



Local Government Standards Panel

Complaint Number	20260002
Legislation	<i>Local Government Act 1995</i>
Complainant	Cr Gemma Johnston
Respondent	Councillor Samantha Starcevich
Local Government	Shire of Esperance
Regulation	Regulations 17, 18 of the <i>Local Government (Model Code of Conduct) Regulations 2021</i> Regulation 34D of the <i>Local Government (Administration) Regulations 1996</i>
Panel Members	Ms Erin Gauntlett (Presiding Member) Councillor Peter Rogers (Member) Ms Elanor Rowe (Deputy Legal Member)
Heard	24 February 2026 Determined on the documents
Outcome	No breach of Regulation 17 One breach of Regulation 18(1)(b) One breach of Regulation 34D

FINDING AND REASONS FOR FINDING

01 April 2026

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. The Local Government Standards Panel ("the Panel") found that Councillor Samantha Starceвич ("Cr Starceвич"), an elected member for the Shire of Esperance ("the Shire") committed:
 - a. one breach under the *Local Government Act 1995* (WA) ("the Act") and Regulation 18(1)(b) of the *Local Government (Model Code of Conduct) Regulations 2021* ("the Regulations"); and
 - b. one breach of *Regulation 34D of the Local Government (Administration) Regulations 1996*;when, at the Council Meeting held on 28 October 2025, she made disparaging remarks in relation to the Complainant.
2. The Panel found that Cr Starceвич had not committed a breach of Regulation 17 in relation to the same conduct outlined above.

Jurisdiction and procedural fairness

3. The Act makes provision for the circumstances in which a council member commits a minor breach.¹
4. On 8 January 2026, the Department of Local Government, Industry Regulation and Safety ("the Department") received a Complaint of Minor Breach Form ("Complaint"). The Complaint was signed by Councillor Gemma Johnston ("the Complainant") and contained three allegations of breaches of the Regulations by Cr Starceвич.
5. On 9 January 2026, the Department advised Cr Starceвич of the Complaint and invited her to respond. Cr Starceвич was sent copies of the original Complaint and all the supporting documents provided by the Complainant.
6. Under the Act the Panel is required to consider a complaint of a minor breach and make a finding as to whether the alleged breaches occurred.² On 24 February 2026 the Panel convened to consider the Complaint.
7. The Panel:
 - (a) accepted the Department's advice, based on information from the Western Australian Electoral Commission, that Cr Starceвич was a councillor at the time of the alleged breaches, and was still a Councillor when the Panel met on 24 February 2026;
 - (b) was satisfied the Complaint had been made within six months after the alleged breaches were said to have occurred;

¹ Section 5.105 of the Act.

² Section 5.110(2)(a) of the Act.



- (c) was satisfied the Complaint had been dealt with in accordance with the administrative requirements in the Act for dealing with complaints of minor breaches³; and
- (d) was satisfied that the Department had provided procedural fairness to Cr Starcevich.
8. If a councillor has previously committed two or more minor breaches, the Panel may send the complaint to the Chief Executive Officer of the department assisting the relevant Minister at the time instead of considering the Complaint itself.⁴ Cr Starcevich had not previously been found to have committed any minor breaches. Therefore, the Panel decided to not send the Complaint to the Chief Executive Officer of the Department.
9. Based on the information referred to above, the Panel found it had jurisdiction to determine whether Cr Starcevich had breached the Regulations in connection with the Complaint.

Panel's role

10. The Panel is not an investigative body. It determines complaints of minor breaches solely upon the evidence presented to it.
11. Any finding, that a councillor has committed a minor breach, must be based on evidence from which it can be concluded that it is more likely than not that the breach occurred than that it did not occur (the required standard of proof).⁵
12. In order to find the allegation, proposition or conduct has been established, and where direct proof is not available, the Panel must be satisfied from the evidence that it is more probable than not that it has occurred. The Panel cannot make a finding that the alleged fact, proposition or conduct occurred if the evidence merely supports two or more conflicting but equally possible inferences.⁶
13. For a finding that a councillor has breached a particular regulation, the Panel must be satisfied that every element of the particular regulation has been established to the required standard of proof.

