



Local Government Standards Panel

Complaint Number	20230248
Legislation	<i>Local Government Act 1995</i>
Complainant	Mr Paul McGarry
Respondent	Councillor Andrew Mangano
Local Government	City of Nedlands
Regulation	Regulation 22 of the <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members	Mr Tim Fraser (Presiding Member) Mrs Emma Power (Member) Cr Peter Rogers (Member)
Heard	8 June 2023 Determined on the documents
Finding	1 x Breach of Regulation 22

FINDING AND REASONS FOR FINDING

Delivered 04 July 2023

DEFAMATION CAUTION

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Summary of the Panel's decision

1. On 8 June 2023, the Panel found that Councillor Andrew Mangano, a councillor for the City of Nedlands ("**the City**"), did commit a minor breach pursuant to the *Local Government Act 1995 (WA)* ("**the Act**") and Division 4, regulation 22 of the *Local Government (Model Code of Conduct) Regulations 2021* ("**the Regulations**") when at the Ordinary Council Meeting of the City on 26 April 2023 he did not disclose an alleged impartiality interest in a matter before Council as further set out in paragraph 17 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 and the *Local Government (Administration) Regulations 1996* provide for the circumstances in which a council member commits a minor breach.
4. Section 5.105(1) of the Act provides that a council or committee member commits a minor breach if the council or committee member contravenes a rule of conduct. Division 4 of the Regulations sets out the rules of conduct for council members and candidates.
5. Regulation 34D of the *Local Government (Administration) Regulations 1996* also provides that the contravention of a "*local law as to conduct*" is a minor breach pursuant to the Act.
6. 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.¹
7. 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.
8. 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 accurate²; and
 - b. the seriousness of any allegation made, as well as the gravity of the consequences flowing from a particular finding³.
9. The Panel does not possess investigative or supervisory powers.⁴ The Panel makes decisions about complaints regarding minor breaches solely upon the evidence

¹ Section 5.106 of the Act

² *Bradshaw v McEwans Pty Ltd* (1951) 217 ALR 1

³ *Briginshaw v Briginshaw* (1938) 60 CLR 336

⁴ *Re and Local Government Standards Panel* [2015] WASC 51 (at paragraph 24)



presented to it and, where appropriate, materials in the public domain or published by the relevant local authority's website.

10. 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.
11. The Panel also must have regard to the general interests of local government in Western Australia⁵.
12. The Panel is obliged to give notice of the reasons for any finding it makes under section 5.110(2) of the Act.

Jurisdiction and Procedural Fairness

13. On 29 May 2023 the Panel received an email from Mr Bill Parker, acting as Complaints Officer of the City ("**the Complaints Officer**"). The same enclosed a Complaint of Minor Breach Form dated 25 April 2023.
14. In the complaint form, the Complainant alleges that Cr Mangano breached regulation 22 of the Regulations when at the Ordinary Council Meeting of the City on 26 April 2023 he did not disclose an alleged impartiality interest in a matter before Council as further set out in paragraph 17 ("**the Complaint**").
15. The Panel convened on 2 February 2023 to consider the Complaint.
16. 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 Mangano was:
 - i. elected to the Council of the City in October 2019 for a term expiring in October 2023;
 - ii. a Councillor at the time of the alleged breach; and
 - iii. a Councillor when the Panel met on 8 June 2023;
 - b. was satisfied the Complaint was made within six months after the alleged breach occurred⁶;
 - 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 breach⁷;
 - d. was satisfied the Department had provided procedural fairness to Cr Mangano; and
 - e. found it had jurisdiction to consider the Complaint.

