



Local Government Standards Panel

Complaint Number	SP 2020-084
Legislation	<i>Local Government Act 1995</i>
Complainant	Councillor Hayley Edwards
Respondent	Councillor Rae Cottam
Local Government	City of Rockingham
Regulation	Regulation 7(1)(b) of the <i>Local Government (Rules of Conduct) Regulations 2007</i>
Panel Members	Mr Gordon MacMile (Presiding Member) Ms Elanor Rowe (Deputy Member) Councillor Deborah Hopper (Deputy Member)
Heard	17 September 2020 Determined on the documents
Outcome	One breach

FINDING AND REASONS FOR FINDING

Published 15 December 2020

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 Rae Cottam ("Cr Cottam"), a councillor for the City of Rockingham ("the City") committed one breach under 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 used derogatory language to comment on the Facebook post of a local community member.

Jurisdiction and procedural fairness

2. The Act makes provision for the circumstances in which a council member commits a minor breach.¹
3. On 27 July 2020, the Department of Local Government, Sport and Cultural Industries ("the Department") received a Complaint of Minor Breach Form dated 29 June 2020 ("Complaint"). The Complaint was signed by Councillor Hayley Edwards ("the Complainant") and contained one allegation of a minor breach under Regulation 7(1)(b) by Cr Cottam when she allegedly used derogatory language to comment on the Facebook post of a local community member.
4. On 3 August 2020, the Department advised Cr Cottam of the Complaint and invited her to respond. The Department sent Cr Cottam a copy of the original Complaint and all the supporting documents provided by the Complainant.
5. Under the Act the Panel is required to consider a complaint of a minor breach and make a finding as to whether the alleged breach occurred.² On 17 September 2020 the Panel convened to consider the Complaint.
6. The Panel:
 - (a) accepted the Department's advice, based on information from the Western Australian Electoral Commission, that Cr Cottam was a councillor at the time of the alleged breach, having been elected on 19 October 2019, and was still a Councillor when the Panel met on 17 September 2020;
 - (b) was satisfied the Complaint had been made within six months after the alleged breach is said to have occurred³;
 - (c) was satisfied the Complaint had been dealt with in accordance with the administrative requirements in the Act for dealing with complaints of minor breaches⁴; and
 - (d) was satisfied that the Department had provided procedural fairness to Cr Cottam.
7. 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

¹ Section 5.105 of the Act.

² Section 5.110(2)(a) of the Act.

³ Section 5.107(4) of the Act

⁴ Sections 5.107, 5.108, 5.109 of the Act.

the relevant Minister at the time instead of considering the Complaint itself.⁵ Cr Cottam had not previously been found to have had committed any minor breaches. Therefore, the Panel decided not to send the Complaint to the Chief Executive Officer of the Department.

8. Based on the information referred to in paragraphs 2 to 7 above, the Panel found it had jurisdiction to determine whether Cr Cottam had breached Regulation 7(1)(b) in connection with the Complaint.

Panel's role

9. The Panel is not an investigative body. It determines complaints of minor breaches solely upon the evidence presented to it.
10. Any finding, that a councillor has committed a minor breach, must be based on evidence from which it may be concluded that it is more likely than not that the breach occurred than that it did not occur (the required standard of proof).⁶
11. 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.⁷
12. 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 7(1)(b)

13. Regulation 7(1)(b) provides:

"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 –

.....

(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."

14. The Panel decided that the alleged conduct is not conduct that contravenes section 5.93 of the Act or section 83 of *The Criminal Code*.

Elements of Regulation 7(1)(b)

⁵ Sections 5.110(2)(b), 5.111(1) of the Act.

⁶ Section 5.106 of the Act.

⁷ *Bradshaw v McEwens Pty Ltd* (1951) 217 ALR 1, paragraph 5.

15. In order to find a breach of Regulation 7(1)(b), 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 detriment would be suffered by the local government or any other person (fifth element).

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

16. 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.*"⁸ The Shorter Oxford dictionary definition is "*irregular, wrong; unsuitable, inappropriate; unbecoming, unseemly.*"⁹

17. 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?¹⁰ "*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.*"¹¹

⁸ Macquarie Dictionary, Revised Third Edition.

