

LOCAL GOVERNMENT STANDARDS PANEL

Established under section 5.122 of the *Local Government Act 1995* (WA)

Complaint Number	SP 50 of 2015 [20150258]
Legislation	<i>Local Government Act 1995</i>
Complainant	Roger Le-maître
Subject of complaint	Councillor Petronella Pigdon
Local Government	Shire of Cue
Regulation	Regulation 7(1)(b) of the <i>Local Government (Rules of Conduct) Regulations 2007</i>
Panel Members	Mr B Jolly (Presiding Member) Councillor P Kelly (Member) Mr P Doherty (Member)
Heard	30 March 2016 (Determined on the documents)
Outcome	Public apology ordered

DECISION AND REASONS FOR DECISION

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

1. Summary of Breach Findings

At its meeting on 21 December 2015 the Panel made a finding that Cr Petronella Pigdon, a member of the Council of the Shire of Cue, committed a breach of regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007 (Regulations)* by making statements which were later reported on the front page of the Midwest Times newspaper (**Minor Breach**).

1.1 The statements related to a Council resolution of 17 February 2015, to consider and adopt a review of the budget, which included an allowance for a water feature (being a spa for the house provided to the Shire's Chief Executive Officer as part of his compensation package) and were to the following effect:

- (a) she was irate about the decision;
- (b) she suggested she was deceived by the wording of the budget/resolution; and
- (c) she voted for a water feature, not for a spa.

(Statements)

2. Summary of Decision

2.1 The Panel considered how the Minor Breach is to be dealt with under section 5.110(6) of the *Local Government Act 1995 (LG Act)* and concluded, for the following reasons, that Cr Pigdon should be ordered to make a public apology in terms of Attachment "A" hereto.

3. Notice of the Minor Breaches

3.1 By letter dated 29 February 2016, Cr Pigdon was notified of the Panel's finding of a Minor Breach, provided with a copy of the Panel's Findings and Reasons for Finding and offered an opportunity to make submissions as to how the Minor Breach should be dealt with under section 5.110(6) of the *LG Act*.

3.2 By letter dated 23 March 2016, Cr Pigdon advise the Panel that "I would like my breach dismissed as I now realize I did do wrong and it will not happen again."

4. Panel's views

4.1 Section 5.110(6) of the *LG Act* specifies the sanctions that may be imposed by the Panel for a Minor Breach. The Panel may:

- (a) dismiss the Complaint;
- (b) order that —
 - (i) the person against whom the Complaint was made be publicly censured as specified in the order;
 - (ii) the person against whom the Complaint was made apologise publicly as specified in the order; or
 - (iii) the person against whom the Complaint was made undertake training as specified in the order;

or

- (c) order 2 or more of the sanctions described in paragraph (b).

- 4.2 Pursuant to clause 8(6) of Schedule 5.1 to the *LG Act*, each of the Panel's members is to have regard to the general interests of local government in the State.
- 4.3 In considering an appropriate sanction or sanctions for the present breach the Panel notes that Cr Pigdon:
- (a) has not previously been found to have breached the *Regulations*; and
 - (b) has accepted the Panel's findings.
- 4.4 The Panel does not consider that dismissal of the Complaint is appropriate as this would effectively condone Cr Pigdon's conduct in making the Statements.
- 4.5 Nor does the Panel consider that ordering Cr Pigdon to undergo further training is appropriate or an adequate sanction.
- 4.6 Because of this, the only options available to the Panel are to order the publication of a Notice of Public Censure or to order Cr Pigdon to make a Public Apology (or both).
- 4.7 When the Panel makes an order that a Notice of Public Censure be published, that Notice is published by the local government's CEO at the expense of the local government and such expense is significant where the Notice is to be published in a newspaper or newspapers.
- 4.8 In the present case, on the evidence available to the Panel, the Panel does not consider that it should order a public censure.
- 4.9 In the circumstances of the matter, the Panel considers that Cr Pigdon should be ordered to make a public apology to the Shire's Chief Executive Officer and her fellow councilors in terms of Attachment "A" hereto.
- 4.10 This is a significant sanction, as it serves as a reprimand aimed at the reformation of Cr Pigdon and the prevention of further offending acts and also as a measure in support of the institution of local government and those council members who properly observe the standards of conduct expected of them.