Regulation 17

14. Regulation 17 provides:

"17. Misuse of local government resources

(1) In this clause –

electoral purpose means the purpose or persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the Electoral Act 1907 or the Commonwealth Electoral Act 1918.

³ Sections 5.107, 5.108, 5.109 of the Act.

⁴ Sections 5.110(2)(b), 5.111(1) of the Act.

⁵ Section 5.106 of the Act.

⁶ *Bradshaw v McEwens Pty Ltd* (1951) 217 ALR 1, paragraph 5.



resources of a local government includes –

- (a) local government property; and
 - (b) services provided, or paid for, by a local government.
- (2) *A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.*

Elements of Regulation 17

15. The essential issues or elements which need to be satisfied in order for a contravention of Regulation 17 to have occurred are that it is more likely than it is not that:

- a. a Councillor directly or indirectly used;
- b. his or her local government's resources;
- c. for the identified purpose or any other purpose;

without such purpose being authorised under the Act or by the council or the local government's CEO.

Regulation 18

16. Regulation 18 provides:

“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.”*

17. The Panel decided that the alleged conduct was not conduct that contravened section 5.93 of the Act or section 83 of *The Criminal Code*.

Elements of Regulation 18

18. In order to find a breach of Regulation 18, the Panel must be satisfied to the required standard of proof that:

- (a) the person, the subject of the Complaint, engaged in the alleged conduct (first element);



- (b) the person, the subject of the Complaint, was a council member both at the time of the conduct and the time when the Panel makes its determination (second element);
- (c) by engaging in the conduct, the person, the subject of the complaint, made use of his or her office as a council member (in the sense that he or she acted in their capacity as a councillor, rather than in some other capacity) (third element);
- (d) when viewed objectively, such use was an improper use of the person's office as a council member in that it:
 - (i) involved a breach of the standards of conduct that would be expected of a person in the position of a councillor, by reasonable persons with knowledge of the duties, power and authority of the councillor and the circumstances of the case; and
 - (ii) was so wrongful and inappropriate in the circumstances that it calls for the imposition of a penalty;(fourth element);
- (e) the person engaged in the conduct in the belief that:
 - (i) [in the case of regulation 18(1)(a)] an advantage would be gained either directly or indirectly for the person or any other person; or
 - (ii) [in the case of regulation 18(1)(b)] detriment would be suffered by the local government or any other person (fifth element).

Fourth element - meaning of "to make improper use of....office"

19. The Macquarie dictionary definition of "improper" is "*not in accordance with propriety of behaviour, manners, etc; unsuitable or inappropriate for the purpose or occasion; abnormal or irregular.*"⁷ The Shorter Oxford dictionary definition is "*irregular, wrong; unsuitable, inappropriate; unbecoming, unseemly.*"⁸

20. Whether there is impropriety is to be assessed objectively: would a reasonable person with knowledge of the duties, powers and authority of a councillor, and all the circumstances of the particular case, form the view that the councillor had breached the standards of conduct expected of a councillor?⁹ "*For behaviour to be improper it must be such that a right-thinking person would regard the conduct as so wrongful and inappropriate in the circumstances that it calls for the imposition of a penalty.*"¹⁰

⁷ Macquarie Dictionary, Revised Third Edition.

⁸ Shorter Oxford English Dictionary, Sixth Edition.

⁹ *Ryan and Local Government Standards Panel* [2009] WASAT 154, paragraph 27, referring to *R v Byrnes* (1995) 183 CLR 501.

¹⁰ *Hipkins and Local Government Standards Panel* [2014] WASAT 48, paragraph 9, referring to *Robbins v Harness Racing Board* [1984] VR 641.



