



Local Government Standards Panel

Complaint Number	20230277B
Legislation	<i>Local Government Act 1995</i>
Complainant	Mr Gary Tuffin
Respondent	Councillor Xavier Carr
Local Government	Town of Cambridge
Regulation	Regulation 18 of the <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members	Mrs Emma Power (Presiding Member) Ms Suleila Felton (Member) Cr Peter Rogers (Member)
Heard	28 November 2023 Determined on the documents
Finding	1 x Breach - Regulation 18

FINDING AND REASONS FOR FINDING

22 January 2024

DEFAMATION CAUTION

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Summary of the Panel's decision

1. On 28 November 2023, the Panel found that Councillor Xavier Carr a councillor of the Town of Cambridge ("**the Town**") did commit a minor breach pursuant to the *Local Government Act 1995 (WA)* ("**the Act**") and Division 4 and Regulation 18 of the *Local Government (Model Code of Conduct) Regulations 2021* ("**the Regulations**") when he made Facebook comments referring to allegedly secret negotiations being undertaken by the Town 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 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.

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)

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



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 a complaint 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 has breached regulation 18 of the Regulations when he made a Facebook comment referring to allegedly "secret negotiations" being undertaken by the Town as referred to in paragraph 17 below ("**the Complaint**").
15. The Panel convened on 28 November 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; and
 - ii. a Councillor when the Panel met on 28 November 2023;
 - b. was satisfied the Complaint was made within six months after the alleged breach occurred⁶;
 - c. was satisfied that the Town'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 as summarised by the Panel:
 - a. Cr Carr made a number of social media comments which contain false or misleading statements as an attempt to discredit Council decisions and cause a disadvantage to current sitting Councillors who supported those decisions.
 - b. Cr Carr made the below Facebook post in June or July 2023.

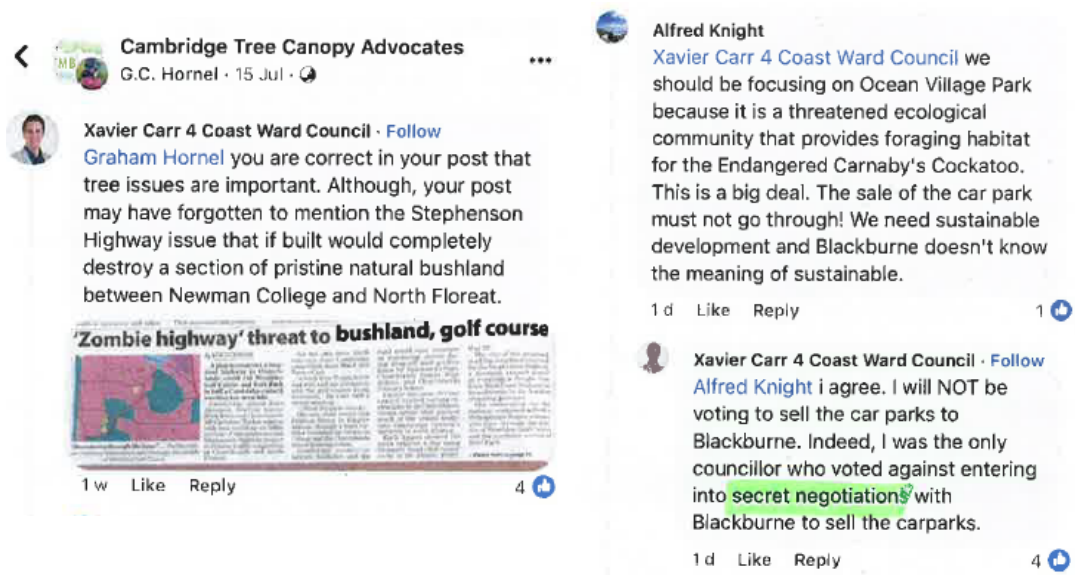
⁶ Section 5.107(4) and 5.109(2) of the Act

⁷ Section 5.107 and 5.109 of the Act



("the First Post")

- c. The First Post demonstrates a lack of understanding regarding the negotiation process in a major commercial land transaction and seeks to undermine confidence in Council decisions and disadvantage the remaining Councillors. These comments have been repeated on at least one further post as follows:



("the Second Post").

The Respondent's Response

18. Despite being given an opportunity by the Department, Cr Carr did not provide a response to the Complaint.



Regulation 18

19. Regulation 18 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:

“ 18. Securing personal advantage or disadvantaging others

(1) *A council member must not make improper use of their office —*

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

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

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

20. To make a finding of a minor breach of regulation 18 of the Regulations the Panel must be satisfied to the required standard that:
- a. Cr Carr was an elected member or a candidate at the time of the alleged breach and the time of the determination;
 - b. Cr Carr made use of his office as Council member or candidate of the Town;
 - c. when viewed objectively, such use was an improper use of Cr Carr’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 Carr engaged in the conduct in the belief that detriment would be suffered by another person.
21. As the Complainant has not alleged any advantage was intended to be gained, the Panel has only considered regulation 18(1)(b) in this case.