⁵ Section 8(6) of Schedule 5.1 of the Act

⁶ Section 5.107(4) and 5.109(2) of the Act

⁷ Section 5.107 and 5.109 of the Act



The Specifics of the Complaint

17. The Complainant provided the following comments and arguments in respect to the Complaint:
- a. Contrary to clause 22(2) of the Regulations, Cr Mangano did not disclose an interest in Item 16.1 of the City's Ordinary Council Meeting on 26 April 2023 ("**OCM**").
 - b. That item was PD13.04.23, a Development Application for a single dwelling residence at 52 Jutland Parade, Dalkeith ("**the Item**").
 - c. Cr Mangano had an interest in the Item namely that, at the date of the meeting, he was the defendant in defamation proceedings between himself and the owners of the property: *McGarry & McGarry v Mangano - WASC action CIV 1256 of 2023*.
 - d. The State Administrative Tribunal found in *Chief Executive Officer of the Department of Local Government, Sport and Cultural Industries v Southwell [2021] WASAT 153* that defamation proceedings being on foot was an interest which must be declared.
 - e. The existence of the defamation proceedings and the associated adversarial relationship meant that there was a reasonable apprehension of bias, and Cr Mangano had an 'interest' as defined in regulation 22(1) of the Regulations
 - f. Regulation 22(2) of the Regulations requires councillors to disclose such interests. The agenda for the Ordinary Council Meeting held on 26 April 2023 included a general reminder for the disclosure of interests.
 - g. When PD13.04.23 was considered at the Ordinary Council Meeting on 26 April 2023, Cr. Mangano actively spoke in opposition to it and was in the minority voting against it.

The Respondent's Response

18. By an email dated 1 June 2023, Cr Mangano provided a response to the Complaint.
19. Cr Mangano denies that he has committed any minor breach.
20. Cr Mangano makes the following comments in respect to the Complaint as summarised by the Panel:
- a. Cr Mangano did not have an impartiality, proximity interest or a financial interest in the Development Application.
 - b. Cr Mangano is there to represent all ratepayers including the neighbours who were opposed to the Development Application.
 - c. Even if Cr Mangano had declared an impartiality interest he could remain in the room to vote.



Regulation 22

21. Regulation 22 requires a councillor to disclose what is commonly referred to as an “impartiality interest”. The relevant parts of regulation 22 provide:

22. Disclosure of interests

(1) *In this clause —*

interest —

- (a) *means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and*
 - (b) *includes an interest arising from kinship, friendship or membership of an association.*
- (2) *A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —*
- (a) *in a written notice given to the CEO before the meeting; or*
 - (b) *at the meeting immediately before the matter is discussed.*
- (3) *Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.*
- (4) *Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —*
- (a) *that they had an interest in the matter; or*
 - (b) *that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.*
- (5) *If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —*
- (a) *before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and*
 - (b) *at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.*
- (6) *Subclause (7) applies in relation to an interest if —*
- (a) *under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or*



(b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.

(7) The nature of the interest must be recorded in the minutes of the meeting.”

22. To make a finding of a minor breach of regulation 22 of the Regulations the Panel must be satisfied that it is more likely than not that:
- a. Cr Mangano was a councillor at the time of the alleged breach;
 - b. Cr Mangano attended the council or committee meeting and was present when the relevant matter came before the meeting and was discussed;
 - c. subject to regulation 22(3), Cr Mangano had a private or personal interest in a matter in which an apparent or real conflict of interest arises that does (or might) adversely affect the member’s impartiality in considering such matter;
 - d. Cr Mangano did not disclose the nature of the relevant interest in the matter in either of the ways required by regulation 22(2)(a) or regulation 22(2)(b); and
 - e. regulation 22(3) and Regulation 22(4) do not apply.

Panel’s Consideration

Cr Mangano was an elected member at the time of the alleged breach and the time of the determination

23. Cr Mangano was a councillor at the time of the alleged breach and at the time the Panel considered the Complaint.

24. This element is met.

Cr Mangano attended at the council or committee meeting and was present during discussion of the matter

25. The relevant matter the subject of the Complaint was discussed at the Ordinary Council Meeting of the City of 26 April 2023.

26. The Minutes indicate that Cr Mangano was present at the OCM, was present during the relevant Item and then voted in respect to the Item.

27. This element is met.

Subject to Regulation 22(3), Cr Mangano has an interest in the matter

28. In regulation 22(1) an “interest” is defined as:

“interest —

(a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and

(b) includes an interest arising from kinship, friendship or membership of an association.”



