



Local Government Standards Panel

Complaint Number	20230277D
Legislation	<i>Local Government Act 1995</i>
Complainant	Gary Tuffin - Chief Executive Officer
Respondent	Councillor Xavier Carr
Local Government	Town of Cambridge
Regulation	Regulation 22 of the <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members	Ms Emma Power (Presiding Member) Ms Suleila Felton (Member) Cr Peter Rogers (Member)
Heard	20 September 2023 Determined on the documents
Finding	2 x Breach of Regulation 22

FINDING AND REASONS FOR FINDING

28 November 2023

DEFAMATION CAUTION

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Summary of the Panel's decision

1. On 20 September 2023, the Panel found that Councillor Xavier Carr, a councillor for the Town of Cambridge (**"the Town"**), did commit a minor breach pursuant to the *Local Government Act 1995 (WA)* (**"the Act"**) and Division 4, regulation 22 of the *Local Government (Model Code of Conduct) Regulations 2021* (**"the Regulations"**) when he did not disclose an alleged impartiality interest in certain matters before Council at the Ordinary Council Meetings of the Town of 28 March 2023 and 23 June 2023 as further set out in paragraph 17 below.

The Panel's Role

2. Under section 5.110(2) of the Act the Panel is required to consider a minor breach complaint and make a finding as to whether the alleged minor breach occurred.
3. The Act and the *Local Government (Administration) Regulations 1996* provide for the circumstances in which a council member commits a minor breach.
4. Section 5.105(1) of the Act provides that a council or committee member commits a minor breach if the council or committee member contravenes a rule of conduct. Division 4 of the Regulations sets out the rules of conduct for council members and candidates.
5. Regulation 34D of the *Local Government (Administration) Regulations 1996* also provides that the contravention of a "*local law as to conduct*" is a minor breach pursuant to the Act.
6. The Panel may make a finding that a councillor has committed a minor breach of the Act and Regulations based on evidence from which it may be concluded that it is more likely that the alleged breach occurred than it did not occur.¹
7. In order to find a breach, it must be established that each element of the relevant Regulation is more likely than not to have been breached or met.
8. In considering whether a minor breach is established the Panel must consider:
 - a. all evidence provided and, where there are conflicting circumstances, inferences or evidence, must come to a reasonable conclusion that any circumstance, inference or evidence relied upon is more likely than not to have occurred or be accurate²; and
 - b. the seriousness of any allegation made, as well as the gravity of the consequences flowing from a particular finding³.
9. The Panel does not possess investigative or supervisory powers.⁴ The Panel makes decisions about complaints regarding minor breaches solely upon the evidence

¹ Section 5.106 of the Act

² *Bradshaw v McEwans Pty Ltd* (1951) 217 ALR 1

³ *Briginshaw v Briginshaw* (1938) 60 CLR 336

⁴ *Re and Local Government Standards Panel* [2015] WASC 51 (at paragraph 24)



presented to it and, where appropriate, materials in the public domain or published by the relevant local authority's website.

10. It is the responsibility of both complainants and respondents to provide the Panel with all information they wish the Panel to consider when making its determination.
11. The Panel also must have regard to the general interests of local government in Western Australia⁵.
12. The Panel is obliged to give notice of the reasons for any finding it makes under section 5.110(2) of the Act.

Jurisdiction and Procedural Fairness

13. On 15 August 2023 the Panel received an email from Mr Gary Tuffin, acting as Complaints Officer of the Town (**"the Complaints Officer"**). The same enclosed a Complaint of Minor Breach Form dated 8 August 2023.
14. In the complaint form, the Complainant alleges that Cr Carr breached regulation 22 of the Regulations when:
 - a. at the Ordinary Council Meeting of the Town of 28 March 2023 he did not disclose an alleged impartiality interest in a matter before Council regarding the planting of trees of certain streets (**"Allegation 1"**); and
 - b. at the Ordinary Council Meeting of the Town of 23 June 2023 he did not disclose an alleged impartiality interest in a matter before Council regarding the installation of bollards on certain streets (**"Allegation 2"**);as further set out in paragraph 17 (together **"the Complaint"**).
15. The Panel convened on 20 September 2023 to consider the Complaint.
16. The Panel:
 - a. accepted the advice of the Department of Local Government, Sport and Cultural Industries (**"the Department"**) that, based on information published on the Western Australian Electoral Commission's website, Cr Carr was:
 - i. elected to the Council of the Town in October 2021 for a term expiring in October 2025;
 - ii. a Councillor at the time of the alleged breach; and
 - iii. a Councillor when the Panel met on 20 September 2023;
 - b. was satisfied the Complaint was made within six months after the alleged breach occurred⁶;

