



Local Government Standards Panel

Complaint Number	SPs 6, 7 and 9 of 2018 [DLGSC 20180223, 20180224, 20180230]
Legislation	<i>Local Government Act 1995</i>
Complainants	Mr Kevin Hall Councillor Victoria Brown Councillor Natalie Bowman
Respondent	Councillor Dale Piercey
Local Government	Shire of Esperance
Regulation	Regulation 7(1)(b) of the <i>Local Government (Rules of Conduct) Regulations 2007</i>
Panel Members	Mrs S Siekierka (Presiding Member) Ms M Strauss (Member) Ms R Aubrey (Member)
Heard	25 May 2018 Determined on the documents
Outcome	Breach of regulation 7(1)(b)

FINDING AND REASONS FOR FINDING

Published 20 July 2018

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Summary of the Panel's decision

1. The Panel considered three minor breach complaints about conduct arising out of the same circumstances. The Panel found that Councillor Dale Piercey, a Councillor for the Shire of Esperance (the Shire), 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* (the Regulations) between 10 January 2018 and 29 January 2018 when she posted two false statements on a community Facebook page about funding for works on the Esperance Tanker Jetty (the Jetty Project) and failed to correct her statements and apologise for her mistake after being provided with accurate information.

Jurisdiction and procedural fairness

2. The Act provides for the circumstances in which a council member commits a minor breach.¹

3. The Panel received the following three complaints. All Complainants allege Cr Piercey breached regulation 7 when she made false statements on the Esperance Community Facebook page (the Page) about funding for the Jetty and failed to remove her statements or publish correct information.

(a) Complaint 1 (SP 6 of 2018)

On 5 February 2018 the Panel received a Complaint of Minor Breach Form dated 29 January 2018, with attachments, signed by Mr Kevin Hall, a member of the public and a former Shire Councillor.

(b) Complaint 2 (Panel reference SP 7 of 2018)

On 5 February 2018 the Panel received a Complaint of Minor Breach Form dated 30 January 2018, with attachments, signed by Councillor Victoria Brown, the Shire President.

(c) Complaint 3 (Panel reference SP 9 of 2018)

On 15 February 2018 the Panel received a Complaint of Minor Breach Form dated 13 February 2018, with attachments, signed by Councillor Natalie Bowman, also a Shire Councillor.

4. By email on 28 February 2018 the Department of Local Government, Sport and Cultural Industries (the Department) sent Cr Piercey a copy of the three Complaint Forms and their attachments, inviting her to respond to the Complaints.

5. Under section 5.110(2) of 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.

6. The Panel convened on 25 May 2018 to consider the Complaints. The Panel:

- accepted the advice of the Department that, based on information published on the Western Australian Electoral Commission website, Cr Piercey was a Shire Councillor at the time of the alleged breach, having been elected on 21 October 2017, and was still a Shire Councillor when the Panel met on 25 May 2018;

¹ Section 5.105 of the Act.



- was satisfied the Complaints were made within two years after the alleged breach occurred² and that the Shire’s Complaints Officer had dealt with the Complaints in accordance with the administrative requirements in the Act for dealing with complaints of a minor breach³;
 - noted that Cr Piercey responded to the Complaints by email on 20 March 2018, sent with an Elected Member’s Response Form and copies of two letters dated 26 February 2018 and 7 March 2018;
 - was satisfied the Department had provided procedural fairness to Cr Piercey;
- and
- found it had jurisdiction to consider the Complaints.

Panel’s role

7. The Panel is not an investigative body.⁴ It makes decisions about complaints of minor breaches solely upon the evidence presented to it and, when relevant, information published on a local government’s website, such as council meeting agendas and minutes, local laws, policies and codes of conduct. For the Panel to find that a councillor committed a minor breach it must be satisfied on the evidence before it that it is more likely than not that the alleged breach occurred.⁵ This is commonly referred to as “the required standard” or “the required standard of proof”.

