



**The Hon Tony Simpson MLA
Minister for Local Government; Community Services;
Seniors and Volunteering; Youth**

Our Ref: 49-06043

Mr Graeme Simpson
Acting Chief Executive Officer
Shire of York
PO Box 22
YORK WA 6302

Dear Mr Simpson

SHIRE OF YORK – SHOW CAUSE NOTICE – REQUEST FOR CLARIFICATION

Thank you for your letter dated 26 November 2014 regarding the Show Cause Notice dated 18 November 2014 issued to the Shire of York, under section 8.15B(1) of the *Local Government Act 1995*, and your request for clarification of certain matters relating to the issuing of the notice.

The Department of Local Government and Communities has created a timeline/chronology document which details the matters that are subject to the notice. I have enclosed a copy of this document to assist in the compilation of the local government's response.

I note that in your letter you requested a response by close of business on Thursday, 27 November 2014 to enable the local government to respond to the Notice within the stipulated 21 days. As it was not possible to meet your request, I have extended the date by which the local government's response is to be provided to me until close of business on Tuesday, 16 December 2014. This extension will also facilitate your request related to the Special Electors meeting.

In reference to your letter dated 28 November 2014, I note your intent to consider the community's comment on the content of the Show Cause Notice. This may be useful to inform Council of the community's views on the notice; however, as Minister for Local Government, I am required, under the Act, to consider what action to take based solely on Council's response to the Show Cause Notice.

Yours sincerely

**HON TONY SIMPSON MLA
MINISTER FOR LOCAL GOVERNMENT; COMMUNITY SERVICES;
SENIORS AND VOLUNTEERING; YOUTH**

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5 DEC 2014

Attachment

Timeline/Chronology of Events : Shire of York - E1439371

2 April 2014

Chief Executive Officer (CEO) Hooper sent a letter to Mr Simon Saint, a resident of York and who had been critical of the Local Government and its staff. This letter bore the title "*Smear and Innuendo Campaign*" and commenced with the opening paragraph:

"This opportunity is taken to express my complete disgust and disappointment at the malicious and vicious personal vendetta undertaken by you against myself and by extension other staff and elected members over an extended period".

The letter goes on to describe CEO Hooper's views on the conduct of Mr Saint and refers to alleged efforts to smear the CEO and Local Government through the displaying of offensive signage on Mr Saint's business premises windows.

The letter ends with the phrase:

"My suggestion to you is to stop living in the past, get a life, and do not do to others what you would not accept being done to you."

The letter was signed Ray Hooper, Chief Executive Officer and indicates that it was intended to be supplied as a courtesy copy to all Councillors and four other staff members of the Shire of York.

4 April 2014

Mr Saint sent a letter to Cr Matthew Reid, Shire President of the Shire of York, for the purposes of lodging a formal complaint about the content of CEO Hooper's letter of 2 April 2014. In this letter Mr Saint provides a paragraph by paragraph response to the letter in question.

Mr Saint's letter (Copy Attached) alleges that the content of CEO Hooper's letter of 2 April 2014, breached the Shire's Code of Conduct.

10 April 2014

The Shire President (from his business email address) sent an email to Mr Saint acknowledging the receipt of his complaint and advising that he would seek the advice of the Department of Local Government and Communities (the Department) prior to responding further.

The Shire President sent an email to Ms Jenni Law of the Department which read: *"I have received this complaint and I need to deal with it. Please advise on the best way to proceed."* The email provided a copy of Mr Saint's complaint letter of 4 April 2014.

11 April 2014

Ms Law from the Department of Local Government and Communities (DLGC) responded via email to the Shire President's request, advising that:

- he send a further acknowledgement letter to Mr Saint advising the process for dealing with the complaint.
- the complaint should be determined by Council upon presentation of a report on the matter, prepared either by another officer of the Shire or by an independent party.
- the report to Council should contain enough information to allow an informed decision on the matter to be made.
- the report should identify the ramifications of any decision made.
- there was a requirement that the matter be dealt with confidentially.

Also on 11 April 2014, CEO Hooper sent a Shire of York Memo to the Shire President. The memo apparently relates to a letter from the Shire President to Mr Saint dated 7 April 2014 (not attached) which allegedly included the following statement:

"The CEO's relationship and personal concerns about the motives of individual residents about him should not compromise the CEO's ability to deal with council related matters professionally and in Council's best interests".

The memo goes on at length to advise that the CEO's position on matters concerning Mr Saint is not and have never has been personal and that the CEO's actions have been in defence of the Shire and Staff.

A copy of the letter from the Shire President to Mr Saint has not been made available to the Department.

13 April 2014

The Shire President (from his business email address) sent an email to the Department attaching a memo from CEO Hooper to himself. The email states:

"Please see the attached letter from Mr Hooper. I find some of [CEO Hooper's] statements very concerning and also incorrect. "

The “attached letter from Mr Hooper” was the Memo from CEO Hooper to the Shire President of 11 April 2014 as detailed above.

The Department would expect the Shire President to deal with any code of conduct complaints received by him in a properly documented and professional manner.

It is the Department’s view that the process used to receive and progress this code of conduct complaint has fallen short of what is considered good governance practice.

14 April 2014.

An email was sent from the Department to the Shire President providing advice on how Council could deal with the complaint and providing a list of legal firms that could assist Council with such a matter. An offer was also made to provide a telephone advisory hook-up with the DLGC during the Council Meeting at which this matter was to be discussed.

Also attached was a suggested Brief for the chosen consultant which recommended the inclusion of the following matters, relating specifically to the CEO’s actions and the correspondence between him and Mr Saint.

- *The extent to which Council is responsible for the CEO’s actions.*
- *The level of exposure to defamation and libel for the CEO and Council.*
- *If disciplinary action is proposed, the associated HR and Contractual obligations.*
- *Any workplace health and safety issues in the workplace as a result of the continuance of this issue.*
- *Any employer obligations Council may have in relation to the CEO.*
- *Any other options for action that are open for Council to take under the circumstances and the legal and financial implications associated with those options.*

The email also included a draft report and recommendation to assist Council to facilitate the consultant’s appointment process.

At Council’s Ordinary Meeting on 14 April 2014, the Council dealt with the issue of “Matter Relating to a member of Staff” at item 9.6.1 and resolved as follows

9.6.1 Matter Relating to a Member of Staff

Resolved:

"That Council:

Go "Into Committee" to consider the Confidential Report at 5.13 pm."