⁹ Shorter Oxford English Dictionary, Sixth Edition.

¹⁰ *Ryan and Local Government Standards Panel* [2009] WASAT 154, paragraph 27, referring to *R v Byrnes* (1995) 183 CLR 501.

¹¹ *Hipkins and Local Government Standards Panel* [2014] WASAT 48, paragraph 9, referring to *Robbins v Harness Racing Board* [1984] VR 641.

18. Under the Act Panel members must have regard to the general interests of local government in Western Australia.¹² 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.
19. Regulation 3 sets out general principles to guide councillors' behaviour, although contravention of any of these does not amount to a minor breach.¹³ Regulation 3 provides, among other things, that councillors should act with reasonable care, diligence and integrity and treat others with respect and fairness.
20. 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 local government's Code of Conduct, and the circumstances and context of the case.¹⁴ 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.
21. Conduct can be improper even though the councillor's judgment is that it isn't 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.¹⁵

Fifth element - meaning of "*to cause detriment to the local government or any other person*"

Detriment

22. "*Detriment*" means loss, damage or injury.¹⁶ 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.¹⁷
23. For regulation 7(1)(b) to be satisfied it is not necessary to show that the local government or the person concerned actually suffered detriment.¹⁸ 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 is more likely than not that the councillor believed that his or her actions would cause detriment and intended to cause detriment.¹⁹
24. "*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.²⁰ 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.

¹² Section 5.122(3) of the Act, Schedule 5.1 of the Act, clause 8(6).

¹³ Regulation 3.

¹⁴ *Hipkins and Local Government Standards Panel* [2014] WASAT 48, paragraph 10.

¹⁵ *Yates and Local Government Standards Panel* [2012] WASAT 59, paragraph 64, referring to *Treby* 2010.

¹⁶ Macquarie Dictionary Revised Third Edition, 2001.

¹⁷ *Ryan and Local Government Standards Panel* [2009] WASAT 154, paragraphs 31, 32.

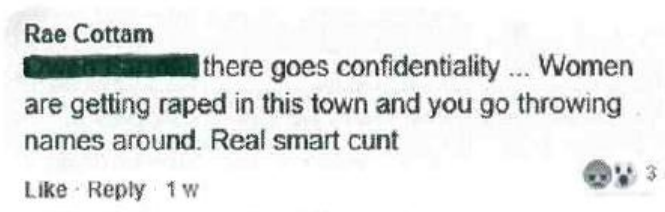
¹⁸ *Treby* 2010, paragraph 96, referring to *Chew v The Queen* 1992 CLR 626 (*Chew* 2010).

¹⁹ *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.

²⁰ *Chew* 2010.

Substance of the Complaint

25. On 11 June 2020, Cr Cottam made a series of abusive comments and used derogatory language on the Facebook page of a local community member ("Community Member"). The Community Member, who was actively involved in helping the homeless, had previously been awarded the City's Citizen of the Year and is an extremely well respected member of the community.
26. On 11 June 2020, the Community Member published a post ("Post") on Facebook with a photograph ("Photo") of a person standing in the distance (the Community Member had permission from the person in the Photo to use the image). The Community Member was advocating for public shower facilities to be built in the City, to benefit the homeless.
27. Cr Cottam commented on the Post, using unnecessarily vulgar and offensive language to address the Community Member. Cr Cottam made numerous objectionable comments, the most serious comment ("Comment") being:



28. Cr Cottam's Comment is a clear breach of Section 5.1 of the City's *Code of Conduct 2009* ("Code"):

5.1 Personal Behaviour

- (a) Councillors, Employees and Committee Members will:
- (i) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code and that will not bring the City into disrepute;
 - (ii) perform their duties impartially and in the best interests of the Local Government uninfluenced by fear or favour;
 - (iii) act in good faith (ie, honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
 - (iv) make no allegations which are improper or derogatory (unless true and in public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
 - (v) always act in accordance with their obligation of fidelity to the Local Government.
- (b) Councillors will represent and promote the interests of the Local Government, while recognising their special duty to their own constituents. Regulation 10(3) of the Local Government (Rules of Conduct) Regulations 2007 prohibit an elected member from:
- (i) making a statement that a local government employee is incompetent or dishonest; or
 - (ii) using offensive or objectionable expressions in reference to a local government employee.