Code of Conduct

22. The Town has a *Code of Conduct for Council Members, Committee Members and Candidates* adopted 27 April 2021 (“**the Code of Conduct**”) which governs the conduct of elected members.
23. A breach of the Code of Conduct may indicate that an elected member has acted improperly in breach of Regulation 18.
24. The relevant provisions of the Code of Conduct Code are as follows:

“ 4. Personal integrity

(1) *A council member, committee member or candidate should —*

(a) *act with reasonable care and diligence; and*

(b) *act with honesty and integrity; and*



- (c) *act lawfully; and*
- (d) *identify and appropriately manage any conflict of interest; and*
- (e) *avoid damage to the reputation of the local government.*
- ...

“5. Relationship with others

- (1) *A council member, committee member or candidate should —*
 - (a) *treat others with respect, courtesy and fairness; and*
 - (b) *respect and value diversity in the community.*
- (2) *A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.”*

“9. Relationship with others

- A council member, committee member or candidate —*
- (a) *must not bully or harass another person in any way; and*
 - (b) *must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and*
 - (c) *must not use offensive or derogatory language when referring to another person; and*
 - (d) *must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and*
 - (e) *must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.”*

PANEL’S CONSIDERATION

Regulation 18(1)(b)

Cr Carr was an Elected Member or a Candidate at the relevant times

- 25. Cr Carr was an elected member at the time of the alleged breach and at the date the Panel considered the Complaint.
- 26. This element is met.

Cr Carr made use of his office as Council Member of the Town

- 27. The relevant conduct concerns Facebook Posts made in early March 2023.
- 28. Due to the fact that:
 - a. the Facebook Posts were made using Cr Carr’s councillor Facebook account “Xavier Carr 4 Coast Ward Council”;



- b. the Facebook Posts were commenting on an article which concerned the Town and rate payers; and
- c. Cr Carr was purporting to communicate with and guide the community in the local municipality,

the Panel finds that it is more likely than not that Cr Carr was acting in his capacity as an elected member and made use of his office as a council member when undertaking the conduct.

29. This element is met.

Cr Carr's use was improper

30. Deciding if conduct is an improper use of office requires something more than simply a demonstration of poor judgment or lack of wisdom. 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.
31. 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.
32. 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.
33. In the case of impropriety arising from an abuse of power, a councillor's alleged knowledge or means of knowledge of the circumstances in which the power is exercised and his or her purpose or intention in exercising the power will be important factors in determining whether the power has been abused⁸.
34. In the First Comment and the Second Comment Cr Carr was commenting on an Administration recommendation and Item discussed and voted on during the March Ordinary Council Meeting of the Town (Item 11.11) ("**the Item**") in respect to the proposed disposal of land within the Town.

That Council: -

1. **NOTES** the community consultation report and feedback relating to the **Business Plan** proposing the sale of part of the land comprising Lot 241 on Plan 11424 ("**Carpark Land**");
 2. **AUTHORISES** the Acting Chief Executive Officer to:
 - (a) Progress and finalise negotiations for the sale of the Carpark Land for the price listed in Confidential Attachment 1;
 - (b) Give local public notice for two weeks of the proposed sale of the Carpark Land in accordance with s3.58 of the *Local Government Act 1995*; and
 3. **NOTES** the Acting Chief Executive Officer will provide a further report to Council with details of the submissions received.
35. The Administration recommendation made in respect to the Item was as follows:

⁸ Treby and Local Government Standards Panel [2010] WASAT 81 (at 31); Chew v The Queen (1992) 173 CLR 626 (at 640 - 641 [Dawson J]); R v Byrnes (1995) 183 CLR 501 – (at 514 - 515 [Brennan, Deane, Toohey and Gaudron JJ] and at 521 [McHugh J].