Carried 6/0

"That Council:

RESOLVE to:

- 1. Endorse the Shire President's response to a letter of complaint dated 4th April, 2014 as confidentially circulated to members.*
- 2. Appoint FitzGerald Strategies and if necessary Jackson Macdonald as consultants to provide Council with relevant professional advice by way of reporting to Council on its legal position and any responsibilities or obligations it may have in relation to the above -mentioned letter of complaint and other relevant matters.*
- 3. Adopt the consultant's brief as confidentially circulated to members.*
- 4. Expenditure for this matter to be allocated to Budgeted items Consultants, Governance.*

AMENDMENT

Moved: Cr Smythe/Seconded: Cr Boyle

That Council Amend the Motion to read:

"That Council:

RESOLVE to:

- 1. Endorse the Shire President's response to a letter of complaint dated 4th April, 2014 as confidentially circulated to members.*
- 2. Appoint Fitz Gerald Strategies and if necessary Jackson Macdonald as consultants to provide council with relevant professional advice by way of reporting to Council on its legal position and any responsibilities or obligations it may have in relation to the above-mentioned letter of complaint and other relevant matters.*
- 3. Adopt the consultant's brief as confidentially circulated to members.*
- 4. Expenditure for this matter to be allocated to Budgeted items Consultants, Governance.*

5. Authorise the Shire President to liaise with the consultants and direct on this matter.
6. Council to seek guidance from LGIS.

Carried: 6/0

RESOLUTION

190414

Moved: Cr Wallace/Seconded: Cr Smythe

The amendment became the motion.

Carried: 6/0

"That Council:

Come Out of Committee at 5.58pm."

Carried 6/0

Neither the Shire, nor the Shire President, who was presiding at the meeting can provide any documentation as to the content of the consultant's brief.

It is expected that a local government would maintain a properly documented record of the decision making processes including a copy of the adopted consultant's brief and the failure to do so constitutes significant non-compliance with the record keeping requirements of the Local Government (Administration) Regulations 1996.

At a Special Meeting of Council which commenced at 6.29 pm that same day, some 30 minutes after the ordinary Council meeting concluded, the following resolutions were passed:

"That the Council accepts that it has had sufficient and reasonable notice by way of this motion that it shall proceed into a Special Meeting of the Council to consider the implementation of a suitable process by which the council shall appoint a consultant to assist the Council to address and resolve its concerns in respect of the conduct and performance of the Chief Executive Officer."

Carried 4-2

"That the Council appoints Mike Fitzgerald of Fitz Gerald Strategies to assist and to act on behalf of the Council to enable the Council to address and resolve its concerns in respect to the conduct and performance of the Chief Executive

Officer. Further, that Council hereby makes provisions for expenditure from Budget item "Consultant Fees" in respect to professional fees of Fitz Gerald in assisting Council with this process."

Carried 4-2

That Council authorises the President to represent the Council and to liaise with Fitz Gerald Strategies on behalf of the Council in the process necessary for Council to address and resolve its concerns about the conduct and performance of the Chief Executive Officer."

Carried 4-2

That Council makes a budget provision of \$20,000 to engage FitzGerald Strategies and Jackson McDonald."

Carried 5-1

"That the President be and is hereby authorised to contact Mike Fitzgerald of Fitz Gerald Strategies to negotiate a fee and advise him of their appointment to act on behalf of and to assist the Council to address and resolve its concerns about the conduct and performance of the Chief Executive Officer."

Carried 5-1

There is no documentation of these performance issues being identified and agreed upon by Council. Nor is there any record of any formal performance issues being raised directly with the CEO prior to the appointment of the consultant.

It is expected that a local government would await the provision of the advice requested by way of Council resolution at the ordinary Council meeting earlier that day prior to resolving to engage the consultant to "act on behalf of Council to enable the Council to address and resolve its concerns in respect to the conduct and performance of the CEO". This latter resolution was made at the second Council meeting which took place a short time later. This inconsistency in decision making between the two meetings falls short of what would be considered good decision making and good governance practices.

It is expected that a local government would maintain a properly identify the performance issues relating to the CEO to enable the consultant to undertake his brief. In failing to do so, significant non-compliance with the record

keeping requirements of the Local Government (Administration) Regulations 1996 occurred.

Notwithstanding the fact that there was a budget provision of \$20,000 for the services required there is no detail included in the documentation available relating to any quotations being received or indeed any application of purchasing policy.

It is noted that the resolution empowered the Shire President to negotiate a fee with Fitz Gerald Strategies to provide the services as detailed in the resolution.

There was no report provided to Council on its obligations as detailed in the resolution from the Special Council Meeting from earlier that day. Neither is there any record in the minutes of any oral report being provided.

The minutes of neither the Special meeting nor the Ordinary meeting record whether any written report was provided or tabled at the meeting. Similarly no record has been included of any person being present to provide any specialist advice.

It is particularly concerning that when the Council went behind closed doors to deal with an Employee matter, all staff were requested to leave with the exception of the minute taker. No other person was requested to be present (such as HR advisor or legal representative).

There is also distinct lack of documentation between the Shire President and Fitz Gerald Strategies as to the scope of work to be performed. The Shire President advises that he did formalise the arrangement in writing, however has lost the copy.

It appears that this was the genesis of the report received by the Shire President, prepared by Fitz Gerald Strategies (the Fitz Gerald report).

It is expected that a local government would maintain a properly documented record of the decision making processes and it failing to do so constitutes significant non-compliance with the record keeping requirements of the Local Government (Administration) Regulations 1996.

The services conducted by Fitz Gerald Strategies in relation to this appointment were the subject of two Shire purchase orders. The first order was dated 14 May 2014 and was for a total of \$16,300 and the second was

dated 15 May 2014 for a total of \$3,700. Both of these purchase orders were signed by the Shire president Cr Matthew Reid.

Under the *Local Government (Financial Management) Regulations 1996* it is the role of the CEO and the administration to deal with administrative matters such as the raising of purchase orders and processing of payments to contractors. These are matters in which Councillors have no role. The involvement of the Shire President in this matter, and the administration's acceptance of this conduct, is not only a process which falls short of what is considered good governance practice, but is a contrary to the Act in regard to the separation of functions and role of the Shire President and Administration.

15 April 2014

CEO Hooper tendered his letter of resignation to the Shire President, effective as of 4 August 2014. At this time it is alleged by CEO Hooper that without the authority of Council the CEO was stood down by the Shire President and it is alleged that steps were taken to withdraw his access to the premises such as changing the locks on his office door. He was also required to return his Shire issued vehicle and vacate the Shire provided house he was occupying prior to the time frames as specified in his contract of employment and prior to any Council decision on such course of action.

