



Department of
**Local Government, Sport
and Cultural Industries**

Local Government Standards Panel

2019-20 Annual Report



Local Government Standards Panel

Annual Report 2019-20

August 2020

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Responsible Minister

Hon David Templeman MLA, Dip Tchg, BEd,
Minister for Local Government; Heritage; Culture and the Arts



Message from the Presiding Member

**To the Hon David Templeman MLA, Dip Tchg, BEd
Minister for Local Government; Heritage; Culture and the Arts**

The following report is the annual report of the Local Government Standards Panel (the Standards Panel) for the period from 1 July 2019 to 30 June 2020.

The Standards Panel composition changed from the previous financial year with Mr Gordon MacMile being appointed as the Deputy to the Presiding Member with effect from 22 June 2020. The terms of appointments for Local Government members Cr Paul Kelly and Ms Rebecca Aubrey expired on 9 April 2020 and Cr Peter Rogers and Cr Deborah Hopper were subsequently appointed.

It is appropriate that I acknowledge former members Cr Paul Kelly and Rebecca Aubrey for their significant contribution to the Standards Panel during their terms as well as my appreciation to the current members for their knowledge and time they devote to the Standards Panel.

I would also like to take this opportunity to thank the staff at the Department for their continued hard work and professionalism in providing administrative and executive support to the Standards Panel

In 2019 a number of amendments were made to the provisions of the *Local Government Act 1995* (the Act) relating to the operation of the Standards Panel.

In July 2019 the Act was amended to:

- reduce the time frame for lodging a complaint from two years to six months;
- provide for the confidentiality provisions to apply at all times, not just during an election period;
- allow the Standards Panel to request parties to a complaint to participate in mediation before the complaint is heard or considered to resolve behavioural matters related to the complaint;
- allow the Standards Panel to order a council member to reimburse the local government for the cost of the panel proceedings for adverse findings; and
- require the CEO of a local government to publish an up-to-date version of a register of complaints on the local government's website;

Further amendments to the Act in September 2019 include a requirement for all council members to undertake the training course *Council Member Essentials* within 12 months of being elected to ensure they have the necessary knowledge to understand and carry out their role. Each local government is required to publish a report on its website at the end of the financial year of training undertaken by council members.

Later this year, further amendments will introduce a mandatory Code of Conduct for council members, committee members and candidates to ensure that standards of behaviour are consistent between local governments and meet community expectations. The relevant regulations to support this amendment are currently being developed.

The reduction in the time period for lodging complaints from two years to six months may have had an impact on the number of complaints lodged with the number of complaints lodged in 2018/19 being 147 compared to 121 in the 2019/20 financial year, however this could also be attributed to the fact that Local Government elections were held in October 2019. It is also not yet evident if the mandatory training requirement has had an impact on the number of complaints being lodged.

Despite the COVID-19 pandemic and the associated impact on the ability for meetings to be held, the Standards Panel was able to achieve a further reduction in the time taken for complaints to be finalised. In this regard, 13 meetings were held in 2019-20 compared to 22 meetings in 2018-19.

There continues to be a trend of the majority of complaints resulting in no breach being found, either by a finding of no breach being made or by the panel refusing to deal with a complaint. Out of 120 complaints finalised in 2019/20, 69 findings of no breach were made, and the panel refused to deal with 20 complaints.

The Standards Panel remains committed to its objective of making decisions that promote and enforce high standards of behaviour by elected members in local governments across Western Australia.

The Standards Panel will continue to build on its achievements of 2019-20 and strive to maintain increased efficiency in relation to its operations and the important service it provides to the community and the local government sector.



Michael Connolly
Presiding Member
Local Government Standards Panel

21 August 2020

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Overview

The Local Government Standards Panel (the Standards Panel) is the primary standards panel established under Part 5 Division 9 and Schedule 5.1 of the *Local Government Act 1995* (the Act). It provides for a complaints system whereby certain alleged misconduct by council members can be reviewed.

The Standards Panel's function is to receive and deal with complaints, made by any person, of alleged minor breaches, which are alleged breaches by a council member of any rule of conduct in the *Local Government (Rules of Conduct) Regulations 2007* or a provision of a local government's code of conduct.

Administration and support services for the Standards Panel are provided by the Department of Local Government, Sport and Cultural Industries (the Department).

Requirement for annual report

This report is prepared to satisfy Clause 11 of Schedule 5.1 of the Act which requires that:

- "(1) By 31 August in each year, the primary standards panel is to prepare and provide to the Minister a report on the complaints dealt with by all standards panels during the previous financial year.*
- (2) The annual report must not include information that identifies or enables the identification of a council member against whom a complaint was made if the complaint was not dealt with under section 5.110(6)(b) or (c)."*

Members of the Standards Panel

The Standards Panel is comprised of three members and three deputy members, all of whom are appointed by the Minister.

At the conclusion of the 2019-20 financial year the members and their deputies were:

Presiding Member:

Mr Michael Connolly, Deputy Director General, Department of Local Government, Sport and Cultural Industries

Deputy:

Mr Gordon MacMile, Director Strategic Coordination and Delivery, Department of Local Government, Sport and Cultural Industries

Local Government Member:

Cr Peter Rogers, elected member of the City of Mandurah.

Deputy:

Cr Deborah Hopper, elected member of the Shire of Cuballing.

