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## Local Government Standards Panel

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Complaint Number	SP 2020-024
Legislation	<i>Local Government Act 1995</i>
<b>Complainant</b>	<b>Councillor Cate McCullough</b>
<b>Respondent</b>	<b>Councillor Tanya Richardson</b>
Local Government	<b>City of Swan</b>
Regulation	Regulation 4 Regulation 7 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>
Panel Members	Mr Michael Connolly (Presiding Member) Cr Peter Rogers (Member) Mrs Emma Power (Member)
Heard	10 June 2020 Determined on the documents
Finding	1 x Breach of Regulation 4 1 x Breach of Regulation 7(1)(b)

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### FINDING AND REASONS FOR FINDING

Delivered 12 August 2020

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#### DEFAMATION CAUTION

The general law of defamation, as modified by the *Defamation Act 2005*, applies to the further release or publication of all or part of this document or its contents. Accordingly, appropriate caution should be exercised when considering the further dissemination and the method of retention of this document and its contents.



## Summary of the Panel's decision

1. On 10 June 2020, the Panel found that Councillor Tanya Richardson, a councillor of the City of Swan (**"the City"**) did commit a minor breach pursuant to the Local Government Act 1995 (WA) (**"the Act"**) and each of:
  - a. regulation 4 of the Local Government (Rules of Conduct) Regulations 2007 (**"the Regulations"**); and
  - b. regulation 7 of the Regulations,when she made comments that were allegedly derogatory and reflected adversely on another council member at the Ordinary Council Meeting of 11 March 2020 as set out in paragraph 15 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 provides for the circumstances in which a council member commits a minor breach.<sup>1</sup>
4. 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.<sup>2</sup>
5. 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.
6. 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 accurate<sup>3</sup>; and
  - b. the seriousness of any allegation made, as well as the gravity of the consequences flowing from a particular finding<sup>4</sup>.
7. The Panel does not possess investigative or supervisory powers.<sup>5</sup> The Panel makes decisions about complaints regarding minor breaches solely upon the evidence presented to it and, where appropriate, materials published by the relevant local authority's website.
8. 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.
9. The Panel also must have regard to the general interests of local government in Western Australia<sup>6</sup>.

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<sup>1</sup> Section 5.105 of the Act

<sup>2</sup> Section 5.106 of the Act

<sup>3</sup> *Bradshaw v McEwans Pty Ltd* (1951) 217 ALR 1

<sup>4</sup> *Briginshaw v Briginshaw* (1938) 60 CLR 336

<sup>5</sup> *Re and Local Government Standards Panel* [2015] WASC 51 (at paragraph 24)

<sup>6</sup> Section 8(6) of Schedule 5.1 of the Act



10. 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**

11. On 17 March 2020 the Panel received a complaint from Mr Michael Foley acting as complaints officer of the City ("**the Complaints Officer**"). The same enclosed a Complaint of Minor Breach Form dated 16 March 2020.
12. In the complaint form, the Complainant alleges that Cr Richardson has breached regulation 4 of the Regulations and Regulation 8 of the Regulations when she made comments that were allegedly derogatory and reflected adversely on another council member at the Ordinary Council Meeting of 11 March 2020 ("**the OCM**") as set out in paragraph 15 ("**the Complaint**").
13. The Panel convened on 10 June 2020 to consider the Complaint.
14. The Panel:
  - a. accepted the advice of the Department that, based on information published on the Western Australian Electoral Commission's website, Cr Richardson was:
    - i. at the time the Panel met, elected to the Council of the City in October 2019 for a term expiring in October 2023;
    - ii. a Councillor at the time of the alleged breach; and
    - iii. a Councillor when the Panel met on 10 June 2020;
  - b. was satisfied the Complaint was made within six months after the alleged breach occurred<sup>7</sup>;
  - c. was satisfied that the City's Complaints Officer had dealt with the Complaint in accordance with the administrative requirements in the Act for dealing with complaints of a minor breach<sup>8</sup>;
  - d. was satisfied the Department had provided procedural fairness to Cr Richardson; and
  - e. found it had jurisdiction to consider the Complaint.