⁵ Section 8(6) of Schedule 5.1 of the Act

⁶ Section 5.107(4) and 5.109(2) of the Act



- c. was satisfied that the Shire's Complaints Officer had dealt with the Complaint in accordance with the administrative requirements in the Act for dealing with complaints of a minor breach⁷;
- d. was satisfied the Department had provided procedural fairness to Cr Carr; and
- e. found it had jurisdiction to consider the Complaint.

The Specifics of the Complaint

17. The Complainant provided the following comments and arguments in respect to the Complaint:

Summary

- a. Cr Carr did not disclose an Impartiality Interest for either motion lodged by him at the Ordinary Council Meetings held 28 March 2023 and 23 June 2023.
- b. Both notices were similar in nature that the requests were to effectively prevent parking along the verge on Brampton Road.
- c. Once questioned by another Councillor (Cr Mayes), Cr Carr revealed he has relatives who live along Brampton Road.
- d. It could well be perceived that Cr Carr's relatives might benefit from the request if the Motion was supported by Council, as vehicles would no longer be able to park on the verge directly in front of their home.

28 March 2023:

- e. Motion and reasons submitted by Cr Carr area as follows:

“ That Council REQUESTS the Administration to:

Plant native trees along the verge of the entirety of Brampton Road, City Beach as part of the upcoming winter planting season;

Consider planting native trees such as Tuart, Peppermint, Paperback, or other appropriate native trees that will provide proper green canopy and foliage so as to provide privacy to resident homes along Brampton Road as well as increasing the visual amenity of the area; and

Plant these trees at a distance of no greater than 6 metres apart from the other tree.”

REASONS PROVIDED BY CR CARR:

It is important to increase urban tree canopy and Brampton Road verge is in dire need of more urban tree canopy.”

(“the First Motion”).

⁷ Section 5.107 and 5.109 of the Act



- f. The First Motion lapsed for want of a seconder.
- g. The records show that Cr Carr did not make disclosure (written or verbal) any potential or perceived conflict of interest prior to this matter being considering by Council in accordance with regulation 22 of the Regulations.
- h. It should be noted that Cr Carr made 5 other disclosures of interest (Impartiality) at this meeting relating to items DV23.7, 11.1, 11.6, 11.1 & 15.10, demonstrating a clear understanding of the requirements of regulation 22.

23rd June 2023

- i. Motion and reasons submitted by Cr Carr:

“ That Council:

- 1. *REQUESTS the CEO to install wooden bollards along the section of Brampton Road between Bent Street and Norman Street to prevent cars from parking on the verges of homes between Skipton Way and Brampton Road:*

- 1.1 *these bollards be installed at a height of no greater than 75 centimetres from the ground; and*

- 1.2 *these bollards be installed at a suitable distance and no greater than 1.5 meters apart so as to prevent cars from parking on the verge and allow the verge to recover so as to be ready for verge trees to be planted as part of the Town's winter 2024 planting schedule.*

REASONS PROVIDED BY CR CARR:

Residents of Skipton Road (whose properties also border onto Brampton Road) have complained about a large increase in cars parking on their verges. The increased number of cars parking on the Brampton Road Verge of Skipton Way residents has had an adverse impact on these residents' amenity. Also, cars parking on the verge have had an adverse effect on the environment and have caused damage to tree canopy. These wooden bollards will stop cars from being able to park on the verge thus increasing the amenity of Skipton Way residents and rehabilitating the verge to allow it to be in a suitable state for the 2024 winter tree planting schedule.”

