



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

Local Government Standards Panel

2018-19 Annual Report



Local Government Standards Panel

Annual Report 2018-19

August 2019

Prepared by:

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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 2018 to 30 June 2019.

The Standards Panel composition changed from the previous financial year. In April 2019 Mrs Sheryl Siekierka ceased as the Presiding Member and I was appointed on 8 April 2019. Mr Mark Beecroft was replaced by Ms Sarah Rizk as the Deputy to the Presiding Member with effect from 18 March 2019.

Ms Emma Power was appointed as a Legal Member of the Panel from 31 July 2018 and Ms Elanor Rowe was appointed as a Deputy Legal Member from 23 July 2018.

It is appropriate that I acknowledge the former members for their contribution to the Standards Panel. I also wish to express my appreciation to the current members, Ms Sarah Rizk, Cr Paul Kelly, Ms Rebecca Aubrey, Ms Emma Power and Ms Elanor Rowe. All members should be acknowledged for the time they devote to the Standards Panel and also the work they have done to build and refine the body of knowledge and precedent relied upon during the deliberation process.

I would also like to 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.

In 2018-19 the Standards Panel maintained a focus on reducing the time taken for complaints to be finalised by meeting on a more frequent basis with 22 meetings held during the year - an increase from 14 last year - and dealing with more matters at each meeting.

While there has been a significant increase in the number of complaints lodged in 2018-19, with 147 complaints referred to the Standards Panel compared to 82 in 2017-18, the panel was able to finalise 126 complaints.

Amendments to the *Local Government Act 1995* will see a mandatory Code of Conduct introduced which all council members will be required to comply with and a requirement for candidates and council members to undertake universal training. This will ensure council members have the necessary training to understand and carry out their role.

Further changes include the power for the Standards Panel to order a council member to reimburse the local government for the cost of the panel proceedings for adverse findings and enabling the Standards Panel to request that both parties to a complaint participate in mediation before the complaint is heard or considered.

Another significant amendment is reducing the time period for lodging complaints from two years to six months.

Confidentiality provisions will also apply during the full process of consideration and finding of a breach, not just during an election period. This will provide greater protection of the reputation of those council members where no breach is found, and potentially reduce the number of complaints being made to cause detriment through adverse publicity.

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 2018-19 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

27 August 2019

Contents

Message from the Presiding Member	3
Overview.....	6
Members of the Standards Panel	6
Complaints received and finalised	7
Findings	11
Decisions	13
Costs to local governments	16

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 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.

At the conclusion of the 2018-19 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:

Ms Sarah Rizk, Legal Counsel, Department of Local Government, Sport and Cultural Industries

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.

Legal Member:

Ms Emma Power

Deputy:

Ms Elanor Rowe

Complaints received and finalised

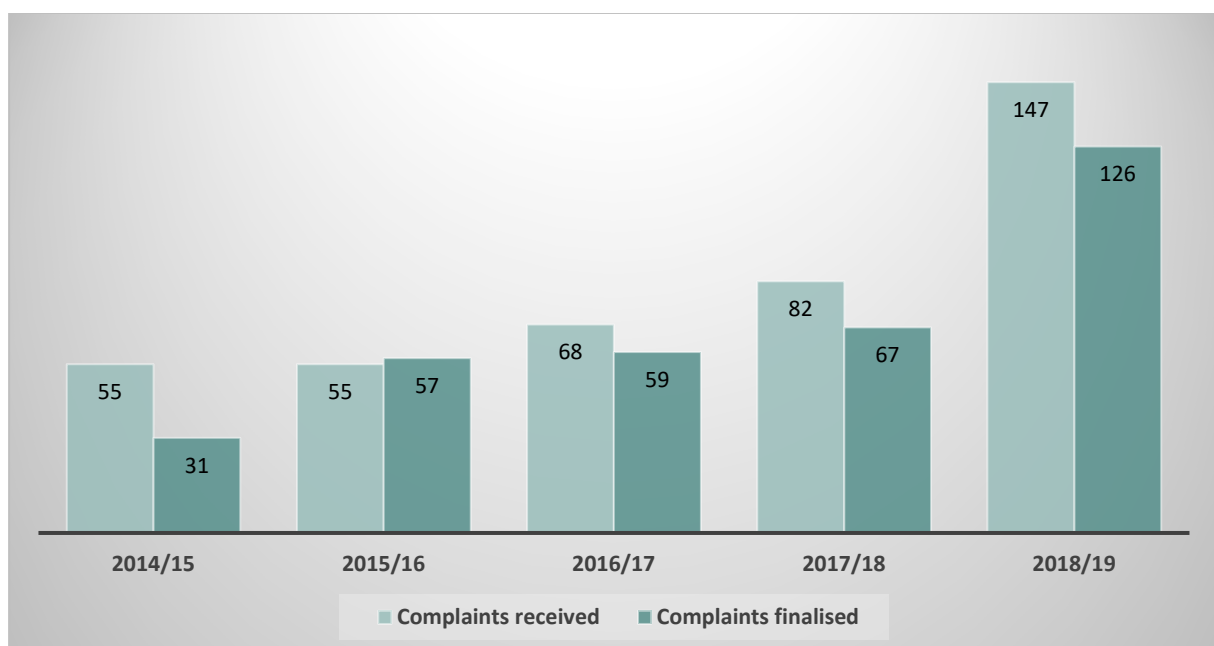
In the period 2018-19, the Standards Panel received 147 new minor breach complaints and finalised 126 complaints. Finalised matters include complaints received in the previous financial year.

