



Office of the Inspector

Email: complaints@lginspector.wa.gov.au

Dear Inspector

**NOTICE OF FINDINGS
OUTCOME OF COMPLAINT OF CONDUCT BREACH 2026-01198**

I refer to the complaint referred to the Principal Adjudicator on 4 June 2026, alleging that President Rob Coales breached regulations 19 and 20 of the *Local Government (Model Code of Conduct) Regulations 2021*.

The Adjudicator has considered the complaint and determined that a breach of regulation 19 occurred. The Adjudicator did not find a breach of regulation 20.

As a sanction for the breach of regulation 19, the Adjudicator has ordered that the Respondent undertake training on the separation of roles between elected council members, Mayors and council administration generally, and on the Shire CEO performance review process in particular.

Yours sincerely

Shannon Wood
Manager Board Governance and Reporting

17 September 2026



Conduct Breach Matters 2026-01198: Adjudicator Findings Report

Legislation	<i>Local Government Act 1995 (WA) (LGA) and Local Government (Model Code of Conduct) Regulations 2021 (WA) (Code of Conduct)</i>
Complainant	Mr Frazer Sullivan
Respondent	President Rob Coales
Local Government	Shire of Serpentine Jarrahdale
Responsible Adjudicator	Deputy Adjudicator Lee McIntosh
Finding	One breach - Code of Conduct Rule 19 No breach - Code of Conduct Rule 20
Date Finding Made	16 September 2026

Executive summary of findings

1. This is a matter concerning a Complaint made by Mr Frazer Sullivan, Director of Corporate Services at the Shire of Serpentine Jarrahdale, against Rob Coales (President/Mayor) (Complaint Number 2026-01198).
2. The Complainant has made allegations that the Respondent's actions in November 2025 and January 2026 in respect of the Shire CEO performance review process constitute conduct breaches.
3. The Complaint (which has been referred to me by the Inspector for adjudication) concerns 2 allegations, which are:

Alleged conduct breach	Allegations
Model Code of Conduct Rule 19 Prohibition against involvement in administration	(I) On 19 November 2025, the Respondent contacted Price Consulting Group, who was the independent consultant engaged by the Shire to facilitate the CEO performance review. This was a task that contributed to the administration of the local government and was not able to be undertaken by the Respondent without authorisation (which he did not have).
Model Code of Conduct Rule 20 Relationship with Local Government Employees	(II) On 19 January 2026, at a special meeting of the Council CEO Employment Committee, the Respondent made statements about Shire's Manager of People, Development and Well-being, and an employee of Price Consulting Group (the independent consultant), to the effect that they were dishonest and incompetent.

Rule 19 breach

5. In respect of Rule 19 of the Model Code of Conduct,¹ I find the Respondent committed a conduct breach because:
 - (a) The Council Policy – CEO Performance Review Cycle flowchart on the CEO performance and remuneration review sets out the relationships between all of the roles in the CEO performance review.
 - (b) There is no role for the CEO Employment Committee members such as the Respondent to liaise with the independent consultant about the

¹ *Local Government (Model Code of Conduct) Regulations 2021* (WA) schedule 1 Division 4

matters the subject of the Respondent's conversation, and these matters are assigned to the Shire Administration/ Human Resources.

- (c) Other elements of the Council Policy – CEO Performance Review Cycle include a role for the independent consultant to engage with the Presiding member of the CEO Employment Committee only.
- (d) The Respondent was not the Presiding Member of the CEO Employment Committee, and the Presiding Member has confirmed he did not authorise any task to be undertaken by the Respondent.
- (e) The Council Policy – CEO Performance Review Cycle flowchart is consistent with the CEO Employment Committee Terms of Reference, the Council Policy – Serpentine Jarrahdale Communication Protocol, and with the LGA.

Rule 20 breach

6. In respect of Rule 20 of the Model Code of Conduct, I do not find the Respondent committed a conduct breach because:

- (a) The evidence of what was said at the meeting is contested by the Complainant and Respondent, and there is no written or recorded record of the meeting.
- (b) The Presiding Member of the CEO Employment Committee does not recall what was said at the meeting in sufficient detail to provide evidence of what was said.
- (c) I do not have evidence of the statements made by the Respondent which show that the Respondent said words from which it could more likely than not be implied that Shire's Manager of People, Development and Well-being, and the employee of Price Consulting Group (who was appointed as the Shire's independent consultant), were incompetent and/or dishonest.
- (d) The independence of the appointment and work of an independent consultant is important and indeed required. Questions by Councillors to ascertain whether the independence criteria and thresholds are met in any particular case are consistent with the good governance and accountability objectives of the LGA.
- (e) Questions about independence are however more likely than other questions to be heard with an ear attuned to critique, as such questions can also be perceived as going to matters of personal and professional integrity. This does not mean the questions should not be asked and does not mean they should not be asked robustly. It does mean that questioners, and in future the Respondent, should be sensitive to the subject of the questions, and do their best to ask them in respectful ways which do not bear on matters of personal integrity.

Sanction

7. My order on sanction is that the Respondent should be required to undertake training in the separation of roles between elected councillors, Mayors and council administration in general, and on the Shire CEO performance review process in particular.
8. I provided the Respondent with a reasonable opportunity to make submissions on the sanction which I proposed for the breach of rule 19,² before I ordered this sanction. The Respondent submitted that he accepted the finding and proposed sanction, would welcome the training proposed by the sanction and will apply the training in his role.
9. I do not order that the Respondent pay the local government costs in this matter as the breach was not intentional and did not cause any material loss or inconvenience to the local government or third party.