Legal Member:

Ms Emma Power

Deputy:

Ms Elanor Rowe

Complaints received and finalised

In the 2019-20 financial year, the Standards Panel received 121 new minor breach complaints and finalised 120 complaints. Finalised matters include complaints received in the previous financial year.

The lodgement of 121 new complaints in 2019-20 compared to 147 in 2018-19 represents a 18% decrease in complaints referred to the Standards Panel.

Chart 1 provides a comparison of complaints lodged and finalised for the last five years.

Chart 2 provides a breakdown of complaints lodged in relation to metropolitan and regional local governments.

Chart 3 provides details of the number of allegations against each of the regulations.

Chart 4 provides details of the source of complaints lodged.

Chart 5 indicates the time that the Standards Panel has taken to finalise complaints compared to previous financial years and shows that a further reduction in the number of days taken to finalise complaints was achieved in 2019-20.

Chart 6 shows which local governments were subject to complaints and the number of complaints lodged.

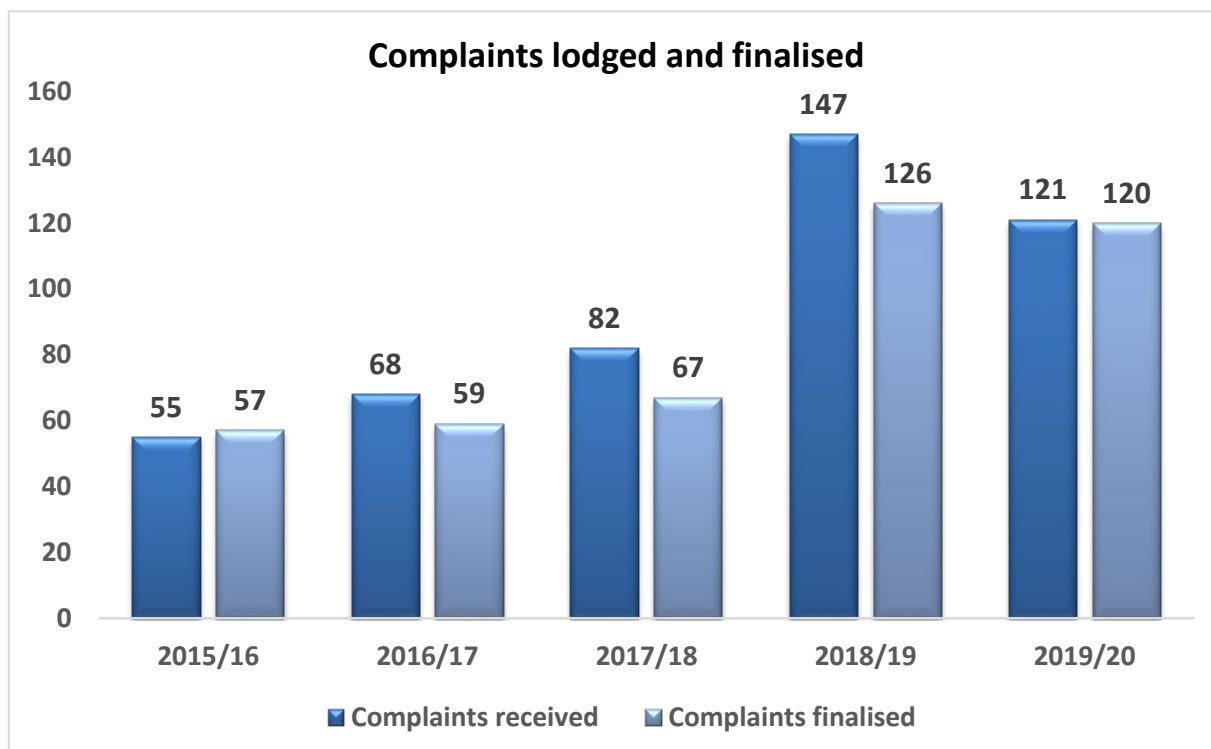
Chart 7 provides details of the findings for complaints finalised in 2019-20.

Chart 8 provides details of the findings for each regulation.

Chart 9 provides details of the sanctions imposed for complaints finalised.

A single complaint can allege multiple breaches of one or more regulations relating to several different incidents, adding to the complexity of the matters under consideration. As illustrated in **Table 1**, there were 186 allegations of breaches of the regulations within the 120 complaints finalised in 2019-20. This data does not include instances where a complaint may allege multiple breaches of the same regulation. **Table 2** provides details of the sanctions imposed, by regulation, for each of the complaints where a breach was found.