8. The Panel cannot rely on an alleged fact unless it is satisfied that it is more likely than not that the alleged fact is true.⁶ The Panel cannot merely choose between two or more conflicting but equally possible versions of events.⁷ To accept one of the competing versions of events it must be satisfied that one is more likely to be the correct version.

9. For a finding that a councillor has breached a particular regulation the Panel must be satisfied to the required standard that every element of that regulation has been established.

10. Where the complainant submits the Panel should come to a particular conclusion, such as that the evidence establishes an element of the regulation, the Panel must be satisfied, after weighing up all the evidence and applying the relevant legal principles, that its conclusion is the one best supported by the evidence.⁸

Regulation 7

11. Regulation 7 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 —

² Section 5.107(4) of the Act

³ Sections 5.107, 5.108, 5.109 of the Act.

⁴ *Re and Local Government Standards Panel* [2015] WASAC 51, paragraph 24.

⁵ Section 5.106 of the Act.

⁶ The effect of section 5.106 of the Act.

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

⁸ The effect of section 5.106 of the Act.



- (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.”*

12. None of the Complainants specifies whether they allege a breach of regulation 7(1)(a) or 7(1)(b). However, based on the contents of the Complaint Forms and their attachments the Panel concludes that all Complainants are alleging a breach of regulation 7(1)(b).

13. Regulation 7(2) does not exclude the operation of regulation 7(1)(b) in this case because the alleged conduct is not conduct that could contravene the parts of the Act and *The Criminal Code* referred to in regulation 7(2).

The Complaints

14. The Panel ascertained the precise allegedly false statements from Cr Brown's highlights in a copy of an extensive discussion on the Page. It is not disputed that "R4R" stands for "Royalties for Regions", a State Government funding programme.

Complaint 1

15. Mr Hall alleges Cr Piercey breached regulation 7(1)(b) by publishing on the Esperance Community Facebook page (the Page):

"Had the 2016 offer of R4R money been accepted, we would have what the community wants." (Statement 1)

"R4R money was offered and refused." (Statement 2)

16. Mr Hall also alleges that by making these Statements Cr Piercey breached clause 4(1)(d) of the Shire's Code of Conduct, which provides:

"4.1 Personal Behaviour

Elected Members, Committee Members and staff will:

...

d) make no allegations which are improper or derogatory (unless true and in the 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; ..."

17. Mr Hall attached to his Complaint Form:

- A copy of a section of the Page that included Statements 1 and 2.
- His undated letter to the Shire's Chief Executive Officer (the CEO) saying Cr Piercey's suggestion that R4R funding was refused while he was a serving Councillor was untrue and that it is not in the public interest for this false claim to be published. He asked the CEO to ask Cr Piercey to publish an apology on the



Page for her inaccurate statements. Mr Hall noted he was a Shire Councillor from 2013 to 2017.

18. In his Complaint Form Mr Hall refers to an incident date of 19 January 2018 but the Panel finds that it is more likely than not, based on Cr Brown's and Cr Bowman's evidence, that Statements 1 and 2 were published on the Page on 10 January 2018.

Complaint 2

19. Cr Brown alleges Cr Piercey breached regulation 7(1)(b) by publishing Statements 1 and 2 on the Page on 11 January 2018 and by also publishing, during the same Facebook discussion:

"When politicians and other officials are taken out to view the jetty they are shown the worst areas but not the best. Those new pylons do not seem to come in any of these conversations or inspections." (Statement 3)

20. Cr Brown provided a detailed statement in her Complaint Form asserting: after Cr Bowman alerted her to the Statements she sent Cr Piercey copies of correspondence relating to potential works on the Jetty and funding options/processes; she asked Cr Piercey on a number of occasions to remove the misinformation, which Cr Piercey failed to do; and that the publication of false information had misled the public, caused further controversy and damaged the Shire's reputation.

21. Cr Brown attached a copy of an extensive conversation on the Page in which she had highlighted Statements 1, 2 and 3. She also provided copies of the letters and emails referred to in paragraphs 31 to 41 below.

