



Local Government Standards Panel

Complaint Number	20240392
Legislation	<i>Local Government Act 1995</i>
Complainant	Ms Tralee Cable (CEO)
Respondent	Councillor Ian Black
Local Government	Shire of Mount Magnet
Regulation	Regulation 22 of the <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members	Mr Tim Fraser (Presiding Member) Ms Elanor Rowe (Deputy Member) Councillor Peter Rogers (Member)
Heard	28 May 2024 Determined on the documents
Outcome	One breach of Regulation 22

FINDING AND REASONS FOR FINDING

Delivered 2 May 2025

DEFAMATION CAUTION

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Summary of the Panel's decision

1. The Local Government Standards Panel ("the Panel") found that Councillor Ian Black ("Cr Black"), an elected member for the Shire of Mount Magnet ("the Shire") committed one breach under the *Local Government Act 1995* (WA) ("the Act") and Regulation 22 of the *Local Government (Model Code of Conduct) Regulations 2021* ("the Regulations") when he failed to declare an interest in an item at the Council Meeting held on 27 March 2024.

Jurisdiction and procedural fairness

2. The Act makes provision for the circumstances in which a council member commits a minor breach.¹
3. On 10 April 2024, the Department of Local Government, Sport and Cultural Industries ("the Department") received a Complaint of Minor Breach Form ("Complaint"). The Complaint was signed by Ms Tralee Cable, Chief Executive Officer of the Shire at the time, ("the Complainant") and contained one allegation of a breach of the Regulations by Cr Black.
4. On the same day, the Department advised Cr Black of the Complaint and invited him to respond. The Department sent Cr Black copies 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 28 May 2024 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 Black was a councillor at the time of the alleged breaches, and was still a Councillor when the Panel met on 28 May 2024;
 - (b) was satisfied the Complaint had been made within six months after the alleged breaches were said to have occurred.
 - (c) was satisfied the Complaint had been dealt with in accordance with the administrative requirements in the Act for dealing with complaints of minor breaches³; and
 - (d) was satisfied that the Department had provided procedural fairness to Cr Black.
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 the relevant Minister at the time instead of considering the Complaint itself.⁴ Cr Black had not previously been found to have committed any breaches of the

¹ Section 5.105 of the Act.

² Section 5.110(2)(a) of the Act.

³ Sections 5.107, 5.108, 5.109 of the Act.

⁴ Sections 5.110(2)(b), 5.111(1) of the Act.



Regulations. Therefore, the Panel decided to not send the Complaint to the Chief Executive Officer of the Department.

8. Based on the information referred to above, the Panel found it had jurisdiction to determine whether Cr Black had breached the Regulations 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).⁵
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.⁶
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 22

13. Regulation 22 provides:

"22. Disclosure of interests

(1) In this clause —

*(a) **interest** 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 person who has an interest in any matter to be discussed at a council or committee meeting attended by the 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.

⁵ Section 5.106 of the Act.

⁶ *Bradshaw v McEwens Pty Ltd* (1951) 217 ALR 1, paragraph 5.

- (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 person 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 is to 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.”*

Elements of Regulation 22(2)

14. The essential elements of a breach of Regulation 22(2) are that it is more likely than not that:

- a person who is a current council member (“member”);
- subject to Regulation 22(3), had a private or personal interest (“relevant interest”) in a matter (“matter”) that is more likely than not a conflict of interest or a bias (apparent or real) that does adversely affect, or might adversely affect the member’s impartiality in considering the matter, and includes an interest arising from kinship, friendship, membership of an association, or another circumstance;
- the member attended at the council or committee meeting concerned and was present when the matter under consideration came before the meeting and was discussed;
- the member did not disclose the nature of the relevant interest in the matter in either of the two ways required by Regulation 22(2)(a) or 22(2)(b); and



- *Regulation 22(4) does not apply.*

Substance of the Complaint

15. Cr Black operated a Short Stay Accommodation facility ("Business") on a lot ("Property") held under a lease ("Lease") from the Department of Planning, Lands and Heritage ("DPLH").
16. There were ongoing issues regarding the Lease. Cr Black's tenure had expired in 2013 after which time he had convinced the DPLH to grant him extensions so that he could continue to "*hold over*".
17. Most recently, the Lease had been terminated due to the fact that Cr Black had refused to comply with health and building regulations.
18. Cr Black's main tenant ("Tenant") at that time was a haulage company. The Tenant had made an offer to the Shire to purchase other land in the Shire to build its own short stay accommodation facility to accommodate their workers. That was in direct conflict with the service provided by Cr Black and would have resulted in a financial impact on his Business. It would also have undermined his argument for an extension of the Lease on the Property.
19. The Tenant's offer to purchase the land ("Matter") was considered at *Item 17.2 Offer to Purchase Lot 553* at the Council Meeting held on 27 March 2024 ("March Council Meeting").
20. At the commencement of the Council Meeting, Cr Black only stated that his activities for the month were in relation to "*saving Mount Magnet Cabins*."
21. Cr Black had not acknowledged that he should have declared an interest in the Matter and had not left the room. He participated in the discussion and voted on the resolution.

