

Final Report

Full investigation pursuant to referral under
section 24(2)(a) of the *Independent Commissioner Against Corruption Act 2012*

Public Authority	Port Pirie Regional Council
Public Officer	Former Councillor Darryl Johnson
Ombudsman reference	2018/02518
ICAC reference	2018/001945
Date of referral	2 March 2018
Issues	<ol style="list-style-type: none">1. Whether Cr Johnson breached the conflict of interest provisions of the Local Government Act and clause 3.13 of the Code of Conduct for Council Members in relation to motion OM289/17 and/or motion OM291/17 at the council meeting on 25 October 20172. Whether Cr Johnson breached the conflict of interest provisions of the Local Government Act and clause 3.13 of the Code of Conduct for Council Members in relation to motion OM290/17 at the council meeting on 25 October 20173. Whether Cr Johnson breached the conflict of interest provisions of the Local Government Act and clause 3.13 of the Code of Conduct for Council Members in relation to motion OM321/17 at the council meeting on 25 October 2017

Jurisdiction

This matter was referred to the Ombudsman by the Independent Commissioner Against Corruption (**the Commissioner**) pursuant to section 24(2)(a) of the *Independent Commissioner Against Corruption Act 2012* (**the ICAC Act**), as raising potential issues of misconduct in public administration within the meaning of that Act (**the referral**).

Section 14B of the *Ombudsman Act 1972* provides:

14B—Referral of matter by OPI or ICAC

- (1) If a matter is referred to the Ombudsman under the ICAC Act, the matter—
 - (a) will be taken to relate to administrative acts for the purposes of this Act; and

- (b) must be dealt with under this Act as if a complaint had been made under this Act and–
- (i) if the matter was the subject of a complaint or report under the ICAC Act –as if the person who made the complaint or report under that Act was the Complainant under this Act; or
- (ii) if the matter was assessed under that Act after being identified by the Commissioner acting on the Commissioner's own initiative or by the Commissioner or the Office in the course of performing functions under any Act–as if the Commissioner was the complainant under this Act.
- (2) In this section–

Commissioner means the person holding or acting in the office of the Independent Commissioner Against Corruption under the ICAC Act;

ICAC Act means Independent Commissioner Against Corruption Act 2012;

Office means the Office for Public Integrity under the ICAC Act.

The referral arose out of a report to the Office for Public Integrity. I shall refer to the reporting person as ‘the reporter’. The referral gives rise to three issues which arose from the meeting of the Port Pirie Regional Council (**the council**) on 25 October 2017.

Each of the issues concerns an alleged breach by former Councillor Darryl Johnson of clause 3.13 of Part 3 of the Code of Conduct for Council Members (**the Code of Conduct**). Failure by a council member to comply with Part 3 of the Code of Conduct constitutes misconduct. As a contravention of Part 3 can constitute grounds for disciplinary action under the *Local Government Act 1999*, I have considered this matter under section 5(3)(a) of the ICAC Act.

As a breach of the Code of Conduct amounts to a breach of section 63(2) of the Local Government Act, and a matter referred to me under the ICAC Act is taken to relate to an administrative act for the purposes of the Ombudsman Act, I have considered whether former Cr Johnson’s conduct appears contrary to law within the meaning of section 25(1)(a) of the Ombudsman Act. I have decided to undertake this line of enquiry on my own initiative pursuant to section 263A(3) of the Local Government Act.

Investigation

My investigation has involved:

- assessing the information provided by the reporter
- seeking a number of responses from former Cr Johnson
- seeking information from the council
- considering:
 - the ICAC Act
 - the Ombudsman Act
 - the Code of Conduct
 - the Local Government Act
 - the agenda and minutes of the council meeting on 25 October 2017
- providing former Cr Johnson, the council and the reporter with my provisional report for comment, and considering their responses
- preparing this report.

Standard of proof

The standard of proof I have applied in my investigation and report is on the balance of probabilities. However, in determining whether that standard has been met, in accordance

with the High Court's decision in *Briginshaw v Briginshaw* (1938) 60 CLR 336, I have considered the nature of the assertions made and the consequences if they were to be upheld. That decision recognises that greater care is needed in considering the evidence in some cases.¹ It is best summed up in the decision as follows:

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issue has been proved ...²

Response to my provisional report

I provided my tentative views to the parties by way of my provisional report dated 6 December 2018.

On 14 December 2018 the Chief Executive Officer of the council sent an email to my Office which acknowledged receipt of the provisional report, and advised that the council does not intend to make a submission on my provisional report.

On 11 January 2019 the reporter informed my Office that they did not intend to make any submissions on my provisional report.

On 4 January 2019 I received a letter from Mr Nicholas Linke, of Fisher Jeffries Barristers and Solicitors, who is acting for former Cr Johnson in relation to this investigation. The letter responded to my provisional report, and submitted the following:

ICAC Advice

...

Thank you for providing your provisional reviews in the report.

We note that the report alleged that very few businesses were affected by the change to the Fees in Charges Schedule, namely 37 business used the facility.

We note also that the commonly held definition of "substantial" is "of considerable importance, size or worth."

Revenue in the year to 31 October 2018 from the 37 account holders was \$644,000.00 whilst only \$233,000.00 revenue was from non-account holders.

In value terms it is therefore a substantial proportion of the value.

You have found that (paragraph 85) the concerns from some members of the community were noted by the council administration but it was the elected members who pushed for the report which was why the matter was brought before the elected body at the meeting on 25 October 2017.

The elected members (including our client) knew the fees would be put up (in the 2019-2020 budget) but it was the fact that council administration did not consult the elected members and rate payers in relation to the increase in the usual way after the fees had already been set a few months beforehand that concerned our client.

Our client's (and the elected body's) main argument was the manner in which the fees were increased, without adequate consultation.

¹ This decision was applied more recently in *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 110 ALR 449 at pp449-450, per Mason CJ, Brennan, Deane and Gaudron JJ.

² *Briginshaw v Briginshaw* at pp361-362, per Dixon J.

In relation to paragraph 100, our client acknowledges that he did know that his father was a commercial user.

...