(“the Second Motion”).

- j. The Second Motion considered on the 23 June 2023 was very specific in the area it targeted *“on the verges of homes between Skipton Way and Brampton Road”*.
- k. Councillor Carr's relatives reside directly within this section of Brampton Road.
- l. The records show that Cr Carr did not disclosure (written or verbal) any potential or perceived conflict of interest prior to this matter being considering by Council in accordance with section Regulations.



- m. It was only once the matter was being formally considered by Council that it became apparent that a perceived conflict of interest existed as Cr Carr was questioned by Cr Mayes as follows:

Cr Carr: *I've done my job listening to those residents ...*

Cr Mayes: *Are these the homes here?*

Cr Carr: *Uh, yes. 1, 2, 3, 4 and 5.*

Cr Mayes: *And you've spoken with all these residents?*

Cr Carr: *Yes*

Cr Mayes: *Do you know any of these residents personally?*

Cr Carr: *Some of them, yes*

Cr Mayes: *Do you know any of these residents personally?*

Cr Carr: *Some of them, yes*

Cr Mayes: *Are any of those residents related to you?*

Cr Carr: *Uh, some of them.*

Cr Mayes: *So they're actually related to you?*

Cr Carr *nodded.*

18. The Complainant asl provided the following supporting documentation:
- Extract from Minutes of the Ordinary Council Meeting of 28 March 2023 showing the First Motion;
 - Extract from Minutes of the Ordinary Council Meeting of 27 June 2023 showing the Second Motion.

The Respondent's Response

19. Despite being given an opportunity to respond, Cr Carr did not provide a response to the Complaint.

Regulation 22

20. Regulation 22 requires a councillor to disclose what is commonly referred to as an "impartiality interest". The relevant parts of regulation 22 provide:

22. Disclosure of interests

*(1) In this clause —
interest —*



- c. subject to regulation 22(3), Cr Carr had a private or personal interest in a matter in which an apparent or real conflict of interest arises that does (or might) adversely affect the member's impartiality in considering such matter;
- d. Cr Carr did not disclose the nature of the relevant interest in the matter in either of the ways required by regulation 22(2)(a) or regulation 22(2)(b); and
- e. regulation 22(3) and Regulation 22(4) do not apply.

PANEL'S CONSIDERATION

Allegation 1 - First Motion – 28 March 2023

Cr Carr was an elected member at the time of the alleged breach and the time of the determination

22. Cr Carr was a councillor at the time of the alleged breach and at the time the Panel considered the Complaint.
23. This element is met.

Cr Carr attended at the council or committee meeting and was present during discussion of the matter

24. The relevant matter the subject of the Complaint was discussed at the Ordinary Council Meeting of the Town of 28 March 2023 ("**the March OCM**").
25. The Minutes of the March OCM indicate that Cr Carr was present at the OCM, was present during the First Motion as he moved the same.
26. This element is met.

Subject to Regulation 22(3), Cr Carr has an interest in the matter

27. In regulation 22(1) an "interest" is defined as:

"interest —

- (a) *means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and*
- (b) *includes an interest arising from kinship, friendship or membership of an association."*

28. This is commonly referred to as an "impartiality interest".
29. In order for there to be a declarable impartiality interest either:
 - a. it must be more likely than not that, when viewed objectively, the councillor has an interest of some kind that a fair-minded informed observer might reasonably apprehend or perceive might be a conflict of interest or a bias of some kind; or
 - b. an existing association to, or with, a councillor exists which might adversely affect the councillor's impartiality in considering the matter on the basis that:



- i. the councillor's mind might not be open to persuasion in regard to the matter; or
 - ii. the member might not be willing to give genuine and appropriate consideration to the matter, the matters required by law to be taken into account or any recommendation of council officers or a committee, as the case requires.
30. In this case, it is alleged that Cr Carr has an impartiality interest as his relatives live in the houses along Brampton Road that were the subject of the First Motion and would be directly affected by the tree planting.
31. The Panel is satisfied from the portion of transcript provided from the Ordinary Council meeting of 23 June 2023 reproduced in paragraph 17.m above that Cr Carr has relatives living in the relevant houses along Brampton Road. The Panel is further satisfied that the those particular parties would have been directly affected by the First Motion.
32. In this case, the Panel considers that as Cr Carr is directly related to the parties in the Houses on Brampton Road this constitutes an interest arising from kinship as referred to in regulation 22(1)(a).
33. This existing relationship could cause a fair-minded informed observer to reasonably apprehend or perceive that there might be a conflict of interest or a bias of some kind with respect to subject matter of the First Motion. Therefore, the requirement to declare is triggered.
34. The requirement to declare is assessed objectively, not based on the Councillor's belief.
35. The Panel finds that, assessed objectively, Cr Carr's existing relationship with the residents of the houses that would be directly affected by the First Motion could be reasonably perceived to affect the impartiality of Cr Carr in relation to the First Motion.
36. This element is met.

Cr Carr did not disclose the nature of the relevant interest in the matter in either of the ways required by regulation 22(2)(a) or regulation 22(2)(b)

37. The March OCM minutes and records confirm that Cr Carr did not make a disclosure or declaration as to an impartiality interest with respect to the First Motion at any time prior to or during the March OCM.
38. This element is met.

Regulation 22(3) does not apply

39. In this case, the relevant interest cannot be properly considered to be a proximity or financial interest and therefore Regulation 22(3) does not apply.

Regulation 22(4) does not apply



40. Cr Carr was the mover of the First Motion. Therefore, he was aware that the content would directly affect the houses belonging to his relatives. Cr Carr was further, obviously, aware of such existing relationship of kinship.
41. As such, Cr Carr knew, or at least should have known, that he had declarable interest in the matter.
42. It is clear from the Minutes of the March OCM that Cr Carr did not declare any interest after the introduction of the Item.
43. This element is met.

Conclusion

44. The elements required to find a breach of regulation 22 of the Regulations have been met.

Allegation 2 – Second Motion – 23 June 2023

Cr Carr was an elected member at the time of the alleged breach and the time of the determination

45. Cr Carr was a councillor at the time of the alleged breach and at the time the Panel considered the Complaint.
46. This element is met.

Cr Carr attended at the council or committee meeting and was present during discussion of the matter

47. The relevant matter the subject of the Complaint was discussed at the Ordinary Council Meeting of the Town of 23 June 2023 (**“the June OCM”**).
48. The Minutes of the June OCM indicate that Cr Carr was present at the June OCM, was present during the Second Motion as he moved the same.
49. This element is met.

Subject to Regulation 22(3), Cr Carr has an interest in the matter

50. The Panel refers to its commentary set out in paragraphs 27 to 29 inclusive above.
51. In this case, it is again alleged that Cr Carr has an interest as his relatives live in the houses along Brampton/Skipton Road being the subject of the Second Motion and would be directly affected by the bollard installation.
52. The Panel is satisfied from the portion of transcript provided from the June OCM reproduced in paragraph 17.m above that Cr Carr has relatives living in the relevant houses along Brampton Road. The Panel is further satisfied that those particular parties would have been directly affected by the Second Motion.
53. In this case, again the Panel considers that as Cr Carr is directly related to the parties in the Houses on Brampton/Skipton Road this constitutes an interest arising from kinship as referred to in regulation 22(1)(a).



54. This existing relationship could cause a fair-minded informed observer to reasonably apprehend or perceive that there might be a conflict of interest or a bias of some kind with respect to the contents of the Second Motion.
55. The Panel finds that, assessed objectively, Cr Carr's existing relationship with the residents of the houses that would be directly affected by the Second Motion could be reasonably perceived to adversely affect the impartiality of Cr Carr in relation to the Second Motion.
56. The Panel reiterates it is not that Cr Carr necessarily was engaging in anything underhanded. After all, his relatives are still local ratepayers with an interest in the area. However, when dealing with matter that will affect a councillor's relatives, it is reasonable to consider that a councillor *may* have a personal preference in outcome of the matter that goes beyond simple representation of the local community.
57. Making a declaration does not mean that Cr Carr would be unable to stay in the room, speak or vote on the matter. Cr Carr must simply declare there is an existing relationship between the parties that others should be aware of.
58. Declaring impartiality interests is a fundamental feature of a councillor's obligations and must be considered, and acted on prudently, by all councillors so that the public can retain confidence in the actions of elected members.
59. This element is met.