29. The Complainant understands that Cr Cottam had been asked on numerous occasions to remove the Comment. However, as at the date of the Complaint, it was still on the Community Member's Facebook page. Cr Cottam has also not apologised to the Community Member nor displayed any remorse, which is highly

disappointing for an elected member. She has no due regard for her position as a councillor or for the hurt and emotional pain caused to the Community Member, by her actions.

30. The Complainant attached several written complaints about Cr Cottam's behaviour from other members of the community that had seen the Comment, including the Community Member's daughter.
31. It is clear, that people recognised Cr Cottam as an elected member and objected to her distasteful and vulgar language towards a community member.

Cr Cottam' Response

32. Cr Cottam did not accept the information detailed in the Complaint and strongly disputed that the person in the Photo had given the Community Member permission to use it in the Post.

Panel's Consideration

First, second and third elements satisfied

33. The Panel found that Cr Cottam engaged in the conduct that was the subject of the allegation, that she was a councillor at the time and was acting as a councillor at all relevant times.
34. The first, second and third elements of regulation 7(1)(b) are established in relation to the Comment as set out above at paragraph 27.

Whether Cr Cottam acted improperly (fourth element)

35. Based on the evidence before it, the Panel is satisfied that the fourth element has been established and finds that Cr Cottam did act improperly. The Panel makes this finding because it is satisfied to the required standard of proof that a reasonable person would consider that Cr Cottam did not meet the standards of conduct expected of a councillor when she published the Comment on Facebook:
 - a. It is clear, that Cr Cottam believed that the Community Member had acted wrongfully in the first place, by publishing the Photo without permission from the person that appeared in it and then naming that person (at some point). However, the Panel finds that regardless, that did not justify her own behaviour in making the Comment, which was both rude and shocking.
 - b. Regulation 3 sets out general principles to guide the behaviour of council members and provides an indication of the standards that can reasonably be expected, including treating others with respect and fairness²¹. The City's Code, which all City councillors are bound by, also provides that Councillors are to act, and to be seen to act, properly, and that they are to refrain from conduct which may cause any reasonable person unwarranted offence or embarrassment. In the Comment, Cr Cottam used language that was highly offensive and vulgar to "attack" and make dangerous

²¹ Regulation 3(1)(g)

accusations against a member of the local community. Her behaviour was appalling and totally unbefitting of someone in her position.

- c. The subjects that she touched upon in the Comment, (including homelessness, rape and confidentiality), were relevant to the local community and extremely serious. The role of a councillor includes providing leadership and guidance to the community and facilitating communication between the community and the council and vice versa. Therefore, when speaking to the community and using her public voice, Cr Cottam should have dealt with those issues in a sensitive and responsible manner. However, instead, her actions ran contrary to those duties. As can be seen from the responses to the Comment by other Facebook users, she deeply offended several people and brought the City and the Council into disrepute:

"Your language towards a man who does more than anyone else in this town in regard to this matter is uncouth and appalling. What is even worse is that you are an elected member of our local government, representing the ratepayers, residents, and community. If you speak of....in this way, how do you treat and think of others?"

"wow! I am a rate payer and a voter, with language like that I hope my rates are not contributing to your wage."

"If this person is a councillor...they need to be reported."

"To think you are representing our council and city really sickens me."

- d. The Comment clearly provoked unrest amongst local community members and raised feelings of anger and distrust in them towards one of their elected officials.

36. Accordingly, based on the evidence before it, the Panel finds that Cr Cottam breached the standards expected of an elected member. Her actions were so inappropriate and wrongful that they call for the imposition of a penalty.