It appears that former Cr Johnson's response suggests that the revenue contribution from the 37 commercial account holders at the Port Pirie rubbish dump is relevant to the 'substantial proportion test' under section 73(2)(a) of the Local Government Act. Section 73(2)(a) states as follows:

73 - Material conflict of interest

(2) A member of a council will not be taken to have a material conflict of interest in matter to be discussed at a meeting of the council -

(a) if the relevant benefit or loss would be enjoyed or suffered in common with all or a substantial proportion *of the ratepayers, electors or residents of the council area*,³

...

The test under section 73(2)(a) refers specifically to the number of people within a council area who may be impacted by the relevant benefit or loss. I do not consider that the revenue contribution of the 37 commercial accounts holders at the Port Pirie rubbish dump is relevant to my consideration of section 73(2)(a) of the Local Government Act.

I have also noted former Cr Johnson's submissions concerning the reason why the 'Waste Disposal Fees and Charges' matter was brought before the council. I have amended paragraph 85 of my report to include reference to former Cr Johnson's submissions. However I do not consider that these submissions alter my views in relation to whether former Cr Johnson breached the conflict of interest provisions of the Local Government Act and clause 3.13 of the Code of Conduct for Council Members.

Having considered the responses received, my view remains as set out in my provisional report.

Background and evidence obtained in the investigation

1. Former Councillor Darryl Johnson was an elected member at the council. He did not seek re-election at the recent 2018 local government elections and therefore he is no longer a councillor. However for simplicity, and given that his actions under investigation occurred whilst he was a councillor, throughout this report I will refer to him as 'Cr Johnson'.
2. The referral alleges that Cr Johnson failed to declare a conflict of interest in respect of two matters raised in an Ordinary Meeting of the council on 25 October 2017 (**the meeting**) concerning its:
 - Crystal Brook Library Renovations tender
 - Waste Disposal Fees and Charges.
3. The alleged conflict of interest in both matters arises from Cr Johnson's relationship with Mr Malcolm 'Bluey' Johnson who is his father and the owner of Johnson Home Improvements Pty Ltd (**JHI Pty Ltd**). Cr Johnson also works for JHI Pty Ltd.
4. In relation to the Crystal Brook Library Renovations matter, the reporter advised that Cr Johnson participated in discussions concerning the tenderers for the renovations

³ Emphasis added.

despite the preferred tenderer, McMahon Services, listing JHI Pty Ltd as a proposed subcontractor.

5. Cr Johnson did not declare a conflict of interest in relation to this matter.
6. In relation to the Waste Disposal Fees and Charges matter, the reporter advised that Mr Malcolm Johnson undertook a public campaign against the council's decision to change its Waste Disposal Fees and Charges Register for the Port Pirie rubbish dump, which created a new minimum charge for commercial users of \$65. The reporter provided an article from the Port Pirie Recorder about Mr Malcolm Johnson's opposition to the changes.
7. According to the reporter, very few businesses were affected by the change to the Fees and Charges schedule.
8. The reporter states that Cr Johnson participated in debate when the issue was discussed at the meeting and ultimately moved a motion to reverse the change in fee structure.
9. Cr Johnson did not declare any conflict of interest in relation to this matter.
10. On 3 April 2018 I informed Cr Johnson of the allegations.
11. On 25 May 2018 I received a response from Mr Nicholas Linke, of Fisher Jeffries Barristers and Solicitors, who is acting for Cr Johnson in relation to this investigation. After further enquiries by my Office, I received a supplementary response from Cr Johnson's solicitor by email dated 7 August 2018.
12. Cr Johnson's solicitor submitted as follows:

Waste Disposal Fees

Our client does not consider that he had a material conflict of interest in relation to the waste disposal fees and schedule matter as, although the waste disposal fees were payable by his father's business Johnson Home Improvements, they were also payable by a substantial proportion of the ratepayers, electors or residents of the council area within the meaning of s73(2)(a) of the *Local Government Act 1999 (Act)*. Our client has no relevant interest in the business owned by his father, he is paid a salary.

Our client was unaware of the public campaign being run by his father.

At the council meeting complained of, our client discussed the fact that the fees had already been set for the 2017/2018 financial year in the 2017/18 budget which was done in about May 2017 and that fees should not have been changed again by the Council's CEO / Management without consultation with the elected members, which is the usual process.

Both Reedi Home and Yard Maintenance and McBride Maintenance approached our client and complained about the waste disposal fees changing and our client properly conveyed these constituent concerns to the Council which was the basis upon which our client moved the motion.

Our client considers that it may be perceived that he had some conflict of interest but the fact that his father ran a business which may have disposed of waste from time to time meant his father was simply one of many such ratepayers with the same interest.

This may be an actual or perceived conflict of interest but it is submitted that it was not a material conflict of interest.

Our client did not vote on whether or not the waste disposal fees were to be increased (and indeed they are being increased this year) but rather to revert to the fees already set due to a flawed process that was used to change them.

Although the waste charge increases were abandoned on our client's motion, the waste charges have since been changed in the usual way in respect of the 2018/2019 financial year.

Our client notes also that he declared his interest in the business in the standing conflicts register so it was well known to the Council.

Our client was raising an issue brought up by other interested businesses about the fee changes. At the meeting our client raised the issue that the fees had been changed without Council approval or consultation with the public after the fees had already been agreed to in the 2018 budget. Our client considers that given that his father had an interest in a business that was paying the waste fees, that he may have had a perceived conflict of interest in those discussions and so should have recorded the conflict and should not have participated in the meeting. That is, he did not act in accordance with the Act and the Code.

Crystal Brook Library Matter

As to whether our client had a material conflict of interest, he did not know at the time of the item being dealt with at a Council meeting about the same.

Whilst our client's business did quote for some items (aluminium and joinery) which may have been the basis for a small part of the tender of 3 of the tenderers, Lynch Saracino Construction, Northern Industries and McMahon Services, this occurred in May 2016, some 18 months prior to the agenda item being dealt with, and was done by the salesperson at the time. Our client only now knows about those quotes from searching old emails of the former salesperson.

On 7 December 2017 our client provided a quote to the Caravan Park directly but they were not one of the short-listed tenderers upon which the meeting voted so it is unknown why they asked for a quote.

Our client submits that he did not have a material conflict of interest as he did not know at the time of the meeting about the role his business had in the various tenders. Indeed the quotes obtained by the tenderers were simply to guide them on price and there was no indication from any of them that our client is aware of that they were the preferred quote nor that any work would flow to our client's father's business.