21. Under the Act Panel members must have regard to the general interests of local government in Western Australia.¹¹ It is in the interests of local government that councillors are, and are seen to be, professional and respectful in their dealings with fellow councillors, local government employees and members of the public.
22. The meaning of “*improper*” must be considered in the context of relevant legislation, such as the Act and the Regulations, and other rules and standards that apply to a councillor’s role and conduct, such as the circumstances and context of the case.¹² All these provisions form part of the backdrop to the Regulations and give context to a complaint but the alleged conduct must also be judged in the particular circumstances.
23. Conduct can be improper even though the councillor’s judgement is that it is not improper. A councillor’s use of his or her office can be improper even though the councillor is intending to benefit the local government, the council or the ratepayers and residents.¹³

Fifth element - meaning of “to gain directly or indirectly an advantage for the person or any other person” and “to cause detriment to the local government or any other person”.

Advantage

24. “*Advantage*” is defined as “*favouring a circumstance; something which gives one a better position ... benefit; increased well-being or convenience ... pecuniary profit ...*”¹⁴
25. “*To*” in “*to gain directly or indirectly an advantage*” indicates that for this element to be established, a councillor must have intended to gain an advantage for themselves or another person.
26. For this element to be established, it is not necessary to find that the councillor’s actions did, or reasonably could have, delivered the result sought.

Detriment

27. “*Detriment*” means loss, damage or injury.¹⁵ It includes financial and non-financial loss and adverse treatment, such as humiliation, denigration, intimidation, harassment, discrimination and disadvantage. A person can suffer detriment through others thinking less favourably of them.¹⁶
28. For Regulation 18(1)(b) to be satisfied it is not necessary to show that the local government or the person concerned actually suffered detriment.¹⁷ However, it is not enough to show that the local government or the person concerned suffered detriment or could have suffered detriment. The Panel must find that it

¹¹ Section 5.122(3) of the Act, Schedule 5.1 of the Act, clause 8(6).

¹² *Hipkins and Local Government Standards Panel* [2014] WASAT 48, paragraph 10.

¹³ *Yates and Local Government Standards Panel* [2012] WASAT 59, paragraph 64, referring to *Treby* 2010.

¹⁴ Shorter Oxford English Dictionary, Sixth Edition

¹⁵ Macquarie Dictionary Revised Third Edition, 2001.

¹⁶ *Ryan and Local Government Standards Panel* [2009] WASAT 154, paragraphs 31, 32.

¹⁷ *Treby* 2010, paragraph 96, referring to *Chew v The Queen* 1992 CLR 626 (*Chew* 2010).



is more likely than not that the councillor believed that his or her actions would cause detriment and intended to cause detriment.¹⁸

29. “*To cause detriment*” has been interpreted as meaning “*in order to*” or “*for the purpose of*” causing detriment, or “*with the will to*” cause detriment.¹⁹ There can be a finding of intent if, after considering all the evidence, the only reasonable inference is that the councillor intended to cause detriment.²⁰

Regulation 34D

30. Regulation 34D provides:

“(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.”*

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

“A council member commits a minor breach if she or he contravenes...

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

Elements of Regulation 34D

32. In order to find a breach of Regulation 34, the Panel must be satisfied to the required standard of proof that:

- i. The conduct occurred at a council or committee meeting;
- ii. A standing orders local law or meeting procedures local law applied at the meeting; and
- iii. The relevant local law prohibited the specific conduct displayed by the council member.

Substance of the Complaint

33. The Complaint related to the conduct of Cr Starcevich at the Council Meeting held on 28 October 2025 (“Council Meeting”) at Item 15: *Members Questions With or Without Notice* (“Item 15”).

34. The Complainant alleged that Cr Starcevich made a public statement (“Statement”) concerning the Complainant which included allegations of

¹⁸ *Re and Local Government Standards Panel [2014] WASAT 111*, paragraph 51, referring to *Australian Securities and Investments Commission v Australian Property Custodian Holdings Ltd* [2013] FCA 1342.

¹⁹ *Chew* 2010.

²⁰ *Treby* 2010.



intimidation and bullying of a Shire employee. Also, she made adverse comments relating to the Complainant's Deputy President nomination speech which had been delivered at the previous council meeting.

