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## Local Government Standards Panel

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| Complaint Number   | SP 2020-091   |
| Legislation        | <i>Local Government Act 1995</i>  |
| <b>Complainant</b> | <b>Mayor Kevin Bailey</b>   |
| <b>Respondent</b>  | <b>Councillor Tanya Richardson</b>  |
| Local Government   | <b>City of Swan</b>   |
| Regulation         | Regulation 7<br>of the <i>Local Government<br/>(Rules of Conduct) Regulations 2007</i>      |
| Panel Members      | Mrs Emma Power (Presiding Member)<br>Cr Peter Rogers (Member)<br>Mr Gordon MacMile (Member) |
| Heard              | 7 October 2020<br>Determined on the documents   |
| Finding            | One breach of Regulation 7(1)(b)  |

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### FINDING AND REASONS FOR FINDING

Delivered 30 October 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 7 October 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 regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* (**"the Regulations"**) when she sent an email to a member of the public in which she made comments that discredited certain councillors of the City 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>.
10. The Panel is obliged to give notice of the reasons for any finding it makes under section 5.110(2) of the Act.

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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



### **Jurisdiction and Procedural Fairness**

11. On 7 August 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 6 August 2020.
12. In the complaint form, the Complainant alleges that Cr Richardson has breached regulation 7 of the Regulations when she sent an email to a member of the public in which she made comments that discredited certain councillors of the City as set out in paragraph 15 ("**the Complaint**").
13. The Panel convened on 7 October 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, the 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 7 October 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 background and arguments comments in respect to the Complaint:
  - a. At the City of Swan Ordinary Council Meeting of 11 March 2020 Council considered an item relating to security patrols in Ellenbrook. The motion was passed 9 votes to 6.
  - b. Ellenbrook is in the Pearce Ward of the City of Swan and Cr Tanya Richardson is one of four Pearce Ward councillors. Tanya Richardson voted against the motion.
  - c. On 30 March 2020 Cr Richardson sent an email ("**the Email**") to a member of the Public in which contained the following comment:

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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



*“ I have advocated as well for the security patrols to be reinstated to assist with anti-social behavior (sic) like this to report registration numbers to police so they can chase these hoons back to there (sic) address.*

*I’m sorry to report that the other three councillors Patty, Kevin, Cate decided that patrols were a waste of time and decided not to reinstate.*

*I will keep trying to find other ways to help with this common problem but all I can ask is keep your community aware of the Councillors that voted against reinstating the patrols and when it comes to voting get behind members that can make a difference, the old bunch are just not providing a good service to the community of Ellenbrook.”*

**(“the Comment”).**

- d. A copy of the Email was provided to the Complainant by a member of the public.
  - e. The relevant vote was lost 9 to 6 and therefore the decision was not made by three councillors alone but the majority of council.
  - f. Cr Richardson made these comments deliberately to discredit three particular councillors including the Complainant. They were made to clearly disadvantage the Complainant, Cr Patty Jones and Cr Cate McCullough.
  - g. Cr Richardson’s comments are a clear breach of Regulation 7 Securing personal advantage or disadvantaging others.
16. The Complaint also provided:
- a. an extract from the Minutes of the Ordinary Council Meeting of 11 March 2020;
  - b. an extract from unknown source regarding the background of the Council’s actions regarding Ellenbrook security services; and
  - c. a copy of the Email.

### **Respondent’s Response**

17. Despite a request by the Department, Cr Richardson did not provide a response to the Complaint.

### **Regulation 7**

18. 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.*

19. It is not alleged that Cr Richardson sought any advantage for any party, so the Panel has only considered regulation 7(1)(b) in this Complaint.

### **Panel's Consideration**

#### **Regulation 7**

20. To make a finding of a minor breach of regulation 7 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**

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

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

23. In this instance Cr Richardson:
- a. was writing to a member of the public (being an elector) specifically regarding a decision made by Council; and
  - b. identified herself as a councillor of the City.
24. As such, the Panel finds to the required standard that Cr Richardson was acting in her capacity as an elected member when she wrote the Email.
25. This element is met.

#### **Cr Richardson's use was improper**

26. 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

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



or the use of the councillor's position in a manner that such councillor knew (or ought to have known) was not authorised.

27. 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>.
28. 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.
29. In the Complaint the Complainant asserts that Cr Richardson acted improperly as the Comment was misleading and made to deliberately to discredit the three particular councillors named in the Comment.
30. 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 conduct of Councillors to be read in conjunction 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:-*

....

*4. Avoid damage to the reputation of the local government; and*

....

