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## Local Government Standards Panel

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Complaint Number	SP 2019-027
Legislation	<i>Local Government Act 1995</i>
<b>Complainant</b>	<b>Mr Christopher Littlemore</b>
<b>Respondent</b>	<b>Councillor Garry Ventris</b>
Local Government	<b>Shire of Boddington</b>
Regulation	Regulation 7 of the <i>Local Government (Rules of Conduct)</i> <i>Regulations 2007</i>
Panel Members	Mr Michael Connolly (Presiding Member) Cr Paul Kelly (Member) Mrs Emma Power (Member)
Heard	5 June 2019 Determined on the documents
Finding	One Breach of Regulation 7(1)(b)

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### FINDING AND REASONS FOR FINDING

Delivered 24 June 2019

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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 5 June 2019, the Panel found that Councillor Garry Ventris a councillor of the Shire of Boddington (**"the Shire"**) did commit one minor breach pursuant to:
  - a. the Local Government Act 1995 (WA) (**"the Act"**); and
  - b. regulation 7(1)(b) of the Local Government (Rules of Conduct) Regulations 2007 (**"the Regulations"**);when he sent an email dated 25 March 2019 to the Chief Executive Officer (**the "CEO"**) of the Shire and all councillors of the Shire denigrating the CEO as set out in paragraph 16 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 29 March 2019 the Panel received an email from Mr Christopher Littlemore, acting as complaints officer of the Shire (**"the Complaints Officer"**). The same enclosed a Complaint of Minor Breach Form and attachments dated 29 March 2019.
12. In his letter of complaint Mr Littlemore alleges that Cr Ventris has breached regulation 7 of the Regulations by sending the email set out paragraph 16 which was to the detriment of the CEO (**"the Complaint"**).
13. The Panel convened on 5 June 2019 to consider the Complaint.
14. 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 Ventris was:
    - i. last elected to the Council of the Shire in October 2017 for a term expiring in October 2021;
    - ii. a Councillor at the time of the alleged breach; and
    - iii. a Councillor when the Panel met on 5 June 2019;
  - b. was satisfied the Complaint was made within two years after the alleged breach occurred<sup>7</sup>;
  - c. was satisfied that the Shire's Complaints Officer had dealt with the Complaint in accordance with the administrative requirements in the Act for dealing with complaints of a minor breach<sup>8</sup>;
  - d. was satisfied the Department had provided procedural fairness to Cr Ventris; and
  - e. found it had jurisdiction to consider the Complaint.

### The Specifics of the Complaint

15. The Complaint arises from a chain of emails comprising the following (in the order sent):
  - a. an email dated 25 March 2019 from a member of the public (**"JP"**) to the CEO and all Councillors of the Shire enquiring about a letter received by that person's neighbour and the lack of response from the Council as to the placement of shipping container on their property (**"the Container Issue"**);
  - b. a response email dated 25 March 2019 from the CEO to JP (not stated whether sent to other parties);
  - c. an email dated 25 March 2019 from Cr Ventris to the CEO and other Councillors of the Shire noting he was disappointed in how the Container Issue was being handled, clarifying/questioning the background of the matter and seeking further information;

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

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



- d. an email dated 25 March 2019 from the CEO to Cr Ventris (not stated whether sent to other parties); and
  - e. an email dated 25 March 2019 from Cr Ventris to the CEO and the Councillors of the Shire.
16. In particular, the Complaint relates to the contents of the last occurring email from Cr Ventris which is as follows:

*"So this is how you operate mr Littlemore, that's all fine.*

*I dont have a conflict , the discussion originally started out as operating a business from a rural property , and when the council asked you not to pursue it, you then targeted the sea containers on their property....would that be correct?*

*You also requested a letter from the town planner to be sent to [REDACTED] after the council had requested you take no further action.*

*When JP rang you about the letter from [REDACTED] , you said you couldn't remember it or something along those lines?*

*For your information i have 2 sea containers , one is compliant the other belongs to my daughter , but i will now ask her to remove it from my property.*

*I will however ensure that i am aware of any conflicts that may arise in the chamber and be assured they will be brought to the council attention whoever it is*

*Now Let's run through some of the incidents that i feel have gotten out of hand and have caused embarrassment to the council.*

- \* Air BNB at the your residence*
- \* failing to send letters to residents / stakeholders advising of the meeting re the [REDACTED] application.*
- \* Boddington [REDACTED] and your handling from the very beginning*
- \* 3 community members wrongly accused of a cyber breach at the [REDACTED] and your following up and posts about certain people*
- \* [REDACTED]*
- \* The structure at the front of the shire , which i believe is not coming together*
- \* Allowing 2 senior executive officers of the shire to be on the executive committee of the [REDACTED] , when the shire is a stakeholder and service provider to the [REDACTED] , a clear conflict of interest I really have more but they are the major ones*