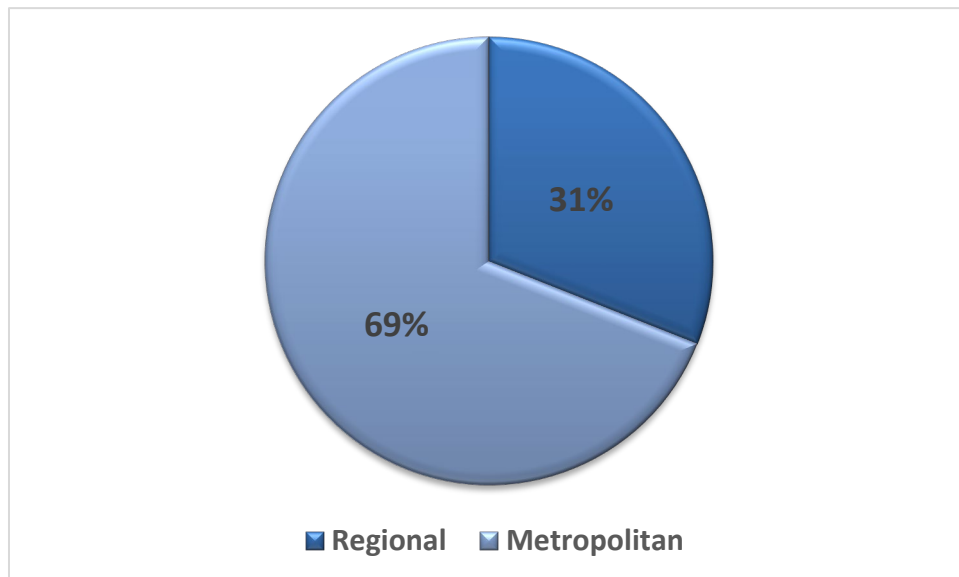
Chart 1: Number of complaints received and finalised



Metropolitan and Regional breakdown

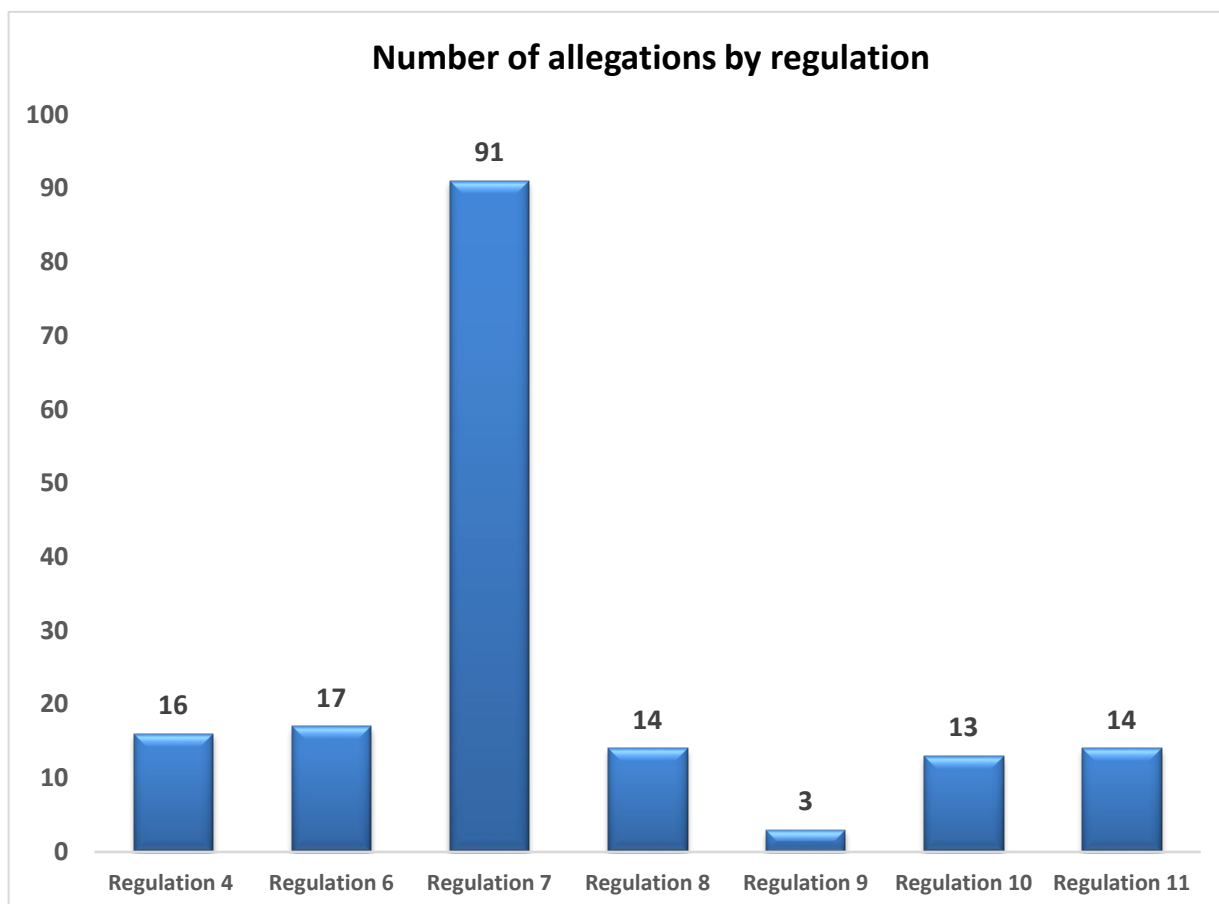
Of the 121 complaints received by the Standards Panel during 2019-20, 84 relate to metropolitan local governments while 37 related to regional local governments.