Cr Black's Response

22. On 22 April 2024, the Department requested comment on the allegations from Cr Black. However, Cr Black had not responded.

Panel's Consideration

23. The Panel finds that the essential elements of Regulation 22(2) have been satisfied:
 - a. On 21 March 2024, the Tenant had put forward a direct offer to Council to purchase a lot in the Shire for the sum of \$35,000. Their plan was to develop a short stay accommodation facility for their employees who were based outside of the Shire:



From: [John Smith](#)
To: [Traylee Cable](#)
Subject: FW: Offer to Purchase - Mt Magnet Lots Zoned Short Stay Accommodation
Date: Thursday, 21 March 2024 4:53:46 PM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Hi Traylee,

Thanks for making the time yesterday to discuss the sale of Lot 553 Priestley St, Mt Magnet.

I would like to thank the Council for making the land available and would like to proceed with an offer to purchase.

After inspecting Lot 553 Priestley Street and reviewing the online notice for the recent sale of 43 Priestley Street (\$22,500), the price listed below is offered.

The offer to purchase Lot 553 Priestley Street, Mt Magnet is \$35,000.

The purchase of the property will be completed in the "Mario M Giaaci as trustee for Mario Giacci Property Trust No 1" which is the company MGM Bulk use for property purchases.

Regards

John Smith

MGM BULK
DRIVEN TO DELIVER



John Smith Project Manager
0419 977 877

MGM BULK Pty Ltd
T (08) 9791 5600
26 Stirling Street Bunbury, WA 6230
PO Box 1263 Bunbury WA 6231
mgmgroup.com.au

- b. The Matter was discussed at the Council Meeting and the following Council Resolution was passed which favoured the sale of the lot to the Tenant:

COUNCIL RESOLUTION

Moved: Cr Homewood

Seconded: Cr Black

Option A

Accept the offer made on the condition a Development Application is received within 3 months of sale and substantial progress towards approved development occurs within 12 months;

and

Authorise the CEO to advertise the decision publicly seeking submissions for at least two weeks. If any submissions are made the matter is to return to Council at the next Ordinary Council Meeting for consideration. If no submissions are made, Council authorise the CEO to initiate a Sale Process to Mario M Giaaci as trustee for Mario Giacci Property Trust No 1.

RESOLUTION 2024-058

CARRIED 6/0

Councillors Voting in favour of the Motion – McGorman, Black, Homewood, Jones, Kelly and Dann

Reason for change – Councillors were prepared to make a direct sale conditional upon development occurring.

- c. Cr Black seconded the Motion and voted in favour of it.
- d. Clearly, Cr Black, an elected member for the Shire, was present at the Council Meeting and participated in the discussion of the Matter before Council.



- e. At that time, the party who had offered to purchase the land, was an existing Tenant of Cr Black's and there was an existing commercial relationship between the two.
- f. Therefore, the Panel finds that Cr Black had a relevant interest in the Matter that conceivably could have adversely affected his impartiality. Questions as to Cr Black's motivation behind how he voted and / or whether he had given the Matter proper consideration or instead was committed to a particular outcome could reasonably have arisen.
- g. According to the Minutes, Cr Black had not disclosed the nature of his interest in either of the two ways required under Regulation 22(2)(a) or 22(2)(b) as was required. Furthermore, Regulation 22(4) did not apply.

Findings

- 24. Accordingly, for the above reasons, the Panel finds that Cr Black had breached Regulation 22 in relation to the Complaint.

Signing

Tim Fraser (Presiding Member)

Elanor Rowe (Deputy Member)

Peter Rogers (Member)



Local Government Standards Panel

Complaint Number	20240392
Legislation	<i>Local Government Act 1995 (WA)</i>
Complainant	Ms Tralee Cable (CEO)
Respondent	Councillor Ian Black
Local Government	Shire of Mount Magnet
Regulation	Regulation 22 of the <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members for Penalty Consideration	Mr Tim Fraser (Presiding Member) Councillor Peter Rogers (Member) Ms Elanor Rowe (Deputy Member)
Heard	28 May 2024 Determined on the documents
Penalty Considered	6 June 2025
Outcome	Training

DECISION AND REASONS FOR DECISION

30 June 2025

DEFAMATION CAUTION

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Introduction

1. At its meeting on 28 May 2024, the Panel found that Councillor Ian Black (“Cr Black”), an elected member for the Shire of Mount Magnet (“the Shire”), committed one minor breach under the Local Government Act 1995 (WA) (“the Act”) and Regulation 22 of the *Local Government (Model Code of Conduct) Regulations 2021* (“the Regulations”) when he failed to declare an interest in an item at the Council Meeting held on 27 March 2024.
2. On 7 May 2025, the Panel published its Finding and Reasons for Finding (“Finding”) stating that Cr Black had committed one minor breach. The Panel reviewed all the evidence presented to it and made the following observations:

“23. *The Panel finds that the essential elements of Regulation 22(2) have been satisfied:*

.....

