



Government of **Western Australia**
Local Government Standards Panel

Local Government Standards Panel Annual Report 2017-18

Local Government Standards Panel

Annual Report 2017-18

August 2017

Prepared by:

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Message from the Presiding Member

To: The Minister for Local Government

The following report is the annual report of the Local Government Standards Panel (the Standards Panel) for the period from 1 July 2017 to 30 June 2018.

The Standards Panel composition changed from the previous financial year. The former Departmental Member, Mr Brad Jolly, ceased to be a member on 1 July 2017 with the restructure of the Department of Local Government and Communities. The former Deputy Departmental Member, Mrs Sheryl Siekierka, was appointed as the Departmental Member in August 2017. Mr Mark Beecroft was appointed as the Deputy to the Departmental Member.

Ms Rachel Yates, Deputy for the Legal Member, submitted her resignation effective from 5 June 2018 due to work and personal commitments. Ms Merranie Strauss, Legal Member, has submitted her resignation with effect 31 July 2018. A new Legal Member and Deputy Legal Member are in the process of being appointed.

The Standards Panel has maintained a focus on reducing the time taken for complaints to be finalised by meeting on a more frequent basis with 14 meetings held during the year and dealing with more matters at each meeting. Attention has also been given to streamlining processes and preventing gaming of the system by providing clear timelines for response to requests from the Standards Panel. It was pleasing to be able to deal with the first complaint lodged in 2018 at the April meeting.

There has been a significant increase in the number of complaints lodged in the first half of 2018, with 50 complaints referred to the Standards Panel. This represents close to a 44 per cent increase in the number of complaints in each of the previous five half-yearly periods. It is not known whether this is due to more concern about the behaviour of council members or an increased confidence in the ability of the Standards Panel to deal with matters in a timely manner.

The Standards Panel applied the amendments that were proclaimed in November 2016 to enable it to refuse to deal with a complaint when it determined that 15 complaints were frivolous, trivial, vexatious, misconceived or without substance.

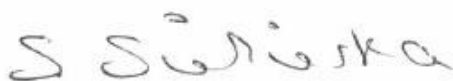
The Standards Panel's decisions (relating to matters that result in a finding that a breach has occurred) are published on the Department's website. Decisions that are the subject of a successful review by the State Administrative Tribunal are not published on the website. The decisions can be found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

It is appropriate that I acknowledge the contributions of Cr Paul Kelly, Ms Rebecca Aubrey, Ms Merranie Strauss and Ms Rachel Yates during the past year, not only in terms of the time they have devoted to the Standards Panel but in building and refining the body of knowledge and precedent relied upon during the deliberation process. This continues to be an invaluable resource for the local government sector.

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

It is my view that the Standards Panel will continue to build on its achievements of 2017-18 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.

I take this opportunity to thank the staff at the Department for their continued hard work and professionalism in providing administration services to the Standards Panel. Without them, the accomplishments of the Standards Panel would not have been possible.



Sheryl Siekierka
Presiding Member
Local Government Standards Panel

August 2018

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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 Regulations or a provision of a local government's local law relating to conduct of council members at council or committee meetings.

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.

The 2017-18 members and their deputies were:

- (1) Presiding Member: Mrs Sheryl Siekierka, Director Strategic Initiatives, Department of Local Government, Sport and Cultural Industries.

Deputy: Mr Mark Beecroft, Director Legislation and Regulatory Support.
- (2) Local Government Member: Councillor Paul Kelly, elected member of the Town of Claremont.

Deputy: Ms Rebecca Aubrey, former elected member of the City of Melville.
- (3) Legal Member: Ms Merranie Strauss, admitted to the legal profession by the Supreme Court of Western Australia and a member of the Mental Health Tribunal.

Deputy: Ms Rachel Yates, admitted to the legal profession by the Supreme Court of Western Australia and an Associate Lecturer at Curtin University.

