



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

A decorative blue geometric pattern consisting of various shades of blue triangles and squares, located on the left side of the page.

Local Government Standards Panel Annual Report 2014-2015



Local Government Standards Panel

Annual Report 2014-2015

August 2015

Prepared by:

Department of Local Government and Communities

140 William Street

Perth WA 6000

GPO Box R1250

PERTH WA 6844

Tel: (08) 6551 8700

Fax: (08) 6552 1555

Freecall: 1800 620 511 (Country Only)

Email: info@dlgc.wa.gov.au

Web: www.dlgc.wa.gov.au

Translating and Interpreting Service (TIS) - Tel: 13 14 50

All or part of this document may be copied. Due recognition of source would be appreciated.

If you would like more information please contact the Department of Local Government and Communities.

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 2014 to 30 June 2015.

The Standards Panel composition changed from the previous financial year.

In late October 2014 Mr Glenn Cridland ceased to be the Standards Panel's legal member and his deputy, Mr Peter Doherty, was appointed as the replacement legal member. Mr Richard Hooker was appointed as deputy for Mr Doherty.

It is appropriate that I acknowledge the significant ongoing contributions of all Standards Panel members, past and present, not only in terms of their time 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 continually relied on by me, as the departmental member, and the local government sector as a whole.

The Standards Panel is cognisant of the need for continual improvement, not only in the administrative and determinative processes of the Standards Panel, but in the manner in which the Standards Panel's primary legislation, the *Local Government (Rules of Conduct) Regulations 2007* reflects the needs and aspirations of the industry in regard to behavioural matters. To this end, the Department of Local Government and Communities (DLGC) is undertaking a review of the Regulations and associated complaints processes. This builds on a previous review conducted in 2011, which has resulted in some process improvements and amendments to the *Local Government Act 1995* (the Act) currently under consideration by Parliament. Further amendments to the Act are not within the scope of the current review.

It is understood the DLGC will consult with the sector and seek comment on proposed amendments to the Regulations and to the complaint processes.

In embracing the challenges ahead, the Standards Panel remains committed to its objectives of making decisions that promote and enforce high behavioural standards by elected members in local governments across Western Australia.

I take this opportunity to thank the staff at DLGC 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.

It is my view that the Standards Panel and its support services will continue to build on its achievements in 2014-15 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.

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

A handwritten signature in black ink, appearing to be 'BJ' or similar, written in a cursive style.

Brad Jolly
Presiding Member
Local Government Standards Panel
August 2015

Contents

Message from the Presiding Member	3
Overview.....	6
Composition of the Standards Panel	6
Disciplinary Framework	7
Administration and Support Services.....	7
Number of Standards Panels Established	7
Complaints Received and Finalised	8
• Determination of Complaints Received in 2014-2015	9
• Sources of Complaints Received in 2014-2015	10
• Persons of Interest in Complaints Received in 2014-2015	11
• Metro / Non-Metro split	11
Number of Standards Panel Meetings Held.....	11
Standards Panel Meeting Attendance	12
Requirement for Annual Report	13
Findings of Minor Breach or Otherwise	13
Types of Allegations	14
Complaints Dealt With under Section 5.110(6)(b) or (c)	15
Costs to Local Governments of Non-Public Servant Member Fees and Allowances...	16

Overview

The Local Government Standards Panel (the Standards Panel) is the primary standards panel established in late 2007 following the commencement of the *Local Government (Official Conduct) Amendment Act 2007* (the Official Conduct Act) and the introduction of the *Local Government (Rules of Conduct) Regulations 2007* (the Regulations).

The purpose of the Official Conduct Act and the Regulations was to provide a disciplinary framework to deal with certain types of individual misconduct by local government council members.

Composition of the Standards Panel

The Standards Panel is comprised of three members and three deputy members, all of whom are appointed by the Minister for Local Government (the Minister).