29. This is commonly referred to as an “impartiality interest”.
30. In order for there to be a declarable impartiality interest either:
 - a. it must be more likely than not that, when viewed objectively, the councillor has an interest of some kind that a fair-minded informed observer might reasonably apprehend or perceive might be a conflict of interest or a bias of some kind; or
 - b. an existing association to, or with, a councillor exists which might adversely affect the councillor’s impartiality in considering the matter on the basis that:
 - i. the councillor’s mind might not be open to persuasion in regard to the matter; or
 - ii. the member might not be willing to give genuine and appropriate consideration to the matter, the matters required by law to be taken into account or any recommendation of council officers or a committee, as the case requires.
31. In this case, it is alleged that Cr Mangano is a party to a defamation case with respect to the owners of the property the subject of the Item.
32. It is clear from the case of *Chief Executive Officer of the Department of Local Government, Sport and Cultural Industries v Southwell [2021] WASAT 153* that defamation proceedings being current is enough to be considered an impartiality interest where the relationship between the parties has a “*sufficiently close connection, objectively assessed, between the dispute between [the parties] and a matter to be discussed by Council, such as to be perceived capable of affecting the respondent’s impartiality in those discussions.*”
33. It is also consistent with the language of regulation 22 that an interest may arise from a conflictual relationship, not just a familial one.
34. In this case, it is a matter of public record, that at the time that the Item was considered:
 - a. the Complainant had issued defamation proceedings against Cr Mangano;
 - b. the defamation case directly related to comments made by Cr Mangano with respect to the property the subject of the Item; and
 - c. Council had considered the issue providing legal fees to Cr Mangano to defend the defamation case.
35. As such, there is no question that Cr Mangano knew that he was the subject of a serious legal dispute with the Complainant, that the Complainant was the proprietor of the property the subject of the Item and that the Item and the defamation proceedings were therefore significantly linked.
36. Even if Cr Mangano did not consider this relationship between the parties to be sufficient to amount to a requirement to declare, this is assessed objectively, not based on the Councillor’s belief.



37. The Panel finds that assessed objectively, Cr Mangano's interest in the Defamation Proceedings could, or could reasonably be perceived to, adversely affect the impartiality of Cr Mangano in relation to the Item.
38. The Panel further comments that Cr Mangano's remarks as to the nature of the disclosure are misconceived.
39. The issues of proximity or financial interests expressly do not fall under regulation or 22, or the purview of the Panel.
40. The comment that even if Cr Mangano could have stayed in the room and participated in the Item even if he did declare an impartiality interest does not negate the strict requirement to declare. This comment indicates a fundamental misunderstanding of the purposes of the Regulations and the relevant conduct rules.
41. This element is met.

Cr Mangano did not disclose the nature of the relevant interest in the matter in either of the ways required by regulation 22(2)(a) or regulation 22(2)(b)

42. The meeting minutes and records confirm that Cr Mangano did not make a disclosure or declaration as to an impartiality interest with respect to the Item the OCM at any time prior to or during the OCM.
43. This element is met.

Regulation 22(3) does not apply

44. In this case, the relevant interest cannot be properly considered to be a proximity or financial interest and therefore Regulation 22(3) does not apply.

Regulation 22(4) does not apply

45. The Panel considers that:
 - a. Cr Mangano knew the Item was contained in the Agenda and therefore knew its general content and his relevant relationship to the Complainant and the relevant property; and
 - b. for the reasons given above, Cr Mangano should have known he had declarable interest in the matter.
46. It is clear from the Minutes of the OCM that Cr Mangano did not declare any interest after the introduction of the Item.
47. This element is met.

Conclusion

48. The elements required to find a breach of regulation 22 of the Regulations have been met.



Panel's Findings

49. Cr Mangano did commit a breach of Regulation 22 of the Regulations and therefore did commit a minor breach.

Signing

A handwritten signature in black ink, appearing to be 'T Fraser'.