The Shire President did not obtain advice on the CEO's contractual obligations and he did not seek authority from Council prior to standing the CEO down and requiring council assets to be returned.

It would have been reasonable for the Shire President to call for a special Council meeting to deal with the acceptance of the resignation, which could have been attended by legal counsel or HR/IR Advocate to advise on the process and obligations of Council under the employment contract.

The conduct and actions of the Shire President in this matter, and Council's acceptance of this conduct, is not only a process which falls short of what is considered good governance practice, but is also contrary to the Act in regard to the role of the Shire President and Council.

As the result of communication between the Department and The Shire President on the process to appoint an Acting CEO, the Department sent an email to the Shire president. The email suggested that:

1. Council could appoint Ms. Cochrane (Deputy CEO) as interim CEO until an acting CEO could be appointed after a suitable recruitment process.

2. Council could authorise the Shire president to seek applications from suitably experienced persons for the position of Acting CEO.

The email also advised that:

- Council can appoint an acting CEO for up to a year
- Remuneration must be within the existing bands set by the Salaries and Allowances Tribunal
- When Council appoints the Acting CEO, it must include in the resolution that the Council is satisfied that the person is suitably qualified and if the appointment is covered by a contract, the Council must be satisfied with the provisions of the employment contract and this must be indicated by an absolute majority decision.

16 April 2014

In relation to the Special Meeting of Council held on 16 April 2014, which commenced at 8.07am, the following statement is contained in the minutes prior to the item of business being dealt with.

“The Shire President announced that Mr Ray Hooper had tendered his resignation and is not required to serve out his notice. Mr Hooper is no longer in the employ of the Shire.”

This was prior to any council decision accepting CEO Hooper’s resignation or discussion over the benefits or otherwise of him remaining through his notice period and inducting any successor. There is a resultant concern that either the Shire President was acting alone outside of his authority or Council had discussed this matter outside of a Council meeting and reached a consensus prior to it being dealt with at the meeting.

The following is noted from the minutes under the Public Question time section:

The Shire President stated that the Special Council Meeting was for the purpose to authorise the Shire President to advertise and appoint an Acting Chief Executive Officer.

Question:

Is the final choice of an interim CEO for the York Shire to be made by the Shire President or the Council as a whole?

Response:

The Shire President stated that the appointment would be made by the Shire President with the support of Council. He is seeking Council to allow him to act and empower.

Question:

Now that the York Shire Council have agreed to advertise for a replacement CEO to act in a temporary position, "will the Council selection panel require that person to have a strong financial background and a good understanding of Local Government as part of the requirements to fill this position?"

Response:

The Shire President stated that he was keen to employ a qualified accountant with Local Government experience. It would be a temporary appointment while the Council advertised widely to fill the position.

Similarly, the questions dealt with at public question time give rise to concern that the matter had already been determined and that Council had dealt with this matter and reached consensus prior to the meeting. It is also a concern that this appears to be the interpretation placed upon the circumstances by the public from whom the questions were accepted.

The Presiding Member failed to control Public Question Time in a proper manner and in accordance with the guidelines. The acceptance of questions in the manner that was allowed, and the responses provided, were presupposing Council's decision making on the matter. This falls short of what is considered good governance practice.

At the conclusion of Public Question Time the items of business were formally placed before Council

The resolutions passed at this meeting were as follows:

"That Council:

Hereby endorses and approves the President's actions in standing down the Chief Executive Officer from duties for the balance of his three months' notice period and further, Council authorises the Shire Payroll Officer to forthwith pay the Chief Executive Officer out for his unused leave entitlements and for three months in lieu of notice at the full remuneration package rate."

Carried 5-0

The Minutes of the meeting do not indicate that Council sought appropriate advice on the CEO's contractual obligations prior to endorsing the Shire President's decision to stand down the CEO down and require council assets to be returned.

Such actions could expose Council to industrial action for dismissal and falls short of what is considered good governance practice

"That Council

Hereby authorises the President to forthwith place an advertisement on the Shire Notice Board calling for applications from suitably qualified persons for the position of Acting Chief Executive Officer."

Carried 5-0

"That this Special Meeting of Council be adjourned for 10 minutes to allow the President to check whether there are any applications from suitable qualified persons for the position of Acting Chief Executive Officer."

Carried 5-0

The meeting is recorded as adjourning at 8.25am and reconvening at 8.48am.

The following resolution was passed after the recommencement of the meeting:

"That Council:

Appoints Mr Michael Keeble to the position of Acting CEO and further, Council authorises the President and Mike Fitzgerald of Fitz Gerald Strategies to negotiate a remuneration package with Mr Keeble within the scope of Band 3 of the Salaries and Allowances Tribunal scale of remuneration for Local Government Chief Executive Officers, being \$154,045-\$245,550 per annum.

Carried 5-0

The meeting closed at 8.54 am

The process for the appointment of an Acting CEO by placing an advertisement on the Shire notice board for 20 minutes was not a proper open and accountable process. It is an entirely inappropriate way of engaging the services of an officer of the importance of CEO. This combined with the responses to questions in the Public Question Time section of the meeting that

the Shire President wished to appoint someone with an accounting background and some local government experience leads to a concern that the appointment of Mr Keeble had been discussed and agreed prior to the meeting. There is no other reasonable explanation as to how Mr Keeble, a qualified accountant with some local government experience, and who is not a resident of the Shire, would be able to be in a position to view such notice on a Council notice Board in York at that time. Or that the Council would be in a position to satisfy itself as to the candidate's suitability without the conducting of an interview or relevant reference checks.

It is also of concern that this appointment was made after the Shire President had obtained advice of the Department in relation to the recruitment process prior to that meeting.

Council failed to ensure that the Acting CEO appointment process was conducted in a fair, open and transparent manner, and one which would attract the widest range of qualified applicants.

Under section 5.36(2)(a) of the Local Government Act 1995 a person is not to be employed in the position of CEO unless the council believes that the person is suitably qualified for the position. Council failed to ensure that the selection and recruitment processes were conducted in accordance with the principles detailed in the Local Government Act 1995 and Department's Operational Guideline. Particularly in relation to the principles of merit and equity: *"whereby a thorough assessment is made of the candidate's skills knowledge and abilities against the work related requirements of the vacancy. The process must be open, competitive and free from bias, unlawful discrimination nepotism or patronage."*

This falls short of what is considered good governance practice and identifies non-compliance with the Act in regard to the recruitment and selection of the CEO.

