



Local Government Standards Panel

Complaint Number	SP 56 of 2016 [DLGSC 20160189]
Legislation	<i>Local Government Act 1995</i>
Complainant	Councillor Neville Crilly
Subject of complaint	Councillor Toni Collins
Local Government	Shire of Boddington
Regulation	Regulation 7(1)(b) of the <i>Local Government (Rules of Conduct) Regulations 2007</i>
Panel Members	Ms M Strauss (Presiding Member) Mrs S Siekierka (Deputy Member) Councillor R Aubrey (Deputy Member)
Decision	Training (Determined on the documents)
Date of Decision	27 July 2017

DECISION AND REASONS FOR DECISION

Published 11 August 2017

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



Introduction

1. On 5 April 2017 the Local Government Standards Panel (the Panel) found that Councillor Toni Collins, a Councillor of the Shire of Boddington, committed a minor breach under the *Local Government Act 1995* (WA) (the Act) and regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* on 1 December 2016 when sending an email to another Shire of Boddington Councillor, Cr Neville Crilly, and all other Shire Councillors headed “Your personal vendetta” (the Email).
2. In the Email Cr Collins alleged Cr Crilly had a “personal vendetta” against another named Councillor and the Boddington Community Resource Centre (BCRC) and that he had no right to comment on BCRC’s financial management because he had a “poor track record” in relation to financial management. Cr Collins criticised Cr Crilly for his views about a number of matters with a financial aspect that had come before Council.
3. In his complaint of a breach of regulation 7(1)(b) Cr Crilly said Cr Collins damaged his reputation, slighted his character and caused him to feel belittled in the eyes of the other councillors which, he said, could disadvantage him when seeking support from other councillors for motions he may wish to pass in the future.
4. On 7 June 2017 the Panel published its Finding and Reasons for Finding that Cr Collins had breached regulation 7(1)(b). The Panel found that:
 - by saying in the Email that Cr Crilly had a “personal vendetta” and that she would not want Cr Crilly in be in charge of the BCRC’s finances, and by questioning Cr Crilly’s record of financial management, Cr Collins called into question Cr Crilly’s motivations and implied he was not fulfilling his duties as a councillor;
 - the appropriate time for a councillor to criticise the views of a fellow councillor is in the council chamber at the time the particular decision is being discussed, not in a discourteous email to fellow councillors after the decision is made; and
 - Cr Collins’ statements in the Email were plainly capable of causing detriment to Cr Crilly.
5. Prior to 1 July 2017 the Government Department assisting the relevant Minister to administer the Act was the Department of Local Government and Communities (the former Department). On 1 July 2017 the Department of Local Government, Sport and Cultural Industries became the Department responsible for administering the Act (the Department).
6. On 27 July 2017 the Panel met to consider how it should deal with the minor breach. At that time the Department did not have any information to indicate that Cr Collins had ceased to be a Councillor.
7. Cr Collins has previously been found by the Panel to have committed two minor breaches. She was ordered to undergo training to be provided by the Department.
8. At the time the Panel met to consider this matter on 27 July 2017 the Department’s records indicated that Cr Collins had not yet undertaken the training.



Possible sanctions

9. Section 5.110(6) of the Act provides that the Panel is to deal with a minor breach by —

“(a) dismissing the complaint; 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

(c) ordering 2 or more of the sanctions described in paragraph (b).”

Councillor’s submissions

10. If the Panel finds that a councillor has committed a minor breach, the Panel must give the councillor an opportunity to make submissions to the Panel about how the breach should be dealt with.¹

11. On 7 June 2017 the former Department notified Cr Collins of the Panel’s minor breach finding and provided her with a copy of the Finding and Reasons for Finding published that day. The former Department invited Cr Collins to make a submission on how the Panel should deal with the breach.

12. On 20 June 2017 the former Department received an email submission from Cr Collins simply saying she would like to have training, combined with the training for the previous breaches. Although it is open to the Panel to order that Cr Collins undertake training for this breach of regulation 7(1)(b), it would not be possible for it to be combined with the training previously ordered due to the 3 month term in the previous order.

Panel’s consideration

13. Although Cr Collins has committed two previous breaches, those breaches were under a different regulation (regulation 11). The current breach arises out of conduct that is in no way similar to the conduct that amounted to the breaches of regulation 11(2).

14. In this case dismissing the breach would trivialise the conduct and send a message that this type of conduct does not warrant a penalty. Dismissal of the complaint is not appropriate.

¹ Section 5.110(5) of the Act.



15. Cr Collins' conduct was at the lower end of the continuum of seriousness for a breach of regulation 7(1)(b). She sent the email to a limited audience (other Councillors). The other Councillors would have been aware of the Council business to which Cr Collins was referring and most if not all of them would have been at council meetings when the matters were debated and councillors' different views presented. Councillors do at times send forthright emails to other councillors. Although the Panel has found Cr Collins acted improperly it can sometimes be difficult for a councillor who wants to express negative views about another councillor to judge when they will breach the standards expected of a councillor.
16. Although it is understandable that Cr Crilly would have felt offended by the Email, the Panel considers it unlikely that other councillors who have known Cr Crilly over a period of time, worked with him and debated issues with him would be less willing to engage with him because of the Email.
17. Cr Collins has offered to undergo training. The Panel weighs this up with the option of ordering a public apology. Cr Collins would need to travel to Perth for the training, and attend the training in her own time and at her own expense. It would cause her some inconvenience and possibly embarrassment.
18. In all the circumstances the Panel decides that training in relation to the role of councillors, their regulatory scheme and the standards of conduct expected of councillors is the appropriate sanction and makes the attached Order, expecting Cr Collins to rectify her style of communication and language.

Sheryl Siekierka (Deputy Member)

Rebecca Aubrey (Deputy Member)

Merranie Strauss (Member)

Date of Reasons for Decision 11 August 2017



ATTACHMENT

Complaint Number	SP 56 of 2016 [DLGSC 20160189]
Legislation	<i>Local Government Act 1995</i>
Complainant	Councillor Neville Crilly
Subject of complaint	Councillor Toni Collins
Local Government	Shire of Boddington
Regulation	Regulation 11(2) of the <i>Local Government (Rules of Conduct) Regulations 2007</i>
Panel Members	Ms M Strauss (Presiding Member) Mrs S Siekierka (Deputy Member) Councillor R Aubrey (Deputy Member)
Sanction Decision	Training (Determined on the documents)
Date of Sanction Decision	27 July 2017

ORDER

Published 11 August 2017

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THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Ms Toni Collins, a member of the Council of the Shire of Boddington, undertake training as specified in paragraph 2 below.
2. Within 3 calendar months from the date of signing of this Order, Councillor Toni Collins undertake training -
 - (a) to be determined by the Department of Local Government, Sport and Cultural Industries;
 - (b) in relation to the role of councillors, their regulatory scheme and the standards of conduct expected of councillors;
 - (c) for a period of no less than 2 hours; and
 - (d) at a location to be advised by the Department.

Date of Order 11 August 2017