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

....."

b. Councillors/Councillors

*"All Councillors have issues of particular concern and interest to them. Councillors need to work together to achieve satisfactory outcomes.*

*Given this interdependency, Councillor relationships should be characterised by mutual respect and an acknowledgement that, while they may not agree on issues, they are all doing important, and often difficult, work. Differences of opinion must be respected.*

*The 'small group' nature of a Council is an environment where good relationships, respect and an appreciation of constructive diversity lead to good decision making. There is an opportunity for each Councillor to express their individual interests and concerns.*

*Councillors should model constructive relationships and show personal respect for one another in the Council Chamber in the manner outlined in the Local Government (Rules of Conduct) Regulations 2007, this Code of Conduct and the City's meeting procedures."*

c. Personal Behaviour

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

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



...

*(iv) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official duties, which may cause any reasonable person unwarranted offence or embarrassment; and...*”

31. The Code provides a framework for consideration of the expected standards of behaviour of elected members and as to whether certain conduct can be viewed as “improper”.
32. In this case the Panel considers that in writing and sending the Email and Comment Cr Richardson:
  - a. intended to single out three particular councillors that she disagreed with;
  - b. negatively reflected on the actions of Mayor Bailey, Cr Patty Jones and Cr Cate McCullough in a manner that implied that those councillors in particular were responsible for the non-reinstatement of patrols (despite the fact the same was a majority Council decision);
  - c. implied that Mayor Bailey, Cr Patty Jones and Cr Cate McCullough had made such decision frivolously without considering the relevant issues by asserting they “*decided that patrols were a waste of time*”;
  - d. expressly stated that the “old bunch” were not providing “good service” to the community in a manner that:
    - i. implied Mayor Bailey, Cr Patty Jones and Cr Cate McCullough were not undertaking their duties as elected members properly; and
    - ii. reflected negatively on a past decision of Council.
33. As such, the Panel finds it more likely than not that Cr Richardson breached the above sections of the Code as she:
  - a. did not treat the three councillors she referred to with respect and fairness;
  - b. did not respect the differences of other councillor’s opinions in an appropriate manner; and
  - c. was likely to damage the reputation of the local government by implying the relevant decision of Council was not made appropriately.
34. The Panel affirms that it is perfectly acceptable for councillors to hold conflicting opinions on matters. That is a vital function of councillors in representing the divergent needs of their constituents. It is also reasonable to articulate disappointment with a decision of Council that a councillor did not support (in so far as the same does not extend to adverse reflection). However, it is not appropriate to:
  - a. express these disagreements in a manner which indicates that a councillor with an opposing stance is acting wrongfully or inappropriately;
  - b. single out particular councillors as being “blamed” for a majority Council decision in a negative manner; or
  - c. adversely reflect on the past decisions of Council.



35. Given the above, the Panel finds that it is more likely than not the Email and Comment by Cr Richardson was improper as:
- a. the conduct in question was in breach of the City's 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.

36. This element is met.

Cr Richardson intended to cause a disadvantage

37. "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.
38. 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.
39. The Panel finds it was more likely than not that when Cr Richardson:
- a. identified three particular councillors in a negative manner;
  - b. expressly stated that the "*old bunch*" where "*not providing good service*" and
  - c. commented negatively on a prior decision of Council,
- she intended to denigrate those councillors, and the majority Council in general, for making a decision she did not support.
40. As such, the Panel finds that it is more likely than not that Cr Richardson did have an intent to cause a detriment to Council in general and, in particular, Mayor Bailey, Cr Patty Jones and Cr Cate McCullough.
41. This element is met.

Conclusion

42. The elements required to find a breach of regulation 7(1)(b) of the Regulations have been met.

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



**Panel's Findings**

43. 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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Emma Power (Presiding Member)

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Gordon MacMile (Member)

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

Peter Rogers (Member)



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## Local Government Standards Panel

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| Complaint Number                           | SP 2020-091  |
| Legislation                                | <i>Local Government Act 1995 (WA)</i>  |
| <b>Complainant</b>                         | <b>Mayor Kevin Bailey</b>  |
| <b>Respondent</b>                          | <b>Councillor Tanya Richardson</b>   |
| Local Government                           | <b>City of Swan</b>  |
| Regulation                                 | Regulation 7(1)(b)<br>of the <i>Local Government (Rules of Conduct) Regulations 2007 (WA)</i>                |
| Panel Members for<br>Penalty Consideration | Mr Michael Connolly (Presiding Member)<br>Councillor Peter Rogers (Member)<br>Ms Elanor Rowe (Deputy Member) |
| Heard                                      | 7 October 2020<br>Determined on the documents  |
| Penalty Considered                         | 14 December 2020   |
| Outcome                                    | Monetary Sanction<br>Public Apology  |