- e. *At that time, the party who had offered to purchase the land, was an existing Tenant of Cr Black’s and there was an existing commercial relationship between the two.*
- f. *Therefore, the Panel finds that Cr Black had a relevant interest in the Matter that conceivably could have adversely affected his impartiality. Questions as to Cr Black’s motivation behind how he voted and / or whether he had given the Matter proper consideration or instead was committed to a particular outcome could reasonably have arisen”*

Jurisdiction and Law

3. The Panel convened on 6 June 2025, to consider how it should deal with the Minor Breach. 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 Black had ceased to be, or was disqualified from being, a councillor.

Possible Sanctions

4. Section 5.110(6) of 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 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).*

5. Section 5.110(6) is about penalty. The Panel does not have the power to review any finding of a breach. Under section 5.110(6)(a), the Panel may order that no sanction be imposed; not to reverse the finding of a breach, but to however indicate that in all the circumstances the relevant councillor should not be penalised further.
6. Sub-section 5.110(6)(b)(iv) (in respect of a monetary sanction) was introduced in 2019 to allow the Panel to require a councillor to personally bear the cost of dealing with a complaint, which in other circumstances, would be paid by the local government concerned. This ensures the cost of a breach is borne by the councillor individually, and not simply passed onto the local government and therefore, ultimately, rate payers.

Cr Black's Submissions

7. 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
8. By a letter dated 2 May 2025, Cr Black was:
 - i. notified of the Panel's Finding of the Minor Breach;
 - ii. provided with a copy of the Panel's Findings; and
 - iii. offered an opportunity to make submissions as to how the Minor Breach should be dealt with under section 5.110(6) of the Act.

9. No response was received from Cr Black.

Panel's Consideration

10. The purpose of the imposition of a sanction under the Act is generally for the protection of the public and the maintenance of standards of council members. Furthermore, it reflects the disapproval of a contravention of the Regulations, dissuades councillors from other local governments from engaging in similar conduct and facilitates the maintenance of appropriate standards of behaviour by councillors. Guidance on the factors which the Panel may consider in determining the appropriate penalty to impose, include, but are not limited to:
 - a. the nature and seriousness of the breaches;

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



- b. the councillor's motivation for the contravention;
 - c. whether or not the councillor has shown any remorse and insight into his / her conduct;
 - d. whether the councillor has breached the Act knowingly or carelessly;
 - e. the councillor's disciplinary history;
 - f. the likelihood or not of the councillor committing further breaches of the Act;
 - g. the councillor's personal circumstances at the time of the conduct, and at the time of imposing the sanction;
 - h. the 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 seriousness.
11. In this case, the Panel found that Cr Black breached Regulation 22 as set out in paragraph 1 above.
12. When deciding what sanction to impose, the Panel must consider how the penalty will help to guide other councillors and dissuade them from engaging in similar conduct.
13. The Panel does not consider it appropriate to impose no sanction in relation to the Minor Breach, as this would indicate that it was so minor that no penalty is warranted. A significant element in deciding whether to disclose an impartiality interest is the likely public perception as to whether there may be an interest, and that bias could creep in.
14. However, a public apology, monetary sanction or an order for censure are also not appropriate and would be overly punitive. The Panel took into consideration the fact that Cr Black had no previous history of minor breaches.
15. In this case, the Panel finds it fair and reasonable that Cr Black undertake the training provided to elected members to help them make (and be perceived to make) objective, unbiased decisions on matters affecting the whole community. The sanction of an order to undertake training also aligns with the intent of the Act and the purpose of the civil penalties under it to ensure future compliance with the statutory obligations imposed on councillors.



Panel's Decision

16. Having regard to the Findings, the matters set out herein, 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 s5.110(6) of the Act, is to order Cr Black, in terms as set out in the attached Order, to undertake training, pursuant to subsection (b)(iii).

Signing

A handwritten signature in black ink, appearing to be 'Tim Fraser'.

Tim Fraser (Presiding Member)

A handwritten signature in black ink, appearing to be 'Elanor Rowe'.

Elanor Rowe (Deputy Member)

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

Peter Rogers (Member)



ORDER

30 June 2025

DEFAMATION CAUTION

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THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor Ian Black ("Cr Black"), an elected member for the Shire of Mount Magnet, undertake training as specified in paragraph 2 below.

TRAINING

2. Within four (4) months of the Date of this Order, Cr Black shall undertake:
 - a. the training course for Elected Members "*Conflicts of Interest*" provided by the WA Local Government Association for a period of three and a half (3.5) hours; or
 - b. a training course with substantially similar learning outcomes provided by an alternative registered training organisation for a similar duration, but for a period of at least three (3) hours.



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."