If the amount quoted was significant then he could reasonably be expected to know about the quotes given but for some aluminium and joinery only it is submitted that this is not the case and therefore s73(2)(b) suggests that any conflict of interest in this matter would not be material.

As it turns out, McMahon Services won the work but have not given any work to our client's father's business.

Our client's interest in the business was declared in the standing conflicts register.

Nonetheless, our client accepts that someone could have perceived that he had a conflict of interest in the circumstances.

Our client considers that under the Act and the Code he should have not been present for the discussion about the tender and therefore that he did not act in accordance with the same.

Our client has not gained in any way from the award of the tender as the winning tenderer has not ordered any items from our client's business.

13. It came to my attention that the substantive matter of the Crystal Brook Library matter involved three separate motions of the council at the meeting. The first motion was to the effect that the matter should be considered in confidence. The second motion was the confidential consideration of the Crystal Brook Library matter.⁴ The third motion was to the effect that the tender documents should be retained in confidence for a period of six months or until the tender process had been finalised.
14. On 17 August 2018 I brought the motions to the attention of Cr Johnson and sought a response.
15. By letter dated 29 August 2018, Cr Johnson's solicitor relevantly submitted:

Our client repeats the response set out in our letter dated 25 May 2018. In summary, notwithstanding that our client did not know about the conflict at the time of the meeting, he accepts that someone could have perceived that he had a conflict of interest in the circumstances notwithstanding that his interest in the business was declared in the Standing Conflicts Register.

...

No conflict was disclosed.

...

Our client considers that under the Act and the Code he should not have been present for the discussion about the tender, and therefore he did not act in accordance with the same.

...

Our client has not gained in any way from the award of the tender as the winning tenderer has not ordered any items from our client's business.

This motion simply concerned considering the matter in confidence which is a fairly standard procedure when discussing tenders, and as our client has already responded in relation to the substantive motion it is submitted that the motions to go in and out of confidence should be treated as part of the overall conduct in respect of the substantive motion.

16. For simplicity, I will refer to the above submissions as Cr Johnson's submissions throughout this provisional report.
17. By letter dated 29 August 2018, the Chief Executive Officer of the council provided the following information to my investigation:

The change made to the fee schedule for domestic customers did not relate to the actual costs for disposal, but was to better delineate the range of charges applicable to domestic customers by the insertion of wording describing them as domestic related charges.

The changes relating to Commercial Business also included a change to the definition and also inclusion of a minimum charge.

Council allows commercial business based customers to operate charge accounts to access and deposit waste at the Waste Transfer Station. There were 37 such account holders at that time in question and Waste Transfer Station staff have confirmed that to the best of their understanding, the account holders reflected the very significant majority of frequent business / commercial customers.

⁴ By email on 28 August 2018, Mayor Rohde advised my investigation that this matter no longer exists in confidentiality and therefore may be reproduced in my report.

As the change...only potentially affected costs for commercial / business users of the Waste Transfer Station, a letter dated 24 July 2017 was forwarded to all 37 account holders.

...

For the reasons stated above, it is estimated that there would be approximately 37 businesses affected by the change referred to above.

18. In response to a question as to whether the council has any data on the number of persons or businesses who were actually affected by the changes to the Fees and Charges between July 2017 and October 2017 when the council voted to revert back to the original Fees and Charges, the Chief Executive Officer advised:

A review of how many invoices were issued to businesses accessing the Waste Transfer Station during the dates mentioned resulted in between 29 and 31 individual businesses being affected during the four month period, and 1004 invoices being identified...our staff estimated that the very significant majority of frequent business / commercial customers are account customers.

Relevant law

19. Section 5(3) of the ICAC Act provides:

(3) *Misconduct in public administration* means—

- (a) contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
- (b) other misconduct of a public officer while acting in his or her capacity as a public officer.

20. Section 90 of the Local Government Act relevantly provides:

90—Meetings to be held in public except in special circumstances

- (1) Subject to this section, a meeting of a council or council committee must be conducted in a place open to the public.
- (2) A council or council committee may order that the public be excluded from attendance at a meeting to the extent (and only to the extent) that the council or council committee considers it to be necessary and appropriate to act in a meeting closed to the public in order to receive, discuss or consider in confidence any information or matter listed in subsection (3) (after taking into account any relevant consideration under that subsection).
- (3) The following information and matters are listed for the purposes of subsection (2):
 - ...
 - (k) tenders for the supply of goods, the provision of services or the carrying out of works;
 - ...

21. Section 73(1) of the Local Government Act provides (my emphasis):

73—Material conflicts of interest

- (1) Subject to this section, for the purposes of this Subdivision, a member of a council has a ***material conflict of interest*** in a matter to be discussed at a meeting of the council if any of the following persons would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting:
- (a) the member;
 - (b) a relative of the member;
 - (c) a body corporate of which the member is a director or a member of the governing body;
 - (d) a proprietary company in which the member is a shareholder;
 - (e) a beneficiary under a trust or an object of a discretionary trust of which the member is a trustee;
 - (f) a partner of the member;
 - (g) the employer or an employee of the member;
 - (h) a person from whom the member has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services;
 - (i) a person of a prescribed class.
- (2) A member of a council will not be taken to have a material conflict of interest in a matter to be discussed at a meeting of the council—
- (a) if the relevant benefit or loss would be enjoyed or suffered in common with all or a substantial proportion of the ratepayers, electors or residents of the council area; or
 - (b) on account of an interest under subsection (1) of a relative of the member, other than the member's spouse or domestic partner, if the member does not know, and could not reasonably be expected to know, of the interest.

...

22. Section 74 of the Local Government Act provides:

74-Dealing with material conflicts of interest

- (1) If a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council, the member must -
- (a) inform the meeting of the member's material conflict of interest in the matter; and
 - (b) leave the meeting room (including any area set aside for the public) such that the member cannot view or hear any discussion or voting at the meeting, and stay out of the meeting room while the matter is being discussed and voted on.

Maximum penalty:

- (a) if the member votes on the matter with an intention to gain a benefit, or avoid a loss, for the member or another person-\$15,000 or 4 years imprisonment; or
- (b) in any other case-\$5,000

(2) However, a member of the council does not contravene subsection (1) by taking part in the meeting, or being in the chamber where the meeting is being conducted, if the member-

(a) has been granted an approval under subsection (3); and

(b) is complying with the conditions of the approval.