Chart 2 – Metropolitan and regional breakdown



Number of allegations by regulation

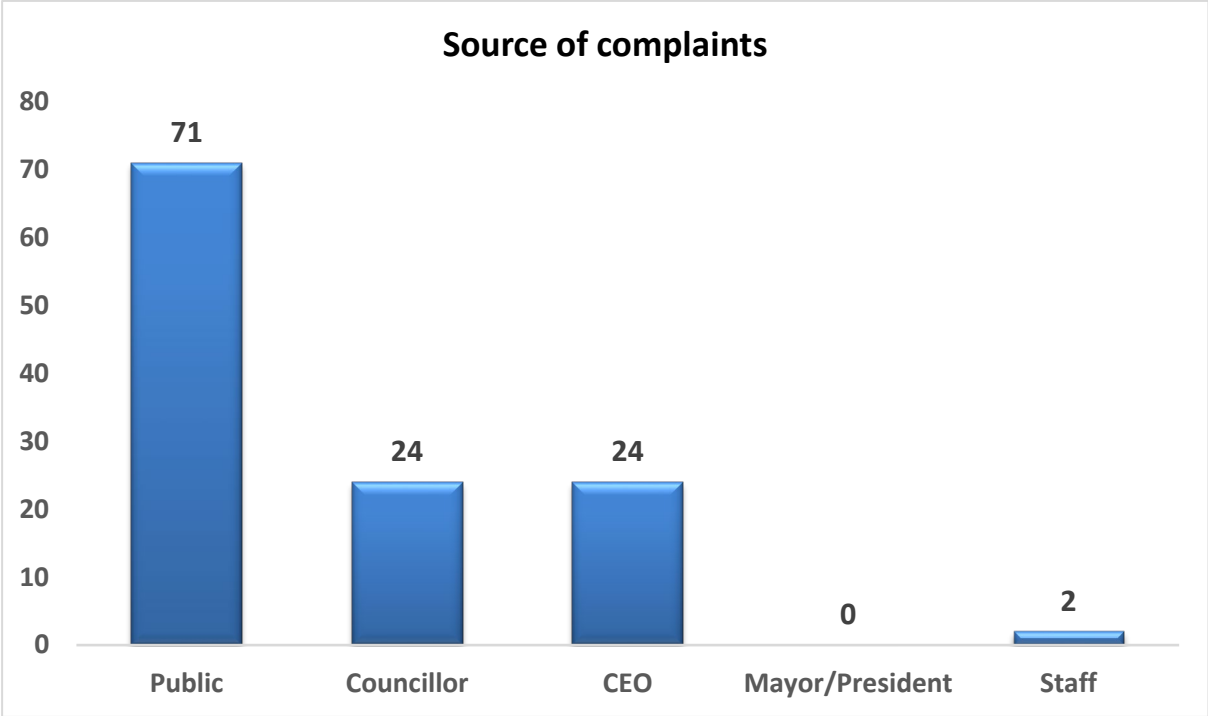
Chart 3: Number of allegations by regulation



Source of complaints

The chart below illustrates the source of the 121 complaints received by the Standards Panel in 2019-20.

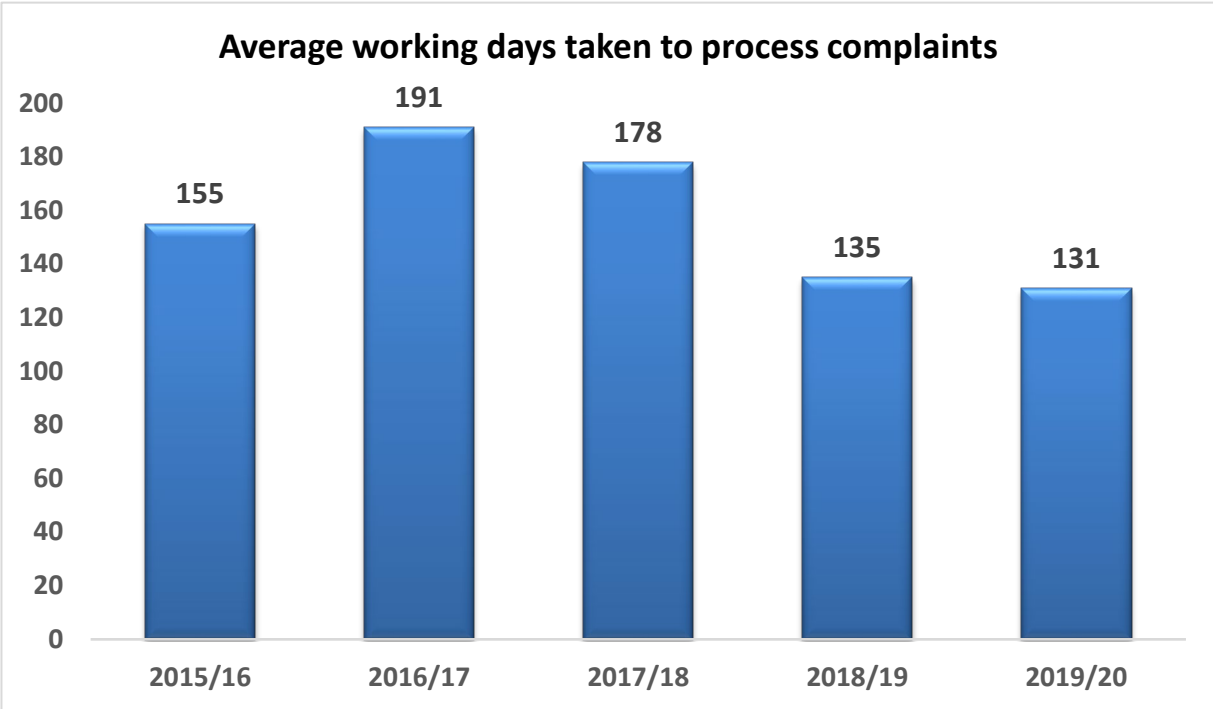
Chart 4: Source of complaints to the Standards Panel



Time taken to finalise complaints in 2019-20

The chart below indicates the time that the Standards Panel took to finalise complaints during 2019-20 compared to previous financial years.