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### DECISION AND REASONS FOR DECISION

Delivered 25 January 2021

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#### DEFAMATION CAUTION

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## Introduction

1. At its meeting on 7 October 2020, the Panel found that Councillor Tanya Richardson (“Cr Richardson”), a councillor for the City of Swan (“the City”), committed one minor breach under the Local Government Act 1995 (WA) (“the Act”) and regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* (WA) (“the Regulations”) when she sent an email to a member of the public in which she made comments that discredited certain other councillors of the City (“Minor Breach”).
  2. On 30 October 2020, the Panel published its Finding and Reasons for Finding (“Findings”) stating that Cr Richardson had breached Regulation 7(1)(b). The Panel reviewed all the evidence presented to it and made the following observations:
    - “33. *As such, the Panel finds it more likely than not that Cr Richardson breached the above sections of the Code as she:*
      - a. *did not treat the three councillors she referred to with respect and fairness;*
      - b. *did not respect the differences of other councillor’s opinions in an appropriate manner;*
      - c. *was likely to damage the reputation of the local government by implying the relevant decision of Council was not made appropriately.*
    34. *The Panel affirms that it is perfectly acceptable for councillors to hold conflicting opinions on matters. That is a vital function of councillors in representing the divergent needs of their constituents. It is also reasonable to articulate disappointment with a decision of Council that a councillor did not support (in so far as the same does not extend to adverse reflection). However, it is not appropriate to:*
      - a. *express these disagreements in a manner which indicates that a councillor with an opposing stance is acting wrongfully or inappropriately;*
      - b. *single out particular councillors as being “blamed” for a majority Council decision in a negative manner; or*
      - c. *adversely reflect on the past decision of Council.*
- .....
39. *The Panel finds it was more likely than not that Cr Richardson....intended to denigrate those councillors, and the majority Council in general, for making a decision she did not support.”*

## Jurisdiction and Law

3. The Panel convened on 14 December 2020, to consider how it should deal with the Minor Breach. 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).*
5. Section 5.110(6) is about penalty. The Panel does not have the power to review any finding of a breach. 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.
6. Sub-section 5.110(6)(b)(iv) (in respect to a monetary sanction) was introduced in 2019 to allow the Panel to require a councillor to personally bear the cost of dealing with a complaint, which in other circumstances, would be paid by the local government concerned. This ensures the cost of a breach is borne by the councillor individually, and not simply passed onto the local government and therefore, ultimately, rate payers.

## Cr Richardson's Submissions

7. 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>
8. By a letter dated 4 November 2020, Cr Richardson was:
- i. notified of the Panel's Finding of the Minor Breach;
  - ii. provided with a copy of the Panel's Findings; and

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



- iii. offered an opportunity to make submissions as to how the Minor Breach should be dealt with under section 5.110(6) of the Act.
9. The Department did not receive a submission from Cr Richardson within the fourteen-day timeframe provided to her.

### **Panel's Consideration**

10. The purpose of the imposition of a sanction under the Act is generally for the protection of the public and the maintenance of standards of council members. Furthermore, it reflects the disapproval of a contravention of the Regulations, dissuades councillors from other local governments from engaging in similar conduct and facilitates the maintenance of appropriate standards of behaviour by councillors. Guidance on the factors which the Panel may consider in determining the appropriate penalty to impose, include, but are not limited to:
- 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. the likelihood or not of the councillor committing further breaches of the Act;
  - g. the councillor's personal circumstances at the time of the conduct, and at the time of imposing the sanction;
  - h. the 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 seriousness.
11. Cr Richardson had previously been found to have had committed four minor breaches.
12. In this case, the Panel found that Cr Richardson breached Regulation 7(1)(b) when she sent an email to a member of the public in which she made comments that discredited certain other councillors of the City.
13. The Panel does not consider it appropriate to impose no sanction in relation to the Minor Breach, as this would indicate that it was so minor that no penalty is warranted.
14. 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 Chief Executive Officer, at the



expense of the local government; such expense is significant where the Notice is to be published in a newspaper or newspapers.