Whether Cr Cottam intended to cause detriment to the local government or any other party

37. The Panel is satisfied that the fifth element has been established and that Cr Cottam intended to cause detriment to the Community Member when she published the Comment on Facebook:

- a. As stated above, Cr Cottam believed that it was wrong for the Community Member to have published the Post in the first place. However, she could have dealt with her concerns or reported the matter by other alternative and legitimate methods. Instead, she chose to make an inappropriate and highly controversial Comment publicly on Facebook, on a thread that was clearly being followed or seen by several local community members. By also using one of the most offensive curse words in the Comment, the only reasonable inference is that she intended to openly insult, humiliate, and belittle the Community Member.
- b. Several people saw the original Post and actively responded. It is also apparent (from the comments made by other Facebook users) that the

Community Member was well known and highly regarded amongst the local community. In those circumstances, it would have been obvious to Cr Cottam that the Comment would cause serious damage to him.

- c. Finally, Cr Cottam named the Community Member and clearly targeted him with the Comment. The Complainant also submitted that, at the time of the Complaint, Cr Cottam had not apologised or taken any action to remove the Comment, despite it being obvious that many people were appalled by it. Those actions demonstrate an intention on her part to compound the initial negative impact of the Comment on the Community Member, rather than prevent any further damage by removing the Post.

38. Based on the evidence before it, the Panel finds to the required standard of proof that Cr Cottam intended to cause detriment to the Community Member when she published the Comment on Facebook.

Findings

39. Accordingly, for the above reasons, the Panel finds that Cr Cottam did breach regulation 7(1)(b).



Gordon MacMile (Presiding Member/Deputy Member)



Elanor Rowe (Deputy Member)



Deborah Hopper (Deputy Member)



Local Government Standards Panel

Complaint Number	SP 2020-084
Legislation	<i>Local Government Act 1995 (WA)</i>
Complainant	Councillor Hayley Edwards
Respondent	Councillor Rae Cottam
Local Government	City of Rockingham
Regulation	Regulation 7 of the <i>Local Government (Rules of Conduct) Regulations 2007 (WA)</i>
Panel Members for	Mr Michael Connolly (Presiding Member)
Penalty Consideration	Cr Peter Rogers (Member) Mrs Emma Power (Member)
Heard	17 September 2020 Determined on the documents
Penalty Considered	15 January 2021
Outcome	Public Apology

DECISION AND REASONS FOR DECISION

Delivered 9 February 2021

DEFAMATION CAUTION

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Introduction

1. At its meeting on 17 September 2020, the Panel found that Councillor Rae Cottam, councillor for the City of Rockingham (**“the City”**), committed one minor breach under the Local Government Act 1995 (WA) (**“the Act”**) and regulation 7 of the *Local Government (Rules of Conduct) Regulations 2007* (WA) (**“the Regulations”**) when she used derogatory language to comment on the Facebook post of a local community member (**“the Minor Breach”**).

Jurisdiction and Law

2. The Panel convened on 15 January 2021 to consider how it should deal with the Minor Breach.
3. The Panel accepted the advice of the Department of Local Government, Sport and Cultural Industries (**“the Department”**) that on this date there was no available information to indicate that Cr Cottam had ceased to be, or was disqualified from being, a councillor.
4. If the Panel finds that a councillor has committed a minor breach, it must give the councillor an opportunity to make submissions to the Panel about how it should deal with the breach under section 5.110(6).¹
5. By a letter dated 16 December 2020, Cr Cottam was:
 - a. notified of the Panel’s finding of the Minor Breach;
 - b. provided with a copy of the Panel’s Finding and Reasons for Finding; and
 - c. offered an opportunity to make submissions as to how the Minor Breach should be dealt with under section 5.110(6) of the *Act*.

Possible Sanctions

6. Section 5.110(6) of the *Local Government Act 1995* (WA) (**“the Act”**) provides that the Panel is to deal with a minor breach by:
 - (a) *ordering that no sanction be imposed; or*
 - (b) *ordering that —*
 - (i) *the person against whom the complaint was made be publicly censured as specified in the order;*
or
 - (ii) *the person against whom the complaint was made 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*

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



*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).