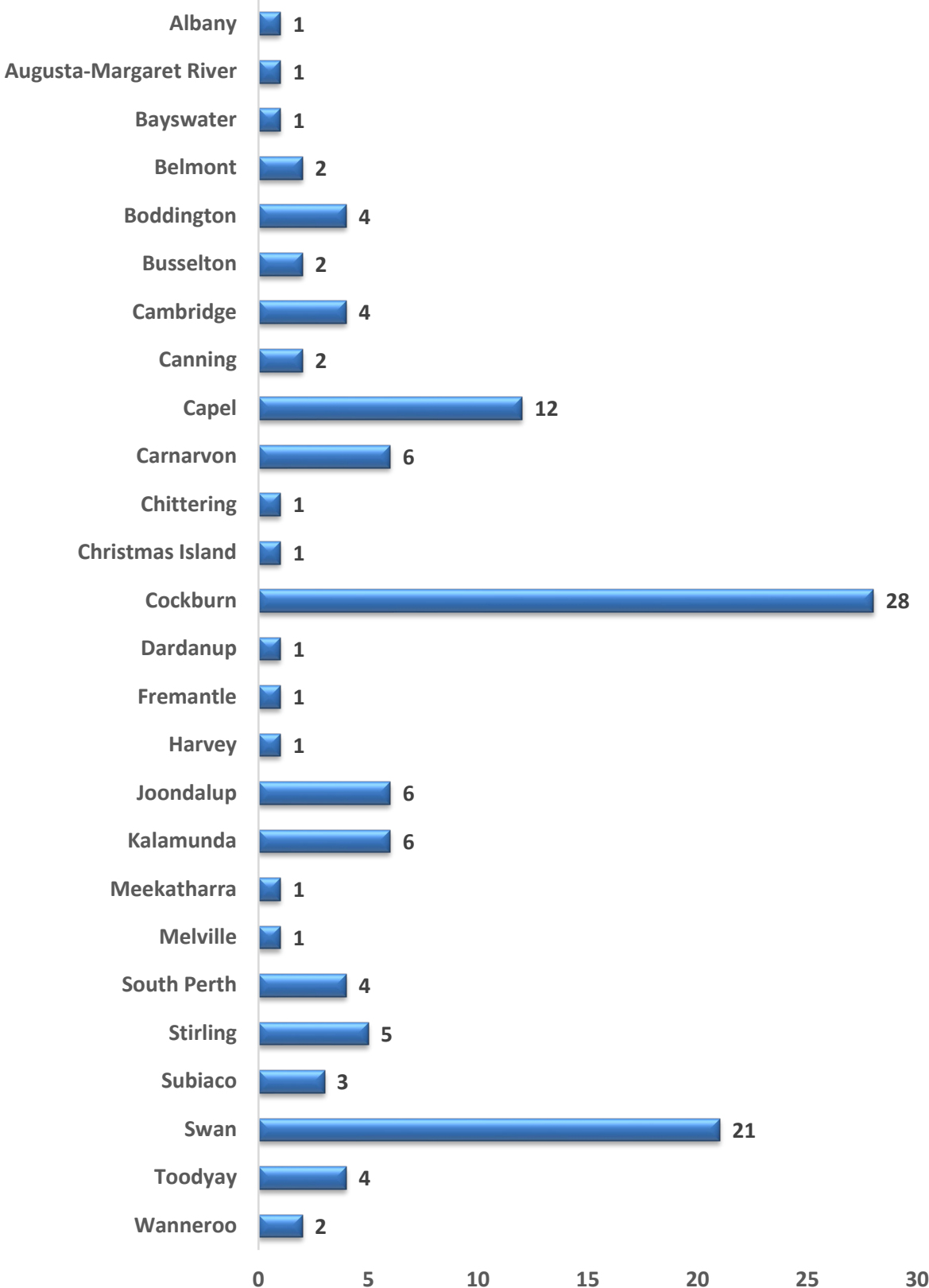
Chart 5: Average working days taken to process complaints



Complaints for each local government

The 121 complaints received during 2019-20 by the Standards Panel were related to 26 local governments as indicated in the table below.

Chart 6: Number of complaints for each local government



Findings

Under section 5.110(2) the Standards Panel is required to make a finding as to whether the alleged breach occurred. Under section 5.110(3A) the Standards Panel can refuse to deal with a complaint if it is satisfied that the complaint is frivolous, trivial, vexatious, misconceived or without substance.

In relation to the 120 complaints finalised in 2019-20, the Standards Panel:

- Made 17 findings that a breach occurred.
- Made 69 findings of no breach.
- Refused to deal with 20 complaints.

Two complaints were not submitted to the Standards Panel as they were invalid, one was withdrawn and 11 were suspended as the respondent was no longer an elected member as a result of the 2019 local government elections.