² s 8A.18 (2) LGA

Reasons for decision

Introduction

1. This is a matter concerning a Complaint made by Mr Frazer Sullivan, Director of Corporate Services at the Shire of Serpentine Jarrahdale, against Rob Coales (President) (Complaint Number 2026-01198).
2. The Complainant has made allegations that the Respondent's actions in November 2025 and January 2026 in respect of the Shire CEO performance review process constitute conduct breaches.
3. The Complaint was made on 22 April 2026.
4. The Inspector undertook a preliminary assessment of the Complaint and determined that:
 - (a) the allegations fell within the Inspector's jurisdiction³;
 - (b) the Complaint met the statutory requirements for a breach Complaint under the *Local Government Act 1995* (WA) (**LGA**);⁴ and
 - (c) the allegations related to conduct that could constitute a conduct breach.⁵
5. On 4 June 2026, the Inspector referred the Complaint to the Principal Adjudicator pursuant to s 8A.13(1)(a) of the LGA.
6. On 17 June 2026 the Respondent was given an opportunity to make submissions about the substance of the Complaint. Extensions of time were agreed to enable the Respondent to obtain information to support his submission. A submission was received from the Respondent on 18 August 2026.
7. The Complaint was then allocated to me for adjudication on 19 August 2026.

Legislative background and jurisdiction of this adjudication

8. The Inspector may receive many different types of Complaint under the LGA. However, only certain types of Complaint may be referred to the Principal Adjudicator for determination.

³ Part 8A LGA

⁴ 8A.1 LGA

⁵ 8A.3 LGA

Conduct breaches

9. Relevantly in this case, the Inspector may refer a Complaint to the Principal Adjudicator if the Inspector decides that a breach Complaint alleges a conduct breach.⁶
10. A conduct breach is defined in the Act as:
 - (1) A Council member commits a **conduct breach** if the member —
 - (a) contravenes a rule of conduct; or
 - (b) contravenes a local law made under this Act, contravention of which the regulations specify to be a conduct breach.⁷

Model Code of Conduct

11. S 5.102A of the LGA defines rules of conduct (which I am required to adjudicate) to mean ‘a provision of the model code that is specified in the model code to be a rule of conduct.’ The phrase model code is defined in the same section to mean ‘the model code of conduct prescribed for the purposes of s 5.103(1)’.
12. The model code prescribed for the purposes of s 5.103(1) of the LGA is in Schedule 1 of the *Local Government (Model Code of Conduct) Regulations 2021 (WA)* and is the **Model Code of Conduct**.
13. The rules that are specified to be “rules of conduct” which I am required to adjudicate on are set out in Division 4 of the Model Code of Conduct.

Model Code of Conduct assumed to be Local Government Code of Conduct

14. A local government must adopt a code of conduct that incorporates the Model Code of Conduct.⁸ While some additions are permitted, a local government is not permitted to ‘include in the adopted code of conduct provisions in addition to the...rules of conduct.’⁹ The Model Code of Conduct is taken to be the local government’s adopted code of conduct until the local government adopts a code of conduct.¹⁰
15. The Shire of Serpentine Jarrahdale has adopted a Code of Conduct, referred to as the *Code of Conduct for Council Members, Committee Members & Candidates*.¹¹ However, as the code of conduct was adopted in February 2026, it does not apply to the Respondent’s conduct before this.

⁶ s 8A.13(1) LGA

⁷ s 8A.3 LGA

⁸ s 5.104(1) LGA

⁹ s 5.104(4) LGA

¹⁰ s 5.104(5) LGA

¹¹ [Code of Conduct for Councillors Committee Members and candidates.pdf](#)

16. I do not have access to a copy of the adopted code of conduct that was in force in November 2025 and January 2026. However, as the Model Code of Conduct must be incorporated into a local government's adopted code of conduct and no amendments are permitted to the rules of conduct¹², it is safe for me to proceed on the basis that the rules of conduct that were in force in the Shire of Serpentine Jarrahdale before February 2026 were in the same terms as those found in the Model Code of Conduct.

No local law breach alleged

17. For the purpose of s8A.3 of the LGA, regulation 4 of the *Local Government (Local Government Inspector) Regulations 2025* (WA) prescribes that the contravention of a local law as to conduct is also a conduct breach.
18. The term 'local law as to conduct' means a local law relating to the conduct of people at Council or committee meetings.¹³ It is not alleged that Respondent breached any local law as to conduct.

This adjudication does not deal with behavioural breaches

19. I cannot adjudicate on allegations of behavioural breaches or any other matters, even if they arise in the course of my deliberations.

The Complaint process and procedural fairness

20. The Complaint was assessed by the Inspector, who determined that the allegations could constitute conduct breaches of Model Code of Conduct Rules 19 and 20.¹⁴ I take this to mean the Inspector decided the Complaint was a breach complaint¹⁵ which alleged a conduct breach, consistent with the Inspector's referral powers under s8A.13(1)(a) of the LGA.
21. Before I make a finding, the Respondent must have had a reasonable opportunity to make submissions on whether or not a conduct breach occurred.¹⁶
22. On 4 June 2026, the Inspector referred the Complaint to the Principal Adjudicator pursuant to s 8A.13(1)(a) of the LGA.
23. On 17 June 2026 the Respondent was given an opportunity to make submissions about the substance of the Complaint. Extensions of time were agreed to enable the Respondent to obtain information to support his submission. A submission was received from the Respondent on 18 August 2026.

¹² s 5.104(4) LGA

¹³ *Local Government (Local Government Inspector) Regulations 2025* r 4

¹⁴ Local Government Inspector Pre-Assessment Report

¹⁵ as defined under LGA s 8A.1.