12 May 2014

At a further Special Meeting of Council held on 12 May 2014, Council resolved to engage auditors, Macri Partners, to undertake an investigation of corporate credit card use at the Shire. The following resolutions were carried:

"That Council authorise the Chief Executive Officer to obtain a quotation and engage its Auditors to undertake an investigation into the use of the Corporate Credit Cards using the following criteria:

1. Compare the date of entry on the Credit Card Statement with the actual purchase dates shown on the receipts.
2. Compare those dates with:
 - a) Day of the week;
 - b) Whether or not it was a public holiday;
 - c) Whether or not Mr R Hooper was on leave.
3. Check the purpose of the purchase and categorise as:
 - a) Office purchases;
 - b) YRCC purchases;
 - c) Library purchases;
 - d) Fuel purchases;
 - e) Christmas party purchases;
 - f) Airfares;
 - g) Garden and Home Maintenance;
 - h) Training, Conferences and related Accommodation purchases; and
 - i) Other to be the subject of further investigation.
4. The Auditors shall submit a report from 1 July 2013 to 31 April 2014.
5. The Auditor may be required to continue to investigate for the prior six (6) years."

AMENDMENT

Moved: Cr Smythe/Seconded: Cr Wallace

"That Council Amend the Officer Recommendation to read:

Authorise the Chief Executive Officer to obtain a quotation and engage its Auditors to undertake an investigation into the use of the Corporate Credit Cards using the following criteria:

1. Compare the date of entry on the Credit Card Statement with the actual purchase dates shown on the receipts.
2. Compare those dates with:
 - a) Day of the week;
 - b) Whether or not it was a public holiday;
 - c) Whether or not Mr R Hooper was on leave.
3. Check the purpose of the purchase and categorise as:
 - a) Office purchases;
 - b) YRCC purchases;

- c) *Library purchases;*
 - d) *Fuel purchases;*
 - e) *Christmas party purchases;*
 - f) *Airfares;*
 - g) *Garden and Home Maintenance;*
 - h) *Training, Conferences and related Accommodation purchases;*
 - i) *Liquor purchases;*
 - j) *Dining and Entertainment, and*
 - k) *Gifts*
4. *The Auditors shall submit a report from 1 July 2011 to 30 June 2012, 1 July 2012 to 30 June 2013 and 1 July 2013 to 30 April 2014.*
5. *The Auditor may be required to continue to investigate for the prior six (6) years."*

Carried: 6/0

RESOLUTION

020514

Moved: Cr Smythe/Seconded: Cr Wallace

The amendment became the motion.

Carried: 6/0

23 July 2014

On or about 23 July 2014, the Shire President, received a report prepared by Fitz Gerald Strategies which purports to be an investigation into allegations of misconduct against CEO Hooper, two serving councillors and seven former councillors. All current elected members were given access to a copy of the report.

It is noted that the process followed in respect of the investigation of concerns about the conduct of CEO Hooper was a separate and distinct process and one which was not envisaged in the Shire's code of conduct, nor was it related to any dispute resolution clause or a process that was part of CEO Hooper's employment contract. There is no documented record of Council having obtained legal or industrial advice in relation to the matter. This is significant as it has cast serious concerns over the validity of the Fitz Gerald report and

has opened Council up to the possibility of financial exposure in relation to legal proceedings resulting from the distribution of the report to third parties and associated breaches of confidentiality.

24 July 2014

The report from Macri Partners dated 24 July 2014 was sent to the Shire of York addressed to the Chair of the Audit Committee. There is no record of this report being formally accepted by Council

The Macri Report deals with the credit card expenses only of the CEO. The report does not deal with any other credit card such as the Credit Card held by the Deputy CEO.

The report states that there were a number of transactions for which no supporting documentation was available, however it does not attach any allegation of wrongdoing to this. It also identifies that there is no agreement between the cardholder and the Local Government as required by the Shire's policy.

The report states that the Shire's Credit Card bill was paid prior to its acceptance as appropriate by Council in the monthly financial reports.

The *Local Government (Financial Management) Regulations 1996* at Reg. 11(2) specify that "a local government is to develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so." The regulation does not automatically require Council to be that approval body. There was a method of approval carried out administratively prior to payment. It is further noted that credit card expenses were further approved each month by resolution of Council in the monthly list of accounts. While the associated documentation for each individual transaction may not have been provided during such retrospective approval process, neither was it requested by the Council by way of resolution.

A search of the Council minutes identify that prior to the engagement of Macri concerns had been raised by Residents in public question time about CEO Hooper's Credit Card expenses and that he had been denied access to a request to view the associated documentation for each purchase made by CEO Hooper in the course of his employment.

It was further noted that upon receipt of the Macri report a member of the public was granted access to the Shire's financial records, by the Shire President, to conduct their own examination of the credit card files.

There is no record of Council resolving to receive the Macri report and the report was dealt with in an informal manner. As such the report was not given the status and protection of a confidential Council document. This falls short of what is considered good governance practice.

25 July 2014

As a result of concerns in relation to the status and content of the Fitz Gerald Report, at a Special Meeting of Council held on 25 July 2014 it was resolved 'that Council stop the distribution of the Fitz Gerald report until legal advice has been sought concerning the possible liability accruing as a result of its content.'

While all Councillors were provided with notice of the meeting only Crs Duperouzel, Deputy Shire President, Cr Pat Hooper and Cr Tony Boyle attended. No apologies were noted in the minutes.

At the meeting the following resolutions were carried:

That Council:

Resolve to close the meeting to the press and public to discuss a legal matter."

Carried 3-0

"That Council:

Stop the distribution of the Fitzgerald report until legal advice has been sought concerning the possible liability accruing to Council and the community."

Carried 3-0

"That Councillors Hooper, Boyle and Duperouzel accompany the Shire President and the Chief Executive Officer to meet the Minister for Local Government on Monday, 28th July, 2014 at 2.30pm."

Carried 3-0

"That the Chief Executive Officer is directed to deliver a copy of the Fitz Gerald report to the Minister for Local Government immediately."

Carried 3-0

There is no record of Council resolving to receive the Fitz Gerald report and as such the report was dealt with in an informal manner. As such the report was

not given the status and protection of a confidential Council document. This falls short of what is considered good governance practice.