The members of the Standards Panel and their deputies are:

- (1) The Presiding Member, Mr Brad Jolly, who is Executive Director Sector Regulation and Support in the Department of Local Government and Communities. His deputy is Dr Christopher Berry, another Senior Officer at DLGC.
- (2) The Local Government Member, Councillor Paul Kelly, a current elected member of the Town of Claremont. His deputy is The Right Honourable The Lord Mayor, Ms Lisa-Michelle Scaffidi.
- (3) The Legal Member, Mr Peter Doherty, is a practising barrister. His deputy is Mr Richard Hooker, also a practising barrister.

Disciplinary Framework

The Official Conduct Act established what is largely now Division 9 Part 5 of the *Local Government Act 1995* (the Act), and Schedule 5.1 to the Act. It provides for a complaints system whereby certain alleged (mis)conduct of an individual council member can be reviewed.

As a consequence of the *Official Conduct Act*, the Act provides for the establishment of a Standards Panel by the Minister. The Standards Panel's function is to receive and deal with complaints, made by any person, of alleged minor breaches – that is, 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 people at council or committee meetings.

Administration and Support Services

During 2014-2015 the Standards Panel's administration and support services (including pre-hearing matters) were provided by DLGC.

Number of Standards Panels Established

Although the Act allows for the establishment of more than one standards panel, to date the Minister has established the primary standards panel only. It is this panel which is known as the Local Government Standards Panel.

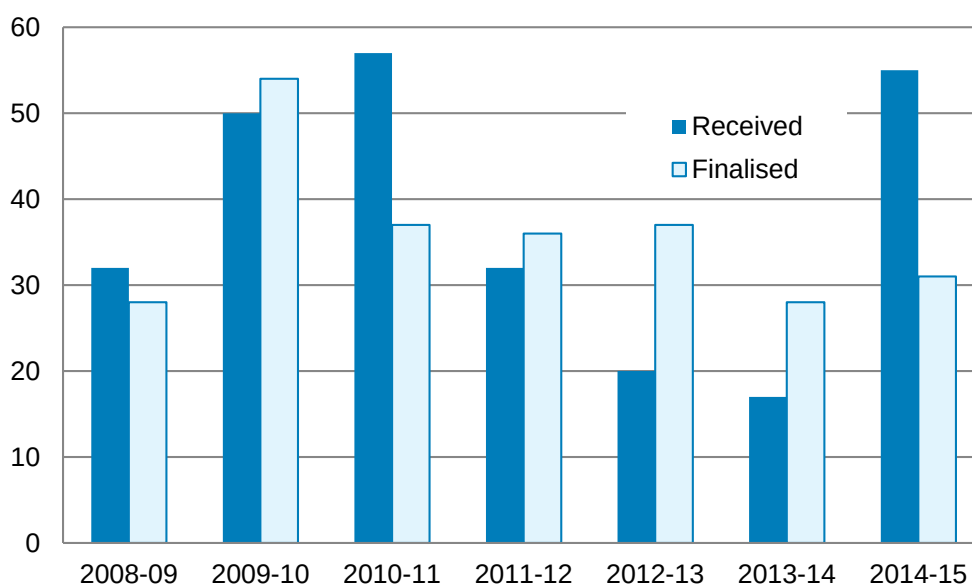
Complaints Received and Finalised

In the period of 1 July 2014 to 30 June 2015, the Standards Panel received 55 minor breach complaints, and 31 complaints (which include complaints received in the previous financial year) were finalised.

The time taken to finalise minor breach complaints has been significantly reduced by the use of the deputy Legal Member to deal with new complaints as a sitting member of the Standards Panel when the Legal Member is unavailable.

The following table compares the respective number of Minor Breach Complaints received and finalised in the period 2014-2015 compared to the number of such complaints received and finalised in previous financial years.

Chart 1: Standards Panel Complaints



As the graph shows there has been a significant increase in the number of complaints lodged, and this has accelerated across the 2014-2015 financial year. As an example, 20 minor breach complaints were submitted in the first six months and a further 35 in the second six months.