35. A copy of Cr Starceвич's Statement is attached at "Annexure A."
36. The Council Meeting was broadcast live, and Cr Starceвич's comments had been recorded in the Minutes to the Council Meeting. Subsequently, they were reported on in the Esperance Weekender newspaper and published online. The Complainant had been told by a third party that they were also aired on both television and radio.
37. At the time the Statement was made:
 - a. There had been no finding by the Panel or any other competent authority that the Complainant had bullied or intimidated any employee; and
 - b. The matters referred to in the Statement were subject to separate legal processes and were not appropriately put before Council.
38. The Complainant submitted that she had not been afforded procedural fairness or an opportunity to respond prior to the Statement being made.
39. By publicly raising and repeating unsubstantiated allegations at the Council Meeting, Cr Starceвич had caused reputational harm to the Complainant and disadvantaged her in her role as an elected member.
40. Her actions were extreme and she had intentionally involved as many media outlets as possible to reach the maximum audience.
41. As a consequence of the media attention, the Department sent two Senior Investigators to the Shire for an entire week to investigate the issue. The Complainant submitted that that was unfair on her. She had been made to feel like a criminal, when she had done nothing wrong.

Cr Starceвич's Response

42. On 9 January 2026, the Department requested comment on the allegations from Cr Starceвич. On 22 January 2026, Cr Starceвич submitted a Response in which she confirmed that she did not accept the information as detailed in the Complaint and denied that she had committed the alleged misconduct.
43. Cr Starceвич explained that on 22 October 2025 (prior to the Council Meeting), she had sent a letter ("Letter") to all councillors, including the Complainant. The content of the Letter was basically the same as the Statement she read out at the Council Meeting.
44. Both the Letter and Statement related to the Complainant's continued unacceptable behaviour and highlighted her actions at a recent Shire function ("Function"). Cr Starceвич's granddaughter had been in attendance at the Function and she had asked the question (in reference to the Complainant): "*Why was that lady acting so nasty and horrible to the other lady.*" Cr Starceвич had



decided that putting up with the Complainant's behaviour was no longer appropriate.

45. The Complainant's claim that she was not afforded procedural fairness before the Statement was read out at the Council Meeting was completely untrue. She had plenty of time to consider what Cr Starcevich had written in the Letter before the Statement was read out at the Council Meeting and had several opportunities to respond.
46. Cr Starcevich had not caused any reputational harm to the Complainant – she had done that to herself.

Panel's Consideration

First Allegation – alleged breach of Regulation 17

47. The term "*resource*" is not defined in the Regulations or the Act. However, the term "*local government property*" is defined in section 1.4 of the Act to mean:

"Anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the local government."

48. The noun "*resource*" is defined as meaning:

"Money or any property which can be converted into money; assets."

49. The term "*use*" is defined as:

"a. to employ for some purpose; put into service; turn to account;

b. to avail oneself of; apply to one's own purposes."

50. It was not clear from the Complaint form exactly what Shire resource Cr Starcevich had allegedly used at the Council Meeting and it was not the Panel's role to make out the allegation on behalf of the Complainant.

Findings

51. Therefore, the Panel found, to the required standard that Cr Starcevich had not breached Regulation 17 in relation to the First Allegation.

Second Allegation – alleged breach of Regulation 18(1)(b)

52. The Panel finds that Cr Starcevich engaged in the conduct that was the subject of the Second Allegation and that she was a councillor and was acting as a councillor at all relevant times. The first, second and third elements were established.

Whether Cr Starcevich acted improperly (fourth element)

53. The Panel was satisfied that Cr Starcevich acted improperly when she made the Statement at the Council Meeting:



- a. Cr Starceвич publicly put forward very serious, unproven allegations against the Complainant when she made the Statement at the Council Meeting. These included that the Complainant had:

"...impacted the integrity, safety and functionality of our working environment."