Cr Carr did not disclose the nature of the relevant interest in the matter in either of the ways required by regulation 22(2)(a) or regulation 22(2)(b)

60. The meeting minutes and records confirm that Cr Carr did not make a disclosure or declaration as to an impartiality interest with respect to the Second Motion at any time prior to or during the June OCM.
61. This element is met.

Regulation 22(3) does not apply

62. In this case, the relevant interest cannot be properly considered to be a proximity or financial interest and therefore Regulation 22(3) does not apply.

Regulation 22(4) does not apply

63. Cr Carr was the mover of the Second Motion. Therefore, he was aware that the content would affect the houses belonging to his relatives. Cr Carr was also aware of the existing relationship of kinship.
64. As such, Cr Carr knew, or at least *should* have known, that he had declarable interest in the matter.
65. It is clear from the Minutes of the June OCM that Cr Carr did not declare any interest after the introduction of the Item.
66. The Panel notes that, even if Carr did not consider that a relevant relationship existed to an extent that gave rise to an impartiality interest, once the relevant relationship had been highlighted by Cr Mayes, it would have been prudent for Cr Carr to make a formal declaration at that time.



67. This element is met.

Conclusion

68. The elements required to find a breach of regulation 22 of the Regulations have been met.

Panel's Findings

69. With respect to Allegation 1 – Cr Carr did commit a breach of Regulation 22 of the Regulations and therefore did commit a minor breach.

70. With respect to Allegation 2 – Cr Carr did commit a breach of Regulation 22 of the Regulations and therefore did commit a minor breach.

Signing

Emma Power (Member)

Peter Rogers (Deputy Member)

Suleila Felton (Deputy Member)



Local Government Standards Panel

Complaint Number	20230277D
Legislation	<i>Local Government Act 1995 (WA)</i>
Complainant	Mr Gary Tuffin
Respondent	Councillor Xavier Carr
Local Government	Town of Cambridge
Regulation	Regulation 22 <i>of the Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members for Penalty Consideration	Ms Emma Power (Presiding Member) Ms Suleila Felton (Member) Cr Peter Rogers (Member)
Heard	20 September 2023 Determined on the documents
Penalty Considered	21 March 2024
Outcome	Training

DECISION AND REASONS FOR DECISION

24 April 2024

DEFAMATION CAUTION

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Introduction

1. At its meeting on 20 September 2023, the Panel found that Councillor Xavier Carr, a councillor of the Town of Cambridge (**“the Town”**), committed two minor breaches under the *Local Government Act 1995 (WA)* (**“the Act”**) and regulation 22 of Division 4 of the *Local Government (Model Code of Conduct) Regulations 2021* (**“the Regulations”**) when he did not disclose an alleged impartiality interest in certain matters before Council at the Ordinary Council Meetings of the Town of 28 March 2023 and 23 June 2023 (**“the Minor Breach”**).

Jurisdiction and Law

2. The Panel convened on 21 March 2024 to consider how it should deal with the Minor Breaches.
3. The Panel accepted the advice of the Department of Local Government, Sport and Cultural Industries (**“the Department”**) that on this date there was no available information to indicate that Cr Carr had ceased to be, or was disqualified from being, a councillor.
4. If the Panel finds that a councillor has committed a minor breach, it must give the councillor an opportunity to make submissions to the Panel about how it should deal with the breach under section 5.110(6).¹
5. By a letter dated 28 November 2023, Cr Carr was:
 - a. notified of the Panel’s finding of the Minor Breaches;
 - b. provided with a copy of the Panel’s Finding and Reasons for Finding; and
 - c. offered an opportunity to make submissions as to how the Minor Breaches should be dealt with under section 5.110(6) of the *Act*.