...

23. Section 75 of the Local Government Act provides:

75—Actual and perceived conflicts of interest

(1) In this Subdivision—

actual conflict of interest—see section 75A(1)(a);

conflict of interest—see subsections (2) and (3);

perceived conflict of interest—see section 75A(1)(b).

(2) For the purposes of this Subdivision but subject to this section, a *conflict of interest* is a conflict between—

(a) a member of a council's interests (whether direct or indirect personal or pecuniary); and

(b) the public interest,

that might lead to a decision that is contrary to the public interest.

(3) A member of a council will not be regarded as having a conflict of interest in a matter to be discussed at a meeting of the council—

(a) by reason only of—

(i) an engagement with a community group, sporting club or similar organisation undertaken by the member in his or her capacity as a member; or

(ii) membership of a political party; or

(iii) membership of a community group, sporting club or similar organisation (if the member is not an office holder for the group, club or organisation); or

(iv) the member having been a student of a particular school or his or her involvement with a school as parent of a student at the school; or

(v) a nomination or appointment as a member of a board of a corporation or other association, if the member was nominated for appointment by a council; or

(b) in prescribed circumstances.

(4) A member of a council will not be taken, for the purposes of this Subdivision, to have a conflict of interest in a matter to be discussed at a meeting of the council if the relevant member's interest in the matter is held in common with all or a substantial proportion of the ratepayers, electors or residents of the council area.

24. Section 75A of the Local Government Act provides:

75A—Dealing with actual and perceived conflicts of interest

- (1) If, in relation to a matter to be discussed at a meeting of a council, a member of the council—
 - (a) has a conflict of interest in the matter (an *actual conflict of interest*); or
 - (b) could reasonably be taken, from the perspective of an impartial, fair-minded person, to have a conflict of interest in the matter (a *perceived conflict of interest*),the member must deal with the actual or perceived conflict of interest in a transparent and accountable way.
- (2) Without limiting subsection (1), the member must inform the meeting of—
 - (a) the member's interest in the matter; and
 - (b) if the member proposes to participate in the meeting in relation to the matter, how the member intends to deal with the actual or perceived conflict of interest.
- (3) If a quorum at a meeting cannot be formed because a member of a council proposes to exclude himself or herself from the meeting in order to comply with subsection (1), the member will not be taken to have contravened subsection (1) by participating (including by voting, for example) in the meeting in relation to the matter if the attendance of the member, together with any other required number of members, forms a quorum for the meeting.
- (4) If a member of a council discloses an actual or perceived conflict of interest in a matter to be discussed at a meeting of the council, the following details must be recorded in the minutes of the meeting and on a website determined by the chief executive officer:
 - (a) the member's name;
 - (b) the nature of the interest, as described by the member;
 - (c) the manner in which the member dealt with the actual or perceived conflict of interest;
 - (d) if the member voted on the matter, the manner in which he or she voted;
 - (e) the manner in which the majority of persons who were entitled to vote at the meeting voted on the matter.
- (5) To avoid doubt, it is declared that non-participation in a meeting of a council is not the only way in which a member of the council may appropriately deal in a transparent and accountable way with an actual or perceived conflict of interest of the member in a matter to be discussed at the meeting.
- (6) This section does not apply to a matter of ordinary business of the council of a kind prescribed by regulation for the purposes of this section.

25. The Code of Conduct provides:

- 3.13 Council members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the Local Government Act 1999.

26. Section 63 of the Local Government Act provides:

63—Code of conduct for members

- (1) The Governor may, by regulation, prescribe a code of conduct to be observed by the members of all councils.
- (2) Council members must observe the code of conduct.

Whether Cr Johnson breached the conflict of interest provisions of the Local Government Act and clause 3.13 of the Code of Conduct for Council Members in relation to motion OM289/17 and/or motion OM291/17 at the council meeting on 25 October 2017

27. I have considered whether Cr Johnson had a material, actual or perceived conflict of interest in relation to either motion OM289/17 or motion OM291/17 at the meeting.

28. The meeting minutes relevantly record:

14.0 ITEMS FOR CONSIDERATION AS TO CONFIDENTIALITY:

14.1 RFT for Contract 2017/42 - Crystal Brook Library Renovations Pursuant to Section 90(3)(k)

MOVED Cr Hopgood

SECONDED Cr Wilson

OM289/17

Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public with the exception of Dr A Johnson, CEO; G McKenzie, Director Development & Regulation; K Johnson, Director Infrastructure; J Holyman, Director Corporate & Community and K Carmody, Minutes Secretary be excluded from attendance at the meeting for Agenda Item 14.1 RFT 2017/42 - Crystal Brook Library Renovations.

The Council is satisfied that pursuant to Section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the supply of goods, the provision of services or the carrying out of works.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the information to be disclosed and discussed has the potential to impact adversely on each of the tenderers as competitive commercial information will be disclosed.

CARRIED

14.0 ITEMS FOR CONSIDERATION AS TO CONFIDENTIALITY: (Cont'd)

14.1 RFT for Contract 2017/42 - Crystal Brook Library Renovations (Cont'd) Section 91(7) Order

MOVED Cr Paparella

SECONDED Cr Hopgood

OM291/17

That having considered Agenda Item 14.1 RFT 2017/42 - Crystal Brook Library Renovations in confidence under Section 90(2) and (3)(k) of the Local Government Act 1999, the Council, pursuant to Section 91(7) of that Act orders that the tender documents and all minutes be retained in confidence for a period of 6 months or until the tender process has been finalised.