22. In her Complaint Form Cr Brown refers to an incident date of 11 January 2018, saying that on this date Cr Bowman noticed the Statements. Taking into account Cr Bowman's material (referred to in paragraphs 23 and 24 below) the Panel finds it is more likely than not that Statements 1, 2 and 3 were published on the Page on 10 January 2018. However, it is immaterial whether the publication date is 10 or 11 January 2018.

Complaint 3

23. Cr Bowman provided a detailed statement in her Complaint Form alleging Cr Piercey breached regulation 7(1)(b) on 10 January 2018 by publishing Statements 1, 2 and 3. She says Statements 1 and 2 were false and all three Statements damage the Shire's reputation.

24. Cr Bowman says she noticed the Statements when Cr Brown was on leave, and she was the acting Shire President. She twice referred to an incident date of 10 January 2018 in her Complaint Form.

25. Cr Bowman says that after noticing the Statements she emailed Cr Piercey on 11 January 2018 with factual background information about the Jetty issues and asked Cr Piercey to correct what she said in Statements 1 and 2.

26. Cr Bowman said the Jetty Project "has been highly emotive and divisive for our community and to have incorrect information ... provided by a Councillor and left sitting there on a page that has 11,000 members ... is very damaging to the Shire's reputation and further confuses and distresses our community".



The Response

27. Cr Piercey denies she committed the alleged breach. She submits:

- (a) What she said “was substantially correct”.
- (b) The Shire took too long to respond to the offer of R4R funding, with the result that the Government went into caretaker mode, which “in effect was a refusal”.
- (c) She tried to remove “the Facebook post”, even though she “fully believed” that what she had said was correct. She removed it from her site but could not remove it from the Page altogether as it had been “cut and pasted to another site”. She has since closed her own Facebook page.
- (d) She did not mention any names. She did not demean any person.
- (e) “The facts speak for themselves and show that I stated the facts correctly, therefore I did not disadvantage any person, nor did I give myself advantage.”

28. Cr Piercey attached a copy of a letter dated 26 February 2018 from Mr RG to the Secretary of the Friends of Esperance Tanker Jetty Association Inc. (the Association) headed “Letter in support of Councillor Dale Piercey”. The Secretary says:

- (a) In October 2016 he and some other Association members met with the then Minister for Regional Development (the Minister), who told the attendees he had earlier that day, in a meeting with Shire officers, offered the Shire \$50,000 from the Goldfields Esperance Revitalisation Fund for the Shire to “fully investigate all options available to reconstruct the Jetty”. (Underlining added by the Panel for emphasis because Cr Piercey and the Association were strongly in favour of preserving the Jetty.)
- (b) On 26 October 2016 the Minister told Mr RG that he had put his offer in writing to the Shire.
- (c) On 8 November 2016 Council awarded a \$1.5 million contract for the demolition of the Jetty. This meant the Minister’s offer was off the table.
- (d) The Heritage Minister then issued a Stop Work Order and Conservation Order, preventing the demolition.
- (e) At an Association meeting after the March 2017 State election, the former Minister, who was still in Parliament but no longer a Minister due to the change of Government, confirmed he had offered \$50,000 to the Shire in October 2016 but did not receive a response.
- (f) Despite having personally expressed concern about the rejection of the offer in various fora over the previous 18 months no Shire employee or Councillor had challenged his claim that the Shire had rejected the offer.



- (g) Cr Piercey is now being challenged for claiming the Shire rejected the Minister's offer when the same claim had been made in public several times without being challenged.

29. Cr Piercey also attached a copy of a letter dated 7 March 2018 from Mr AB "To Whom It May Concern" asserting some Councillors behaved negatively towards Cr Piercey at an Annual Electors Meeting in early 2018 and at the following Council meeting. This letter is irrelevant to the issues to be decided by the Panel in dealing with the Complaints.