36. The motion was amended and was eventually voted on as follows:
- That Council: -**
1. **NOTES** the community consultation report and feedback relating to the **Business Plan** proposing the sale of part of the land comprising Lot 241 on Plan 11424 (“Carpark Land”);
 2. **AUTHORISES** the Acting Chief Executive Officer to:
 - (a) appoint a suitability qualified and experienced consultant to progress and finalise negotiations for the sale of the Carpark Land on behalf of the Town;
 - (b) then give local public notice for two weeks of the proposed sale of the Carpark Land in accordance with s3.58 of the *Local Government Act 1995*; and
 3. **NOTES** the Acting Chief Executive Officer will provide a further report to Council with details of the submissions received.
- Motion, as AMENDED, put and CARRIED (8/1)**
37. It is clear from the above that Council was clearly contemplating the sale of the relevant land and that negotiations would be undertaken, either by the Administration or a consultant.
38. Given the above the Panel finds that there was no justification or basis for the negotiations to be considered “secret”.
39. It is standard that:
- a. the Administration of a Local Government would undertake any commercial negotiations to purchase land on behalf of Council;
 - b. material commercial terms may be considered “confidential” at the time of negotiations;
 - c. following the negotiation of commercial terms, the matter goes to Council for approval.
40. The fact that Councillors are not involved in the day to day commercial negotiations does not make those negotiations “secret”.
41. In particular, the words “secret negotiations” do not imply that the negotiations were to be undertaken by the administration in a private setting as per normal process, but rather impute that there was some kind of dishonest attempt to hide the negotiations from the Council and public in general and that there was some kind of underhanded or preferential treatment occurring with respect to the matter.
42. This imputation is especially untenable as the above motion expressly notes that the terms of the agreement were also going to undergo a public consultation process.
43. Subsequently at the Ordinary Council Meeting of 25 July 2023 (agenda item 11.16) the matter was discussed and approved and the CEO was given authority to sign the relevant Agreement of Sale. As such, it appears that all usual processes were followed.
44. The Panel further finds that the Facebook Posts were in breach of the following clauses of the Code of Conduct:
- a. Clause 4(1)(e) to “*avoid damage to the reputation of the local government*”:
 - i. The accusations of dishonesty and improper dealing by the Administration was highly likely to damage the reputation of the local government.



- b. Clause 5(1)(a) to *“treat others with respect, courtesy and fairness”*:
 - i. The public accusations wrongdoing without any basis was not a fair approach to the Administration or the Council members who supported the decision.
 - c. Clause 9(d) to *“not disparage the character of a local government employee in connection with the performance of their official duties”*:
 - i. The Facebook Posts disparage the character of the staff members comprising the Administration as being untrustworthy and dishonest.
 - d. Clause 9(e) – to *“not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.”*
 - i. The Facebook Posts impute that the negotiations were being undertaken in a dishonest or unethical manner in an attempt to hide them from Council and the public.
45. The Panel comments that the Facebook Comments cannot be characterised as Cr Carr exercising his obligations under the Act to either:
- a. provide leadership and guidance to the community in the district; or
 - b. facilitate communication between the community and the Council.
46. Given the above, the Panel finds that it is more likely than not that Comment 1 and Comment 2 were improper as:
- a. the conduct was in breach of the Code of Conduct;
 - b. the 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
 - c. the conduct is deserving of a penalty.
47. This element is met.

Regulation 18(1)(b) – Cr Carr intended to cause a disadvantage

48. 1. “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.
49. It is not necessary to find whether any detriment was actually suffered, but an intent to cause such detriment must be established
50. In this context and circumstances of the Facebook Posts, the Panel finds that a reasonable person would consider that the purpose of the Facebook Posts was to:
- a. disparage the motives of Council in making a decision regarding the relevant sale of land;
 - b. make the public think less of the Council by noting they supported the negotiations being undertaken by the Administration or a consultant;
 - c. call into question the motives of the Town employees in undertaking the relevant negotiations; and
 - d. make the public believe that the Administration of the Town had engaged in improper conduct.



Local Government Standards Panel

Complaint Number	20230277B
Legislation	<i>Local Government Act 1995 (WA)</i>
Complainant	Mr Gary Tuffin
Respondent	Councillor Xavier Carr
Local Government	Town of Cambridge
Regulation	Regulation 18 <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	28 November 2023 Determined on the documents
Penalty Considered	21 March 2024
Outcome	Public Apology

DECISION AND REASONS FOR DECISION

24 April 2024

DEFAMATION CAUTION

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Introduction

1. At its meeting on 28 November 2023, the Panel found that Councillor Xavier Carr, a councillor of the Town of Cambridge (**“the Town”**), committed a minor breach under the *Local Government Act 1995 (WA)* (**“the Act”**) and regulation 18 of Division 4 of the *Local Government (Model Code of Conduct) Regulations 2021* (**“the Regulations”**) when he made Facebook comments referring to allegedly secret negotiations being undertaken by the Town (**“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 22 January 2024, 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 apologises publicly as specified in the order;*
or
 - (iii) *the person against whom the complaint was made undertake training as specified in the order;*