26 July 2014

The department believes that despite the Fitz Gerald report containing highly personal and sensitive material relating to alleged conduct of CEO Hooper and other named staff members and Councillors, some copies of the report were distributed to members of the public. This view is supported by the fact that, on 26 July 2014, an article was published in *The West Australian* newspaper stating that a report prepared by Fitz Gerald Strategies and commissioned by the Shire of York recommended that:

- the former CEO (CEO Hooper) be asked to explain or clarify claims made by ratepayers and a former councillor;
- former Shire Presidents, Pat Hooper and Tony Boyle, both serving councillors, be asked to explain allegations that they contravened the Local Government Act 1995 and the Shire's code of conduct;
- a further seven people – former presidents, deputy presidents and councillors were also named in the report, with the recommendation that they be asked to answer allegations that they failed to fulfil their oversight responsibility and investigate claims against the CEO.

In a meeting with departmental officers CEO Keeble stated his belief that the Shire President authorised the release of the Fitz Gerald Report to *The West Australian* newspaper and to one or more members of the York community. Although it is a matter of record that any form of confidentiality associated with the report was breached, there is currently no evidence which directly implicates the Shire President.

Notwithstanding that point, it is evident that the failure of Council to take appropriate steps to safeguard the confidentiality of the Fitz Gerald Report and the subsequent release of the Report, has been detrimental to the reputation and operation of the Shire and has also eroded employee and community confidence in the Shire.

Council failed to ensure that the Fitz Gerald Report was received by Council and classified as a confidential document. This process would have enabled the Shire to instigate formal procedures to ensure that it remained out of the

public arena until it was no longer classified as confidential. This falls short of what is considered good governance practice.

28 July 2014

The Shire President presented the Minister with a copy of the Fitz Gerald Report.

The Department undertook a review of the Fitz Gerald Report and formed the view that:

- The findings made in the Report appear to be based on interviews with complainants and include untested views and allegations.
- These personal views and circumstances are in practical terms accepted as fact and lead to the making of findings against individuals without a meaningful opportunity to respond to the affected party being given.

It is possible that as a result of the distribution of the Report and the manner in which it was compiled, that Shire and individual councillors may be exposed to defamation action by a number of Shire employees and members of the public. CEO Keeble has advised the Department of a member of the public's intention to take legal action with damages of \$1.5 million believed to be sought. Owners of a business located in York have also advised CEO Keeble that they intend to seek advice from their legal advisers to assess what can be done to alleviate some of the heavy financial losses that they and others allege they have suffered as a result of the alleged misconduct of Council officers identified in the Fitz Gerald Report.

Given that the Report recommends that four of the current Council members explain their apparent failure and/or inaction to control the actions of CEO Hooper, the Department is of the view that the Council is not able to manage the issues and actions arising from the Fitz Gerald Report appropriately.

18 August 2014

An example of Council's inability to appropriately manage the implications of the Fitz Gerald report occurred at the Ordinary Council meeting on 18 August 2014, where a quorum could not be maintained to deal with further correspondence (related to the report) from Mr Simon Saint. Similarly, the Shire President has not accepted concerns with the content of the Report that were clear to the Department writing to both the Department and the Minister claiming that the Report's intent has been misinterpreted. He provides selective quotes from the Report to justify this view. At no time has the Shire

President obtained the approval of Council to promulgate this position. Similarly the Shire President has spoken publicly in relation to disagreement with the Shire's insurers as to their view of the dangers of the report and the likely financial consequences of its distribution, and continues to do so. While it is a duty of the Shire President to speak on behalf of Council, this does not allow the Shire President to take a position on issues without there being a resolution of Council on that position.

Council as a body have failed to determine the local government's position on the Fitz Gerald Report. This falls short of what is good governance practice.

Council has failed to ensure there was a clear record of decision making through a series of motions and resolutions with regard to the Fitz Gerald report and associated matters. This falls short of what is considered good governance practice.

The financial consequences that stem from the instigation of legal action against the Shire, if successful, could severely impinge on its capacity to provide services and facilities to the district. CEO Keeble has advised that any such losses are unlikely to be underwritten by the Council's insurers.

The Shire President has written to both the Minister and Department advising that as Council has now identified, through the FitzGerald Report, serious allegations against their CEO, he has claimed that the matter is now one for the Department to deal with and not be left in the hands of Council in its current state.

Council has failed in its duty to effectively manage its obligations in relation to dealing with the CEO matter. This falls short of what is considered good governance practice and is a significant non-compliance with the obligations of Council under the Act.

25 September 2014

At the Special council Meeting of 25 September 2014, the Shire President as Presiding Member accepted a number of questions in relation to the FitzGerald Report and associated matters during Public Question time which were not directly related to the purpose of the meeting which was to accept the resignation of the Acting Chief Executive Officer (CEO Keeble).

In his response to these questions the Shire President made the following statements in relation to the manner in which Council was handling the FitzGerald Report:

"I have little support from the Department of Local Government and Fellow Councillors", and

"it is not a cohesive Council"

At the meeting it was resolved as follows:

"That Council

- 1. Receive the letter of resignation from the Chief Executive Officer, Michael Keeble.*
- 2. Authorise the President, Deputy and one other Councillor to negotiate with the Chief Executive Officer in relation to contractual arrangements going forward for a period of up to three (3) months.*
- 3. Accept the offer from the Chief Executive Officer, Michael Keeble to conduct a full handover to the new Chief Executive Officer. Michael Keeble shall remain on the same terms and conditions during that handover period which shall not exceed two weeks, and shall be in a consultative position during that time.*
- 4. Consider the process for a replacement Chief Executive Officer.*

CARRIED 6/0

In his letter of resignation CEO Keeble states the reasons for his resignation were:

- Constant abuse by certain ratepayers from which I am neither able to control or shield my staff.*
- Abuse of me and my position from which Council is unable to either control or shield.*
- The legal position that I may be placed in by future actions of certain people named in a report which is in the hands of our solicitors.*
- My disappointment that I have not fulfilled the administrative duties required of a Chief Executive Officer due to other duties placed on me by factors outside of my control.*

It is the Department's view that by the acceptance of questions in the manner detailed above, Council and the Shire President have not conducted the process of Public Question Time in accordance with the Department's Guideline on "Managing Public Question Time"

As a result of this meeting Departmental officers visited CEO Keeble at the Shire and were advised that the reasons for his resignation were ultimately problems he had encountered in dealing with the fallout from the Fitz Gerald

Report and Council's failure to make a determination on the issues relating to that report. He did provide further information *in relation to the deterioration of this relationship with Council and the Shire President in particular, citing amongst other things:*