30. The Panel notes that:

- Cr Piercey has not provided any written evidence supporting Mr RG's assertion that the Minister offered the Shire \$50,000 or any other amount in October 2016.
- Cr Piercey does not dispute that Mr Hall was a Shire Councillor in 2016 and 2017 when the Shire allegedly rejected the offer.
- Cr Piercey does not dispute that there were around 11,000 members of the Esperance Community Facebook Group when Cr Piercey published the Statements.

Correspondence and emails attached to Cr Brown's Complaint Form

22 December 2016 – letter from the Minister to Cr Brown, Shire President.

31. The Minister refers to a letter his office received from the Shire on 1 December 2016 regarding funding options for a replacement jetty and the Heritage Minister's subsequent Conservation Order preventing immediate demolition of the Jetty. He advises he is prepared to "assist the Shire and the jetty working group" under the R4R programme with funds from the Goldfields Esperance Revitalisation Fund (the Fund), administered by the State Government's Goldfields Esperance Development Commission (the GEDC), "for the preparation of detailed concept designs, engaging a heritage consultant or specialist engineer".

32. The Minister does not mention any dollar figure. He "encourages" the Shire to continue to liaise with the GEDC about possible funding for concept development work. The Minister does not say the objective must be to retain the Jetty but implies this should seriously be considered as it is only one of three long timber jetties left in the State.

5 January 2017 – letter GEDC to the CEO

33. GEDC advises the Minister has "recently endorsed" financial assistance of up to \$50,000 from the Fund to develop "a sound business case for accessing (R4R) funding or other funding opportunities." The grant would be for specified work: implementing a community engagement strategy; completing an "options analysis"; and developing detailed designs for the preferred option. Funding is subject to the Shire submitting a Request to Access Administration Fund form to GEDC. GEDC recommends that the Shire liaise with GEDC to determine the required resources and submit the Request Form before 31 January 2017.



23 January 2017 – letter GEDC to the CEO

34. GEDC advises the Minister has directed GEDC not to release any part of the \$50,000 unless it can confirm that the Shire has exhausted all avenues to retain the Jetty. GEDC requires the Shire to provide a detailed report to GEDC on how it came to its position, which at that time was to replace the Jetty rather than repair it.

7 February 2017 – letter CEO to GEDC

35. The CEO presents a dense three-page outline of the information, advice and options Council had considered since 1990 and its communications with stakeholders, which culminated in its determination that retention or restoration of the Jetty is not a “prudent and feasible alternative” to replacing the Jetty.

Email CEO to GEDC 3 November 2017

36. The CEO asks GEDC to check its records to see whether GEDC replied to the CEO’s letter of 7 February 2017.

Email GEDC to CEO 3 November 2017

37. GEDC advises it did not respond to the CEO’s letter of 7 February 2017. GEDC says it provided advice to the Minister based on the CEO’s 7 February 2017 letter but did not receive any “official confirmation from the ... Minister’s office regarding a commitment to provide the funding assistance” before the Government moved into caretaker mode in the lead up to the March 2017 State election.

Email Cr Bowman (then Acting Shire President) to Cr Piercey 11 January 2018

38. Cr Bowman says she had noted “a couple of” comments Cr Piercey had made on the Page. Cr Brown outlined the course of events, which was consistent with the correspondence referred to in paragraphs 31 to 37 above. Cr Bowman advises that at no time did the Shire refuse funding and that it had promptly provided all the requested information. Cr Bowman forwarded a copy of this Email to Cr Brown on 11 January 2018.

Email CEO to Cr Brown (as Shire President) 25 January 2018

39. The CEO forwards copies of the letters and emails dated 22 December 2016 to 3 November 2017 referred to in paragraphs 31 to 37 above (the CEO’s Documents).

Email Cr Brown to Cr Piercey 28 January 2018

40. Cr Brown sends copies of the CEO’s Documents to Cr Piercey and reiterates that the Shire did not refuse any funding for the Jetty Project. Cr Brown refers to a meeting at which Cr Brown and Cr Bowman outlined the facts for Cr Piercey and asked her to correct or remove the Statements. Cr Brown tells Cr Piercey she is in breach of the commitment to Council she made on becoming a Councillor and has continued to mislead the public with incorrect information.