Possible Sanctions

6. Section 5.110(6) of the *Local Government Act 1995 (WA)* (**“the Act”**) provides that the Panel is to deal with a minor breach by:
 - (a) *ordering that no sanction be imposed; or*
 - (b) *ordering that —*
 - (i) *the person against whom the complaint was made be publicly censured as specified in the order;*
or
 - (ii) *the person against whom the complaint was made apologise publicly as specified in the order;*
or

¹ *Local Government Act 1995 (WA)*, s 5.110(5).



- (iii) *the person against whom the complaint was made undertake training as specified in the order;*
- or*
- (iv) *the person against whom the complaint was made pay to the local government specified in the order an amount equal to the amount of remuneration and allowances payable by the local government in relation to the complaint under Schedule 5.1 clause 9;*
- or*
- (c) *ordering 2 or more of the sanctions described in paragraph (b).*

Cr Carr's Submissions

7. By an email dated 4 February 2024 the Department received a response Cr Carr.
8. Cr Carr provided the following comments and arguments, as summarised by the Panel:
 - a. Cr Carr believe a public apology or censure is the appropriate sanction that should be imposed for the breach.
 - b. Further, Cr Carr does not believe that imposing a sanction of extra education is necessary as he has enrolled in the WALGA Diploma of Local Government being a well-respected course which will provide him extensive education in these matters. Including how and when to communicate appropriately via social media.
 - c. Essentially, imposing a sanction that Cr Carr undertakes further education would be superfluous since he has already undertaken to enrol in the WALGA Diploma.
 - d. Finally, Cr Carr does not believe that payment as a sanction is necessary as no individuals have been defamed or suffered reputational damage nor is my post directed at any individual. Neither has the Town suffered any damage. Therefore, Cr Carr believes a payment is necessary.
 - e. To summarise, if any sanction is imposed, the sanction should be an apology or censure.

Panel's Consideration

9. Section 5.110(6) is solely about penalty. The Panel does not have the power to review any finding of a breach.
10. The Panel may order under section 5.110(6)(a), that no sanction be imposed, not to reverse the Panel's finding of a breach, but to indicate that in all the circumstances the relevant councillor should not be penalised further.
11. Guidance as to the factors which the Panel may consider in determining the appropriate penalty to impose include, but are not limited to, the following:
 - a. the nature and seriousness of the breaches;



- b. the councillor's motivation for the contravention;
 - c. whether or not the councillor has shown any insight and remorse into his/her conduct;
 - d. whether the councillor has breached the Act knowingly or carelessly;
 - e. the councillor's disciplinary history;
 - f. likelihood or not of the councillor committing further breaches of the Act;
 - g. personal circumstances at the time of conduct, and of imposing the sanction;
 - h. need to protect the public through general deterrence and maintain public confidence in local government; and
 - i. any other matters which may be regarded as aggravating conduct or mitigating its seriousness².
12. In this case the Panel notes that, Cr Carr did not address his particular breach in his response as to sanction, but rather refers to a different minor breach finding.
 13. In this case the Panel found Cr Carr ought to have declared an interest in the relevant item before Council on two separate occasions and that the relevant interest arose from a family relationship between the parties.
 14. This kind of kinship relationship is one of the most basic to ascertain and declare and Cr Carr did not have any excuse for not complying with this obligation.
 15. Despite the fact that Cr Carr asserts that he has enrolled in a Diploma of Local Government, the Panel deems that it is prudent that Cr Carr undertake training to refresh his understanding of the personal responsibilities of Elected Members to comply with their obligations under the Act to declare any interests an elected member has, or is perceived to have, that may influence decisions, particularly impartiality interests.
 16. The Panel considers this will assist Cr Carr in more accurately assessing the scope of his obligations and encourage prudent declaration habits.
 17. Further, an enrolment in the relevant diploma does not necessarily mean Cr Carr will complete all necessary units or requirements.
 18. The sanction of an order to undertake training also aligns with the intent of the Act and the purpose of the civil penalties under the Act to ensure future compliance with the statutory obligations imposed on councillors for the better protection of the public.
 19. In the relevant circumstances, the Panel considers that undertaking training is an adequate sanction and that it is not necessary to order that Cr Carr recoup to the Shire the costs of the Department incurred in accordance with Schedule 5.1 clause 9 with respect to the Complaint.