¹⁶ s 8A.18 (1) LGA

24. It is the responsibility of both the Complainant and Respondent to provide me with all information they wish me to consider.
25. However, as I did not have adequate information to finally adjudicate the Complaint based only on the information from the Complainant and Respondent, on 24 August 2026 I requested the Inspector obtain and provide me with:
- (a) From the Council - the terms of reference and any documents relevant to the procedures of the CEO Employment Committee, including protocols for its engagement of and communication with external consultants;
 - (b) From Councillor Jerrett, Chair of the CEO Employment Committee from October 2025 - what requests Councillor Jerrett made of the Respondent in relation to the conduct of the business of the CEO Employment Committee, especially any requests in relation to communication with external consultants, or assistance in finding out the status of the external consultants' process; and
 - (c) From Councillor Jerrett, what he recalls about the 19 January 2026 meeting of the CEO Employment Committee, including any statements that might be considered about competence, honesty, offensive expressions, objectionable expressions, or any abuse or threatening language.
26. In dealing with the Complaint I am required to act with as little formality as the requirements of this LGA and a proper consideration of the matters before me permit.¹⁷
27. I consider I now have adequate information to make findings (and consider sanctions) in respect of the Complaint.

Overarching principles and standard of proof to determine a conduct breach

28. In making findings on a conduct breach and proposing sanctions, I must have regard to:¹⁸
- (a) the provision of good government by local governments; and
 - (b) the public interest.
29. I must not make a finding of a conduct breach unless I am satisfied that all of the relevant elements are established on the balance of probabilities. I must be

¹⁷ s 8B.30 LGA

¹⁸ s 8A.17 LGA

satisfied, based on the evidence available to me, that it is more likely than not that the alleged conduct occurred.¹⁹

30. I must find that every element of a relevant Model Code of Conduct rule of conduct is established before I find a breach.
31. I have determined the Complaint on the basis of the evidence before me provided by the Inspector, the Complainant, and the Respondent.

Model Code of Conduct Rule 19

32. Rule 19 provides:

19. Prohibition against involvement in administration

(1) A person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or by the CEO to undertake that task.

(2) Sub regulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

Rule 19 – elements

33. For a person to be found in breach of Rule 19 of the Model Code of Conduct, I must be satisfied of the following elements:
 - (i) The Respondent was a council member;
 - (ii) A task was an administrative function of the local government;
 - (iii) The Respondent undertook, participated in, or attempted that task;
 - (iv) The conduct occurred outside council or committee deliberations; and
 - (v) The Respondent was not authorised.

The Respondent was a Council member at the time of the conduct the subject of the breach Complaint

34. The Inspector's preliminary assessment informed me that the Respondent was last elected to Council in 2023 with a term expiring in October 2027 and was a Council member at the time of the conduct the subject of the breach Complaint.²⁰ I am satisfied the Respondent was a Council member at the relevant time.

¹⁹ s 8A.18 (10) LGA

²⁰ Local Government Inspector Pre-Assessment Report, s 3.1

35. The Respondent was also the Mayor (President) of the Shire at the time of the conduct that is the subject of the Complaint.²¹

The Council “Chief Executive Officer Employment” Committee

36. Under s.5.8 of the LGA, a local government can establish committees.
37. The Shire has established a CEO Employment Committee.
38. The Terms of Reference for the CEO Employment Committee (**Terms of Reference**) were last reviewed and updated on 3 November 2025 and were in place at the time of the conduct breach which is the subject of the Complaint.
39. Under the Terms of Reference the CEO Employment Committee consists of the Shire President and all elected members. The Respondent is a member of the CEO Employment Committee.²²
40. The Presiding Member of the CEO Employment Committee at the time of the conduct breach which is the subject of the Complaint was Councillor Jerrett.
41. The Committee may invite Shire employees, the appointed independent facilitator or others to attend meetings and provide subject matter expert information, where necessary.

Administrative functions of local government

The role of Councillors

42. The role of a Councillor under the LGA includes:
- (a) represent the interests of the electors, ratepayers and residents of the district and take account of the interests of other persons who work in, or visit, the district;²³
 - (b) participate in the deliberation and decision-making of the local government at Council and committee meetings;²⁴
 - (c) facilitates communication with the community about Council decisions;²⁵
 - (d) facilitate and maintain good working relationships with other Councillors, the Mayor and the CEO;²⁶

²¹ Respondent submission

²² Respondent submission

²³ s 2.10 (1) (a) LGA

²⁴ s 2.10 (1) (b) LGA

²⁵ s 2.10 (1) (c) LGA

²⁶ s 2.10 (d) LGA

- (e) maintain and develop the requisite skills to effectively perform their role;²⁷ and
- (f) have regard to the need to support an organisational culture for the local government that promotes the respectful and fair treatment of the local government's employees.²⁸

The role of the Mayor

43. The Respondent is also Mayor (President) and so has the additional duties of:

- (a) presiding at meetings of the Council, ensuring that meetings are orderly and held in accordance with the LGA;²⁹
- (b) providing leadership and guidance to the Council;³⁰ and
- (c) promoting, facilitating and supporting positive and constructive working relationships among Council members.³¹

Administrative functions are the role of the CEO and Council staff

44. The LGA distinguishes between the roles of council and the staff employed by the local government, or the "administration".

45. A council discharges its role by formulating policy and overseeing the performance of a local government's functions. The day-to-day administration and management of a local government is entrusted to the CEO.³² The administration advises councillors to assist in their decision-making and implements policies determined by Council and Council's other decisions.

46. Section 5.41 of the LGA sets out the role of the CEO through which the administrative functions of the local government are conducted, and includes:

- (a) causing council decisions to be implemented; and
- (b) managing the provision of services and facilities that the council has determined the local government is to provide in the district.

The task which the Respondent carried out

47. The Respondent has stated that in November 2025 he unsuccessfully tried to reach Ms Chesby of Price Consulting, who was the independent consultant appointed to assist with the Council CEO's performance review in 2025. He was advised that Ms Chesby was leaving Price Consulting.