Email Cr Brown to Cr Piercey 29 January 2018

41. Cr Brown says the Statements have been in the public eye for over 2 weeks and have totally misled the public. She asks Cr Piercey to remove them, publicly admit her mistake and publish correct information.

Findings of Fact

42. Having considered the information outlined above the Panel is satisfied to the required standard that:

- (a) Mr RG's assertion in his letter that in October 2016 the Minister offered the Shire \$50,000 and that the Shire failed to respond to this offer is inconsistent with the correspondence referred to in paragraphs 31 to 37 above.
- (b) The Minister did not make any formal offer to the Shire of \$50,000 or any lesser amount in October 2016.
- (c) On 22 December 2016 the Minister advised the Shire that funds from the Fund or another programme may be available to assist the Shire with preliminary work, such as developing concept designs. The Minister did not offer \$50,000 or mention any other figure. He advised the Shire to contact GESD to progress the matter.
- (d) The first time the \$50,000 figure was formally put to the Shire was on 5 January 2017 when GEDC offered up to \$50,000 for further project concept development, subject to the Shire meeting GEDC's requirements.
- (e) GEDC would not even consider paying \$50,000 (or a lesser amount) until the Shire provided specified information to GEDC.
- (f) On 7 February 2017 the Shire sent GEDC information the Shire considered met GEDC's requirements.
- (g) GEDC had sufficient information from the Shire to advise the Minister about allocating funds to the Shire, and did advise the Minister.
- (h) GEDC was satisfied the Shire provided the required information within an acceptable time.
- (i) The Minister did not respond to GEDC's advice to him after GEDC received the Shire's 7 February 2017 letter.
- (j) As at the time when Cr Piercey published the Statements GEDC had not responded to the Shire's letter dated 7 February 2017.
- (k) The Shire has not refused or rejected any offer of \$50,000 or any lesser amount.
- (l) The Page was accessible by around 11,000 people who were members of the Esperance Community Facebook Group.



(m) The Jetty Project had been a contentious and divisive issue in the community for several years.

(n) Councillors Brown and Bowman asked Cr Piercing in person and in three emails to remove and/or correct Statements 1 and 2 but she failed to do so.

Whether Cr Piercing breached regulation 7(1)(b)

First element – whether Cr Piercing was a councillor at the time of the alleged breach

43. Clearly this element is established.

Second element - whether Cr Piercing used her office as a councillor when making the Posts

44. Cr Piercing does not deny she made the Statements in her capacity as a Councillor. The Panel is satisfied to the required standard that Cr Piercing was using her office as a councillor when she made Statements 1, 2 and 3. This element is established.

Third element – whether Cr Piercing made improper use of her office as a councillor

45. The 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.”⁹

46. 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 Councillors have a duty to be faithful to the proper workings of the local government and their council.¹¹

47. 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 to act consistently with authorised decisions of Council and the administration. Councillors must also respect, and be seen to respect, the local government’s processes and the roles of its officers and their lawful decisions.

48. Regulation 3 of the Regulations sets out general principles to guide councillors’ behaviour, although contravention of any 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 and diligence, act with honesty and integrity and treat others with respect and fairness.

⁹ Macquarie Dictionary, Revised Third Edition.

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

¹¹ *Yates and Local Government Standards Panel* [2012] WASAT 59 paragraph 64(5), *Treby and Local Government Standards Panel* [2009] WASAT 224 paragraph 19.

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

¹³ Regulation 13.



49. The meaning of “improper” must be considered in the context of relevant legislation, such as the Act and the Regulations, 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 Although context is relevant, when the alleged conduct amounts to a clear breach of the Code of Conduct, knowledge of the context is not as useful when deciding whether the conduct had been improper.¹⁵

50. It is not true that the Shire refused an offer of funding. The Shire engaged in the process by corresponding with the Minister and GEDC and supplying the requested information. It was not the Shire’s fault that its funding opportunity was not progressed before the former Government moved into caretaker mode.