- *A lack of trust between Council and administration*
- *A lack of direction from Council in respect to a number of matters*
- *Council's failure to take responsibility for the FitzGerald Report and his reluctance to take responsibility for dealing with the FitzGerald report and its ramifications without Council's approval and direction.*
- *Bullying from the Shire President and to a lesser extent several Councillors towards himself and staff, making demands of individual staff members to conduct tasks for him to the expense of their designated duties and in an unreasonable timeframe, resulting in the significant loss of staff time. This has led to loss of staff through resignation and stress leave.*
- *This significant loss of key staff making it impossible to continue to carry out the range of service delivery expected of the Shire.*
- *The public and private actions of the Council and Shire President making it almost impossible to attract and replace staff.*
- *Council publicly blaming the administration and individual staff including himself for any issues of concern to the public and thus absolving themselves of responsibility.*
- *Councils continual questioning and refusal to accept advice in reports from staff members on a wide range of matters including basic issues.*
- *CEO Keeble advised that this has resulted in a significant breakdown of the working relationship between himself, the Administration and Council as a body.*

20 October 2014.

At the Ordinary Council Meeting of 20 October Council included a report by CEO Keeble dealing with the appointment of a recruitment company to conduct the selection and appointment of the Shire's next CEO.

The motion moved and seconded read as follows:

That Council:

1. *Appoints Lo-Go Appointments being the lowest cost recruitment company to assist in the appointment of a Chief Executive Officer. The total fee being \$12,232 plus GST plus advertising plus any out of pocket expense.*

2. *Delegate the Shire President, one other Councillor and the recruitment company to draft the essential criteria required to fulfil the position and then to table a report to Council for resolution.*
3. *Determine the composition of an interview panel*
4. *Consider the involvement of the present Chief Executive Officer in the recruitment process*
5. *Delegate the Shire President, one other Councillor and the recruitment company to draft the terms and conditions which shall be offered to candidates, and then to table a report to Council for resolution.*
6. *Delegate the Shire President, one other Councillor and the recruitment company to draft the method of grading candidates and then to table a report to Council for resolution.*
7. *Determine any other matters which will arise.*

Discussion ensued between Councillors and mostly related to the Shire President's position that he wanted to be the sole person in charge of the recruitment process.

After a number of amendments were moved and accepted the following was resolved:

That Council:

1. *Appoints Lo-Go Appointments being the lowest cost recruitment company to assist in the appointment of a Chief Executive Officer. The total fee being \$12,232 plus GST plus advertising plus any out of pocket expense.*
2. *Delegate the Shire President, Cr Hooper and Cr Duperouzel and the recruitment company to draft the essential criteria required to fulfil the position and table a report to Council for resolution.*
3. *The determination for the composition of an interview panel to be deferred until the November Ordinary Council Meeting.*
4. *Council involve the use of the present Chief Executive Officer in the recruitment process.*
5. *Delegate the Shire President, Cr Hooper and Cr Duperouzel and the recruitment company to draft the terms and conditions which shall be offered to candidates, and then to table a report to Council for resolution.*
6. *Delegate the Shire President, Cr Hooper and Cr Duperouzel and the recruitment company to draft the method of grading candidates and then to table a report to Council for resolution.*

Carried: 5/1

The report, which was dealt with in open session listed the costs and price structures of each of the recruitment companies (including Lo-Go Appointments) considered for selection. It encouraged the appointment of the lowest cost recruitment company to assist in the process.

The meeting subsequently moved behind closed doors to deal with two matters of a confidential nature.

The first matter was the issue of the CEO issuing a press release in support of Staff at the Shire. The report advised that this was as a consequence of a resolution at a recent FRAC meeting.

The motion read as follows:

That Council:

Immediately issues the following press release to:

- 1. The York Radio Station —101.3fm*
- 2. The York local paper entitled —York Community Matters*
- 3. The Community newspaper entitled —Avon Valley Gazette*

With following wording:

For a considerable period of time the York Shire Council, Councillors and staff have been the subject of defamation, innuendo, vilification and bullying, by certain members of the community. This has occurred verbally, in print and by email.

The York Shire Council deplores these actions and publicly confirms their unqualified support for all the Councillors and Staff in the conduct of their duties.

Authorised by the Shire President on behalf of the Council of the Shire of York.

This motion was the subject of several amendments and ultimately the following motion was put to Council:

—That Council:

Immediately issues the following press release to:

- 1. The York Radio Station —101.3fm*
- 2. The York local paper entitled —York Community Matters*
- 3. The Community newspaper entitled —Avon Valley Gazette*
- 4. The West Australian newspaper*

With the following wording:

Council fully supports the staff of the York Shire and regret any pressure placed on them from external sources.

Authorised by, the Shire President, on behalf of the Council of the Shire of York.

TIED VOTE: 3/3

As the vote was tied the Shire President, Cr Reid used his casting vote to vote Against the Motion.

The Shire President declared the Motion LOST

Throughout the debate on the matter, the Shire President continually interrupted other speakers forcefully putting his view that this was a bad idea and not good for the image of the Shire. He continually admonished speakers who were speaking against his declared position and did not ensure that the debate was conducted in a fair and even manner.

The Shire President failed in his obligation to administer Standing Orders in relation to the conduct of debate and proper decision making.

Council failed in their duty to ensure the Shire president conducted the meeting appropriately.

This falls short of what is considered good governance practice and is a significant non-compliance with the obligations of the Shire President, and Council, enshrined in the Act. It further provides credible evidence of significant ongoing conflicts between senior staff, the Shire president and some Councillors as well as evidence of conflict in Council to an extent that is impairing the levels of communication necessary to ensure good decision making practices.

The second item dealt with behind closed doors was an item to deal with and "Investigate Credit Card Usage"

This item appended a report and spreadsheet provided by Macri and partners in relation to the recent Audit of CEO Hooper's Credit card usage while he was CEO of the Shire.

The following motion was moved:

That the Council Endorse and Receive the Recommendation of the FRAC Committee:

- 1. Investigate the attached summary, which were areas highlighted in the report from the Auditors to ensure that it was Council Business conducted by the former CEO;*
- 2. Determine what action is required; and*
- 3. If further action is required how this will be funded.*

The discussion on this item was exceedingly heated with the Shire President continually raising his voice and shouting over other debaters whose views were not akin to his.

When advice was sought from the CEO as to the value of continuing with this process the Shire President continually refused to let the CEO speak and used the gavel to enforce his views. The CEO was also asked by Council members for advice as to Council's role in the authorisation of each individual credit card purchase and again the Shire President refused any advice, stating that he had read the act and finance regulations and that it was obvious no other Councillor had done so.