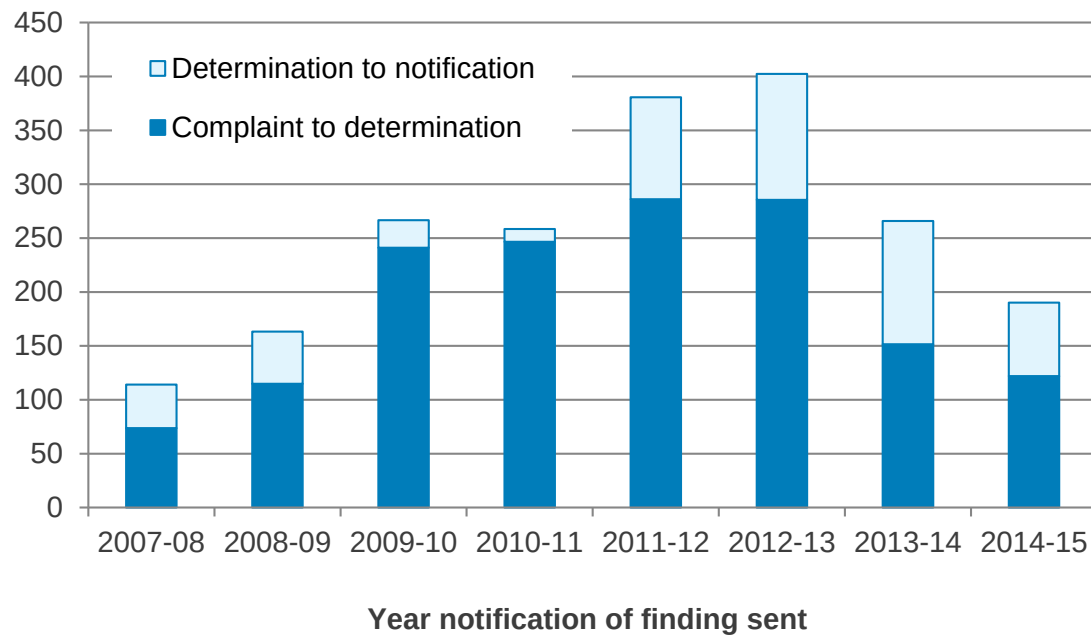
There were 115 allegations contained within the 55 minor breach complaints that the Standards Panel received.

Of the complaints finalised in the period of 2014-2015, 10 minor breach complaints were finalised in 2014 and a further 21 were finalised in 2015.

Determination of Complaints Received in 2014-2015

The chart below indicates the time that the Standards Panel has taken to determine complaints for the period 2014-2015 compared to previous financial years.