- b. She also referred to the following:

"Following last week's Special Council Meeting, I personally witnessed a disturbing incident of intimidation and bullying between Cr Johnston and a Shire employee. Her conduct was unacceptable and it must be made clear that such actions have no place in this chamber or within any part of this organisation."

- c. Cr Starceвич demanded that the Council act:

"When a complaint is dismissed, as shown in the Behavioural Complaints Committee Minutes 12th April 2025, it shows the process is fair and impartial. But when breaches are proven, it is our duty, as a Council to act."

- d. She went on to ask for the following:

"I ask that we seek Cr Johnston's immediate suspension from office as an elected member until the Department and the Minister conduct a full investigation into her continual breaches of the Code of Conduct and Regulations."

- e. However, if Cr Starceвич had genuine concerns regarding the Complainant's behaviour and wanted to ensure that standards of conduct were upheld, the Council Meeting was not the appropriate forum to raise those issues in the manner she did. Moreover, it was not the Council's duty to take action.
- f. The term "*bullying*" is legally defined and there are laws to protect parties. If the conduct was as serious as Cr Starceвич alleged, she should have followed the correct disciplinary process and pursued an action under the appropriate jurisdiction. A formal process needed to be followed for any potential dismissal / suspension of a councillor.
- g. Moreover, in the Statement, Cr Starceвич referred to the fact that the Complainant had been found "*guilty*" of committing "*multiple*" minor breaches. However, Cr Starceвич only referred to two minor breach findings which were unrelated to her alleged misconduct at the function.
- h. Procedural fairness is crucial for ensuring all parties have a fair opportunity to respond to allegations and that any final decisions are based on evidence and made by an unbiased decision maker.
- i. In this case, Cr Starceвич had denied the Complainant procedural fairness. She had made a unilateral decision as to the appropriateness of the Complainant's conduct and had attempted to dictate what the process should be and by when the Complainant had until to respond to her initial Letter. She then went on to issue a damning public statement regarding the Complainant at the Council Meeting.



- j. In doing so, Cr Starcevich had also breached the following sections of the Shire's Code of Conduct "*Council Members, Committee Members and Candidates, February 2021*":
- Council members are to act with "*reasonable care and diligence*" (section 1.2(1)(a));
 - with "*honesty and integrity*" (section 1.2(1)(b)); and
 - they are under a duty to treat others with "*respect, courtesy and fairness*" (section 1.3(1)(a)).

Whether Cr Starcevich intended to cause a detriment to the Complainant (fifth element)

54. The Panel was satisfied that Cr Starcevich intended to cause a detriment to the Complainant when she made the Statement at the Council Meeting:

- a. Cr Starcevich sent the Letter on 22 October 2026, six days prior to the Council Meeting.
- b. She then repeated the allegations at the Agenda Briefing the week before, which the Complainant had not attended.
- c. Then at the Council Meeting, despite already having raised the issues amongst councillors and staff (but without following any formal complaint process), she made the conscious decision to make the allegations publicly and in front of local residents and the media amongst others.
- d. Clearly, the Statement had been prepared in advance – it was not made on an impromptu basis. Finally, Cr Starcevich explicitly stated that she personally had "*had enough*" and wanted the Complainant's immediate suspension.

Findings

55. Accordingly, for the above reasons, the Panel finds that Cr Starcevich had breached Regulation 18(1)(b) in relation to the Complaint.

Third Allegation – alleged breach of Regulation 34D

56. Based on the evidence before it, the Panel is satisfied that Cr Starcevich breached Regulation 34D at the Council Meeting:

The conduct occurred at a council or committee meeting

- a. The alleged misconduct (the making of the Statement) occurred at the Council Meeting.

A local law relating to conduct applied at the meeting

- b. Under the Act a local government can make "*local laws*", including laws that are necessary or convenient to enable the local government to perform its functions. Under the Act and Regulation 34D of the *Local Government (Administration) Regulations 1996*, a council member who



contravenes a “*local law as to conduct*” commits a minor breach. A “*local law as to conduct*” includes a local law about the conduct of councillors at meetings.