Chart 7: Findings of complaints finalised

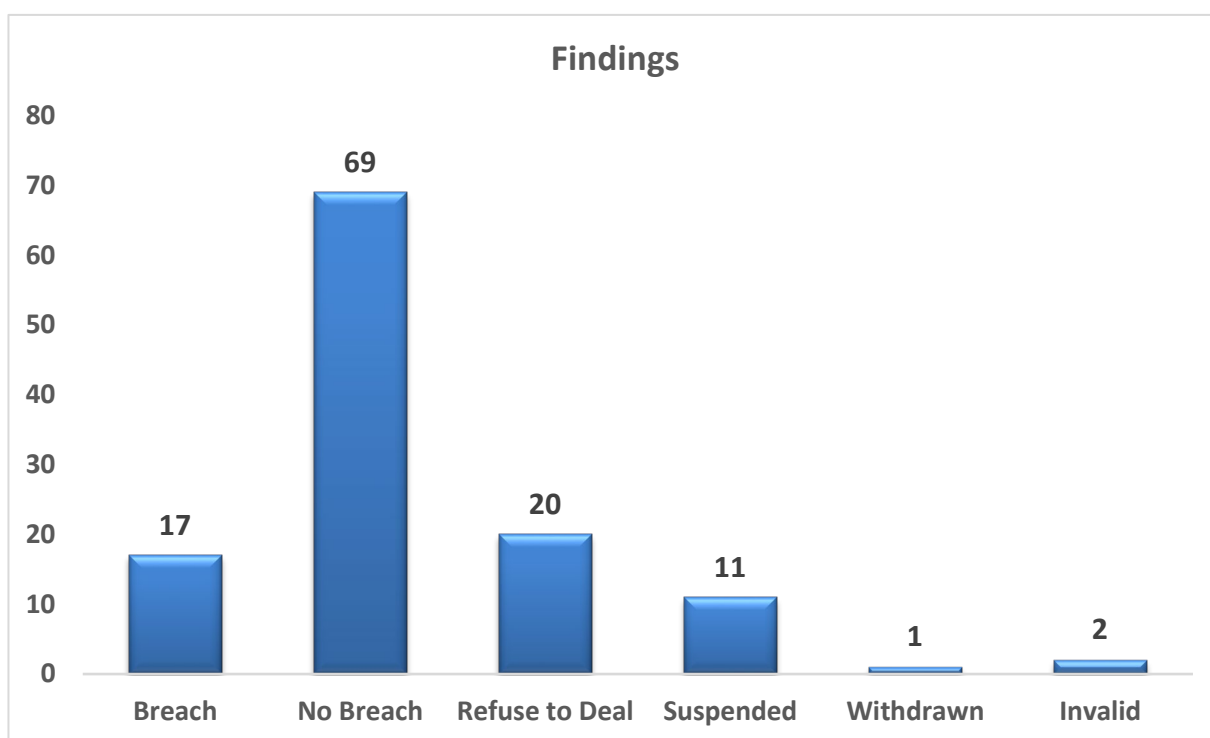
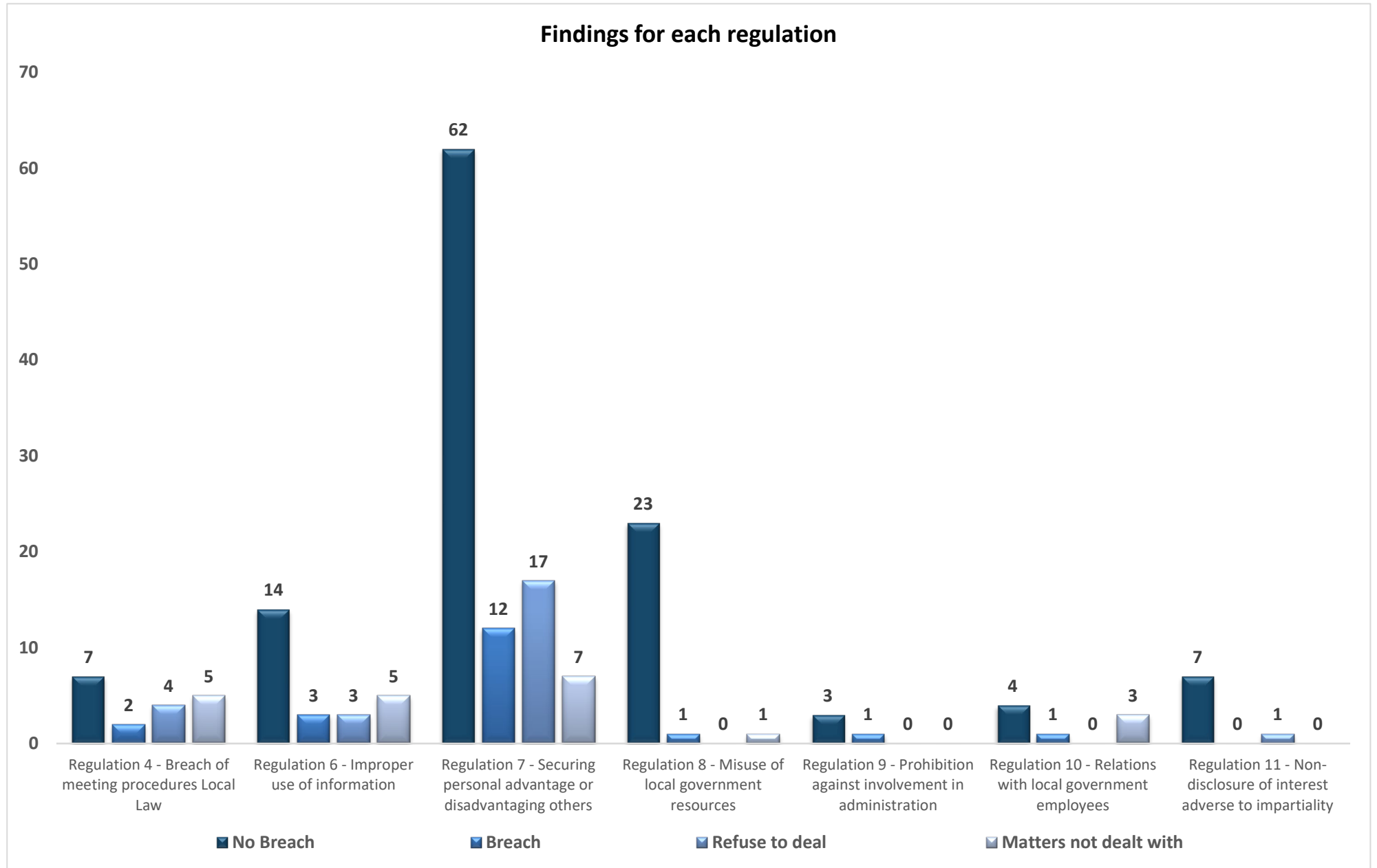