Chart 2: Elapsed Days – Standards Panel complaints process

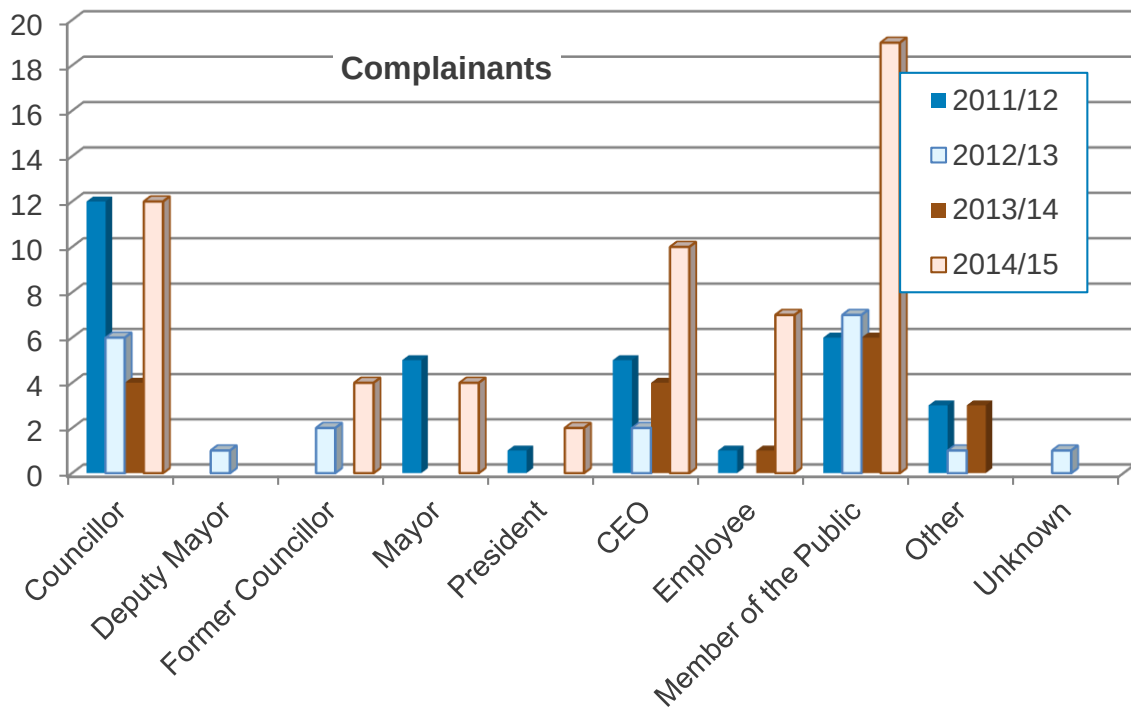


There has been a significant improvement in the time taken to make determinations and in the time from the determination to the notification (the natural justice process) since the processes for handling complaints were reviewed and amended in 2011.

Sources of Complaints Received in 2014-2015

The chart below indicates the sources of the 55 complaints the Standards Panel received in the period 2014-2015 compared to the number of such complaints received in previous financial years.

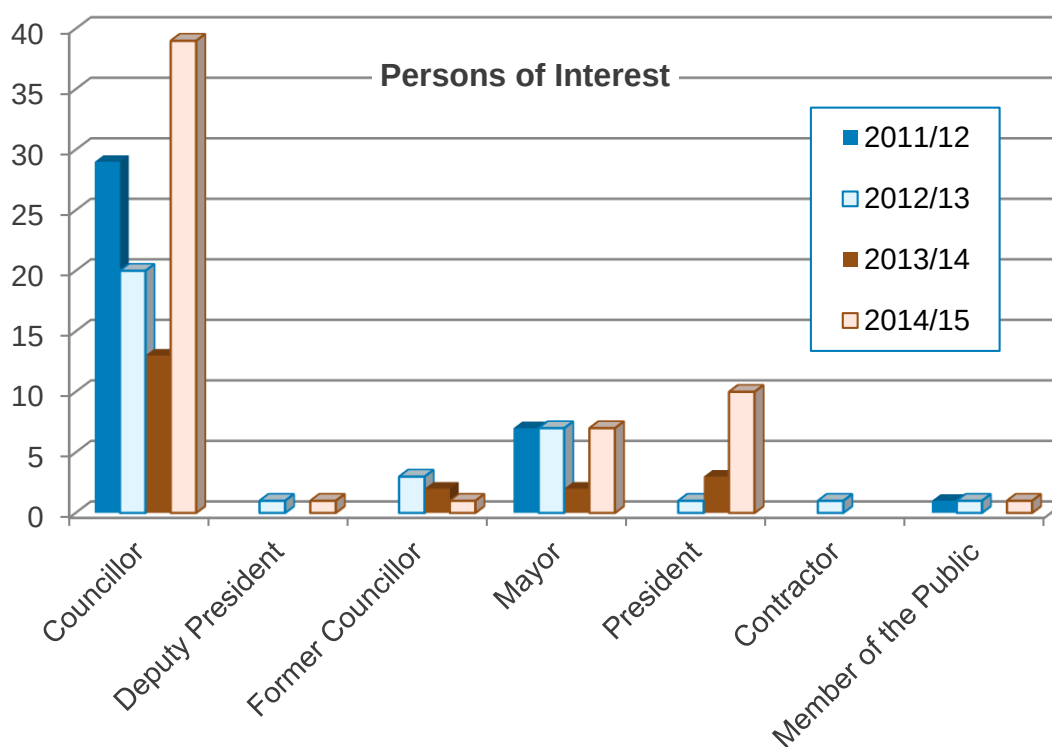
Chart 3: Source of Complaints Standards Panel