Tim Fraser (Presiding Member)

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

Emma Power (Legal Member)

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

Peter Rogers (Deputy Member)



Local Government Standards Panel

Complaint Number	20230248
Legislation	<i>Local Government Act 1995 (WA)</i>
Complainant	Mr Paul McGarry
Respondent	Councillor Andrew Mangano
Local Government	City of Nedlands
Regulation	Regulation 22 <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members for Penalty Consideration	Tim Fraser (Presiding Member) Ms Emma Power (Member) Mr Peter Rogers (Member)
Heard	8 June 2023 Determined on the documents
Penalty Considered	7 September 2023
Outcome	Apology and Training

DECISION AND REASONS FOR DECISION

29 September 2023

DEFAMATION CAUTION

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Introduction

1. At its meeting on 8 June 2023, the Panel found that Councillor Andrew Mangano, a councillor for the City of Nedlands (**“the City”**), committed a breach under the *Local Government Act 1995 (WA)* (**“the Act”**) and regulation 22 the *Local Government (Model Code of Conduct) Regulations 2021* (**“the Regulations”**) when he did not disclose an impartiality interest in a matter before Council (**“the Minor Breach”**).

Jurisdiction and Law

2. The Panel convened on 7 September 2023 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 Mangano 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 4 July 2023, Cr Mangano 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

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



(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)."*

Cr Mangano's Submissions

7. By an email dated 10 August 2023, the Department received a response from Cr Mangano
8. Cr Mangano provided the following comments and arguments, as summarised by the Panel:
 - a. Cr Mangano was doing his best to represent the interests of the affected neighbours.
 - b. Cr Mangano had four different neighbours complaining to him about the DA being brought before Council. The CEO even wanted Cr Mangano to exclude himself from the vote, which is completely out of order.
 - c. Who else is going to speak for the neighbours if Councillors are excluded because of a vexatious defamation action by the proponent.
 - d. Cr Mangano stands by his statement, the verge is a completely different issue to the DA, and that he had no impartiality interest.

Panel's Consideration

9. Section 5.110(6) is about penalty. The Panel does not have the power to review any finding of a breach.
10. The Panel may order under section 5.110(6)(a), that no sanction be imposed, 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.
11. 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.
12. The Panel comments that Cr Mangano has completely misunderstood the nature of the impartiality interest required to be declared.
13. It is not that the verge matter is related to the issue of the defamation action.
14. It is not that the Panel necessarily considers Cr Mangano was affected by any impartiality or bias.
15. The interest arises as:
 - a. Cr Mangano had an existing relationship with the parties due to the defamation action. As this is a legal action, it can be generally assumed that the matter *may* give rise to a strained or difficult relationship between those parties; and
 - b. the same parties owned the property the subject of the relevant item before Council.
16. Therefore, due to the possibility of such existing relationship, Cr Mangano should have declared that:
 - a. the relationship existed;
 - b. here may be a *perception* that his impartiality on the matter may be affected; and
 - c. he would consider this matter on its merits and vote accordingly.
17. To be clear, making a declaration does not mean that Cr Mangano would be unable to stay in the room, speak or vote on the matter. Cr Mangano can still represent his constituents.
18. Cr Mangano must simply declare there is an existing relationship between the parties that others should be aware of.
19. Declaring impartiality interests is a fundamental feature of a councillor's obligations. Given his response, the Panel is not satisfied that Cr Mangano will not reoffend in a similar manner.
20. In this case as the relevant owners of the property the subject of the motion made the Complaint, the Panel considers that one appropriate sanction is that Cr Mangano makes a public apology.
21. Making a public apology is a significant sanction, being a personal admission by the individual of wrongdoing³. It is a suitable and appropriate penalty when a councillor's conduct:
 - a. adversely affects particular individuals⁴; and/or

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 (Pritchard J).

⁴ Treby and Local Government Standards Panel [2010] WASAT 81 [127] (Pritchard J).