### **The Specifics of the Complaint**

15. The Complainant provided the following comments and arguments in respect to the Complaint:
  - a. At approximately 8.30pm during the 11 March 2020 OCM, Councillors voted for Item 3.3 of the Agenda.
  - b. Shortly after votes were counted, Cr Richardson said quietly (but loud enough for the Complainant to hear) and while looking at the Complainant:

*"Oh surprise surprise....of course you're going to vote with your husband".*
  - c. The Complainant called a point of order and referred to comments made by Cr Richardson.

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<sup>7</sup> Section 5.107(4) and 5.109(2) of the Act

<sup>8</sup> Section 5.107 and 5.109 of the Act



- d. There was then an exchange between Cr Richardson and the Complainant where Cr Richardson denied saying anything however it was clear that she had.
  - e. The Presiding Member then calls Councillors to order and stated that it would be taken up at another appropriate time.
  - f. The meeting moved on to the next item. At this point that Cr Richardson is clearly heard to say:

*“You're a liar”*
  - g. The Complaint again requested a point of order.
  - h. The Presiding Member requested Cr Richardson to refrain from making derogatory comments about fellow Councillors and a reminder that the meeting is being recorded and it will be picked up by the speakers.
  - i. Given the distance between the Complainant and Cr Richardson, if she could hear the comments, then other Councillors, staff present and community members in the public gallery would also have heard these comments.
  - j. The comments made will have a negative impact on the Complainant's reputation and standing within the Council and the wider community, particularly as some of these derogatory comments can be clearly heard on the meeting recording, which is uploaded to the City's website and available to everyone.
  - k. The Complainant found the comments rude, offensive, insulting and intemperate.
  - l. The Complainant believes Cr Richardson has breached the *City of Swan Meeting Procedures Local Law 2019* (“**Meeting Procedures**”):

**“4.11 - Adverse Reflection**

*Unless the meeting resolves, without debate, that the matter before the meeting cannot otherwise be adequately considered -*

    - (1) *A member must not reflect adversely on a decision of the Council or a committee except on a motion that the decision be revoked or changed.*
    - (2) *A member must not, in a meeting open to the public -*
      - (a) *reflect adversely on the character or actions of another member or employee; or*
      - (b) *impute any improper motive to a member or employee.”*
  - m. This type of behaviour is unacceptable generally, but particularly at a public meeting that is being livestreamed.
  - n. This is not the first time Cr Richardson has displayed this type of behaviour at a Council meeting and the constant mutterings and comments have continued to cause the Complainant a great deal of stress and anxiety.
  - o. No personal or public apology has been offered by Cr Richardson.
16. The live recording of the OCM was available to the Panel to review.

## Respondent's Response

17. By an email dated 31 March 2020, Cr Richardson provided a response to the Complaint.
18. Cr Richardson's response does not address the particular conduct described in the Complaint so is not reproduced here.

## Regulation 4

19. Regulation 4 reads:

*"(1) In this regulation —*

***"local law as to conduct"** means a local law relating to conduct of people at council or committee meetings.*

*(2) The contravention of a local law as to conduct is a minor breach for the purposes of section 5.105(1)(b) of the Act."*

20. Section 5.105(1)(b) of the Act states as follows:

*"A council member commits a minor breach if he or she contravenes*

*...*

*(b) a local law under this Act, contravention of which the regulations specify to be a minor breach."*

## Regulation 7

21. Regulation 7 prohibits councillors engaging in conduct to either gain an advantage for themselves (or another party) or cause detriment to another party and specifically provides as follows:

### ***"7. Securing personal advantage or disadvantaging others***

*(1) A person who is a council member must not make improper use of the person's office as a council member —*

*(a) to gain directly or indirectly an advantage for the person or any other person; or*

*(b) to cause detriment to the local government or any other person.*

*(2) Subregulation (1) does not apply to conduct that contravenes section 5.93 of the Act or The Criminal Code section 83.*

22. The Complainant has not made any allegation that there was any intention to provide an advantage to any particular party, so the Panel has only considered regulation 7(1)(b) of the Regulations in this decision.