Persons of Interest in Complaints Received in 2014-2015

The chart below indicates who the complaints were made against in the period 2014-2015 compared to the number of such complaints received in previous financial years.

Chart 4: Persons of Interest in complaints received



Metro / Non-Metro split

Twenty of the 55 complaints received during 2014-2015 by the Standards Panel were from Metropolitan councils. The other 35 were from councils outside the Metropolitan Area.

Number of Standards Panel Meetings Held

During 2014-2015 the Standards Panel held ten meetings.

Four of the Standards Panel meetings were held during the first six months. A further six meetings were held in the second six months.

Ten meetings were also held in 2013-2014.

Standards Panel Meeting Attendance

Table 1: Standards Panel Attendance

Panel member	Meeting attendance
Presiding Member – Mr Brad Jolly	10
Deputy – Dr Christopher Berry	2
Local Government Member – Councillor Paul Kelly	9
Deputy – The Right Honourable The Lord Mayor, Ms Lisa-Michelle Scaffidi	1
Legal Member – Mr Peter Doherty	7
Deputy – Mr Richard Hooker	2
Former Legal Member – Mr Glenn Cridland	1

Requirement for Annual Report

Clause 11 of Schedule 5.1 of the Act 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).”

Findings of Minor Breach or Otherwise

During 2014-2015, 31 Complaints of Minor Breach were finalised. In relation to these matters:

- (a) the Standards Panel made findings that:
 - no minor breach had occurred in relation to 16 complaints
 - eight minor breaches had occurred in relation to seven complaints
- (b) six complaints were finalised on the basis that the Standards Panel did not have jurisdiction to consider them or there was no allegation of minor breach made in them
- (c) two complaints were finalised by becoming suspended as a consequence of the councillor, the subject of the complaint, ceasing to be a council member.

Types of Allegations

Table 2: Allegations Closed between 1 July 2014 and 30 June 2015 (contained within 31 Minor Breach Complaints)

For Minor Official Conduct Projects	Breach of Meeting Procedures Local Law (Standing Orders)	Gifts	Unauthorised disclosure of information	Misuse of local government resources	Non-disclosure of interest adverse to impartiality	Prohibition against involvement in administration	Relations with local government employees	Securing personal advantage or disadvantaging others	Total
Breach - Complaint Dismissed	2								2
No Breach	1		3	1	4	3	6	15	33
No Jurisdiction	1	2	1		1			1	6
Breach - Public Apology			1		2		2	1	6
Non-Complying Complaint			2						2
No Longer An Elected Member – Matter Suspended					4			1	5
Total	4	2	7	1	11	3	8	18	54

Complaints Dealt With under Section 5.110(6)(b) or (c)

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

- dismissing the complaint under s 5.110(6)(a)
- ordering a sanction under s 5.110(6)(b), or
- ordering a combination of sanctions under s 5.110(6)(c).

In 2014-2015 the Standards Panel dealt with five complaints by ordering sanctions. The sanctions ordered consisted of five public apologies.

DLGC publishes copies of the Standards Panel's minor breach findings and reasons for them online, where:

- the minor breach/es found by the Standards Panel has/have been dealt with by it by making an order under section 5.110(6)(b) or (c), and
- the State Administrative Tribunal ('the Tribunal') has not upheld a review against all of the Standards Panel's minor breach findings concerned in regard to the complaint concerned.