²⁷ s 2.10 (1) (f) LGA

²⁸ s 2.7 (5), through the operation of s 2.10 (1) (e)

²⁹ s 2.8 (c) LGA

³⁰ s 2.8 (a) LGA

³¹ s 2.8 (d) LGA

³² *Town of Cambridge v The Hon David Templeman MLA, Minister for Local Government; Heritage; Culture and the Arts* [2020] WASC 350 at 91

48. The Respondent has stated that he then contacted Ms Angie Dominish who he knew also worked for Price Consulting and had previously consulted to the CEO Employment Committee. He asked her questions about the status of CEO's performance review given Ms Chesby was leaving and also asked her for a copy of the CEO's contract of employment.
49. The Respondent has stated Ms Dominish did not provide him with a copy of the contract, and stated she would get in touch with Councillor Jerrett who was the Presiding Member of the CEO Employment Committee and progress the matter through him.

The procedures governing the task which the Respondent carried out

50. Under the CEO Employment Committee Terms of Reference, the purpose of the Committee is to assist the Council to fulfil its functions in the recruitment and performance measurement of the CEO in accordance with legislation and Council Policy.
51. The Terms of Reference provide that:
 - (a) the Committee does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility;
 - (b) The Committee does not have any delegated authority; and
 - (c) The Committee recommendations must be adopted by Council before implementation.
52. One of the functions of the CEO Employment Committee is to, in conjunction with an independent facilitator, undertake an annual assessment of the CEO's performance in accordance with the provisions of the CEO's contract of employment and key performance indicators.
53. The Shire also has a Council Policy on the CEO Performance Review Cycle, last updated 17 March 2025. It was in place at the time of the conduct breach which is the subject of the Complaint.
54. The CEO Performance Review Cycle sets out the relationships between the Council, CEO, CEO Employment Committee, Shire Administration/Human Resources and the independent consultant, and prescribes their roles in the CEO performance review.
55. Page 8 (entitled CEO Performance and Remuneration Review) includes a flowchart relevant to the performance and remuneration review of the CEO. A copy is included below but in summary:
 - (a) The CEO Performance Review Cycle is commenced by the Council;
 - (b) The Shire Administration/Human Resources then requests tenders for an independent consultant;

- (c) The CEO Employment Committee's role in relation to appointing the consultant is to decide whether to recommend support for appointment to the council. The Council decides on appointments;
 - (d) The Shire Administration/Human Resources advises the successful consultant, commissions them and activates awarded procurement processes;
 - (e) The independent consultant confirms the approach and timeline of the CEO performance and remuneration review process with the Presiding Member of the CEO Employment Committee; and
 - (f) Direct contact between the independent consultant and the CEO Employment Committee is specifically defined at several substantive feedback and approval stages; but
 - (g) There is no direct contact between the independent consultant and the CEO Employment Committee at the tender, procurement or commissioning stage, or the review scoping/ timeline/ process setting stage; and
 - (h) Other than the Presiding Member, the only direct contact between the independent consultant and members of the CEO Employment Committee is as part of the proceedings of the committee, which only occurs at specifically defined stages. Individual members have no role to have ad hoc and/or individual contact with the independent consultant.
56. The role of the Shire Administration/Human Resources in the CEO Performance Review Cycle to liaise with the independent consultant for appointment and procurement is consistent throughout the different review types in the Council Policy. At no point does the CEO Employment Committee or the Presiding Member have a role in this.
57. The Presiding Member of the CEO Employment Committee has a role to liaise with the independent consultant at some points in the review processes, including review processes and timelines (see page 5, 6 and 7 of the Council Policy on the CEO Performance Review Cycle). At no point do individual members of the CEO Employment Committee have a role in this.
58. The LGA sections 5.39A and 5.39B provide for the making and adoption of model standards for CEO recruitment, performance, and termination. The standards are included in Schedule 2 of the *Local Government (Administration) Regulations 1996*. The standards prescribe that an independent person must be appointed for CEO employment purposes (see paragraph 111 below), but does not describe who undertakes tasks in relation to the independent consultant.

59. The Council Policy – Serpentine Jarrahdale Communication Protocol³³ includes:

- (a) Both Administration and Elected Members acknowledge the separation of powers enshrined in legislation;
- (b) Both Administration and Elected Members recognise the importance of timely communication and that the provision of accurate information takes time;
- (c) Both Administration and Elected Members recognise the importance of professionalism in communication;
- (d) Under section 5.92 of the LGA, Elected Members may request any information held by the local government that is relevant to the performance by the person of their functions under the Act or under any other written law; and
- (e) If the Elected Member deems the information requested is of a high priority, and waiting the scheduled timeframe for a response may be detrimental to the Shire, they may contact the Shire President, who can liaise directly with the CEO to determine if the request may be given priority by the administration.

Liaising with the independent consultation was an administrative task

60. By virtue of the council policies above, any contact with the independent consultant with respect to their appointment or role is an administrative function specifically allocated to the Shire Administration/Human Resources. This is also consistent with the LGA description of the roles of councillors, the Mayor, and the administration.
61. Also by virtue of the council policies above, any contact with the independent consultant with respect to the process and timeline of the CEO performance review is specifically allocated to the Presiding Member of the CEO Employment Committee. The Respondent was not the Presiding Member of the committee, and the Presiding Member has confirmed he did not delegate this task to the Respondent (paragraph 84).
62. There may be some overlap between the 1) appointment and procurement of the independent consultant and the 2) process and timeline for the independent consultant tasks, by virtue of the appointment and procurement needing to accurately reflect the process and timeline of the independent consultant engagement.
63. There is, however, no overlap between the roles of the CEO Employment Committee and the Shire Administration/Human Resources.
64. The Council communication protocol is consistent with this role allocation under the council policies and specifically acknowledges the separation of powers

³³ Version 2, E25/3159, which the Shire has provided as the version in force at the time of the alleged conduct breaches

enshrined in legislation between the council (and therefore any committees) and the administration.