CARRIED*Material conflict of interest*

29. In order to form the view that Cr Johnson had a material conflict of interest, I must first be satisfied that Cr Johnson had a relevant interest in a matter in relation to motion OM289/17 or motion OM291/17, within the meaning of section 73(1) of the Local Government Act. That is, I must be satisfied that he, or an associated person (as defined by section 73(1) of the Local Government Act), would gain a direct or indirect benefit or suffer a direct or indirect loss (either personal or pecuniary) depending on the outcome of the consideration of the matter at the meeting. Such a benefit or loss should not be shared with all or a substantial proportion of the ratepayers, electors or residents of the council area.
30. The purpose of motion OM289/17 was to make a confidentiality order such that the following agenda item could be considered in confidence. The practical effect of this was that members of the public were excluded from the council's deliberations regarding the tender for the Crystal Brook Library renovations.
31. The following agenda item included a report prepared by the Director Infrastructure. This report did not mention JHI Pty Ltd.
32. Cr Johnson has submitted, and I accept, that a decision to discuss matters relating to an ongoing tender in confidence is standard practice within a council. In that regard, I note that section 90(3)(k) of the Local Government Act specifically envisages that such discussions may be kept confidential.
33. The possible outcomes of the motion were either that the council's deliberations regarding the tender for the Crystal Brook Library Renovations would be made in public, or would take place in confidence.
34. The parties who could possibly suffer a loss depending on the outcome of motion OM289/17 appear to be the tender applicants, given the commercially sensitive nature of a tender process.
35. I do not consider that Cr Johnson, or an associated person, would gain a benefit or suffer a loss depending on the outcome of motion OM289/17.
36. The purpose of motion OM291/17 was to make a confidentiality order such that the tender documents would remain confidential for a period of six months or until the tender process has been finalised.
37. I consider that this is also standard practice within a council when matters relating to ongoing tender processes are being considered by the elected body. I do not consider that Cr Johnson, or an associated person, would have gained a benefit or suffered a loss depending on the outcome of motion OM291/17.
38. In my view, Cr Johnson did not have a material interest in motion OM289/17 or motion OM291/17.

Actual or perceived conflict of interest

39. Section 75 of the Local Government Act defines an actual conflict of interest as being a conflict between council member's interests (whether direct or indirect, personal or pecuniary) and the public interest that might lead to a decision that is contrary to the public interest.

40. Pursuant to section 75A of the Local Government Act, a council member will have a perceived conflict of interest if that council member could reasonably be taken, from the perspective of an impartial, fair-minded person, to have a conflict of interest in the matter.
41. I note that Cr Johnson has submitted, with the benefit of hindsight, that 'someone could have perceived that he had a conflict of interest in the circumstances'. Notwithstanding this, I have considered whether the circumstances were such as to create a perceived conflict of interest within the meaning of section 75A of the Local Government Act.
42. The reporter alleges that the preferred tenderer for the Crystal Brook Library Renovation, McMahon Services, listed JHI Pty Ltd as a proposed subcontractor.
43. Cr Johnson has indicated that he was unaware that JHI Pty Ltd was listed as a proposed subcontractor. It appears the reason JHI Pty Ltd was listed by McMahon Services was because JHI Pty Ltd had previously provided a quote for works to McMahon Services. I address this issue later in my report.
44. Cr Johnson also indicated that as it transpired, JHI Pty Ltd was not subcontracted to perform any works for McMahon Services in relation to the Crystal Brook Library renovation. Whilst I accept that this is so, this fact could not have been known at the council meeting on 25 October 2017 and is not determinative of whether Cr Johnson had a conflict of interest.
45. It does not appear that Cr Johnson had a direct or indirect personal or pecuniary interest in the motion to decide whether to consider the following item in confidence, or in the motion to hold the tender documents in confidence, given that the report prepared by the Director Infrastructure did not contain any commercially sensitive information relating to JHI Pty Ltd.
46. Similarly, I do not consider that an impartial fair-minded person could consider Cr Johnson to have a conflict of interest in relation to motion OM289/17 or motion OM291/17.
47. Therefore, it does not appear that Cr Johnson had either an actual or perceived conflict of interest in relation to motion OM289/17 or motion OM291/17.

Opinion

In light of the above, my view is that Cr Johnson did not breach the provisions of section 75A of the Local Government Act and clause 3.13 of Part 3 of the Code of Conduct, and on that basis did not commit misconduct in public administration for the purposes of section 5(3)(a) of the ICAC Act.

Whether Cr Johnson breached the conflict of interest provisions of the Local Government Act and clause 3.13 of the Code of Conduct for Council Members in relation to motion OM290/17 at the council meeting on 25 October 2017

48. I have considered whether Cr Johnson had a material, actual or perceived conflict of interest in relation to motion OM290/17 at the meeting.
49. The meeting minutes relevantly record:

14.1 RTF for Contract 2017/42 - Crystal Brook Library Renovations

MOVED Cr Jackson

SECONDED Cr Johnson

That Council delay this project but allocate the total of \$450,000 for the project in the 2018/19 budget and that the work will be scoped at the appropriate time.

Amendment

MOVED Cr Wilson

SECONDED Cr Devlin

OM290/17

That the project to upgrade the Crystal Brook Library be deferred until later in this current financial year to enable the project to be completed over two financial years with the additional funding of \$250,000 for completion of the project to be allocated in 2018/19 when the project will be finished.

Cr Jackson, with the consent of Cr Johnson, sought and was granted leave of the meeting to withdraw the original motion.

The amendment then became the motion, was put and was CARRIED.

50. I have considered the agenda for the council meeting and the associated report.
51. The report prepared by the Director Infrastructure contained the following recommendation:
1. That Council award Contract 2017/42 for Crystal Brook Library Renovations to McMahon Services in accordance with the documents submitted in response to Request for Tender for the amount of \$385,322.00 (excluding GST).
 2. That Council allocate additional funding of \$240,000 to the project in 2017/18 at Budget Review 1.
52. This wording was reproduced in the council agenda as a suggested motion. I note that this motion was not moved by any councillor, and instead the council moved a motion to defer consideration. However, at the introduction of this agenda item and prior to any consideration by the council, it is abundantly clear that it was open to the elected members to vote to formally award the tender contract to McMahon Services.
53. The information within the report does not mention JHI Pty Ltd and does not reproduce the tenderers' submissions in full.

Material conflict of interest

54. I have considered whether Cr Johnson, or an associated person, would receive a direct or indirect benefit (either personal or pecuniary) or suffer a loss depending on the outcome of the consideration of the matter at the meeting.
55. Possible outcomes of the consideration of motion OM290/17 included:⁵
- McMahon Services would be awarded the tender
 - A different tenderer would be awarded the tender
 - Consideration of the matter would be deferred.
56. If McMahon Services had been awarded the tender, a possible benefit could have flowed to JHI Pty Ltd, noting that this company was a potential subcontractor for McMahon Services.
57. The owner of JHI Pty Ltd is Mr Malcolm Johnson, Cr Johnson's father. Mr Malcolm Johnson is therefore an associated person for the purposes of section 73(1)(b) of the Local Government Act. In addition, Cr Johnson is an employee of JHI Pty Ltd. I

⁵ This is not an exhaustive list.

consider that, broadly, an employee has an interest in their employing business successfully obtaining work, given that any employee's future employment is dependent on the success of their employer.