*I really do think that as a shire CEO you would be more professional in your attitude with dealing with ratepayers and businesses in town and not hold grudges against certain community members who are ratepayers , who in turn pay your wages*

*Your email has been a real positive because i truly know where i stand with you now Mr Littlemore*

*Cr. Garry Ventris*

*Shire of Boddington "*

**("the Email")** Note: Reproduced as provided except for redacted names.



17. A copy of the other emails were provided, but are not reproduced here.
18. In particular, the Complainant asserts the following:
  - a. the Email, and particularly the second last paragraph, alleges that the CEO has acted improperly through holding personal grudges against ratepayers. It provides no evidence to support such an allegation;
  - b. the Email makes other unsupported allegations that the CEO has caused embarrassment to the Shire;
  - c. there are appropriate channels, including the annual performance appraisal process, for raising such allegations if supported by evidence, but not by unsupported allegations circulated in an email to fellow Councillors;
  - d. the Email came at a time when Council is about to finalise the CEO's annual performance appraisal; and
  - e. he believes there has been a breach of regulation 7(1)(b) in that Cr Ventris made improper use of his office as a council member to cause detriment to the CEO. That detriment being to cause other Councillors to think less favourably of the CEO when considering his annual performance appraisal.
19. In the Complaint, the Complainant also provided a copy of the Email and related chain of emails noted in paragraph 15 above.

### **Respondent's Response**

20. By email dated 1 May 2019, Cr Ventris provided a response to the Complaint.
21. Cr Ventris denies any minor breach has occurred and makes the following particular comments and arguments in respect to the allegations by the Complainant:
  - a. this was an internal email to the CEO and other councillors only;
  - b. the reason for the Email was that the CEO went against a decision that was made in an information session by councillors. The following day after the meeting the CEO did the opposite of what was requested of him by councillors (by sending the letter to JP) without notification or further discussion with councillors on the matter;
  - c. Cr Ventris disagrees that the Email will influence any councillors when considering the performance of the CEO as he intends to highlight the same during the review process;
  - d. Cr Ventris was advised by the Shire President that when the CEO received the Email he was angry to a point he had leave his office and said that if Cr Ventris didn't make a full personal and written apology to him and the council he would breach Cr Ventris;
  - e. Cr Ventris sought advice from the Shire President and confirmed that he would not apologise for something he wrote only to the CEO and Councillors, that was the truth and that all Councillors were aware of;
  - f. Cr Ventris has been targeted by as he previously voted against an extension of the CEO's contract;
  - g. more serious breaches have occurred in the chamber by other Councillors, but these have not been reported;
  - h. the CEO has a history of casting aspersions on certain ratepayers, community members, business owners and past elected council members;



- i. JP is a close friend of an ex-councillor in Boddington, who is constantly maligned by the CEO and Cr Ventris believes JP was targeted due to this friendship;
  - j. no other businesses using sea containers in the same way were sent a letter;
  - k. the CEO is constantly mentioning certain ratepayers and business owners in a maligned manner, to the point that Cr Ventris had to say something;
  - l. the CEO has a list of residents and business owners that he constantly refers to in a manner which is very unprofessional of a CEO of a Shire;
  - m. Cr Ventris does not believe he has embarrassed the CEO in any way as the Email was internal, to Councillors only and contains only facts that are common knowledge within the council; and
  - n. Cr Ventris has previously sent 2 letters to the Department and Minister with his concerns of the operation and governance of the Shire and the CEO and other community members have also lodged complaints.
22. Cr Ventris also supplied:
- a. various correspondence showing examples how the CEO interacts with Ratepayers and Businesses;
  - b. an attachment regarding the AirBnB accommodation which is mentioned in the Email;
  - c. an extract from a Facebook Post to councillors; and
  - d. various other emails between the CEO and Cr Ventris.

### **Regulation 7**

23. 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.*
24. It is not alleged that Cr Ventris or any other person received any advantage, so the Panel has only considered regulation 7(1)(b) in this Complaint.

### **Panel’s Consideration**

#### **Regulation 7**

25. To make a finding of a minor breach of regulation 7(1)(b) of the Regulations the Panel must be satisfied that it is more likely than not that:
- a. Cr Ventris was an elected member at the time of the alleged breach and the time of the determination;



- b. Cr Ventris made use of his office as Council member of the Shire;
- c. when viewed objectively, such use was an improper use of Cr Ventris' 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 Ventris engaged in the conduct in the belief that detriment would be suffered by another person.

