacceptable statements or language. I'm very careful of what I think is appropriate in communicating with the Council and my view is that, in the context of an industrial dispute, with an employer refusing to cooperate with our requests (and you now know that the IRC will recommend that the status quo remain, that is, that the rollout cease, as a standard arrangement in any industrial dispute) you will struggle to provide statements or words that are acceptable in the context of our contest of ideas.
- 21 More importantly, we were involved in an industrial dispute and were adversaries. The *Industrial Relations Act 1901*, and its successors culminating in the *Industrial Relations Act 1996*, establish that for more than a century the jurisdiction in which local government operates to manage its industrial affairs is based on the adversarial model. This continues in the *Industrial Relations Amendment Bill 2023*, now passed through both Houses of Parliament and awaiting proclamation.
- 22 I'm well aware of responses SafeWork has made to unacceptable behaviour by councillors (usually) at a number of councils, that involve shouting, bullying, harassment, threatening and other behaviours qualitatively different, and worse, than the robust communication between adversaries in an industrial dispute.

23 A Zero Tolerance policy is not a shield behind which the Council can hide and deflect legitimate questions and concerns.

I'm happy to discuss this with you. I will continue to communicate with our members and with your representatives whenever I need to have contact. Please advise Ms Harrison.

And as always, I'm happy to discuss.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Ian Robertson', with a long, sweeping flourish extending to the right.

Ian Robertson
Secretary

9712 5255

www.depa.au

Ian Robertson

From: Kerrie Hamilton <Kerrie.Hamilton@shoalhaven.nsw.gov.au>
Sent: Thursday, 23 November 2023 9:41 AM
To: Ian Robertson; Amanda Crangle
Cc: Lucas Winton; Steve Turner; Aarron Vann
Subject: RE: "Default" signature blocks

Dear Ian,

My name is Kerrie Hamilton and I am the Director of City Performance here at Shoalhaven City Council. I have watched your communications with the HR team throughout these negotiations. I have had feedback on your remarks during meetings and your disrespect of our senior staff in emails to our staff. I am appalled at the way you communicate with the staff at Shoalhaven City Council and it is unacceptable. We have a Zero Tolerance for communications that effect the wellbeing of our staff.

The way you communicate is disrespectful and we will no longer be communicating with you. If your union wants to represent our staff we request that you provide an alternative member of your team for any future negotiations. I will be speaking to the commissioner about this also. If you refuse to accept this decision I will be making a formal complaint to safework NSW.

Kind regards,



Kerrie Hamilton

Director - City Performance

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shoalhaven.nsw.gov.au

RESPECT | INTEGRITY | ADAPTABILITY | COLLABORATION

From: Ian Robertson <ian@depa.au>
Sent: Thursday, November 23, 2023 9:33 AM
To: Amanda Crangle <Amanda.Crangle@shoalhaven.nsw.gov.au>
Cc: Lucas Winton <Lucas.Winton@shoalhaven.nsw.gov.au>; Kerrie Hamilton <Kerrie.Hamilton@shoalhaven.nsw.gov.au>; Steve Turner <sturner@professionalsaustralia.org.au>; Aarron Vann <avann@usu.org.au>
Subject: Re: "Default" signature blocks

Thank you, Amanda, wow, two "unreasonable"s in one brief, but turgid paragraph.

I'm surprised to hear that most people are using your preferred default. I was working on the basis from the feedback from the other unions that very few people would be exposing themselves by using their mobile number, which is why I thought it a reasonable request.

One "unreasonable" would probably have been enough and at other places but I know how HR works historically at Shoalhaven.

I don't think the unions, nor the IRC would agree with your self satisfaction that you had been "very accommodating of your request to date"!

A recommendation from a Commissioner, when you had already said three times that you wouldn't do it, is very, very rare in the IRC these days, and coupled with the Commission's frustration, evident in the expectation that a decisionmaker would be there,

Ian Robertson
Secretary
depa

Ph 9712 5255
www.depa.au

Sent from my iPhone

On 23 Nov 2023, at 9:22 am, Amanda Crangle <Amanda.Crangle@shoalhaven.nsw.gov.au> wrote:

Hi Ian,

Thank you for your latest email. Most of our employees use the default signature block with the Council desk number and Council mobile number. It is therefore unreasonable to ask us to change the default signature for a minority of employees who's preference is to not display their Council desk number and Council mobile number. We feel we have been very accommodating of your requests to date. We feel your latest request is unreasonable and will be leaving the solution as previously agreed.

Kind regards



Amanda Crangle
Manager - People & Culture

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RESPECT | INTEGRITY | ADAPTABILITY | COLLABORAT

From: Ian Robertson <ian@depa.au>
Sent: Wednesday, November 22, 2023 4:53 PM
To: Amanda Crangle <Amanda.Crangle@shoalhaven.nsw.gov.au>
Subject: RE: "Default" signature blocks

Hi Amanda, sorry to chase you up on this after a couple of days but we have until Monday 27 November to advise Commissioner Sloan if the dispute is resolved.

I find it improbable that your IT people, who I assume are the ones who set the default, can't reset it. Can you please explain.

Ian Robertson
Secretary
depa

Ph: 9712 5255
www.depa.au

From: Ian Robertson
Sent: Monday, November 20, 2023 10:52 AM
To: Amanda Crangle <Amanda.Crangle@shoalhaven.nsw.gov.au>
Subject: "Default" signature blocks

Good morning Amanda, I had some feedback from members who do multiple emails and have to individually choose one of the options for each email.

I know when we talked about this that your IT people set a "default" which I think includes the mobile number. If they can do that, why can't they reset the default to the call centre?

Ian Robertson
Secretary
depa

Ph: 9712 5255
www.depa.au