



STATEMENT ON INVESTIGATION

Published pursuant to section 26 of *Ombudsman Act 1972*

15 November 2023

Investigation into expiation notices being improperly waived by a local council

I investigated a local council, after a complaint was made to me about expiation notices being improperly waived. My investigation found that the CEO acted improperly by requesting that an expiation notice be waived. The expiation notice was issued to an employee of a friend of the CEO, who asked the CEO to waive the fine. In my view, it is inherently inappropriate for a CEO to offer any opinion at all on the merits of an application for a review of an expiation notice, unless the CEO is the relevant decision maker. However, my investigation determined that the conduct did not meet the high threshold for *misconduct in public administration* under the Ombudsman Act. The expiation was referred to a reviewing officer who followed the correct process and had valid reasons for waiving the expiation notice.

In relation to a different officer of the council, my investigation found that one expiation notice should not have been waived, as the conditions set out in the Expiation of Offences Act were not met. My investigation also found error relating to three expiation notices, as the reviewing officer had regard to irrelevant considerations. The reviewing officer took into account that the persons who received the expiations were contractors of the council. This is not a relevant or appropriate consideration - contractors of a council are not entitled to any special treatment in the reviewing of expiation notices. I recommended that the local council provide my full investigation report to all employees who are involved in reviewing expiation notices, for educational purposes.