- c. The Shire’s *Standing Orders Local Law 2015* is a local law that applied at the Council Meeting.

There was a contravention of a local law

- d. SO8.4(2) states:

.....

(2) *No member of the Council or a committee is to use offensive or objectionable expressions in reference to any member, employee of the Council, or any other person.”*

- e. Cr Starcevich had referred to the Complainant as a “*bully*” and stated that she had:

“...impacted the integrity, safety and functionality of our working environment.”

- k. The Panel has already found that Cr Starcevich’s comments were improper and made with the intention of causing a detriment to the Complainant. Clearly, they were both offensive and objectionable



74. Accordingly, for the above reasons, the Panel finds that Cr Starcevich had breached Regulation 34D in relation to the Complaint.

Signing

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

Erin Gauntlett (Presiding Member)

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

Elanor Rowe (Deputy Member)

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

Peter Rogers (Member)



Local Government Standards Panel

Complaint Number	20260002
Legislation	<i>Local Government Act 1995</i>
Complainant	Cr Gemma Johnston
Respondent	Cr Samantha Starcevich
Local Government	Shire of Esperance
Regulation	Regulation 18 of the <i>Local Government (Model Code of Conduct) Regulations 2021</i> Regulation 34D of the <i>Local Government (Administration) Regulations 1996</i>
Panel Members for Penalty Consideration	Ms Erin Gauntlett (Presiding Member) Councillor Peter Rogers (Member) Ms Elanor Rowe (Deputy Member)
Heard	24 February 2026 Determined on the documents
Penalty Considered	24 April 2026
Outcome	Public Apology Training

DECISION AND REASONS FOR DECISION

13 May 2026

DEFAMATION CAUTION

The general law of defamation, as modified by the *Defamation Act 2005 (WA)*, 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



Introduction

1. At its meeting on 24 February 2026, the Panel found that Cr Samantha Starcevich (“Cr Starcevich”), a councillor for the Shire of Esperance (“the Shire”), committed one minor breach under the Local Government Act 1995 (WA) (“the Act”) and Regulation 18(1)(b) of the *Local Government (Model Code of Conduct) Regulations 2021* (“the Regulations”) and one breach of Regulation 34D of the *Local Government (Administration) Regulations 1996* when, at the Council Meeting held on 28 October 2025, she made disparaging remarks in relation to the Complainant (“Minor Breach”).
2. The Panel found that Cr Starcevich had not committed a breach of Regulation 17 in relation to the same conduct outlined above.
3. On 1 April 2026, the Panel published its Finding and Reasons for Finding (“Findings”) stating that Cr Starcevich had breached Regulations 18(1)(b) and 34D. The Panel reviewed all the evidence presented to it and made the following observations:

“53. *The Panel was satisfied that Cr Starcevich acted improperly when she made the Statement at the Council Meeting:*

- a. *Cr Starcevich publicly put forward very serious, unproven allegations against the Complainant when she made the Statement at the Council Meeting. These included that the Complainant had: “...impacted the integrity, safety and functionality of our working environment.”*
- b. *She also referred to the following:*
“Following last week’s Special Council Meeting, I personally witnessed a disturbing incident of intimidation and bullying between Cr Johnston and a Shire employee. Her conduct was unacceptable and it must be made clear that such actions have no place in this chamber or within any part of this organisation.”
- c. *Cr Starcevich demanded that the Council act:*
“When a complaint is dismissed, as shown in the Behavioural Complaints Committee Minutes 12th April 2025, it shows the process is fair and impartial. But when breaches are proven, it is our duty, as a Council to act.”
- d. *She went on to ask for the following:*
“I ask that we seek Cr Johnston’s immediate suspension from office as an elected member until the Department and the Minister conduct a full investigation into her continual breaches of the Code of Conduct and Regulations.”
- e. *However, if Cr Starcevich had genuine concerns regarding the Complainant’s behaviour and wanted to ensure that standards of conduct were upheld, the Council Meeting was not the appropriate forum to raise those issues in the manner she did. Moreover, it was not the Council’s duty to take action.*
- f. *The term “bullying” is legally defined and there are laws to protect parties. If the conduct was as serious as Cr Starcevich alleged, she should have followed the correct disciplinary process and pursued an action under the appropriate jurisdiction. A formal process needed to be followed for any potential dismissal / suspension of a councillor.*
- g. *Moreover, in the Statement, Cr Starcevich referred to the fact that the Complainant had been found “guilty” of committing “multiple” minor*