The Tribunal publishes online copies of most of its decisions on its reviews of the Standards Panel's decisions to deal with a minor breach by dismissing the complaint under section 5.110(6)(a) or to make an order under section 5.110(6)(b) or (c).

The State Administrative Tribunal website is found at www.sat.justice.wa.gov.au

Costs to Local Governments of Non-Public Servant Member Fees and Allowances

Subclauses 9(1) and 9(2) of Schedule 5.1 to the Act relate to the amount (if any) of the remuneration and allowances of the Standards Panel members and their deputies.

Unless the Local Government Member is an officer of the Public Service, his or her current sitting fees are \$720 per full day meeting (more than four hours) or \$470 per part day meeting (four hours or less), and he or she may be reimbursed for travel expenses as set out in Premier's Circular 2006/01 - Reimbursement of Travel Expenses for Members of Government Boards and Committees. The Legal Member's current sitting fees are \$900 per full day meeting or \$480 per part day meeting. In addition, when the Legal Member is required to write a 'reasons for decision' he is currently entitled to \$240 per hour up to a maximum of \$900 per matter.

Member's remuneration and allowances are proportionately costed to the local government of the council member who is the subject of the particular complaint the Standards Panel is dealing with at the time. Liability for cost of multiple complaints dealt with by the Standards Panel on the same occasion (that is, at the same meeting), is apportioned between the relevant local governments as the Standards Panel determines.

The costs billed to the local governments concerned in regard to the Standards Panel's fees and allowances are as set out in the following table.

Table 3: Standard Panel Fees invoiced to Local Governments in August 2015

Recovery of Local Government Standards Panel Non-Public Service Members' Sitting Fees paid or otherwise recoverable by DLGC regarding claim forms lodged in the period 1 July 2014 to and including 30 June 2015, plus GST; and certain writing of reasons fees, plus GST.

Local Government	Number of Complaints	Amount invoiced (including GST)
Shire of Augusta – Margaret River	1	\$2,143.43
Shire of Coolgardie	1	\$2,156.00
Shire of Cue	2	\$2,394.87
Shire of Dardanup	2	\$1,254.00
Shire of Denmark	1	\$1,078.00
Shire of Donnybrook-Balingup	2	\$2,156.00
City of Gosnells	2	\$352.00
City of Joondalup	1	\$2,143.43
Shire of Manjimup	2	\$1,166.00
City of Melville	2	\$2,376.00
Town of Mosman Park	1	\$2,508.00
Shire of Mundaring	1	\$2,332.00
Town of Port Hedland	5	\$4,449.03
Shire of Upper Gascoyne	1	\$1,078.00
City of Vincent	1	\$1,166.00
Shire of Wandering	2	\$2,244.00
Shire of Wyndham – East Kimberley	7	\$2,746.86
Totals:	34	\$33,743.62
Average fee per complaint		\$992.46

Disclaimer: The information in this report is provided in good faith and is derived from sources believed to be reliable and accurate. No representation or warranty, express or implied, is made as to the accuracy, completeness or fitness for purpose of this report. The reader of this report should satisfy him or herself concerning its application to their situation. The State of Western Australia, the Local Government Standards Panel, and the Department of Local Government and Communities and their officers expressly disclaim liability for any act or omission occurring in reliance on this document or for any consequences of such act or omission.

This report is available for viewing and download from the Department of Local Government and Communities website: www.dlgc.wa.gov.au

For more information, please contact:

Department of Local Government and Communities
Gordon Stephenson House, 140 William Street, Perth WA 6000
GPO Box R1250, Perth WA 6844
Telephone: (08) 6551 8700 Fax: (08) 6552 1555
Freecall: 1800 620 511 (Country only)
Email: info@dlgc.wa.gov.au Website: www.dlgc.wa.gov.au

Translating and Interpreting Service (TIS) – Telephone: 13 14 50