15. The options left for the Panel to consider are that Cr Richardson makes a public apology; that she undertakes training, and / or that she pays to the local government a sum of money to recoup its expenses in dealing with the Complaint.
16. The Minor Breach is the fifth breach of the Regulations committed by Cr Richardson in less than two years. That indicates a wilfulness on her part to not follow the rules that all elected members are bound by and to not act in the proper spirit of a community leader. In addition, Cr Richardson resisted the chance of participating in the minor breach process at any stage, by failing to submit a response to the initial Complaint and then ignoring an opportunity to put forward her submissions as to how the Minor Breach should be dealt with. Therefore, in the circumstances, the Panel considers that it is appropriate to make an order that Cr Richardson pay to the City an amount equal to the amount (of remuneration and allowances) owed and payable by the City in relation to the Complaint. This sanction is appropriate where the Councillor's conduct is serious or indicates a wilful or negligent regard for the standards of conduct expected from local councillors. It is also suitable to be used where the relevant councillor has been found to have committed multiple breaches, as in this case.
17. Furthermore, the Panel also finds it fair and reasonable that Cr Richardson makes a public apology to the parties that she was found to have intended to cause detriment to, by her conduct. The standards of behaviour expected of elected members are of a generally higher standard than a member of the public, due to their prominent position in the community. Making a public apology is a significant sanction, being a personal admission by the individual of wrongdoing. It is a suitable and appropriate penalty when an elected member's conduct:
  - a. adversely affects a particular individual; and / or
  - b. does not meet the standards other councillors seek to uphold.
18. An apology will go some way to make amends for the potential damage caused by Cr Richardson's conduct.



## Panel's Decision

19. 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 Cr Richardson is ordered to:

- a. pursuant to subsection (b)(iv) of that section, pay to the City an amount equal to the amount of remuneration and allowances payable by the City in relation to the Complaint; and
- b. pursuant to subsection (b)(ii) of that section, make a public apology,

in terms as set out in the attached Order.

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Mick Connolly (Presiding Member)

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Elanor Rowe (Deputy Member)

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Peter Rogers (Member)



## ORDER

Delivered 25 January 2021

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### DEFAMATION CAUTION

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### THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor Tanya Richardson, a councillor for the City of Swan, pay to the City an amount equal to the amount of remuneration and allowances payable by the City in relation to the Complaint, as specified in paragraph 3 below.
2. Councillor Tanya Richardson, a councillor for the City of Swan, publicly apologise, as specified in paragraph 4 below, or failing compliance with paragraph 4, then paragraph 5 below.

### Monetary Sanction

3. Within two (2) months of being advised of the sum total of the remuneration and allowances payable by the City in relation to the Complaint, Cr Richardson shall pay to the City that amount.

### Public Apology

4. At the ordinary council meeting first occurring after the expiration of 28 days from the date of service of this Order on her, Councillor Tanya Richardson ("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 the Local Government (Rules of Conduct) Regulations 2007 (WA) when I sent an email to a member of the public in which I made comments that discredited certain other councillors of the City.
- ii. The Panel found that by behaving in this manner I committed one breach of Regulation 7(1)(b) of the said Regulations as my conduct was wrongful, inappropriate and deserving of a penalty and, further, my actions were likely to cause detriment to the parties involved.
- iii. I accept that I should not have acted in such a manner and I now apologise to the Council, Mayor Kevin Bailey, Councillor Patty Jones and Councillor Cate McCullough for having done so."

5. If Cr Richardson fails to, or is unable to, comply with the requirements of paragraph 4 above in the required timeframe then, within the next 28 days following the ordinary council meeting referred to in paragraph 4 above:
- a. Cr Richardson 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; and
  - b. the Chief Executive Officer of the City of Swan shall arrange for the following notice of public apology to be published:
    - i. on the Facebook page of the City of Swan in no less than 10-point font size; and
    - ii. in an appropriate place on the website of the City of Swan in no less than 10-point font size; and
    - iii. in the next occurring issue of any City of Swan public newsletter (if any) (whether in electronic or print copy) in no less than 10-point font size.

**PUBLIC APOLOGY BY COUNCILLOR TANYA RICARDSON**

A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened the Local Government (Rules of Conduct) Regulations 2007 (WA) when I sent an email to a member of the public in which I made comments that discredited certain other councillors of the City.

The Panel found that by behaving in this manner I committed one breach of Regulation 7(1)(b) of the said Regulations as my conduct was wrongful,



inappropriate and deserving of a penalty and, further, my actions were likely to cause detriment to the parties involved.

I accept that I should not have acted in such a manner and I apologise to the Council, Mayor Kevin Bailey, Councillor Patty Jones and Councillor Cate McCullough.

Date of Order: 25 January 2021



## 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."