The debate resulted in a shouting match between the Shire President and anyone who expressed a differing view and ended when a motion was put by Cr Smythe that the matter is returned to Committee for direction. The Shire President changed this motion to read:

That Council:

Directs the CEO to place all credit card transactions and receipts covering the period 1 July 2011 to 30 April 2014 to be replaced in front of the Audit committee. The Audit committee to follow the procedure (as stated in the agreed upon procedures engagement letter) is the [sic] Audit Committee to examine the spreadsheets provided by Macri Partners in their credit card reports dated 24 July 2014 and 3 September 2014 with the details of each transaction and make a determination as to whether the transactions are related to Council Business or otherwise. After having made the determination the Council should take necessary action to address the concerns of ratepayers.

The Shire President declared that the Amended Motion was Carried: 4/2

<p>The Council's use of its Audit Committee to individually examine individual minor expenses to ascertain if they were "fit for Purpose" is a use of the Audit Committee that is not appropriate and is not in accordance with the functions</p>

associated with the Audit Committee or the Department's guidelines on Audit Committees – Their Appointment, Function and Responsibilities.

The Shire President failed in his obligation to administer Standing Orders in relation to the conduct of debate and proper decision making.

Council failed in their duty to ensure the Shire President conducted the meeting appropriately.

This falls short of what is considered good governance practice and is a significant non-compliance with the obligations of Council enshrined in the Act. It further provides credible evidence of significant ongoing conflicts between the senior staff, the Shire President and some Councillors as well as evidence of conflict in Council to an extent that it is impairing the levels of communication necessary to ensure good decision making practices.

5 November 2014

Correspondence was received at the Minister's Office, from Cr Reid, relating to a previous undated letter from the Minister to Cr Reid in which he was advised that allegations of *"possible misappropriation or fraud of Shire of York funds by CEO Hooper"* was a matter which was outside of the Minister's jurisdiction and advised that as *"suggested in your correspondence [such allegations] can be directed by the Shire to the appropriate Agency for further investigation"*.

Cr Reid's response letter advises that *"It is highly unlikely based on the mix of Councillors a majority resolution can be achieved whereby the Shire will agree to direct matters of impropriety to the appropriate external agency for investigation."*

Cr Reid's letter to the Minister was sent notwithstanding the fact that at the Council meeting of 20 October 2014 a resolution was passed referring the report on CEO Hooper's credit card use back to the Audit Committee for determination as to whether the use of the Shires Credit Card by CEO Hooper was appropriate or not.

This correspondence evidences the Shire President's view that there are significant ongoing conflicts between the Shire president and some Councillors as well as providing credible evidence of conflict in Council to an extent that is impairing the levels of communication necessary to ensure good decision making practices.

At the Special Council Meeting of the same day at 5pm the matter of a confidential Staff Matter was to be discussed.

This meeting was attended by 41 members of the public.

Prior to the Special Council meeting Crs Duperouzel, Boyle and Hooper met, at their request, with the Department's officer in attendance and at that time inquired as to whether the Minister could declare all seats on Council vacant should all 3 resign at the meeting that evening. Advice was given that the effect of the relevant section of the Act was that there would need to be more than 50% of the seats on Council vacant for all seats to be declared vacant.

Also prior to the Special Council meeting commencing the Shire President met at his request with the above 3 Councillors, CEO Keeble and the Department representative at which he advised all present that, while he could not go into the details of a letter in his possession from the CCC he could read an extract from it. He advised that should the Special Council meeting go ahead all present would be in breach of the CCC legislation and be subject to prosecution. He refused to show the letter or to elaborate other than to refer to a section number in the CCC legislation which was believed to relate to the "Harassment of Complainants".

The meeting progressed and prior to the meeting going behind closed doors the Shire President made a statement without giving a right of reply where he commented that he had received a letter from the Minister (detailed above) and that the Minister had advised that as criminal matters were outside the Minister's jurisdiction, the Minister did not intend to refer the matter to the Department for investigation. The Shire President repeated this statement before advising he would not elaborate further and refused to accept and questions or comments on the matter from Council.

The meeting attempted to put a motion whereby:

- CEO Keeble would be given a vote of total confidence by Council.
- However due to an irretrievable breakdown in the relationship between the CEO and Shire President, a separation package would be negotiated.
- CEO Keeble immediately suspended on full pay and benefits pending the agreement of the separation package.

During the uncontrolled debate, the Shire President put his position that there was no breakdown in the relationship between himself and CEO Keeble. He

clarified this statement by advising that he would never accept there was any breakdown, as that would insinuate failure on his part.

As evidence of the state of the relationship one Councillor brought up a meeting between the Shire President and Crs Duperouzel, Boyle and Hooper and CEO Keeble the previous day whereby the Shire President was alleged to have made inappropriate statements and displayed inappropriate behaviour towards CEO Keeble and other parties present. The Shire President denied such behaviour and advised that he had a transcript of his personal audio recording of that meeting to rely on. The other parties at that time advised that as they had not given permission to record the conversation there may have been an offence committed. The Shire President advised that he told them he was keeping a record of the meeting and that sufficed as approval.

Ultimately the meeting resolved to provide a vote of confidence in the CEO but could not go further as there had already been a previous resolution on the books where the CEO had resigned, but agreed to stay in place until there was a successor appointed and a complete handover had occurred with the successful applicant.

After the meeting ended several staff members met at their request with the Department representative. They advised that as the CEO had gone home advising that he was not returning to work, they were concerned that the inappropriate behaviour they had witnessed from the Shire President towards CEO Keeble and other Councillors would be directed towards the remaining junior staff. They were provided with advice on the role of the Shire President, Council and Administration and further advised that the Department would closely monitor the situation.

The Staff then provided to the Department representative a copy of the Deputy Shire President's (Cr Duperouzel's) written resignation form which he had handed to the Deputy CEO at the conclusion of the meeting.

The conduct of the Shire President in these matter falls short of what is considered good governance practice and is a significant non-compliance with the obligations of the Shire President and Council under the Act. A Concern also arises as to the possibility of non-compliance with the legislation relating to the use of recording devices.

It further provides credible evidence of significant ongoing conflicts between the senior staff, the Shire President and some Councillors as well as evidence of conflict in Council to an extent that it is impairing the levels of communication necessary to ensure good decision making practices.