58. Mr Malcolm Johnson and Cr Johnson have a similar interest in this matter; both persons have a motivation for JHI Pty Ltd to achieve commercial success and to receive sub-contracting work. Therefore if McMahon Services obtained the Crystal Brook Library renovation contract and engaged JHI Pty Ltd to perform work, both Mr Malcolm Johnson and Cr Johnson would receive a pecuniary benefit.
59. However, I do not consider that it can be concluded that either Malcom Johnson or Cr Johnson *would* receive a benefit, depending on the outcome of motion OM290/17. Even if the council had voted to award the tender to McMahon Services, it was not guaranteed that JHI Pty Ltd would obtain any subcontracting work from McMahon Services in relation to the Crystal Brook Library renovation, as supported by the fact that JHI Pty Ltd did not ultimately obtain any work from McMahon Services in relation to this project. I am unable to conclude that a benefit *would* be obtained. Therefore, Cr Johnson did not have a material conflict of interest in relation to motion OM290/17.

Actual or perceived conflict of interest

60. I have considered whether there existed a conflict between Cr Johnson's interests (whether direct or indirect, personal or pecuniary) and the public interest that might have led to a decision that is contrary to the public interest.
61. If Cr Johnson had been aware that McMahon Services had listed JHI Pty Ltd as a proposed subcontractor, or had been aware that McMahon Services had approached JHI Pty Ltd for a quotation for works associated with the Crystal Brook Library renovation, Cr Johnson may have had an indirect pecuniary interest that could give rise to an actual conflict of interest, due to his position as an employee of JHI Pty Ltd.
62. However, I accept the evidence of Cr Johnson that he was not aware of the above two facts. I accept this evidence for the following reasons:
 - the report prepared by the Director Infrastructure did not mention JHI Pty Ltd
 - my investigation has found no other evidence that Cr Johnson was, or should be, aware that JHI Pty Ltd was mentioned in the tender documents submitted by JHI Pty Ltd
 - it does not appear that Cr Johnson was involved in the tender evaluation process, prior to motion OM290/17
 - the quotation for work to McMahon Services was provided in May 2016, almost 18 months before the council meeting on 25 October 2017
 - the quotation for work to McMahon Services was not made by Cr Johnson
 - it is not reasonable to expect that Cr Johnson is, or should be, aware of every quotation that is provided by JHI Pty Ltd.
63. In addition, the council administration has advised my investigation that no further reports or information, apart from the report prepared by the Director Infrastructure, was made available to the councillors at or before the meeting on 25 October 2017.⁶
64. Given that Cr Johnson does not appear to have been aware of any potential benefit that could flow to JHI Pty Ltd if McMahon Services was awarded the tender contract, I do not consider that there existed a conflict between Cr Johnson's interests and the public interest that might have led to a decision that was contrary to the public interest.
65. Cr Johnson therefore did not have an actual conflict of interest.

⁶ Email to my Office dated 30 October 2018.

66. Cr Johnson has submitted that 'someone could have perceived that he had a conflict of interest in the circumstances'.
67. A perceived conflict of interest arises if Cr Johnson could reasonably be taken, from the perspective of an impartial, fair-minded person, to have a conflict of interest in the matter.
68. The Local Government Act does not identify the extent of the knowledge of the facts and circumstances of the matter that should be imputed to the hypothetical fair-minded person. There is also an absence of judicial authority specific to this question.
69. The test as expressed in section 75A(1) bears obvious similarities to the common law principle of apprehended bias, which is concerned with the question of whether 'a fair-minded lay observer might reasonably apprehend' that a decision-maker might not bring an impartial mind to the resolution of a decision.⁷
70. Judicial authority on apprehended bias indicates that the courts generally imbue the fair-minded person with detailed knowledge. The fair-minded person must be properly informed as to the nature of the proceedings and the matters in issue.⁸ The fair-minded person must be aware of, and take account of, the circumstances of the particular case at hand.⁹ The fair-minded person also is not unduly sensitive or suspicious.¹⁰
71. However, when considering apprehended bias, there is a 'need to consider the complaint...not by what adjudicators and lawyers know, but by how matters might reasonably appear...to the public'.¹¹ It is not appropriate to 'impute all that was eventually known to the court to an imaginary reasonable person because to do so would be only to hold up a mirror to itself'.¹²
72. I consider that it could be imputed to the fair-minded person that JHI Pty Ltd was listed on the tender documentation as a proposed contractor to McMahon Services, and that JHI Pty Ltd had previously provided a quotation to McMahon Services to perform works.
73. However, I consider that knowledge of the fact that Cr Johnson was not the person who provided the quotation to McMahon Services, the fact that Cr Johnson was unaware that JHI Pty Ltd had provided a quotation, and the fact that Cr Johnson was unaware that the McMahon Services tender submission listed JHI Pty Ltd as a proposed contractor, could also be imputed to the fair-minded person.
74. I do not consider that an impartial, fair-minded person, in possession of all of the relevant facts, could perceive Cr Johnson to have a conflict of interest in relation to motion OM290/17.
75. I therefore consider that Cr Johnson did not have a perceived conflict of interest in relation to motion OM290/17.

Opinion

In light of the above, my view is that Cr Johnson did not breach the provisions of section 75A of the Local Government Act and clause 3.13 of Part 3 of the Code of Conduct, and on that

⁷ *Ebner v Official Trustee in Bankruptcy* [2000] 205 CLR 337 at [6].

⁸ *Singh v Minister for Immigration and Border Protection* [2017] FCCA 1706 at [65].

⁹ *Laws v Australian Broadcasting Tribunal* (1990) 170 CLR 70 at 87.

¹⁰ *Johnson v Johnson* [2000] 201 CLR 488 at [53] per Kirby J.

¹¹ *Johnson v Johnson* [2000] 201 CLR 488 at [49] per Kirby J.

¹² *Johnson v Johnson* [2000] 201 CLR 488 at [49] per Kirby J.

basis did not commit misconduct in public administration for the purposes of section 5(3)(a) of the ICAC Act.