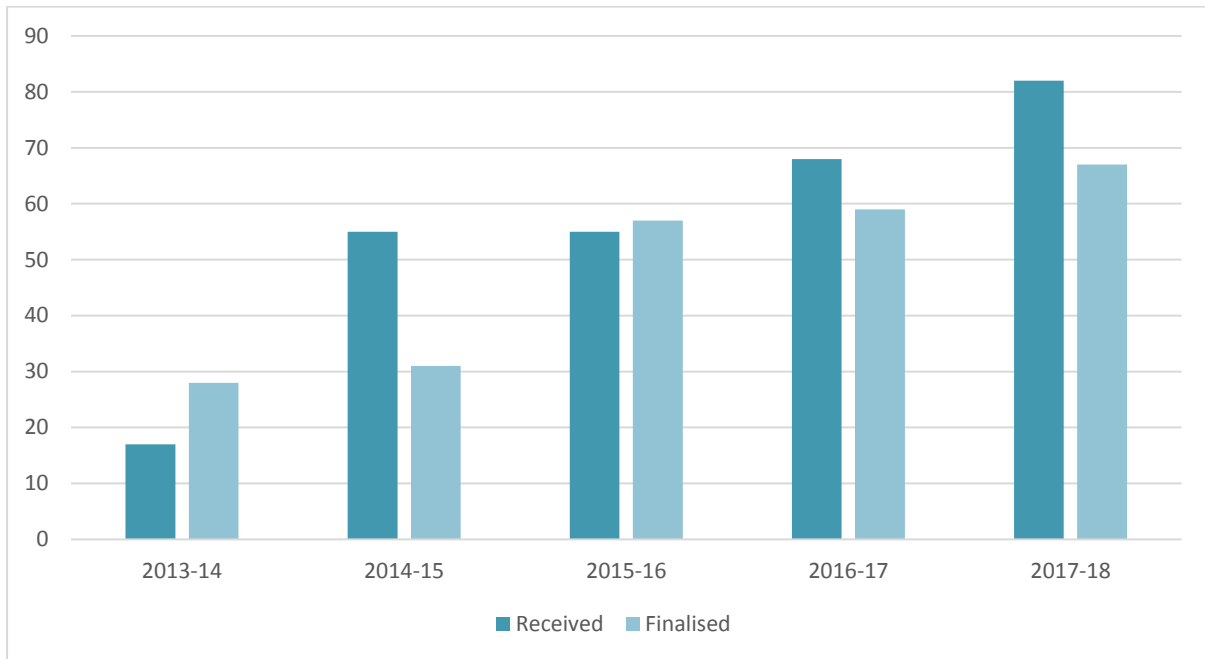
Complaints received and finalised

In the period 2017-18, the Standards Panel received 82 new minor breach complaints and finalised 67 complaints. Finalised matters include complaints received in the previous financial year.

Of the 82 new complaints, 31 were received in the first half of 2017-18, while 50 were received in the second half of the financial year. This is almost as many as were received in the entire 2014-15 and 2015-16 financial years (55 in each) and demonstrates the continuing increase in complaints referred to the Standards Panel.

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 4, there were 95 breaches of regulations alleged within the 67 complaints finalised in 2017-18. This data does not include instances where a complaint may allege multiple breaches of the same regulation.

Chart 1: Standards Panel complaints



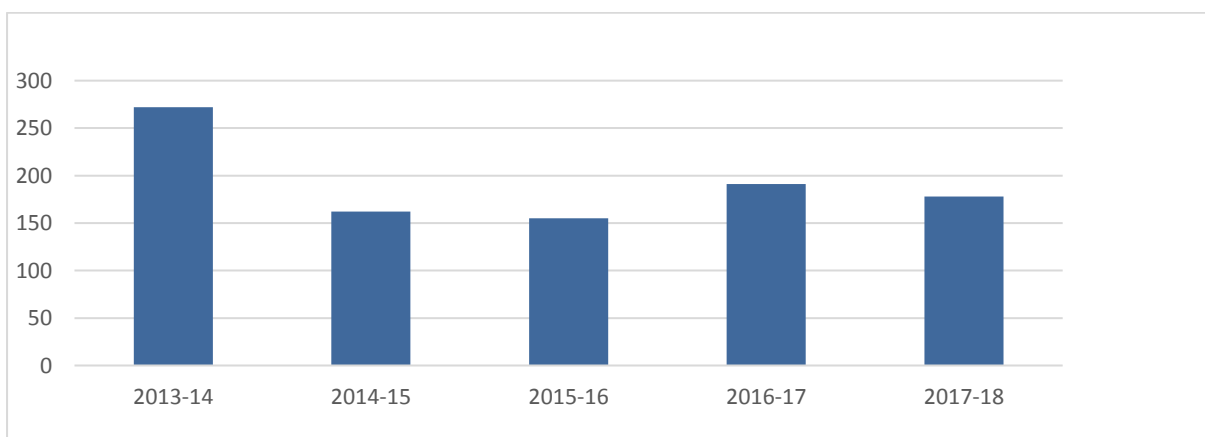
Metro and non-metro split

Of the 82 complaints received during 2017-18 by the Standards Panel, 38 were from metropolitan local governments while 44 were from local governments located outside the metropolitan area.

Time taken to finalise complaints in 2017-18

The chart below indicates the time that the Standards Panel has taken to finalise complaints during 2017-18 compared to previous financial years.