5. Panel decision

- 5.1 Having regard to the Findings, the matters set out in paragraphs 4 and 5 above and the general interests of local government in Western Australia, the Panel's decision on how the Minor Breach is to be dealt with under section 5.110(6) of the *LG Act*, is that pursuant to subsection (b)(ii) of that section, Cr Pigdon should be ordered to publicly apologise to the Shire's Chief Executive Officer and her fellow councilors as set out in Attachment "A" hereto.



Brad Jolly (Presiding Member)



Paul Kelly (Member)



Peter Doherty (Member)

NOTICE TO THE PARTIES TO THE COMPLAINT

RIGHT TO HAVE PANEL DECISION REVIEWED BY THE STATE ADMINISTRATIVE TRIBUNAL

The Local Government Standards Panel (**Panel**) hereby gives notice that:

- (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."*

Attachment "A"

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Local Government	Shire of Cue
Regulations	Regulation 7(1)(b) of the <i>Local Government (Rules of Conduct)</i> <i>Regulations 2007</i>
Panel Members	Mr B Jolly (Presiding Member) Councillor P Kelly (Member) Mr P Doherty (Member)
Heard	30 March 2016 (Determined on the documents)

ORDER

THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Petronella Pigdon, Councillor of the Shire of Cue, apologise publicly to her fellow councilors, as specified in paragraph 2 or paragraph 3 below, as the case requires.
2. At the next Shire of Cue Ordinary Council Meeting immediately following the expiration of 28 days from the date of service of this Order on Petronella Pigdon:

- (a) Petronella Pigdon shall request the presiding person for his/her permission to address the meeting immediately following Public Question Time or during the Announcements part of the meeting or at such time during the meeting when it is open to the public as the presiding member thinks fit, for the purpose of Petronella Pigdon making a public apology to the Shire's Chief Executive Officer and her fellow councilors; and
- b) Petronella Pigdon shall verbally address the Council as follows, without making any introductory words prior to the address, and without making any comment or statement after the address:

"I advise this meeting that:

- 1. A Complaint has been made to the Local Government Standards Panel, in which it was alleged that I contravened a provision of the Local Government (Rules of Conduct) Regulations 2007 by making various statements, which were later reported on the front page of the Midwest Times newspaper.*
 - 2. The statements related to a Council resolution of 17 February 2015, to consider and adopt a review of the budget, which included an allowance for a water feature (being a spa for the house provided to the Shire's Chief Executive Officer as part of his compensation package) and were to the following effect:*
 - a. I was irate about the decision;*
 - b. I suggested I had been deceived by the wording of the budget/resolution; and*
 - c. I voted for a water feature, not for a spa.*
 - 3. The Local Government Standards Panel has considered the Complaint, and has made a finding of a minor breaches of regulations 7(1)(b) of the Local Government (Rules of Conduct) Regulations 2007 against me by making those statements.*
 - 4. I accept that I should not have made those statements and apologise to the Shire's Chief Executive Officer and my fellow councillors for having done so."*
3. If Cr Pigdon fails or is unable to comply with the requirements of paragraph 2 above within 14 days after the next Shire of Cue Ordinary Council Meeting immediately following the expiration of 28 days from the date of service of service of this Order on him, Petronella Pigdon shall cause the following Notice of Public Apology to be published, in no less than 10 point print, as a one-column or a two-column display advertisement in the first 20 pages of the Midwest Times newspaper.

PUBLIC APOLOGY

1. *A Complaint has been made to the Local Government Standards Panel, in which it was alleged that I contravened a provision of the Local Government (Rules of Conduct) Regulations 2007 by making various statements, which were later reported on the front page of the Midwest Times newspaper.*
2. *The statements related to a Council resolution of 17 February 2015, to consider and adopt a review of the budget, which included an allowance for a water feature (being a spa for the house provided to the Shire's Chief Executive Officer as part of his compensation package) and were to the following effect:*
 - a. *I was irate about the decision;*
 - b. *I suggested I had been deceived by the wording of the budget/resolution; and*
 - c. *I voted for a water feature, not for a spa.*
3. *The Local Government Standards Panel has considered the Complaint, and has made a finding of a minor breaches of regulations 7(1)(b) of the Local Government (Rules of Conduct) Regulations 2007 against me by making those statements.*
4. *I accept that I should not have made those statements and apologise to the Shire's Chief Executive Office and my fellow councilors for having done so."*

Petronella Pigdon