Whether Cr Johnson breached the conflict of interest provisions of the Local Government Act and clause 3.13 of the Code of Conduct for Council Members in relation to motion OM321/17 at the council meeting on 25 October 2017

76. The meeting minutes relevantly record:

16.4.1 Waste Disposal Fees & Charges 2017/18

MOVED Cr Johnson

SECONDED Cr Jackson

OM321/17

That the Waste Disposal Fees & Charges fee structure revert back to the original 2017/18 approved fees as at 1 July 2017.

CARRIED

77. I have considered whether Cr Johnson had either a material, actual or perceived conflict of interest in relation to motion OM321/17.

Material conflict of interest

78. To determine whether Cr Johnson had a material conflict of interest, I must consider whether he had a relevant interest in a matter in relation to motion OM321/17. That is, I must consider whether he, or an associated person as defined by section 73(1) of the Act, would receive a benefit or suffer a loss of the type described in section 73(1): either a direct or indirect personal or pecuniary benefit or loss, depending on the outcome of the consideration of the matter.
79. Cr Johnson's father, Mr Malcolm Johnson, is an associated person as defined by section 73(1)(b).
80. Some further background information about the Waste Disposal Fees and Charges is warranted.
81. The amounts of the Fees and Charges were set by the council at the council meeting on 28 June 2017.
82. During July 2017 the council administration changed its interpretation of the schedule of fees in such a way that distinguished between domestic and commercial users. The effect of this distinction was that commercial users would be subject to a minimum charge of \$65.
83. Mr Malcolm Johnson strongly objected to this change. An article dated 12 August 2017 in the local newspaper *The Recorder* states the following:

Builder "Bluey" Johnson says changes to the city's dump fees regime are hurting local business and are possibly outside the Local Government Act.

The foundation to his claim is that on June 28 council adopted fees for the dump that "did not distinguish between commercial and domestic users".

In a letter to him dated July 24, the council staff changed their interpretation of the schedule of fees to distinguish between domestic and commercial users.

The letter created a new minimum charge for commercial users of \$65.

“Bluey” maintains that the published schedule of fees as adopted by council is based on the vehicle delivering the waste and the minimum fee cannot be lawfully levied as it has not been adopted by council.

He concedes that the resolution adopting the dump fees gave the council chief executive officer the power to “add or amend minor changes” but he says the “re-interpretation” of the dump fee schedule plus the addition of a new charge were not “minor”, given the enormity of the effect on local businesses and properly should have been a result of a resolution by the elected body of council as required by law.

...

“Bluey” said he had contact with many contractors who were upset by the arrangements.

...

84. It is unnecessary for present purposes for me to comment on whether it was lawful for the council administration to introduce the \$65 minimum fee for commercial users.
85. The matter was brought before the elected body at the meeting on 25 October 2017. In his response to my provisional report, Cr Johnson submitted that this occurred due to a request from the elected members for a report on the matter.
86. The council administration prepared a report for the consideration of the elected body. The report relevantly states:

PURPOSE

To inform the elected body on an administration adjustment to the endorsed fees and charges at the Waste Transfer Station with specific reference to the commercial business users of the facility.

BACKGROUND

A discussion paper was presented to the October Workshop to inform Elected Members of the most recent amendments to clarify the interpretation of the WTS fee structure. As advised these changes were primarily definition clarifications with the only financial change being the inclusion of a minimum charge for Truck/Commercial of \$65.00. The Workshop discussion paper and the previous fee table are included as an attachment for reference.

DISCUSSION

The discussion paper outlined the reasoning’s (sic) behind the changes and the communication process undertaken with stakeholders.

Keeping in mind that the current endorsed waste disposal fees and charges register already has a vehicle user classification for Truck/Commercial disposal, unfortunately the interpretation and application of this classification over the past few years has been consistently applied incorrectly and the domestic disposal fees have been charged to commercial customers, unless they present at the weighbridge in a truck.

Council conducted a collection process which identified the need to review the way in which the fee structure is currently being applied, the vehicle classification, category of the user and the quantity of waste disposal with specific reference to the fees charged.

In one example, data collected for a domestic load of unsegregated waste under the fee structure reflected the following; 0.56 of a tonne of material within an 8 x 5 trailer resulted in the trailer fee of \$40.00 for the domestic user.

One Commercial load of unsegregated waste under the previous fee structure interpretation reflected the following; 1.28 tonne of material within an 8 x 5 trailer resulted

in the trailer fee of \$60.00 for the Commercial user. Under the correct interpretation of our existing fee structure the fee applied should have been \$153.60.

The fee structure, whether applied per tonne or per volume (trailer load size) is designed to best reflect actual loads received/actual costs incurred; 1 tonne in a trailer costs the same to manage and dispose of as does 1 tonne in a truck.

Following is a summary of the four adjusted elements determined after feedback from our staff and commercial business operators in order to clarify council's adopted fee structure.

1. The inclusion of a new classification for 'Domestic Waste Disposal' above the list of vehicles to provide for a greater understanding that these fees are relative to Domestic volumes of waste disposal only and not to accommodate Commercial volumes.

2. Under vehicle classification, removal of Truck/Commercial within the table and replacement with Truck and Commercial Business, this removes any confusion that the specific reference of Commercial is relating only to the wording of 'Truck'.

3. Inclusion of a minimum charge of \$65 following the Truck and Commercial tonnage rate of \$130. The \$65 minimum fee is directly related to the actual costs associated with the processing and disposal fees to Council for receiving, processing and disposing of Unsegregated Waste. This waste stream requires greater mechanical and hands on sorting within the facility by Council staff in order to reduce the amount of recyclables ending up in landfill and resultant disposal fees and levy charges to Council.

4. Inclusion of a Commercial Business Definition, within the Definitions, as follows, "***A Commercial Business is defined as a business or individual who provides a service or sells physical products***" this provides a clear understanding to staff and users on the definition and the interpretation of a Commercial Business and how it is related to the Waste Disposal Fees and Charges Register.

The clarifications outlined above were undertaken after much consideration, information gathering and comparison with other like facilities. The critical issue that needs to be clearly understood is that the changes do make the system fairer for all. As with every decision that council makes it is rare for all members or sectors of the community to be absolutely aligned or happy with the outcome, but these amendments to Council's WTS fee structure are absolutely defensible as it is simply better aligning actual waste management costs with the gate fee charges. Regardless of the fee structure, the actual waste management costs are still the same and must be covered by other users or through general revenue.