## **Panel's Consideration**

### **Regulation 4**

23. To make a finding of a minor breach of regulation 4 of the Regulations the Panel must be satisfied, to the required standard, that:



- a. Cr Richardson was a councillor at the time of the alleged breach and the time of the determination;
- b. the conduct occurred during a council or committee meeting; and
- c. Cr Richardson breached a valid provision of the City's Local Law.

#### Cr Richardson was a Councillor at the relevant times

24. Cr Richardson was a councillor at the time of the alleged breach and at the date the Panel considered the Complaint.
25. This element is met.

#### The conduct occurred at a council or committee meeting

26. The relevant conduct took place at an Ordinary Council Meeting of the City of 11 March 2020.
27. This element is met.

#### Cr Richardson breached a valid provision of the City of Swan Meeting Procedures Local Law 2019

28. It is alleged that Cr Richardson breached clause 4.11(2) of the Meeting Procedures.
29. The Panel has reviewed the live streamed recording of the OCM and is satisfied that it is more likely than not that Cr Richardson did make the comments asserted to be made by the Complainant.
30. Although exchange commencing with the words "*Surprise, surprise..*" was said quietly and is difficult to make out on the recording, the words "*You're a liar*" are able to be clearly heard.
31. The comment "*Oh surprise surprise....of course you're going to vote with your husband*" is in breach of Meeting Procedures 4.11(2)(b) in that it imputes that the Complainant was not acting in accordance with her obligations as a councillor to consider the relevant vote fairly and honestly and implies that she had a bias in the matter.
32. The accusation "*You're a liar*" is clearly a breach of section 4.11(2)(a) of the Meeting Procedures in that it reflects adversely on the character of the Complainant.
33. As such, the Panel finds, to the required standard, that both remarks were in breach of clause 4.11(2) of the Meeting Procedures.
34. This element is met.

#### Conclusion

35. Given the above, the elements required to find a breach of regulation 4 of the Regulations have been met.

#### **Regulation 7(1)(b)**

36. To make a finding of a minor breach of regulation 7(1)(b) of the Regulations the Panel must be satisfied to the required standard that:



- a. Cr Richardson was an elected member at the time of the alleged breach and the time of the determination;
- b. Cr Richardson made use of her office as Council member of the City;
- c. when viewed objectively, such use was an improper use of Cr Richardson's office in that it:
  - i. involved a breach of the standards of conduct that would be expected of a person in the position of councillor by reasonable persons; and
  - ii. was so wrongful and inappropriate in the circumstances that it calls for the imposition of a penalty; and
- d. Cr Richardson engaged in the conduct in the belief that detriment would be suffered by another person.

#### Cr Richardson was an Elected Member at the relevant times

37. Cr Richardson was an elected member at the time of the alleged breach and at the date the Panel considered the Complaint.
38. This element is met.

#### Cr Richardson made use of her office as Council Member of the City

39. In this instance Cr Richardson was attending the OCM in her role as a councillor of the City.
40. The Panel finds to the required standard that Cr Richardson was acting in her capacity as an elected member when she attended the ECC meeting.
41. This element is met.

#### Cr Richardson use was improper

42. Deciding if conduct is an improper use of office requires something more than simply a demonstration of poor judgment or a lack of wisdom<sup>9</sup>. It requires an abuse of power or the use of the councillor's position in a manner that such councillor knew (or ought to have known) was not authorised.
43. Impropriety does not depend on a councillor's consciousness of impropriety. It is to be judged objectively and does not involve an element of intent<sup>10</sup>.
44. Any decision as to what is "improper" cannot be made in isolation but must be considered in the relevant context including the specifics of the relevant event as well as councillor's formal role and responsibilities.
45. The Complainant asserts that the conduct was rude, offensive, insulting and intemperate.
46. The Panel has already found that Cr Richardson was in breach of the Meeting Procedures. This is one indication that conduct may be improper.
47. Another indicator that conduct may be improper is when the same is a breach of the relevant code of conduct of the City.
48. The City has a "*Code of Conduct for Councillors and Committee Members*" published September 2015 ("**the Code**") which sets out certain expectations in respect to the