- breaches. However, Cr Starcevich only referred to two minor breach findings which were unrelated to her alleged misconduct at the function.*
- h. Procedural fairness is crucial for ensuring all parties have a fair opportunity to respond to allegations and that any final decisions are based on evidence and made by an unbiased decision maker.*
- i. In this case, Cr Starcevich had denied the Complainant procedural fairness. She had made a unilateral decision as to the appropriateness of the Complainant's conduct and had attempted to dictate what the process should be and by when the Complainant had until to respond to her initial Letter. She then went on to issue a damning public statement regarding the Complainant at the Council Meeting.*
- j. In doing so, Cr Starcevich had also breached the following sections of the Shire's Code of Conduct "Council Members, Committee Members and Candidates, February 2021":*
- Council members are to act with "reasonable care and diligence" (section 1.2(1)(a));*
 - with "honesty and integrity" (section 1.2(1)(b)); and*
 - they are under a duty to treat others with "respect, courtesy and fairness" (section 1.3(1)(a)).*
- 54.** *The Panel was satisfied that Cr Starcevich intended to cause a detriment to the Complainant when she made the Statement at the Council Meeting:*
- a. Cr Starcevich sent the Letter on 22 October 2026, six days prior to the Council Meeting.*
- b. She then repeated the allegations at the Agenda Briefing the week before, which the Complainant had not attended.*
- c. Then at the Council Meeting, despite already having raised the issues amongst councillors and staff (but without following any formal complaint process), she made the conscious decision to make the allegations publicly and in front of local residents and the media amongst others.*
- d. Clearly, the Statement had been prepared in advance – it was not made on an impromptu basis. Finally, Cr Starcevich explicitly stated that she personally had "had enough" and wanted the Complainant's immediate suspension."*

Jurisdiction and Law

4. The Panel convened on 24 April 2026, to consider how it should deal with the Minor Breach. The Panel accepted the advice of the Department of Local Government, Industry Regulation and Safety ("the Department") that on this date there was no available information to indicate that Cr Starcevich had ceased to be, or was disqualified from being, a councillor.

Possible Sanctions

3. 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 however indicate that in all the circumstances the relevant councillor should not be penalised further.
6. Sub-section 5.110(6)(b)(iv) (in respect of 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 Starcevich'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).¹
8. By a letter dated 1 April 2026, Cr Starcevich was:
- i. notified of the Panel's Finding of the Minor Breaches;
 - ii. provided with a copy of the Panel's Findings; and
 - iii. offered an opportunity to make submissions as to how the Minor Breaches should be dealt with under section 5.110(6) of the Act.
9. On 13 April 2026, the Department received a response ("Response") from Cr Starcevich. Cr Starcevich submitted:
- a. She acknowledged the Findings and the process undertaken and did not wish to dispute the decision. However, she did not fully understand the decision as she believed she had approached the matter respectfully.

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



- b. She would like to learn from the experience in how to correctly manage incidents such as this.
- c. Since being re-elected in October 2025, she had enrolled in the Diploma of Local Government. Prior to becoming a Councillor in 2023, she had no knowledge of how the system worked.
- d. She was asked to consider becoming a councillor one day before nominations closed in 2023 and was elected unopposed. It had been an extremely steep learning curve and one that she had not grasped completely.
- e. Her actions had been motivated by what she believed at the time to be genuine concerns.
- f. She proposed the matter be dealt with by ordering training as she was committed to learning from the experience and to continue to serve her community in a professional, respectful and responsible manner.