Cr Ventris was an Elected Member at the relevant times

26. Cr Ventris was an elected member at the time of the alleged breach and at the date the Panel considered the Complaint.

Cr Ventris made use of his office as Council Member of the Shire

27. Cr Ventris:
- a. wrote the Email in relation to a matter that was the subject of a recommendation of Council;
  - b. included all other Councillors and the CEO in the Email; and
  - c. signed the Email as in his capacity as a Councillor,
- the Panel finds, to the required standard, that a reasonable person would conclude that Cr Ventris wrote the Email in his capacity as an elected member made use of his office as a council member.
28. This element is met.

Cr Ventris' use was improper

29. Deciding if conduct is an improper use of office requires something more than simply a demonstration of poor judgment or lack of wisdom<sup>9</sup>. It requires an abuse of power or the use of the councillor's position in a manner that such councillor knew (or ought to have known) was not authorised.
30. 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>.
31. 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.
32. The Shire of Boddington has a Code Conduct for Elected Members (21 November 2017) ("**the Code**") which contains the following relevant sections:

*" 3. CONDUCT*

*Elected Members shall be seen to act:*

- *properly and in accordance with the requirements of the law and the terms of this Code;*

.....

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

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





- *co-operatively with Council staff through appropriately defined communication channels;*
- *to make no allegations which are improper or derogatory and retrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment.”*

**“ 4. ADMINISTRATIVE COMPLIANCE**

*All aspects of communication by Elected Members (verbal or written) involving Council activities, should reflect the status and objectives of Council and should be accurate, polite and professional.”*

33. 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”.
34. In this case the Panel finds it is more likely than not that the Email is in breach of the Code in that the Email:
  - a. clearly demonstrates that the parties were not acting in a co-operative manner;
  - b. contains allegations that are derogatory in that they accuse the CEO of wrongful actions;
  - c. does not simply address the matter at hand, but goes on to list several perceived wrongdoings by the CEO in a manner that was likely to cause embarrassment to the CEO; and
  - d. is not polite or professional in tone or content.
35. Although it is clear the parties were frustrated with each other, the Email goes further than simple disagreement or statement of opinion, but is rather an accusation of wrongdoing, which was not appropriate to be made in such a forum.
36. Cr Ventris’ arguments that the CEO does not interact appropriately with rate payers or has otherwise acted improperly do not provide an excuse for Cr Ventris’ conduct. In the event a Councillor is dissatisfied with the conduct of the CEO, then there is a process to make such issues known, or to make a formal complaint, in a respectful manner.
37. The Panel finds it is more likely than not that the Email was improper in content and Cr Ventris’ conduct in sending the same:
  - a. was in breach of the Code;
  - b. is 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. is deserving of a penalty.
38. This element is met.

**Cr Ventris intended detriment to be suffered by another person**

39. “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.






40. 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.
41. The content of the Email clearly accuses the CEO of:
  - a. “embarrassing” the Council;
  - b. not dealing with certain issues in the Shire properly; and
  - c. of not being professional; and
  - d. being biased.
42. Further, the tone of the Email is confrontational and aggressive.
43. Cr Ventris argues that all the matters the subject of the Email were already common knowledge on the Council. Irrespective of whether this is accurate, the accusatory tone of the Email combined with its contents indicate that the intent of the Email was to denigrate and call into question the CEO’s actions.
44. The assertion that the Email was “internal” is not compelling. The Email was sent to all councillors, not only to the CEO. These are parties who would have regular dealings with the CEO and might reasonably be considered to be prejudiced by the Email.
45. The Panel does not find that the Email was necessarily sent with the intent of disadvantaging the CEO in his upcoming performance review. However, it is enough that the intent was to generally denigrate the actions of the CEO.
46. Given this, the Panel finds that it is more likely than not that the Email:
  - a. was of a nature that would be considered by a reasonable person as denigrating or humiliating the CEO; and
  - b. was made with any intent to cause a detriment to the CEO by denigrating his performance.
47. This element is met.