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<sup>9</sup> Complaint of Minor Breach No. SP 3 of 2013

<sup>10</sup> *Chew v R* [1992] HCA 18



conduct of Councillors to be read in conjunctions with the Regulations. The relevant sections of the Code are as below:

a. High Ethical Standard

*“ Councillors and Committee Members of the City of Swan should aspire to high ethical standards including those in Regulation 3(1) of the Local Government (Rules of Conduct) Regulations 2007. The standards in Regulation 3(1) prescribe the following conduct:-*

*.....*

*7. Treat others with respect and fairness; and*

*.....”*

b. Personal Behaviour

*“(a) Councillors and Committee Members will:*

*(i) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;.....”*

49. In this case, the Panel finds to the required standard that in making the two comments, Cr Richardson did not treat the Complainant with respect and fairness as required by the Code.
50. Given the above, the Panel finds that it is more likely than not the conduct by Cr Richardson in making the two comments was improper as:
- the comments were in breach of both the Meeting Procedures and the Code;
  - the alleged conduct was of such a nature that a reasonable individual would consider the same to be inappropriate or not in keeping with the conduct that would be expected of a councillor; and
  - the conduct is deserving of a penalty.
51. This element is met.

Cr Richardson intended to cause a disadvantage

52. “Detriment” means loss, damage or injury. It is construed widely and includes financial and non-financial loss and adverse treatment, such as humiliation, denigration, intimidation, harassment, discrimination and disadvantage.
53. It is not necessary to find whether any detriment was actually suffered<sup>11</sup>, but an intent to cause such detriment must be established.
54. The Complainant asserts that Cr Richardson’s behaviour:
- is likely to cause a negative impact on the Complainant’s reputation and standing within the Council and the wider community; and
  - has caused her stress and anxiety
- however, she does not make any direct assertion as to Cr Richardson’s intentions.
55. Cr Richardson has made no assertions as to her intent.
56. Taking into account the content of the comments and the tone in which they were expressed, the Panel finds it is more likely than not that Cr Richardson intended to reflect adversely upon the character of the Complainant and thereby denigrate and humiliate her.

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<sup>11</sup> *Yates and Local Government Standards Panel* [2012] WASAT 59 at [72]



57. Therefore, the Panel finds that it is more likely than not that Cr Richardson intended to cause a detriment to the Complainant.
58. This element is met.

#### Conclusion

59. Given the above, the elements required to find a breach of regulation 7(1)(b) of the Regulations have been met.

#### **Panel's Findings**

60. Cr Richardson did commit a breach of Regulation 4 of the Regulations and therefore did commit a minor breach.
61. Cr Richardson did commit a breach of Regulation 7(1)(b) of the Regulations and therefore did commit a minor breach.

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Mick Connolly (Presiding Member)

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Emma Power (Member)

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Peter Rogers (Member)



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## Local Government Standards Panel

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Complaint Number	SP 2020-024
Legislation	<i>Local Government Act 1995 (WA)</i>
<b>Complainant</b>	<b>Councillor Cate McCullough</b>
<b>Respondent</b>	<b>Councillor Tanya Richardson</b>
Local Government	<b>City of Swan</b>
Regulation	Regulations 4 and 7(1)(b) of the <i>Local Government (Rules of Conduct) Regulations 2007 (WA)</i>
Panel Members for Penalty Consideration	Mr Gordon MacMile (Presiding Member) Councillor Deborah Hopper (Member) Ms Elanor Rowe (Member)
Heard	10 June 2020 Determined on the documents
Penalty Considered	17 September 2020
Outcome	Public Apology