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 Starcevich's behaviour, the subject of the Minor Breach Finding, was considered a serious matter. When deciding what sanction to impose, the Panel must consider how



the penalty will help to guide other councillors and dissuade them from engaging in similar conduct.

12. The Panel did not consider it appropriate to impose no sanction in relation to the Minor Breach, as that would indicate that it was so minor that no penalty was warranted.
13. In this case, the Panel finds it fair and reasonable that Cr Starcevich makes a public apology to Cr Johnston, being the party who she acted improperly towards.
14. The standards of behaviour expected of elected members are of a generally higher standard than a member of the public, due to their prominent positions in the community. Cr Starcevich's conduct was clearly highly offensive and potentially damaging.
15. 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 or party; and / or
 - b. does not meet the standards other councillors seek to uphold.
16. An apology will go a little way to make amends for Cr Starcevich's conduct and to help repair the damage caused.
17. The Panel further finds it fair and reasonable that Cr Starcevich undertake training. Such an order aligns with the intent of the Act and the purpose of the civil penalties under it to ensure future compliance with the statutory obligations imposed on councillors.



Panel's Decision

18. 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 Starcevich is ordered to:

- a. make a public apology pursuant to subsection (b)(ii); and
- b. undertake training pursuant to subsection (b)(iii)

in terms as set out in the attached Order.

Signing

Erin Gauntlett (Presiding Member)

Elanor Rowe (Deputy Member)

Peter Rogers (Member)



ORDER

13 May 2026

DEFAMATION CAUTION

The general law of defamation, as modified by the *Defamation Act 2005 (WA)*, 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

THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor Samantha Starcevich (“Cr Starcevich”), a councillor for the Shire of Esperance, publicly apologise, as specified in paragraph 2 below, or failing compliance with paragraph 2, then paragraph 3 below.

Public Apology

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 Starcevich 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 (Model Code of Conduct) 2021* and the *Local Government (Administration) Regulations 1996* when, at the Council Meeting held on 28 October 2025, I made disparaging remarks in relation to the Complainant.
- ii. The Panel found that by behaving in this manner I committed one breach of Regulation 18(1)(b) and one breach of Regulation 34D of



the said Regulations.

- iii. I accept that I should not have acted in such a manner and I now apologise to Councillor Gemma Johnston, for having done so.”

3. If Cr Starcevich fails to, or is unable to, comply with the requirements of paragraph 2 above in the required timeframe then, within the next 28 days following the ordinary council meeting referred to in paragraph 2 above:
 - a. Cr Starcevich 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 “*Esperance Weekender*” newspaper; and
 - b. the Chief Executive Officer of the Shire of Esperance shall arrange for the following notice of public apology to be published in no less than 10-point print or font:
 - i. on the Facebook page of the Shire of Esperance; and
 - ii. in an appropriate place on the website of the Shire of Esperance; and
 - iii. in the next occurring issues of all Shire of Esperance community and public newsletters (if any) (whether in electronic or print copy).

PUBLIC APOLOGY BY COUNCILLOR SAMANTHA STARCEVICH

A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened the *Local Government (Model Code of Conduct) 2021* and the *Local Government (Administration) Regulations 1996* when, at the Council Meeting held on 28 October 2025, I made disparaging remarks in relation to the Complainant.

The Panel found that by behaving in this manner I committed one breach of Regulation 18(1)(b) and one breach of Regulation 34D of the said Regulations.

I accept that I should not have acted in such a manner and I now apologise to Councillor Gemma Johnston, for having done so.



Training

4. Councillor Starcevich undertake training as specified in paragraph 5 below.
5. Within four (4) months of the Date of this Order, Cr Starcevich shall undertake:
 - a. the training course for Elected Members “*Council Member Essentials*” provided by the WA Local Government Association for a period of three and a half (3.5) hours;
or
 - b. a training course with substantially similar learning outcomes provided by an alternative registered training organisation for a similar duration, but for a period of at least three (3) hours.



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."