Chart 2: Elapsed days – Standards Panel complaints process

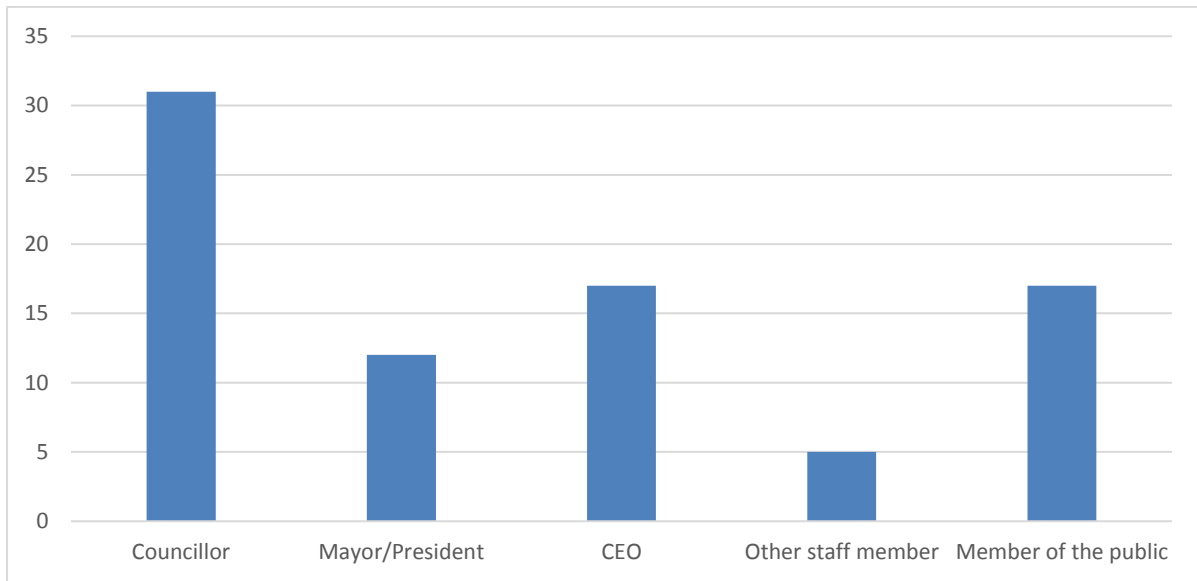


The administration and support provided for the Standards Panel was disrupted during the year due to several internal changes at the Department, however, the overall time taken to deal with complaints was reduced slightly from 2016-17.

Sources of Complaints

The chart below illustrates the source of the complaints received by the Standards Panel in 2017-18.

Chart 3: Source of complaints to the Standards Panel



Complaints per local government

The 82 complaints received during 2017-18 by the Standards Panel concerned 26 local governments as indicated in the table below.

Table 1: Complaints received per local government

Local Government	Complaints	Local Government	Complaints
Shire of Augusta Margaret River	4	City of Kwinana	1
Town of Bassendean	1	City of Melville	10
City of Bayswater	1	Shire of Mundaring	1
Shire of Boddington	2	Town of Nedlands	2
City of Bunbury	2	Shire of Perenjori	1
City of Canning	3	City of Perth	4
Shire of Capel	5	Town of Port Hedland	8
Shire of Chittering	6	City of Rockingham	5
Town of Cottesloe	1	City of Stirling	1
Shire of Dardanup	5	City of Swan	4
Shire of Denmark	3	Town of Victoria Park	3
Shire of Esperance	3	Shire of Victoria Plains	4
City of Kalamunda	1	City of Wanneroo	1

Standards Panel meeting attendance 2017-18

Table 2: Standards Panel attendance

Panel member	Meeting attendance
Mrs Sheryl Siekierka	12
Mr Mark Beecroft	2
Cr Paul Kelly	8
Ms Rebecca Aubrey	7
Ms Merranie Strauss	11
Ms Rachel Yates	3

Findings and decisions

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 67 complaints finalised in 2017-18, the Standards Panel:

- Made 21 findings that a breach occurred.
- Made 17 findings of no breach.
- Refused to deal with 15 complaints.

Three complaints were not submitted to the Standards Panel as they were non-compliant, one was withdrawn and 10 were suspended as the respondent was no longer an elected member and therefore the Standards Panel did not have the jurisdiction to deal with the complaint.

The Standards Panel had also considered a further four complaints that had not been finalised prior to the end of the financial year. In relation to these complaints, the Standards Panel has made two findings of a breach and two findings of no breach.

Decisions

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

- Dismissing the complaint under section 5.110(6)(a) because no sanction was warranted.
- Ordering a sanction under section 5.110(6)(b).
- Ordering a combination of sanctions under section 5.110(6)(c).