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### DECISION AND REASONS FOR DECISION

Delivered 29 October 2020

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#### DEFAMATION CAUTION

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## Introduction

1. At its meeting on 10 June 2020, the Panel found that Councillor Tanya Richardson (“Cr Richardson”), a councillor for the City of Swan (“the City”), committed two minor breaches under the Local Government Act 1995 (WA) (“the Act”) and regulations 4 and 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* (WA) (“the Regulations”) when she made comments that were derogatory and reflected adversely on another council member at the Council Meeting held on 11 March 2020.
2. On 12 August 2020, the Panel published its Finding and Reasons for Finding (“Findings”) that Cr Richardson had breached Regulation 4 and Regulation 7(1)(b) (“Minor Breaches”). The Panel reviewed all the evidence presented to it and made the following statements:

### *“Regulation 4*

30. *Although exchange commencing with the words “Surprise, surprise.” was said quietly and is difficult to make out on the recording, the words “You’re a liar” are able to be clearly heard.*
31. *The comment “Oh surprise surprise....of course you’re going to vote with your husband” is in breach of Meeting Procedures 4.11(2)(b) in that it imputes that the Complainant was not acting in accordance with her obligations as a councillor to consider the relevant vote fairly and honestly and implies that she had a bias in the matter.*
32. *The accusation “You’re a liar” is clearly a breach of section 4.11(2)(a) of the Meeting Procedures in that it reflects adversely on the character of the Complainant.*

### *Regulation 7(1)(b)*

49. *In this case, the Panel finds to the required standard that in making the two comments, Cr Richardson did not treat the Complainant with respect and fairness as required by the Code.*  
  
.....
56. *Taking into account the context of the comments and the tone in which they were expressed, the Panel finds it is more likely than not that Cr Richardson intended to reflect adversely upon the character of the Complainant and thereby denigrate and humiliate her.”*

## Jurisdiction and Law

3. The Panel convened on 17 September 2020 to consider how it should deal with the Minor Breaches. 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 Richardson had ceased to be, or was disqualified from being, a councillor.



## Possible Sanctions

4. Section 5.110(6) of 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*
    - (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).*

## Councillor Richardson's Submissions

5. 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).<sup>1</sup>
6. By a letter dated 13 August 2020, Cr Richardson was:
- a. notified of the Panel's Findings of the Minor Breaches;
  - b. provided with a copy of the Panel's Findings; 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.
7. The Department did not receive a submission from Cr Richardson within the fourteen (14) day timeframe provided to her. In addition, a further request was sent to Cr Richardson on 21 August 2020, and a follow up phone call was made, to which there was no further response.

## Panel's Consideration

8. Section 5.110(6) is about penalty. The Panel does not have the power to review any finding of a breach.

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<sup>1</sup> *Local Government Act 1995 (WA)*, s 5.110(5).



9. Under section 5.110(6)(a), the Panel may order that no sanction be imposed, not to reverse the finding of a breach, but to indicate that in all the circumstances the relevant councillor should not be penalised further.
10. The Panel found that Cr Richardson breached Regulation 4 and Regulation 7(1)(b) when she made derogatory comments regarding another council member at the Council Meeting held on 11 March 2020. It was a serious matter, and the Panel does not consider it appropriate to impose no sanction in relation to the Minor Breaches as this would indicate that they were so minor that no penalty is warranted.
11. However, the Panel also does not consider it is appropriate to make an order for censure for Cr Richardson's actions, as they were not so serious to justify such an order. When the Panel makes an order that a Notice of Public Censure be published, the Notice is published by the local government's CEO, at the expense of the local government; such expense is significant where the Notice is to be published in a newspaper or newspapers. Likewise, the Panel also does not find that an order that Cr Richardson pay to the City a sum of money is warranted.
12. The options left for the Panel to consider are to order Cr Richardson to undertake training or make a Public Apology.
13. The circumstances in which it may be appropriate for the Panel to order that the council member concerned undertake training include where the member communicates to the Panel:
  - a. their acknowledgement that they have committed the minor breach, and their willingness to undertake training; or
  - b. their acknowledgement that they have committed the minor breach, but that such breach occurred through their lack of knowledge or education on the issue or issues concerned; or
  - c. their remorse or contrition for their offending conduct in committing the minor breach.
14. Cr Richardson did not take the opportunity to respond to how the Panel should deal with the Minor Breaches. Therefore, in the circumstances, it is not the Panel's view that training (so to not repeat her offending conduct) will be of use to Cr Richardson.
15. An apology in public to the other party concerned is appropriate when a councillor's conduct does not meet the standards other councillors seek to uphold. Furthermore, given the context in which the comments were made about the Complainant (who was also a councillor for the City), a public apology also reflects the impact of Cr Richardson's statements on the Complainant and makes some amends for them.
16. Therefore, the Panel considers a public apology to Councillor Cate McCullough is the appropriate penalty.