#### Conclusion

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

#### **Panel’s Finding**

49. Cr Ventris did commit a breach of Regulation 7(1)(b) of the Regulations and therefore did commit a minor breach.



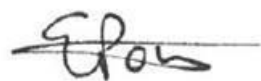
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Mick Connolly (Presiding Member)



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Paul Kelly (Member)



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Emma Power (Member)

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



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## Local Government Standards Panel

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Complaint Number	SP 2019-027
Legislation	<i>Local Government Act 1995 (WA)</i>
<b>Complainant</b>	<b>Mr Chris Littlemore</b>
<b>Respondent</b>	<b>Councillor Garry Ventris</b>
Local Government	<b>Shire of Boddington</b>
Regulation	Regulation 7(1)(b) of the <i>Local Government (Rules of Conduct)</i> <i>Regulations 2007 (WA)</i>
Panel Members	Ms S Rizk (Presiding Member) Ms E Rowe (Deputy Member) Ms R Aubrey (Deputy Member)
Heard	23 August 2019 Determined on the documents
Outcome	Public apology

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### DECISION AND REASONS FOR DECISION

Published: 29 October 2019

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## Introduction

1. At its meeting on 5 June 2019, the Panel found that Councillor Garry Ventris (“Cr Ventris”), a council member for the Shire of Boddington (“the Shire”) committed one breach of regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* (WA) (“the Regulations”) when he sent an email dated 25 March 2019 to the Chief Executive Officer (“CEO”) of the Shire and all councillors in which he denigrated the CEO.
2. On 24 June 2019 the Panel published its Finding and Reasons for Finding (“Findings”) that Cr Ventris had breached Regulation 7(1)(b). The Panel reviewed all the evidence presented to it and said:

“34 *In this case the Panel finds it is more likely than not that the Email is in breach of the Code in that the Email:*

- a. *clearly demonstrates that the parties were not acting in a co-operative manner;*
- b. *contains allegations that are derogatory in that they accuse the CEO of wrongful actions;*
- c. *does not simply address the matter at hand, but goes on to list several perceived wrongdoings by the CEO in a manner that was likely to cause embarrassment to the CEO; and*
- d. *is not polite or professional in tone or content.*

35 *Although it is clear the parties were frustrated with each other, the Email goes further than simple disagreement or statement of opinion, but is rather an accusation of wrongdoing, which was not appropriate to be made in such a forum.*

36 *Cr Ventris’ arguments that the CEO does not interact appropriately with ratepayers or has otherwise acted improperly do not provide an excuse for Cr Ventris’ conduct. In the event a Councillor is dissatisfied with the conduct of the CEO, then there is a process to make such issues known, or to make a formal complaint, in a respectful manner.*

41 *The content of the Email clearly accused the CEO of:*

- a. *“embarrassing” the Council;*
- b. *not dealing with certain issues in the Shire properly; and*
- c. *of not being professional; and*
- d. *being biased.*

42 *Further, the tone of the Email is confrontational and aggressive.*

43 *Cr Ventris argues that all the matters the subject of the Email were already common knowledge on the Council. Irrespective of whether this is accurate, the accusatory tone of the Email combined with its content indicate that the intent of the Email was to denigrate and call into question the CEO’s actions.*

44 *The assertion that the Email was “internal” is not compelling. The Email was sent to all councillors, not only to the CEO. These are parties who would have regular*



*dealings with the CEO and might reasonably be considered to be prejudiced by the Email.*

- 45 *The Panel does not find that the Email was necessarily sent with the intent of disadvantaging the CEO in his upcoming performance review. However, it is enough that the intent was to generally denigrate the actions of the CEO.”*

## **Jurisdiction**

3. The Panel convened on 23 August 2019 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 that on this date there was no available information to indicate that Cr Ventris had ceased to be or was disqualified from being a councillor.

## **Possible Sanctions**

4. 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) *dismissing the complaint;*
  - (b) *ordering that —*
    - (i) *the person against whom the complaint was made be publicly censured as specified in the order;*
    - (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*
  - (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. The Panel may dismiss a complaint under section 5.110(6)(a), not to reverse the Panel’s finding of a breach but to indicate that in all the circumstances the councillor should not be penalised, and the breach should not be recorded against the councillor’s name.

## **Councillor Ventris’ Submissions**

6. 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>
7. In a letter dated 1 July 2019, Cr Ventris was notified and provided with a copy of the Panel’s Findings published on 24 June 2019 and he was invited to make submissions as to how the Panel should deal with the breaches under section 5.110(6).

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



8. Cr Ventris sent his submissions to the Department by email on 12 July 2019, in which he submitted that he would like to make an apology to the Complainant in order to finalise the matter.