- b. does not meet the standards other councillors seek to uphold.
22. The Panel further deems that it is prudent that, as Cr Mangano has failed to comprehend the basis for the requirement to declare than impartiality interest, he should undertake further training.
23. The Panel considers this will assist Cr Mangano in refreshing his knowledge as to the appropriate circumstances under which a declaration of an impartiality interest should be made.
24. The sanction of an order to undertake training also aligns with the intent of the Act and the purpose of the civil penalties under the Act to ensure future compliance with the statutory obligations imposed on councillors for the better protection of the public.
25. The Panel does not make a further order in accordance with Schedule 5.1 clause 9 of the Act that Cr Mangano recoup to the City the costs of the Department incurred with respect to the Complaint.

Panel's decision

26. The Panel orders pursuant to section 5.110(6)(b)(ii), section 5.110(6)(b)(iii) and section 5.110(6)(c) of the Act that, in relation to the Minor Breach of regulation 22 of the Regulations, Cr Mangano:
- a. make a public apology in accordance with the attached Orders; and
- b. undertake the training specified in the attached Orders.

Signing

Tim Fraser (Presiding Member)

Emma Power (Member)

Peter Rogers (Deputy Member)



ORDER

29 September 2023

DEFAMATION CAUTION

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THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor Andrew Mangano, a councillor for the City of Nedlands:
 - a. **publicly apologise** as specified in paragraph 2 OR failing compliance with paragraph 2 within the specified timeframe, then paragraph 3 shall apply; and
 - b. undertake **training** as specified in paragraph 4.

Public Apology

2. On the ordinary council meeting of the City of Nedlands first occurring after the expiration of **28 days** from the date of service of this Order on him, Cr Mangano shall:
 - i. attend the relevant ordinary council meeting;
 - ii. ask the presiding person, or acting presiding person, for his or her permission to address the meeting to make a public apology to the public;
 - iii. 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
 - iv. 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 Regulation 22 of Division 4 of the *Local Government (Model Code of Conduct) Regulations 2021* when I failed to declare an impartiality interest on a matter before Council at the Council Meeting of the City of 26 April 2023.
- ii. The Panel found that I breached Regulation 22 by my conduct.
- iii. I acknowledge that I should have made a declaration of an impartiality interest at the meeting and I now apologise to Mr Paul McGarry, my fellow councillors and the City."



3. If Cr Mangano fails to, or is unable to, comply with the requirements of paragraph 2 above in the required time frame THEN, within the next **28 days** following the ordinary council meeting referred to in paragraph 2 above the Chief Executive Officer of the City of Nedlands shall arrange for the notice of public apology to be published:
 - a. on the Facebook Page of the City of Nedlands shall in no less than 10 point font size; and
 - b. in an appropriate place on the website of the City of Nedlands shall in no less than 10 point font size; and
 - c. in the next occurring issue of any City of Nedlands shall public newsletter (if any) whether in electronic or print copy) in no less than 10 point font size.

PUBLIC APOLOGY BY COUNCILLOR ANDREW MANGANO

A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened Regulation 22 of Division 4 of the *Local Government (Model Code of Conduct) Regulations 2021* when I failed to declare an impartiality interest on a matter before Council at the Council Meeting of the City of 26 April 2023.

The Panel found that I breached Regulation 22 by my conduct.

I acknowledge that I should have made a declaration of an impartiality interest at the meeting and I now apologise to Mr Paul McGarry, my fellow councillors and the City.

Training

4. Within 4 months of the date of this Order, Councillor Andrew Mangano, a councillor for the City of Nedlands, shall undertake:
 - a. the training course for Elected Members "*Conflicts of Interest*" provided by WA Local Government Association (WALGA) for a period of no less than 3.5 hours, attending either in person or via e-learning (if available); or
 - b. a training course with substantially similar learning outcomes provided by an alternative registered training organisation for a period of not less than 3.5 hours.

Appeal

5. In the event that, prior to the date for compliance with the above Orders, Cr Mangano:
 - a. commences an appeal the decision of the Standards Panel to the State Administrative Tribunal in accordance with section 5.125 of the *Local Government Act 1995*; and
 - b. notifies the Complaints Officer of the City of Nedlands of such appeal in writing,THEN:



- c. compliance with such Orders may be delayed until the State Administrative Tribunal has made a finding in respect to the decision; and
- d. such Orders may be amended by an order of the State Administrative Tribunal



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.”*