65. There is no role in the Council communication protocol for committee members to liaise with external consultants. Even if there were, this would be overridden by the specific liaison matters for the CEO Performance Review process being included as part of the role of the Shire Administration/Human Resources or the Presiding Member of the CEO Employment Committee.
66. The Respondent should not have contacted the independent consultant at all and should not have contacted any of its employees. If the Respondent wanted clarification on any matter, that should have been sought through the Shire Administration/Human Resources, or the Presiding Member of the Committee, consistent with the Council Policy on the CEO Performance Review Cycle.
67. Councillors assist their electors by undertaking their set role of making decisions, not by undertaking part of or interfering with the operation of the administration. Even if such actions were from a genuine desire to ensure an efficient CEO performance review process, which I consider was the Respondent's motive, it was still outside the remit of the Respondent's role as an elected member, as President/ Mayor, and as a member of the CEO Employment Committee.
68. Although not decisive, I note my view is consistent with the Respondent not pursuing matters after the discussion he had with Ms Dominish. The conversation resulted in her declining to provide the Respondent with the information he sought about the process and advising him she would liaise with the Presiding Member of the CEO Employment Committee. She also declined to provide him with a copy of the CEO's employment contract. The Respondent states (at least with respect to the provision of the contract) he considered this was the correct and proper course.
69. Again although not decisive, my view is also consistent with the Presiding Member's approach to contact with the independent consultant. On 25 August 2026 Councillor Jerrett confirmed:

In November 2025, President Coales informed me that he had contacted the consulting firm and had discovered that the consultant previously involved in the process had left their position.

He subsequently sought to have me engage directly with the consultant before the matter had been discussed with the Shire administration.

I declined to take that approach. Instead, as Chair of the CEO Employment/Performance Review Committee, I considered it more appropriate to work through the CEO and the Shire's governance team to understand the status of the process and determine the next steps. This ultimately led to the organisation of a mid-year CEO performance review in early 2026.

70. Given the above, I find it is more likely than not that the Respondent did undertake an administrative function of the Shire in attempting to and contacting representatives of the independent consultant directly.

71. This element is met.

The Respondent undertook, participated in, or attempted that task

72. There is no dispute the Respondent undertook the task described in paragraphs 47-49 and I find that he did so.

The conduct occurred outside council or committee deliberations

73. There is no dispute the conduct occurred outside council or committee deliberations and I find this occurred.

The Respondent was not authorised to undertake the conduct by the CEO or local government.

74. I have not been provided with any evidence that the Respondent's conduct was authorised by the CEO. This is to be expected when the subject of the Respondent's conduct was the Shire's engagement in the CEO's performance review process, which the CEO should be at arm's length from.

75. As to whether the Respondent's conduct was authorised by the local government, I have not been provided with any evidence that it was authorised at a Council or Committee meeting.

76. I have considered whether the Respondent's conduct was delegated. Under 5.17 of the LGA a local government can delegate to a committee, but under 5.16 of the LGA, the power of delegation cannot also be delegated.

77. The Terms of Reference include the Committee does not have any delegations.

78. I find the Respondent was not and could not have been delegated by the Committee to undertake the administrative conduct that he did.

79. I have also considered whether the Respondent's conduct was reasonably part of his role as President/ Mayor. I find it more likely than not that the Council Policy's specific allocation of roles and responsibilities overrode any general role which the Respondent had as the Mayor (paragraph 43).

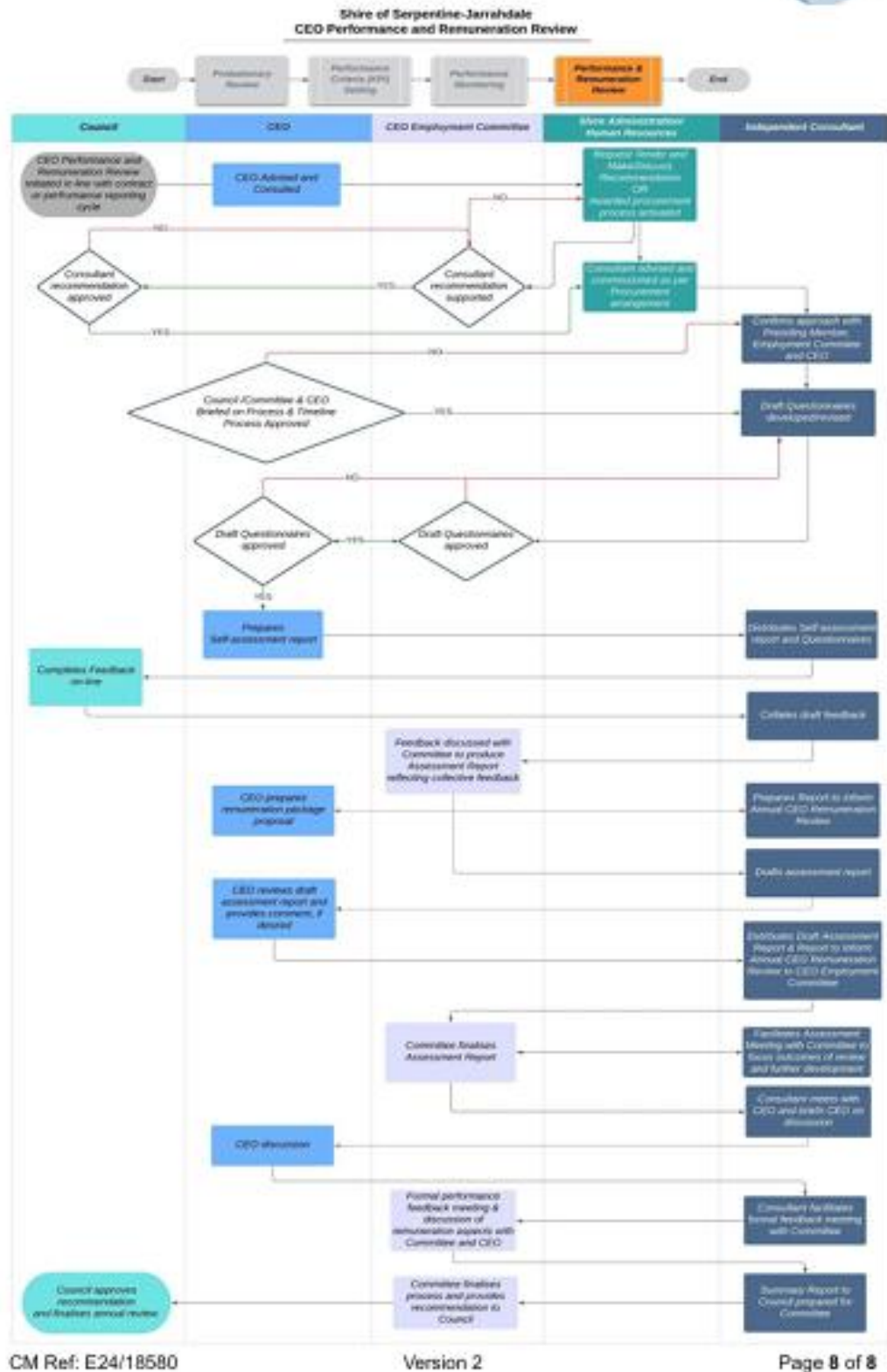
80. The Respondent submits that:

- (a) *There was nothing that precluded me from making contact.*
- (b) *I was a member of the CEO Employment Committee that had voted to engage Price, and specifically Ms Chesby, as the consultant.*
- (c) *I was trying to assist the new Deputy President to convene and run the CEO Employment Committee, in circumstances where the review was overdue and the CEO had expressed concern.*

- (d) *Councillor Jerrett asked me directly for help in finding out what was happening with the consultant, given he was still getting across the role. I agreed to speak to the consultant on his behalf, and he was content with that.*
- (e) *I knew the CEO's review was overdue and that it was a concern for (the previous presiding member of the committee).*
81. In respect of (a) – I find the council policies referred to above precluded the Respondent from making contact.
82. In respect of (b), I find membership of the CEO Employment Committee obliges the Respondent to act consistently with the policies of that committee, rather than entitling him to act independently of the committee.
83. In respect of (c) and (e), I find a desire to facilitate the CEO performance review does not justify the Respondent acting inconsistently with the council policies.
84. In respect of (d), I asked the Inspector to clarify Councillor Jerrett's recollection. On 25 August 2026 Councillor Jerrett confirmed:
- To the best of my recollection, I did not ask President Coales to contact any consultant on my behalf, nor did I request that he undertake enquiries regarding the consultation process.*
- Rather, those actions were initiated by him independently.*
85. It is not necessary for me to decide whether Councillor Jerrett could have authorised the Respondent's conduct, as Councillor Jerrett has provided evidence he did not authorise the conduct in any event.
86. On the basis of the above I find it is more likely than not the Respondent was not authorized to undertake the conduct.

Conclusion

87. For the reasons above I find that the Respondent breached Rule 19.



Model Code of Conduct Rule 20

88. Rule 20 provides:

20. Relationship with local government employees

(1) *In this clause —*

local government employee means a person —

(a) *employed by a local government under section 5.36(1) of the Act; or*

(b) *engaged by a local government under a contract for services.*

(2) *A council member or candidate must not —*

(a) *direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or*

(b) *attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or*

(c) *act in an abusive or threatening manner towards a local government employee.*

(3) *Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.*

(4) *If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —*

(a) *make a statement that a local government employee is incompetent or dishonest; or*

(b) *use an offensive or objectionable expression when referring to a local government employee.*

(5) *Subclause (4)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.”*

Rule 20 – elements

89. Rule 20 contains five distinct prohibitions with distinct elements. The Complaint alleges breach of Rule 20(4)(a) only, specifically a council member, attending a council meeting, making statements that a local government employee is dishonest or incompetent.

90. Rule 20(2)(a), (b) and (c), (3), and (4)(b) are not the subject of the referral and are not further considered.

91. Rule 20(5) provides that Rule 20(4)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV. There is no material before me to

suggest that the conduct the subject of the Complaint involves conduct unlawful under that Chapter. Accordingly, my jurisdiction to determine a Regulation 20(4)(a) breach is not constrained by Regulation 20(5).

92. On its terms, for the Respondent to be found in breach of Rule 20(4)(a), I must be satisfied of the following elements:
- (a) the Respondent was a council member at the time of the alleged conduct;
 - (b) the Respondent, in their capacity as a council member, was attending a council or committee meeting or other organised event;
 - (c) the Respondent made a statement, orally, in writing or by any other means; and
 - (d) the statement was a statement that a local government employee (as defined in Rule 20(1)) is incompetent or dishonest.

The Respondent was a council member at the time of the Complaint

93. The Inspector's preliminary assessments have informed me that the Respondent was last elected to Council in 2023 with a term expiring in October 2027 and was a Council member at the time of the alleged conduct.³⁴ I am satisfied the Respondent was a Council member at the relevant time.
94. The Respondent was also the President/ Mayor of the Shire at the time of the conduct that is the subject of the Complaint.³⁵

The Respondent attended a committee meeting in their capacity as a council member

95. There is no dispute that on 19 January 2026 the Respondent attended a special meeting of the CEO Employment Committee which was held at the Shire.
96. I am satisfied that the Respondent attended a committee meeting in his capacity as a council member.