### **Panel's consideration**

9. The Panel found that Cr Ventris committed one breach of Regulation 7(1)(b) that related to his conduct when he sent the Email to the CEO and all councillors in which he denigrated the CEO. Cr Ventris has not previously been found to have committed any minor breaches.
10. The Panel found that the Email was derogatory towards the CEO and listed several perceived wrongdoings by him in a manner that was likely to cause him embarrassment. Cr Ventris accused the CEO of wrongdoing in a confrontational and aggressive manner.
11. The Panel does not consider that dismissal of the Complaint is appropriate because this would indicate that the breach is so minor that no penalty is warranted.
12. The Panel also does not consider that ordering Cr Ventris to undergo further training is appropriate. The Panel found that the comments in the Email were particularly harmful to the CEO and therefore warrant a more serious sanction.
13. However, the Panel also does not consider it is appropriate to make an order for censure, as Cr Ventris' actions do not justify such an order. When the Panel makes an order that a Notice of Public Censure be published, that Notice is to be published by the local government's CEO; the expense is borne by the local government and such expense is significant where the Notice is to be published in a newspaper or newspapers.
14. In his Response, Cr Ventris acknowledged his conduct and submitted that he is prepared to make a public apology to the CEO. In the circumstances, the Panel considers a public apology to the party who suffered the damage is the appropriate penalty. The Email denigrated the CEO in front of his peers and an apology goes some way to make amends for the impact it would have had on him and the consequences he would have faced as a result. An apology in public is also appropriate when a councillor's conduct does not meet the standards other councillors seek to uphold.

### **Panel's decision**

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



A handwritten signature in black ink, appearing to be 'SRizk'.

Sarah Rizk (Presiding Deputy Member)

A handwritten signature in black ink, appearing to be 'ERowe'.

Elanor Rowe (Deputy Member)

A handwritten signature in black ink, appearing to be 'RAubrey'.

Rebecca Aubrey (Deputy Member)



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## ATTACHMENT

Complaint Number	SP2019-027
Legislation	<i>Local Government Act 1995</i>
<b>Complainant</b>	<b>Mr Chris Littlemore</b>
<b>Respondent</b>	<b>Councillor Garry Ventriss</b>
<b>Local Government</b>	<b>Shire of Boddington</b>
Regulation	Regulation 7(1)(b) of the <i>Local Government (Rules of Conduct) Regulations 2007</i>
Panel Members	Ms S Rizk (Presiding Member) Ms E Rowe (Deputy Member) Ms R Aubrey (Deputy Member)
Heard	23 August 2019 Determined on the documents
Outcome	Public apology

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## ORDER FOR PUBLIC APOLOGY

Published 29 October 2019

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## THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor Garry Ventris ("Cr Ventris"), a Councillor for the Shire of Boddington ("the Shire"), publicly apologise to the Chief Executive Officer ("CEO") of the Shire as specified in paragraph 2 below.
2. At the Shire's first ordinary council meeting Cr Ventris attends after the expiration of 28 days from the date of service of this Order on him, Cr Ventris shall:
  - (a) ask the presiding person for his or her permission to address the meeting to make a public apology to the CEO;
  - (b) 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;
  - (c) address the Council 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 one provision of the *Local Government (Rules of Conduct) Regulations 2007* when I sent an email dated 25 March 2019 to Mr Chris Littlemore and all councillors, in which I denigrated Mr Littlemore in his role as CEO.
- (ii) The Panel found that by behaving in this manner I made improper use of my office as Councillor with the intention of damaging Mr Littlemore, thereby committing one breach of Regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007*.
- (iii) I accept that I should not have acted in such a manner towards Mr Littlemore, and I apologise to him for having done so."

3. If Cr Ventris fails or is unable to comply with the requirements of paragraph 2 above then within the next 28 days following the ordinary council meeting referred to in paragraph 2 above, he 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 Narrogin Observer newspaper.

### PUBLIC APOLOGY BY CR GARRY VENTRIS

A formal complaint was made to the Local Government Standards Panel alleging that I contravened one provision of the *Local Government (Rules of Conduct) Regulations 2007* when I sent an email dated 25 March 2019 to Mr Chris Littlemore and all councillors, in which I denigrated Mr Littlemore in his role as CEO.

The Panel found:



(1) I committed one breach of Regulation 7(1)(b) of the Rules of Conduct Regulations when I sent an email dated 25 March 2019 to Mr Littlemore and all councillors in which I denigrated Mr Littlemore in his role as Chief Executive Officer.

(2) By behaving in this way to Mr Littlemore, I failed to meet the standards of conduct expected of a councillor.

I apologise to Mr Littlemore for acting in such a manner.

Date of Order –29 October 2019



## 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."