The Director of Corporate Services of the Shire advised the Department on 6 November that CEO Keeble would not be returning to the office until Monday 10 November.

COMPLAINT

Simon M Saint
87 Avon Terrace
York
WA 6302

Mr. M. Reid
Shire President
Shire of York
63 Ford Street
York
WA 6302

4th April 2014

Dear Mr. Reid

RE: Complaint - letter from Mr. Ray Hooper Chief Executive Officer 2nd April 2014

I wish to lodge a formal complaint over the conduct of the Shire of York Chief Executive officer Mr. Ray Hooper.

In his letter Mr. Hooper states:

Paragraph 1

The opportunity is taken to express my complete disgust and disappointment at the malicious and vicious personal vendetta undertaken by you against myself and by extension other staff and individual elected members over an extended period.

At no time have I ever undertaken a malicious and vicious personal vendetta against the CEO. Any questions or information requested of the CEO, Councillors or Administration have related to Council business and/or municipal spending.

Paragraph 2

Your most recent efforts through signage on your building windows is a pathetic and puerile attempt to smear, besmirch and potentially defame myself and, by inclusion, others for no community benefit, purpose or value, except a further attempt to achieve your stated intention to 'get rid of the CEO'.

COMPLAINT

Whilst I would dispute the term 'signage' used here, every 'document' displayed in the window of my property is factual and/or has been obtained under the Freedom of Information Act and relates to Council business, municipal spending or incorrect information provided in legal documents.

I am interested to know when I supposedly made this *stated intention to 'get rid of the CEO'*to whom? in the presence of whom ? Was it in verbally, in writing?

Paragraph 3

The campaign undertaken by you appears to be based on personal malice against individuals and it reflects more on your own lack of morals, integrity and honesty than it does on the character of those attacked in you vilification and denigration processes.

I would refer back to my comments in paragraph 1.

As an entity, it is the responsibility of Shire of York and it's Councillors to conform with the principals identified in this comment. The written Code of Conduct of both Elected Members, the Public Sector Commission (who set the required standards for CEO's), and the Local Government Act 1995 identify specific guideline and parameters by which they need to comply.

Any individual, such as myself, has a democratic right to freedom of speech. I take great exception at having my morals, integrity and honesty brought into question.

Paragraph 4

The use of the current signage is a new low, even for you, as a meaningless and pointless exercise deliberately aimed and intended to cause harm to reputation or wellbeing.

I would refer back to my comments in paragraph 2 relating to the term 'signage'.

Displaying any 'documents' which question Council business and clarify the unnecessary use of Ratepayers/Municipal funds is more than reasonable considering the length of time it has taken to obtain them. The questions have been asked and information requested for many years but to no avail. Now that this information is in the public domain, it is the right of every ratepayer to see where their money is being or has been spent. Certainly in the spirit of the Act - Honesty, integrity and accountability.

COMPLAINT

Paragraph 5

Your current actions do not cause anger or concern to me as these actions are more of a reflection on the poor quality of your own life and the need to attack and undermine others to hide your own inadequacies and shortcomings.

If the CEO is not angry or concerned about the documents or matters displayed inside my window, why even write this letter? Or, why not write a proactive letter or at least attempt to resolve the matter?

On a more personal note, I find it very offensive and upsetting for my wife and myself that the CEO states 'these actions are more of a reflection on the poor quality of your own life and the need to attack and undermine others to hide your own inadequacies and shortcoming'. Bearing in mind that my wife has recently undergone Cancer surgery and is currently receiving Chemotherapy with more treatment to come, this statement is totally unnecessary. I cannot dispute that at a time such as this, quality of life is diminished for obvious reasons but my wife and I do not need a callous reminder.

Paragraph 6

For your information I will not be terminating my contract of employment for any action initiated by you, or actions taken by you and your minimal number of supporters and smear campaign cohorts.

What purpose does this comment serve?

Paragraph 7

Nothing you have done to date has had any community benefit or value as your actions are selfish and based on malice with no concern for the community.

This is a non specific paragraph and should not need justifying - However, I would not agree with the negative comments therein. I believe that renovating two properties and providing seven new businesses to the CBD was very important and beneficial to the town notwithstanding the problems getting past the start and to end point on both developments.

Paragraph 8

COMPLAINT

As usual with you I expect a further concerted attack from you and your acolytes as criticism is something you are unable to accept.

I personally will treat this comment with the contempt it deserves but would be very interested to pass on to the 'acolytes' mentioned therein to see if they are interested if the CEO would be kind enough to advise who in fact they are?

Paragraph 9

My suggestion to you is to stop living in the past, get a life, and do not to others what you would not accept being done to you.

This is indeed very condescending and offensive, surely not the expected behaviour of someone who should be purported to be a respected member of the community let alone a Chief Executive Officer.

The Shire of York has in place a mandatory Code of Conduct, this applies to both Elected Members and staff including the Chief Executive Officer.

The actions of the Chief Executive Officer are in direct contravention with this Code of Conduct in that the CEO;

3.1 Personal Behaviour

- i) did not act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
- ii) did not perform his duties impartially and in the best interests of the Shire of York uninfluenced by fear or favour;
- iii) did not act in good faith (ie honestly, for the proper purpose and without exceeding his powers) in the interests of the Shire of York and the community;
- iv) did make allegations which were improper and derogatory and did not refrain from any form of conduct, in the performance of his official and professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
- v) did not act in accordance with his obligations of fidelity to the Shire of York.

COMPLAINT

3.2 Honesty and Integrity

i) Has not observed the highest standards of honesty and integrity and avoided conduct which might suggest any departure from these standards;

3.6 Corporate Obligations

Has not acted in accordance with and has contravened;

b) Communication and Public Relations

i) All aspects of communication by staff (including verbal, written or personal), involving the Shire of York's activities should reflect the status and objectives of the Shire of York. Communications should be accurate, polite and professional.

In writing the letter, the CEO has contravened Section 5.103 of the Local Government Act 1995 in that, as an employee he has not observed the adopted official code of conduct.

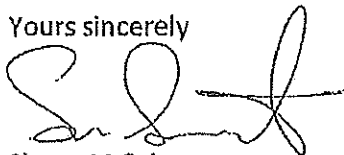
LOCAL GOVERNMENT ACT 1995 - SECT 5.103

5.103 . Codes of conduct

(1) Every local government is to prepare or adopt a code of conduct to be observed by council members, committee members and employees.

Should you require any further information please do not hesitate to contact me.

Yours sincerely



Simon M Saint

4TH APRIL 2014