The Respondent made a statement at the meeting.

97. There is no dispute that the Respondent made statements at the committee meeting, and I am satisfied that he did so.
98. There is a dispute about whether statements were to the effect that a local government employee was incompetent or dishonest.

³⁴ Local Government Inspector Pre-Assessment Report, s 3.1

³⁵ Respondent submission

99. There is also a threshold issue about whether Ms Dominish was a local government employee for the purpose of Rule 20.

Respondent's statements during special CEO employment committee meeting

100. On 19 January 2026, a special meeting of the CEO Employment Committee was held at the Shire. It was attended by the Respondent, Miss Cole – the Shire's Manager of People, Development and Well-being, other councillors, and other Shire administration staff.

101. The Complainant submits that during that meeting:

- (a) The Respondent criticised the procurement process, including that Ms Cole had not sought quotes from all available suppliers and had appointed Price Consulting without due process;
- (b) The Respondent stated Price had been selected on a biased basis because they had been used for the CEO review previously; and
- (c) The Respondent stated Ms Dominish tended to advocate for the CEO, was biased towards the CEO and advocated more for the CEO than for the council.

102. The complainant submits these statements:

- (a) Implied Miss Cole was dishonest and/or incompetent in relation to the independent consultant procurement process; and
- (b) Implied Ms Dominish was dishonest and/or incompetent in relation to the CEO performance review process.

103. The Respondent refutes that he said, or said words that implied, that Ms Dominish or Miss Cole were dishonest or incompetent.

104. The Respondent submits that he:

- (a) asked the question of whether there were any other providers the Shire could approach;
- (b) said that it was interesting that Price Consulting had tendered again;
- (c) asked whether anyone else was interested in tendering;
- (d) observed Ms Dominish had been involved with the CEO as the consultant for many years and asked whether that could be seen as a perceived bias;
- (e) made the point that the same consultant had been used for the CEO for the last five or six years, and that it would make more sense to look outside the Shire to obtain a more independent person for the role.

105. I have not been provided with any audio or written record of the meeting.
106. I requested the Inspector to contact Councillor Jerrett, the Presiding Member of the CEO Employment Committee to ask for his recollection of the meeting, in particular any statements that might be considered about competence, honesty, offensive expressions, objectionable expressions, or any abuse or threatening language.
107. Councillor Jerrett provided the following response:

I do not recall the exact conversations that took place during the meeting, and unfortunately, I did not make contemporaneous notes of the discussion.

However, my recollection is that the Shire President appeared agitated throughout much of the meeting. I recall comments being made which suggested a concern that the current consulting firm and the interim consultant had become overly close to, or too comfortable in their working relationship with, the CEO.

Further recollection of the Shire President's behaviour specific to this meeting is somewhat hazy.

I am unable to reliably recall the other precise language used at the meeting on 19 January 2026 and therefore do not wish to speculate.

Were there statements that the employees were incompetent or dishonest?

108. The evidence of what was said at the meeting is contested by the Complainant and Respondent and I do not have the benefit of any audio or written record of what was said at the meeting.
109. The evidence of the Presiding Member of the meeting is that he cannot recall any particular words or implications from words at the meeting.
110. The highest the Presiding Member of the meeting puts any statements of the Respondent is that the Respondent was agitated and concerned about the independence of, or appearance of independence of, the current consulting firm. This evidence is consistent with the evidence from the Respondent.
111. The model code for *Standards for CEO Recruitment, Performance and Termination* in the *Local Government (Administration) Regulations 1996*, Schedule 2 includes:
- (a) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner (clause 17);
 - (b) Selection panels in relation to CEO matters must include at least one independent person (clause 8); and

- (c) Selection panels must act in an impartial and transparent manner (clause 9).
112. The independence of the appointment of an independent consultant is therefore important and indeed required by legislation. Asking questions to ascertain independence and impartiality is part of the role of councillors who are all members of the CEO Employment Committee.
113. Questions to ascertain whether the independence criteria and thresholds for processes and decisions are met in any particular case are also consistent with the good governance³⁶ and accountability³⁷ objectives of the LGA.
114. Questions about independence are however more likely than other questions to be heard with an ear attuned to critique, as such questions can be easily perceived as going to matters of personal and professional integrity of the people involved.
115. This does not mean the questions should not be asked and does not mean they should not be asked robustly. It does mean that the questioner and in future the Respondent should be sensitive to the subject of the questions and do their best to ask and answer them in respectful ways which do not bear on matters of personal integrity.
116. A councillor is able to meaningfully participate in the good government of the persons in the district and to duly, faithfully, honestly and with integrity fulfil the duties of the office for the people in the district according to his or her best judgment and ability, without reflecting adversely upon the character or actions of, or imputing any motive to, another member or an officer of the local government. Indeed, good government requires courtesy amongst those elected to government.³⁸
117. I find that the Respondent asked questions about the independence of the process and appointment of the consultant for the CEO employment committee. I also find the Respondent asked these questions in a state of heightened concern.
118. I do not, however, have evidence that shows the Respondent asserted or implied some wrongdoing necessary to find a breach of Rule 20, which requires I find the Respondent "*made a statement that a local government employee is incompetent or dishonest*".
119. Rule 20 does not require that the express terms "incompetent" or "dishonest" be used. Terms which are consistent with these can be subject to a breach. Neither does Rule 20 require that express facts be asserted. A breach may be established by implication from what is said in the context in which it is said.