Of the 21 minor breaches found in 2017-18, the Standards Panel dismissed two complaints and one complaint process was suspended as the person ceased to be an elected member. The Standards Panel dealt with the remaining 18 complaints by ordering sanctions. These sanctions included:

- Ten orders that the elected member make a public apology.
- Six orders that the elected member undertake training
- One order that the elected member be publicly censured
- One order that the elected member be publicly censured and undertake training.

The Department notes that parties to a complaint can seek a review of the Standards Panel's decisions 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.

Types of allegations

Table 3: Allegations of minor breaches per regulation for matters finalised in 2017-18

	No Breach	Breach	Refuse to deal - S 5.110(3A)	Matters not dealt with	Total
Regulation 4 - Breach of meeting procedures Local Law (Standing Orders)	2	3	6	6	17
Regulation 6 - Improper use of information	0	1	3	1	5
Regulation 7 - Securing personal advantage or disadvantaging others	10	19	7	9	45
Regulation 8 - Misuse of local government resources	2	2	1	1	6
Regulation 9 - Prohibition against involvement in administration	2	3	0	1	6
Regulation 10 - Relations with local government employees	4	2	2	0	8
Regulation 11 - Non-disclosure of interest adverse to impartiality	3	4	1	1	9
Regulation 12 – Prohibited and notifiable gifts	1	0	0	0	1
Total	24	34	20	19	97

Table 4: How minor breaches were dealt with per regulation for matters finalised in 2017-18

	Dismissed	Public apology	Public censure	Training	Total
Regulation 4 - Breach of meeting procedures Local Law (Standing Orders)	0	2	1	1	4
Regulation 6 - Improper use of information	0	0	0	1	1
Regulation 7 - Securing personal advantage or disadvantaging others	1	10	1	5	17
Regulation 8 - Misuse of local government resources	0	0	0	0	0
Regulation 9 - Prohibition against involvement in administration	0	0	0	1	1
Regulation 10 - Relations with local government employees	0	1	0	0	1
Regulation 11 - Non-disclosure of interest adverse to impartiality	1	0	1	2	4
Total	2	13	3	10	28

Costs to local governments

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

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 Member’s (and Deputy) sitting fees are \$480 per part day meeting or \$900 per full day meeting. In addition, the Legal Member (and Deputy) 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.

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.

Table 5: Fees payable to members during 2017-18

Panel member	Fees
Mrs Sheryl Siekierka	Nil
Mr Mark Beecroft	Nil
Cr Paul Kelly	Nil
Ms Rebecca Aubrey	\$ 3,290
Ms Merranie Strauss	\$ 52,465
Ms Rachel Yates	\$ 12,240

Under Schedule 5.1, clauses 2(a) and 3(2) of the Act, each of the presiding members and his/her deputy are to be officers of the Department. Cr Paul Kelly was an officer of the public service for the relevant period, while Ms Aubrey was an officer for part of the year.

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 \$1,030.23.

The costs billed to each local government concerned are set out in the following table.

Table 6: Standard Panel fees recoverable from local governments for 2017-18

Local Government Standards Panel non-public service members' sitting fees and writing fees paid or otherwise recoverable by the department for the period 1 July 2017 to 30 June 2018, excluding GST.

Local government	Amount (excluding GST)
City of Albany	\$ 2,016.00
Shire of Augusta-Margaret River	\$ 4,086.00
City of Bayswater	\$ 1,137.50
Shire of Boddington	\$ 1,058.35
Town of Cambridge	\$ 1,058.35
City of Canning	\$ 3,066.00
Shire of Chittering	\$ 6,964.00
Town of Cottesloe	\$ 3,083.35
Shire of Dardanup	\$ 4,361.00
Shire of Denmark	\$ 3,112.70
Shire of Donnybrook-Balingup	\$ 237.50
Shire of Esperance	\$ 1,137.50
City of Joondalup	\$ 1,058.35
City of Kalamunda	\$ 2,180.00
City of Melville	\$ 2,000.00
Town of Mosman Park	\$ 1,980.00

Local government	Amount (excluding GST)
Shire of Mundaring	\$ 1,020.00
City of Nedlands	\$ 4,360.00
Shire of Northam	\$ 900.00
City of Perth	\$ 1,137.50
Town of Port Hedland	\$ 5,169.50
Shire of Ravensthorpe	\$ 1,137.50
City of Rockingham	\$ 980.00
City of Stirling	\$ 980.00
City of Subiaco	\$ 3,412.50
City of Swan	\$ 3,036.00
Shire of Victoria Plains	\$ 4,078.00
City of Wanneroo	\$ 3,247.50

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