Respondent's Submissions

7. By an email dated 30 December 2020, the Department received a response from Cr Cottam with the following comments and arguments as to penalty:
 - a. Cr Cottam has publicly censored herself by deleting her personal Facebook account from which the comments were made.
 - b. Cr Cottam has publicly apologised via Ngaarda Media to Mr Owen Farmer, her Constituents and the Community.
 - c. Cr Cottam has graduated the West Australian Aboriginal Leadership Institute's, Yorga Djenna Bidi Program since the breach was reported and has used this experience as a learning tool.
 - d. Cr Cottam believes the public consequences of her conduct has been sufficient punishment.
 - e. Cr Cottam is apologetic and remorseful for her actions and confirms this has been a time for self-reflection and growth.

Panel's Consideration

8. Section 5.110(6) is about penalty. The Panel does not have the power to review any finding of a breach.
9. The Panel may order under section 5.110(6)(a), that no sanction be imposed with respect to the complaint, not to reverse the Panel's finding of a breach, but to indicate that in all the circumstances the relevant councillor should not be penalised further.
10. Guidance as to the factors which the Panel may consider in determining the appropriate penalty to impose include, but are not limited to, the following:
 - a. the nature and seriousness of the breaches;
 - b. the councillor's motivation for the contravention;
 - c. whether or not the councillor has shown any insight and remorse into his/her conduct;
 - d. whether the councillor has breached the Act knowingly or carelessly;
 - e. the councillor's disciplinary history;
 - f. likelihood or not of the councillor committing further breaches of the Act;
 - g. personal circumstances at the time of conduct, and of imposing the sanction;
 - h. need to protect the public through general deterrence and maintain public confidence in local government; and



- i. any other matters which may be regarded as aggravating conduct or mitigating its seriousness².
- 11. The Panel notes Cr Cottam's genuine remorse and the positive actions she has undertaken to repair the damage that occurred due to her conduct. The Panel further considers that Cr Cottam is of very little risk of re-offending.
- 12. Despite this, the Panel does not consider it appropriate to impose no sanction in relation to the Minor Breach in the light of the public nature of the breach.
- 13. In this instance, the Panel considers that the appropriate penalty is that Cr Cottam publicly apologise.
- 14. 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 a councillor's conduct:
 - a. adversely affects particular individuals³; and/or
 - b. does not meet the standards other councillors seek to uphold.

Panel's decision

- 15. The Panel orders pursuant to section 5.110(6)(b)(ii) of the Act that, in relation to the Minor Breach of regulation 7 of the Regulations, Cr Cottam publicly apologise as set out in the attached Order.

Mick Connolly (Presiding Member)

Emma Power (Member)

Peter Rogers (Member)

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

³ Treby and Local Government Standards Panel [2010] WASAT 81 [127] (Pritchard J).



ORDER

Delivered 9 February 2021

DEFAMATION CAUTION

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THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor Rae Cottam, a councillor for the City of Rockingham **publicly apologise**, as specified in paragraph 2, or failing compliance with paragraph 2, then paragraph 3 below shall apply.
2. At the ordinary council meeting first occurring after the expiration of **28 days** from the date of service of this Order on her, Councillor Cottam 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 used derogatory language to comment on the Facebook post of a local community member.
- ii. The Panel found that I breached regulation 7(1)(b) of the said Regulations and that my conduct was in breach of the City's Code of Conduct and deserving of a penalty.
- iii. I accept that I should not have engaged in the relevant conduct.
- iv. I now apologise to the public and my fellow Councillors."

3. If Councillor Cottam fails to, 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, the Chief Executive Officer shall arrange



for the following notice of public apology to be published in no less than 10 point print or font:

- a. on the Facebook Page of the City of Rockingham;
- b. on an appropriate page of the website of the City Rockingham; and
- c. be published in every City of Rockingham public or community newsletter (whether in electronic or print copy) (if any):

PUBLIC APOLOGY BY COUNCILLOR RAE COTTAM

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 used derogatory language to comment on the Facebook post of a local community member.

The Panel found that I breached regulation 7(1)(b) of the said Regulations and that my conduct was in breach of the City's Code of Conduct and deserving of a penalty.

I accept that I should not have engaged in the relevant conduct.

I now apologise to the public and my fellow Councillors.

Mick Connolly (Presiding Member)

Emma Power (Member)

Peter Rogers (Member)



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."*