³⁶ s 3.1 LGA

³⁷ s 1.3 (2) LGA

³⁸ *Treby and Local Government Standards Panel* [2009] WASAT 224 at 19

120. The Complainant asserted that the meaning of "dishonest" and "incompetent" should take their ordinary meaning in the context of the standards of conduct expected of or role being conducted by Shire officers, and imputations of improper purpose, favouritism, or operating outside of due process are capable of being considered statements about dishonesty and incompetence.
121. I tend to agree with the Complainant's submission, but in this case simply do not have sufficiently reliable evidence about the content of any statements which were actually made, or what was actually said, to be able to apply the Complainant's submissions to the statements.
122. As a result I do not have evidence which shows it is more likely than not the Respondent's concerned questions rose to the height of implying that either the Shire's Manager of People, Development and Well-being, or the employee of Price Consulting Group (who was appointed as the Shire's independent consultant), were incompetent and/or dishonest.
123. It appears that the Respondent was part of a council decision to appoint Price Consulting in 2025, which decision he then appears to be questioning in January 2026. This conduct may be objectionable for other reasons but is not relevant to the Rule 20 breach which is the subject of the Complaint and my adjudication.

Were the statements about local government employees?

124. There is no dispute that Miss Cole is a local government employee, and I am satisfied that she is.
125. The Complainant made comprehensive submissions about why Ms Dominish should be considered a local government employee for the purposes of Rule 20. However I do not need to adjudicate on this as I have not found that the statements were to the effect of implying dishonesty or incompetence at the level required to substantiate a breach of Rule 20.

Conclusion

126. For the reasons above I find there has not been a breach of Rule 20.

Standard of submissions in the Complaint

127. The Complainant provided a comprehensive outline of the complaint which comprised the evidence and submissions in support of the complaint.
128. The structure and analysis in the submissions were of significant assistance to me and I commend this to the Inspector for consideration in providing assistance to other complainants, to ensure matters can be adjudicated as efficiently and effectively as possible.

129. I also commend the general content of the submissions (that is, without the particulars of the people or actions involved) to the Shire as a whole for background material training and awareness purposes about rules 19 and 20.

Sanction

130. My order on sanction is that the Respondent should be required to undertake training in the separation of roles between elected councillors, Mayors and council administration in general, and on the Shire CEO performance review process in particular.

131. In the ordinary course, I need to provide the Respondent with a reasonable opportunity to make submissions on the sanction which I propose for the breach of rule 19,³⁹ before I order any sanction.

132. I provided the Respondent with a reasonable opportunity to make submissions on the sanction which I proposed for the breach of rule 19 before I ordered this sanction.

133. The Respondent submitted on 14 September 2026 that:

- (a) he accepted the breach finding, and that although his intention was to help an overdue CEO performance review move forward, he understood that the task was not his to undertake;
- (b) he accepted the proposed sanction, would welcome the training proposed by the sanction and will apply the training in his role; and
- (c) he has reflected on the behaviour which led to the breach and learnt from it.

134. I do not order that the Respondent pay the local government costs in this matter as the breach was not intentional and did not cause any material loss or inconvenience to the local government or third party.

135. In forming my view on what sanction is appropriate to order, I considered the types of sanctions which are available, relevant guidance on sanctions and past decisions.

Types of sanctions

136. The types of sanction which I am required to consider to deal with conduct breaches are:⁴⁰

- (a) ordering that no sanction be imposed; or

³⁹ s 8A.18 (2) LGA

⁴⁰ S. 8A.18 (4) LGA

- (b) ordering that the Respondent —
 - (i) be publicly censured as specified in the order; or
 - (ii) apologise publicly as specified in the order; or
 - (iii) undertake counselling as specified in the order; or
 - (iv) undertake training as specified in the order; or
 - (v) is not entitled to be paid, in respect of a period of not more than 3 months specified in the order, the fees and allowances which the person would otherwise be entitled to be paid under Part 5 Division 8 in respect of the specified period; or
 - (vi) is not entitled to attend a meeting of a committee of a Council for a period of not more than 3 months specified in the order; or
 - (vii) is suspended for a period of not more than 3 months specified in the order;
- (c) ordering 2 or more of the sanctions described in paragraph (b)(i) to (vii).

Guidance on type of sanction

137. Guidance as to the factors which I 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 seriousness.⁴¹

These were relevant to the Local Government Standards Panel decisions on sanctions and I find no reason to depart from them in this case.

138. In this case I find the following features of the Respondent's behaviour mean that training is an appropriate sanction:

- (a) The Respondent showed some insight into his behaviour in undertaking an administrative function of the council immediately after having spoken to Ms Dominish, but this insight is not reflected in his submissions on the Complaint;
- (b) The Respondent has been found to have breached the Model Code of Conduct in recent times but for unrelated matters;
- (c) The Respondent may well commit the same breach in the future unless he receives training in it and has increased awareness of administrative functions and separation of duties;
- (d) As the President/ Mayor the Respondent has a leadership role and training will support the standard of conduct expected of this role;
- (e) As the President/ Mayor, the Respondent is more likely than other Councillors to have roles where the lines are blurred between his own duties and administration, so a high degree of awareness of administrative functions and separation of duties will be important for him to efficiently and effectively perform his leadership role on the Council; and
- (f) The Respondent's submission on sanction to the effect that:
 - (i) he accepted the breach finding, and that although his intention was to help an overdue CEO performance review move forward, he understood that the task was not his to undertake;
 - (ii) he accepted the proposed sanction, would welcome the training proposed by the sanction and will apply the training in his role; and
 - (iii) he has reflected on the behaviour which led to the breach and learnt from it.

⁴¹ *Chief Executive Officer, Department of Local Government and Communities and Scaffidi* [2017] WASAT 67 (S), summarized in the Local Government Standards Panel Decision on penalty for Complaint number 2024-0515
Adjudicator Findings Report

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.

PUBLICATION NOTICE

Under section 8A.20(1)(a) of the Local Government Act 1995, the findings in this report are required to be published on the relevant website. Care should be taken to ensure that publication is undertaken in accordance with legislative requirements and that no additional confidential or sensitive material is inadvertently released.