Chart 8: Findings for each regulation



Decisions

Under section 5.110(6) of the Act, the Standards Panel can deal with a minor breach by ordering:

- that no sanction be imposed under section 5.110(6)(a); or
- a sanction under section 5.110(6)(b); or
- a combination of sanctions under section 5.110(6)(c);

The Standards Panel determined that 20 breaches of the regulations occurred in 17 complaints and imposed the following sanctions:

- 11 orders that the elected member make a public apology
- 3 orders that the elected member undertake training
- 1 order that the elected member be publicly censured
- 3 orders that the elected member make a public apology and be publicly censured
- 2 complaints where no sanction was ordered

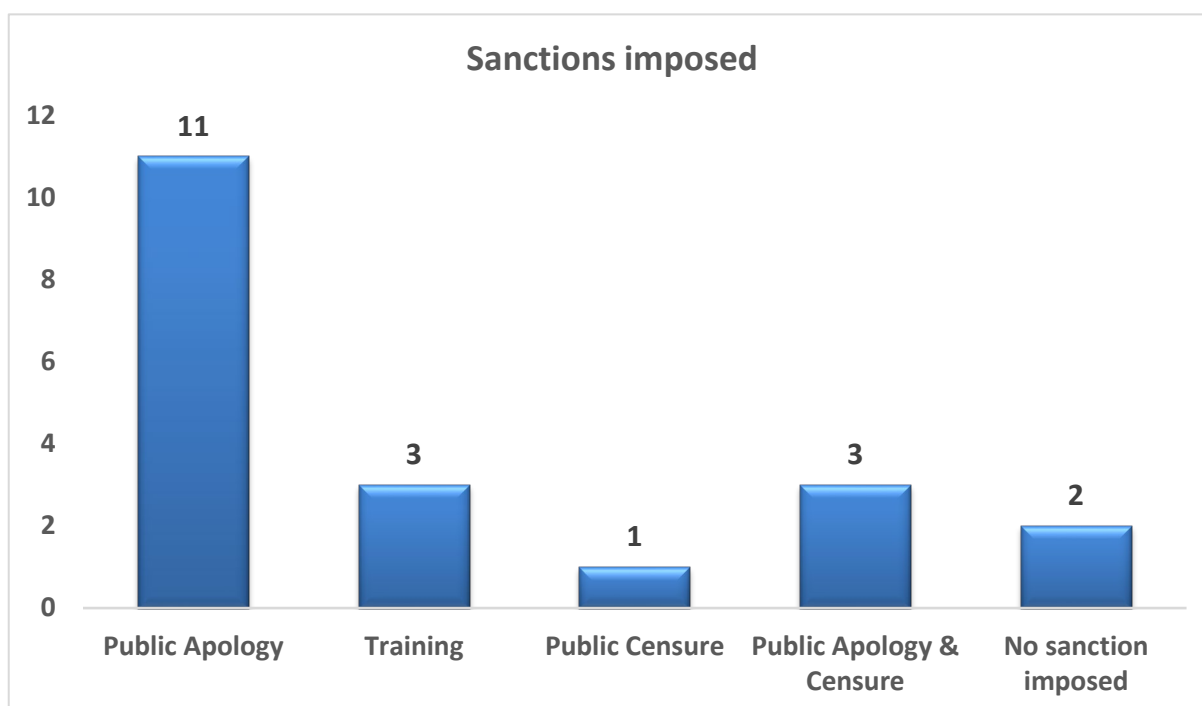
Note: A single complaint can allege multiple breaches of one or more regulations. This can subsequently result in a number of sanctions being imposed for each complaint.