² *Chief Executive Officer, Department of Local Government and Communities and Scaffidi [2017] WASAT 67 (S)*



Panel's decision

20. The Panel orders pursuant to section 5.110(6)(b)(iii) of the Act that, in relation to the Minor Breach of regulation 22 of the Regulations, Cr Carr undertake training in terms of the attached Order.

Signing

A handwritten signature in black ink, appearing to read 'E Power', written over a horizontal line.

Emma Power (Member)

A handwritten signature in black ink, appearing to read 'P Rogers', written over a horizontal line.

Peter Rogers (Deputy Member)

A handwritten signature in black ink, appearing to read 'S Felton', written over a horizontal line.

Suleila Felton (Deputy Member)



ORDER

24 April 2024

DEFAMATION CAUTION

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THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

Councillor Xavier Carr, a councillor for the Town of Cambridge, **undertakes training** as specified in paragraph 1 below.

Training

1. Within 4 months of the date of this Order, Councillor Xavier Carr, a councillor for the Town of Cambridge, shall undertake:
 - a. the training course for Elected Members “*Conflicts of Interest*” provided by WA Local Government Association (WALGA) for a period of no less than 3.5 hours, attending either in person or via e-learning (if available); or
 - b. a training course with substantially similar learning outcomes provided by an alternative registered training organisation for a period of not less than 3.5 hours.

Appeal

2. In the event that, prior to the date for compliance with the above Orders, Councillor Xavier Carr:
 - a. commences an appeal of the decision of the Standards Panel to the State Administrative Tribunal in accordance with section 5.125 of the *Local Government Act 1995*; and
 - b. notifies the Complaints Officer of the Shire of such appeal in writing,

THEN:

- c. compliance with such Orders may be delayed until the State Administrative Tribunal has made a finding in respect to the decision; and

such Orders may be amended by an order of the State Administrative Tribunal.



NOTICE TO THE PARTIES TO THE COMPLAINT

RIGHT TO HAVE PANEL DECISION REVIEWED BY THE STATE ADMINISTRATIVE TRIBUNAL

The Local Government Standards Panel (the Panel) advises:

- (1) Under section 5.125 of the *Local Government Act 1995* the person making a complaint **and** the person complained about each have the right to apply to the State Administrative Tribunal (the SAT) for a review of the Panel's decision in this matter. In this context, the term "decision" means a decision to dismiss the complaint or to make an order.
- (2) By rule 9(a) of the *State Administrative Tribunal Rules 2004*, subject to those rules an application to the SAT under its review jurisdiction **must be made within 28 days** of the day on which the Panel (as the decision-maker) gives a notice [see the Note below] under the *State Administrative Tribunal Act 2004 (SAT Act)*, section 20(1).
- (3) The Panel's ***Breach Findings and these Findings and Reasons for Finding – Sanctions***, constitute the Panel's notice (i.e. the decision-maker's notice) given under the *SAT Act*, section 20(1).

Note:

- (1) This document may be given to a person in any of the ways provided for by sections 75 and 76 of the *Interpretation Act 1984*. [see s. 9.50 of the *Local Government Act 1995*]
- (2) Subsections 75(1) and (2) of the *Interpretation Act 1984* read:
 - (1) Where a written law authorises or requires a document to be served by post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, **service shall be deemed** to be effected by properly addressing and posting (by pre-paid post) the document as a letter to the last known address of the person to be served, and, **unless the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.** [Bold emphases added]
 - (2) Where a written law authorises or requires a document to be served by registered post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified mail."
- (3) Section 76 of the *Interpretation Act 1984* reads:

"Where a written law authorises or requires a document to be served, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served —

 - (a) by delivering the document to him personally; or
 - (b) by post in accordance with section 75(1); or
 - (c) by leaving it for him at his usual or last known place of abode, or if he is a principal of a business, at his usual or last known place of business; or



- (d) *in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the State.”*