51. A reasonable person who has read the correspondence between the Shire, the Minister and GEDC would conclude it was incorrect to say the Shire had rejected an offer of funding. Cr Piercey should have come to the same conclusion.

52. Cr Piercey should have checked the facts before accusing the Shire of rejecting an offer of funding. She knew or should have known that such an accusation would be likely to add to the existing rancour and divisiveness in the community.

53. Any reasonable person who knows Statements 1 and 2 were false would conclude that it was improper, according to the tests for impropriety outlined above, for Cr Piercey to publish them, and that their publication would damage the reputation of the local government as a whole, its employees and current and former Councillors.

54. Cr Piercey showed, in a public forum, a lack of respect for the work of Shire employees and Councillors who had worked for many years, as evidenced by the material presented in the Shire’s 7 February 2017 letter, to make responsible and well considered decisions about the Jetty. Cr Piercey was not diligent in assessing and commenting on the true course of events and was unfaithful to previous Council decisions.

55. Cr Piercey breached clause 4.1(d) of the Code of Conduct because she twice made a false and improper allegation that the Shire had rejected funding. The allegation was likely to cause offence and embarrassment to Shire employees and Councillors who had worked on the Jetty Project, and did cause offence to Councillors Brown and Bowman and to Mr Hall, a former Councillor who had been involved in the Jetty Project.

56. Having applied the tests for impropriety referred to above, the Panel is satisfied to the required standard that Cr Piercey did not meet the standards of conduct expected of a councillor and thus made improper use of her office.

¹⁴ *Hipkins and Local Government Standards Panel* [2014] WASAT 48, paragraph 10, referring to *Treby and Local Government Standards Panel* [2010] WASAT 81 (*Treby* 2010).

¹⁵ *King and Local Government Standards Panel* [2018] WASAT 42, paragraph 47.



57. It was reasonable for Councillors Brown and Bowman to ask Cr Piercey to remove her Statements, apologise and publish the correct information. A respectful and professional councillor who has misrepresented the facts would have taken steps to correct the misinformation and apologise for the mistake. Cr Piercey may have been unable to remove the Statements from the Page but she could have published the correct information on the Page and apologised.

58. Cr Piercey also acted improperly by not correcting her Statements on the Page and not apologising for publishing them.

59. The Panel finds Cr Piercey made improper use of her office between 10 January 2018 and 29 January 2018 when she published Statements 1 and 2 on the Page and failed to thereafter publish correct information and apologise for her mistake.

Fourth element – whether Cr Piercey intended to cause detriment to the local government or any other person

60. “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 or organisation can suffer detriment through others thinking less favourably of them/it.¹⁷

61. 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 And 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 the councillor believed that his or her actions would cause detriment and took the action to cause detriment.¹⁹

62. “To cause detriment” means “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.²¹

63. In her Response Cr Piercey says Statements 1 and 2 were “essentially correct”. She has therefore maintained the untenable view that Shire staff or the Council refused or rejected a funding offer. At no point has Cr Piercey showed any intention to reverse her criticism of any Shire employees and Councillors involved when R4R/Fund monies were being discussed with the State Government.

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.

²¹ *Treby* 2010.



64. The only reasonable inference is that Cr Piercey intended to blame Shire employees and Councillors who had worked on the Jetty Project for the Shire not having received the R4R/Fund contribution and for work on the Jetty not having progressed. This demonstrates an intention to cause detriment to Shire employees and Councillors who had worked on the Jetty Project.

65. This element is established.

Panel's finding

66. The Panel finds that Cr Piercey breach regulation 7(1)(b) between 10 January 2018 and 29 January 2018 when she published false information on the Esperance Community Facebook Page about Royalties for Regions funding for the Jetty Project and by failing to publish the correct information and apologise for her mistake.

Sheryl Siekierka (Presiding Member)

Rachel Yates (Deputy Member)

Merranie Strauss (Member)