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



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. At the time Cr Carr believed that his Facebook posts were within the boundaries of what was acceptable communication from an elected councillor in that he did not defame or disparage any individual or the council and he was speaking in terms which had previously been used by respected news publications.
 - c. Also, the term 'secret negotiations' far from being a term used to disparage or discredit the Council was, Cr Carr believed, a truthful representation of the events that were occurring – namely negotiations over Council-owned land in which the ratepayers of the district were not allowed to know or told any details as to the terms of the negotiation (so in practical effect the negotiations were secret).
 - d. Therefore, an apology will allow Cr Carr to admit that he was wrong and allow Cr Carr to help repair relationships with any elected members or Town staff who may have not agreed or taken issue with my social media post.
 - e. 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.
 - f. Essentially, imposing a sanction that Cr Carr undertakes further education would be superfluous since he has already undertaken to enrol in the WALGA Diploma.
 - g. Finally, Cr Carr does not believe that a 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 as part of my post. Therefore, Cr Carr believes a payment is necessary.
 - h. 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 has shown some insight as to his conduct and acknowledges that an apology would allow him to repair any damaged relationships within the Town.
13. The Panel notes, however, that Cr Carr has other minor breaches of a similar type and does need to continue to reflect upon his use of language in a public forum when referring to City actions or decisions.
14. As the conduct was undertaken in a public forum and questioned the integrity Town employees, the Panel considers that a public apology is the appropriate sanction in the circumstances.
15. Making a public apology is a significant sanction, being a personal admission by the individual of wrongdoing³. It is a suitable and appropriate penalty when a councillor's conduct:
 - a. adversely affects particular individuals⁴; and/or
 - b. does not meet the standards other councillors seek to uphold.
16. In the relevant circumstances, the Panel considers that making a public apology is an adequate sanction and that it is not necessary to make an order in accordance

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

³ *Treby and Local Government Standards Panel [2010] WASAT 81 (Pritchard J).*

⁴ *Treby and Local Government Standards Panel [2010] WASAT 81 [127] (Pritchard J).*



with Schedule 5.1 clause 9 of the Act that Cr Carr recoup to the Town the costs of the Department incurred with respect to the Complaint.

Panel's decision

17. The Panel orders pursuant to section 5.110(6)(b)(ii) of the Act that, in relation to the one breach of regulation 18 of the Regulations, Cr Carr makes a public apology in terms of the attached Order.

Signing

A handwritten signature in black ink, appearing to read 'E Power'.

Emma Power (Member)

A handwritten signature in black ink, appearing to read 'P Rogers'.

Peter Rogers (Deputy Member)

A handwritten signature in black ink, appearing to read 'S Felton'.

Suleila Felton (Deputy Member)



ORDER

24 April 2024

DEFAMATION CAUTION

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THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor Xavier Carr, a councillor for the Town of Cambridge **publicly apologise** as specified in paragraph 3; OR
2. Failing compliance with paragraph 3 within the specified timeframe, then paragraph 4 shall apply.

Public Apology

3. On the ordinary council meeting of the Town of Cambridge first occurring after the expiration of **28 days** from the date of service of this Order on him, Cr Carr shall:
 - i. attend the relevant ordinary council meeting;
 - ii. ask the presiding person, or acting presiding person, for his or her permission to address the meeting to make a public apology to the public;
 - iii. 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
 - iv. 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 18 of the *Local Government (Model Code of Conduct) Regulations 2021*, when I made a comment on Facebook accusing the Town of undertaking "secret negotiations".
- ii. The Panel found that I breached Regulation 18 by my conduct as my comment incorrectly imputed dishonest or unethical motives to Town employees.
- iii. I acknowledge that I should have not made the Facebook comment and I now apologise to the Town of Cambridge, the Town employees and my fellow councillors."



4. If Cr Carr fails to, or is unable to, comply with the requirements of paragraph 3 above in the required time frame THEN, within the next **28 days** following the ordinary council meeting referred to in paragraph 3 above the Chief Executive Officer of the Town of Cambridge shall arrange for the notice of public apology to be published:
 - a. on the Facebook Page of the Town of Cambridge shall in no less than 10 point font size; and
 - b. in an appropriate place on the website of the Town of Cambridge shall in no less than 10 point font size; and
 - c. in the next occurring issue of any Town of Cambridge shall public newsletter (if any) whether in electronic or print copy) in no less than 10 point font size.

PUBLIC APOLOGY BY COUNCILLOR XAVIER CARR

A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened Regulation 18 of the Local Government (Model Code of Conduct) Regulations 2021, when I made a comment on Facebook accusing the Town of undertaking “secret negotiations”.

The Panel found that I breached Regulation 18 by my conduct as my comment incorrectly imputed dishonest or unethical motives to Town employees.

I acknowledge that I should have not made the Facebook comment and I now apologise to the Town of Cambridge, the Town employees and my fellow councillors.

Appeal

5. In the event that, prior to the date for compliance with the above Orders, Cr Carr:
 - a. commences an appeal 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 such appeal in writing,THEN:
 - c. compliance with the above Orders may be delayed until the State Administrative Tribunal has made a finding in respect to the decision; and
 - d. 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."