### Panel's Decision

17. Having regard to the Findings, the matters set out herein, and the general interests of local government in Western Australia, the Panel's decision on how the Minor Breach is to be dealt with under s5.110(6) of the Act, is that pursuant to subsection (b)(ii) of that section, Cr Richardson is ordered to publicly apologise for her conduct.

A handwritten signature in blue ink, appearing to read 'G MacMile'.

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Gordon MacMile (Deputy Presiding Member)

A handwritten signature in black ink, appearing to read 'Elanor Rowe'.

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Elanor Rowe (Deputy Member)

A handwritten signature in blue ink, appearing to read 'Deborah Hopper'.

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Deborah Hopper (Deputy Member)



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## ORDER

Delivered 29 October 2020

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### DEFAMATION CAUTION

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### THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor Tanya Richardson (“Cr Richardson”), a Councillor for the City of Swan, publicly apologise to Councillor Cate McCullough, as specified in paragraphs 2 and 3 below.
2. At the ordinary council meeting first occurring after the expiration of 28 days from the date of service of this Order on her, Cr Richardson shall:
  - a. attend the relevant ordinary council meeting;
  - b. ask the presiding person for his or her permission to address the meeting to make a public apology to the public;
  - c. make the apology immediately after Public Question Time or during the Announcements part of the meeting, or at any other time when the meeting is open to the public, as the presiding person thinks fit; and
  - d. address the Council and public as follows, without saying any introductory words before the address, and without making any comments or statement after the address:

“I advise this meeting that:

- i. A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened Regulation 4 and Regulation 7(1)(b) of the Local Government (Rules of Conduct) Regulations 2007 (WA) when I made comments that were derogatory and reflected adversely on another council member at the Council Meeting held on 11 March 2020.
- ii. The Panel found that by behaving in this manner I committed one breach of Regulation 4 and one breach of Regulation 7(1)(b) of the Local Government (Rules of Conduct) Regulations 2007.
- iii. I accept that I should not have acted in such a manner and I apologise to Councillor Cate McCullough for having done so.”



3. If Cr Richardson fails or is unable to comply with the requirements of paragraph 2 above then within the next 28 days following the ordinary council meeting referred to in paragraph 2, she shall cause the following notice of public apology to be published in no less than 10 point print, as a one-column or two-column display advertisement in the first 10 pages of the “*Echo*” newspaper:

**PUBLIC APOLOGY BY COUNCILLOR TANYA RICHARDSON**

A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened Regulation 4 and Regulation 7(1)(b) of the Local Government (Rules of Conduct) Regulations 2007 (WA) when I made comments that were derogatory and reflected adversely on another council member at the Council Meeting held on 11 March 2020.

The Panel found that by behaving in this manner I committed one breach of Regulation 4 and one breach of Regulation 7(1)(b) of the Local Government (Rules of Conduct) Regulations 2007.

I accept that I should not have acted in such a manner and I apologise to Councillor Cate McCullough for having done so.



## 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*