87. The available options before the elected members appear to have been to:
- affirm or adopt the new fees and charges which had been set by the council administration; or
 - reject the new fees and charges and revert back to the fees and charges which were adopted by the elected body on 28 June 2017.
88. I have considered whether either Cr Johnson or Mr Malcolm Johnson would gain a benefit or suffer a loss, depending on the outcome of the motion.
89. It is evident that the practical result of the outcome of the motion would be to either increase the fees payable by a commercial user (if the fees and charges set by the administration were accepted) or to decrease the fees payable by a commercial user (if the fees and charges set by the administration were rejected).
90. I consider that Mr Malcolm Johnson, as owner of JHI Pty Ltd and a commercial user of the Waste Transfer Station, would gain a benefit or suffer a loss, of a pecuniary nature, depending on the outcome of the motion.

91. However, a material conflict of interest will not exist if such a benefit or loss is shared with all or a substantial proportion of the ratepayers, electors or residents of the council area.
92. The reporter alleged that very few businesses were affected by the change to the Fees and Charges schedule.
93. Cr Johnson has submitted that the waste disposal fees were payable by a substantial proportion of the ratepayers, electors or residents of the council area.
94. The council has indicated that the Waste Transfer Station has 37 account holders who constitute the majority of the commercial customers, and thus could reasonably be expected to be affected by the outcome of motion OM321/17.
95. The council has confirmed that Mr Malcolm Johnson is an account holder.
96. The council has a population of approximately 17,000. I do not consider it determinative that not every ratepayer or resident is likely to have need to use the Waste Transfer Station.
97. The change to the Fees and Charges only affected commercial users. Even noting that there may be more than 37 commercial users of the Waste Transfer Station, as other commercial users may not be account holders, I consider it likely that any potential benefit or loss resulting from the outcome of motion OM321/17 could be shared with, at most, 100 ratepayers or residents. I do not consider that this constitutes a substantial proportion.
98. Cr Johnson has also submitted that he was unaware that his father was running a public campaign opposed to the increase in the Fees and Charges. I understand this to be a reference to section 73(2)(b) of the Local Government Act which states:

A member of a council will not be taken to have a material conflict of interest in a matter to be discussed at a meeting of the council...on account of an interest under subsection (1) of a relative of the member, other than the member's spouse or domestic partner, if the member does not know, and could not reasonably be expected to know, of the interest.
99. I have some difficulty accepting that Cr Johnson was unaware of his father's campaign. Regardless, I do not consider that section 73(2)(b) is applicable. Mr Malcolm Johnson's interest in motion OM321/17 does not arise due to his personal interest in the matter and public campaign against the change to the Fees and Charges. Mr Malcolm Johnson's interest arises due to the fact that he would receive a pecuniary benefit, or suffer a pecuniary loss, depending on the outcome of the consideration of the motion.
100. Cr Johnson's response to my provisional report confirmed that he knew that his father was a commercial user of the Waste Transfer Station.
101. In light of the above, I consider that Cr Johnson had a material conflict of interest in relation to motion OM321/17, by virtue of section 73(1)(b) of the Local Government Act.
102. Section 74 of the Local Government Act provides that a member who has a material conflict of interest in a matter must inform the meeting of that conflict and must leave the chamber.
103. Cr Johnson did not declare a material conflict and did not leave the chamber. Therefore it appears to me that Cr Johnson may have failed to comply with section 74 of the Local Government Act.

104. Clause 3.13 of the Code of Conduct requires that council members comply with the conflict of interest provisions of the Local Government Act. By failing to declare a conflict of interest, Cr Johnson has acted in breach of clause 3.13 of the Code of Conduct.
105. Section 63 of the Local Government Act provides that council members must observe the Code of Conduct. By breaching clause 3.13 of the Code of Conduct, Cr Johnson has failed to comply with section 63 of the Local Government Act.
106. Given my views regarding a material conflict of interest, whilst it is likely that Cr Johnson also had an actual and/or a perceived conflict of interest, I have not further considered actual and perceived conflicts under sections 75 and 75A of the Local Government Act.

Opinion

In light of the above, my view is that Cr Johnson breached the provisions of section 74 of the Local Government Act and clause 3.13 of Part 3 of the Code of Conduct, and has on that basis committed misconduct in public administration for the purposes of section 5(3)(a) of the ICAC Act.

In addition, my view is that by breaching clause 3.13 of the Code of Conduct, Cr Johnson acted in a manner that was contrary to law under section 25(1) of the Ombudsman Act by failing to comply with section 63 of the Local Government Act.

I note that Cr Johnson did not stand for re-election in the 2018 local government elections. In light of this, I do not consider it necessary to make any formal recommendation.

Summary

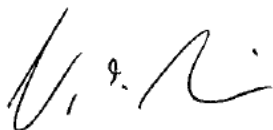
In light of the above, my views are as follows:

- In relation to motion OM289/17 and motion OM291/17, Cr Johnson did not breach the provisions of section 75A of the Local Government Act and clause 3.13 of Part 3 of the Code of Conduct, and on that basis did not commit misconduct in public administration for the purposes of section 5(3)(a) of the ICAC Act.
- In relation to motion OM290/17, Cr Johnson did not breach the provisions of section 75A of the Local Government Act and clause 3.13 of Part 3 of the Code of Conduct, and on that basis did not commit misconduct in public administration for the purposes of section 5(3)(a) of the ICAC Act.
- In relation to motion OM321/17, Cr Johnson breached the provisions of section 74 of the Local Government Act and clause 3.13 of Part 3 of the Code of Conduct, and on that basis committed misconduct in public administration for the purposes of section 5(3)(a) of the ICAC Act.
- By breaching clause 3.13 of the Code of Conduct, Cr Johnson acted in a manner that was contrary to law under section 25(1) of the Ombudsman Act by failing to comply with section 63 of the Local Government Act.

As Cr Johnson did not stand for re-election in the 2018 local government elections, I make no recommendations for this matter.

Final comment

In accordance with Part 3 of the Code of Conduct for Council Members, this report must be provided to a public meeting of the council within two ordinary meetings of the council receiving my report.

A handwritten signature in black ink, appearing to read 'W. Lines', written in a cursive style.

Wayne Lines
SA OMBUDSMAN

22 January 2019