Where a breach is found, parties to a complaint can seek a review of the Standards Panel's decision by the State Administrative Tribunal (SAT) within 28 days of notification. The matters reported here may be subject to review by the SAT and findings or decisions may be overturned.

In 2019-20, five complaints were appealed to SAT and 1 case is yet to be heard. Of the four cases heard, the Standards Panel decision was upheld in three cases and overturned in one case.

The Standards Panel's decisions relating to matters that result in a finding that a breach has occurred are published on the Department's [website](#). Decisions that are the subject of a successful review by the State Administrative Tribunal are not published on the website.

Chart 9: Sanctions imposed for complaints finalised



Types of allegations

Table 1: Outcome of allegations for each regulation

Note: A single complaint can allege multiple breaches of one or more regulations relating to several different incidents.

	No Breach	Breach	Refuse to deal	Matters not dealt with*	Total
Regulation 4 - Breach of meeting procedures Local Law	7	2	4	5	18
Regulation 6 - Improper use of information	14	3	3	5	25
Regulation 7 - Securing personal advantage or disadvantaging others	62	12	17	7	98
Regulation 8 - Misuse of local government resources	23	1	0	1	25
Regulation 9 - Prohibition against involvement in administration	3	1	0	0	4
Regulation 10 - Relations with local government employees	4	1	0	3	8
Regulation 11 - Non-disclosure of interest adverse to impartiality	7	0	1	0	8
Total	120	20	25	21	186

* Invalid, withdrawn or suspended

Table 2: Sanctions imposed for breaches of each regulation

	Public apology	Public censure	Public Apology & Censure	Training	No sanction imposed	Total
Regulation 4 - Breach of meeting procedures Local Law	1	0	1	0	0	2
Regulation 6 - Improper use of information	2	1	0	0	0	3
Regulation 7 - Securing personal advantage or disadvantaging others	7	0	2	1	2	12
Regulation 8 - Misuse of local government resources	1	0	0	0	0	1
Regulation 9 - Prohibition against involvement in administration	0	0	0	1	0	1
Regulation 10 - Relations with local government employees	0	0	0	1	0	1
Regulation 11 - Non-disclosure of interest adverse to impartiality	0	0	0	0	0	0
Total	11	1	3	3	2	20

Meeting attendance 2019-20

Clause 9 of Schedule 5.1 to the Act relates to the remuneration of the Standards Panel members and their deputies and the ability to recover costs from the local governments concerned.

Under Schedule 5.1, clauses 2(a) and 3(2) of the Act, each presiding member and deputy are to be officers of the Department and clause 9(2) specifies that members who are officers of the public service are not entitled to any remuneration or allowances in their roles on the Standards Panel.

Councillors Paul Kelly and Peter Rogers were also officers of the public service for the relevant period and not entitled to any remuneration.

As recommended by the Public Sector Commissioner, sitting fees for the local government member are \$470 per part day meeting or \$720 per full day meeting and he or she may be reimbursed for travel expenses as set out in *Public Sector Commissioner's Circular 2009-20 - Reimbursement of Travel Expenses for Members of Government Boards and Committees*.

The Legal Members sitting fees are \$480 per part day meeting or \$900 per full day meeting. In addition, the Legal Members are entitled to \$240 per hour (up to a maximum of \$900 per matter) for writing the Standards Panel's Reasons for Finding or Decision reports.

Table 3: Fees payable to members for matters dealt with in 2019-20

Panel member	Meeting attendance	Fees payable
Mr Michael Connolly	11	Nil
Mr Gordon MacMile	-	Nil
Ms Sarah Rizk	2	Nil
Councillor Paul Kelly	5	Nil
Councillor Peter Rogers	1	Nil
Councillor Deborah Hopper	1	\$470
Ms Rebecca Aubrey	6	\$2,820
Ms Elanor Rowe	4	\$29,220
Ms Emma Power	9	\$49,668

Costs to local governments

Under clause 9(3) and (4), members' remuneration is costed to the local government of the council member who is the subject of the complaint. Liability for the cost of multiple complaints dealt with by the Standards Panel at the same meeting is apportioned equally between the relevant local governments.

The average cost per finding or decision was \$700.74 (including GST).

The costs for non-public service members' sitting fees and writing fees billed to each local government concerned for the period 1 July 2019 to 30 June 2020 are set out in the following table.

Table 4: Standard Panel fees recoverable from local governments for 2019-20

Local government	Amount (including GST)
Albany	\$897.60
Augusta-Margaret River	\$1,094.50
Boddington	\$2,818.05
Busselton	\$2,610.97
Cambridge	\$5,261.18
Canning	\$4,015.58
Capel	\$6,248.06
Carnarvon	\$396.00
Chittering	\$2,091.47
Christmas Island	\$432.91
Cockburn	\$11,198.67
Dardanup	\$1,094.50
Geraldton	\$1,048.66
Gosnells	\$1,371.33
Harvey	\$644.11
Joondalup	\$2,508.00
Kalamunda	\$2,797.03
Melville	\$4,325.93
Pilbara Regional Council	\$1,120.63
South Perth	\$1,844.21
Stirling	\$3,162.50
Subiaco	\$2,885.36
Swan	\$17,622.90
Toodyay	\$7,835.08
Wanneroo	\$5,070.57

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his report is available for viewing and download from the [Department of Local Government, Sport and Cultural Industries website](#).

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