The lodgement of 147 new complaints compared to 82 in 2017-18 represents an 80% increase and follows the trend of a continuing increase 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 source of complaints lodged. **Chart 4** shows which local governments were subject to complaints and the number 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 *significant* reduction in the number of days taken to finalise complaints was achieved in 2018-19.

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 203 breaches of regulations alleged within the 126 complaints finalised in 2018-19. This data does not include instances where a complaint may allege multiple breaches of the same regulation. **Table 2** provides details of the findings for each of the regulations.

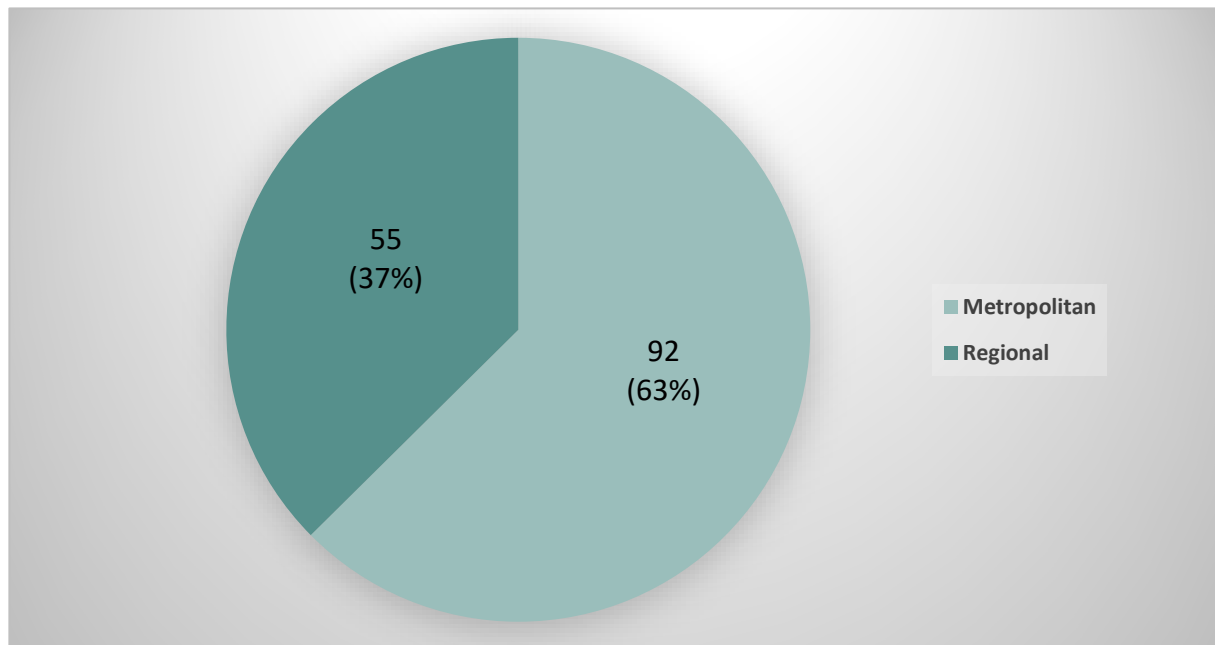
Chart 1: Number of complaints received and finalised



Metropolitan and Regional breakdown

Of the 147 complaints received by the Standards Panel during 2018-19, 92 related to metropolitan local governments while 55 related to regional local governments.

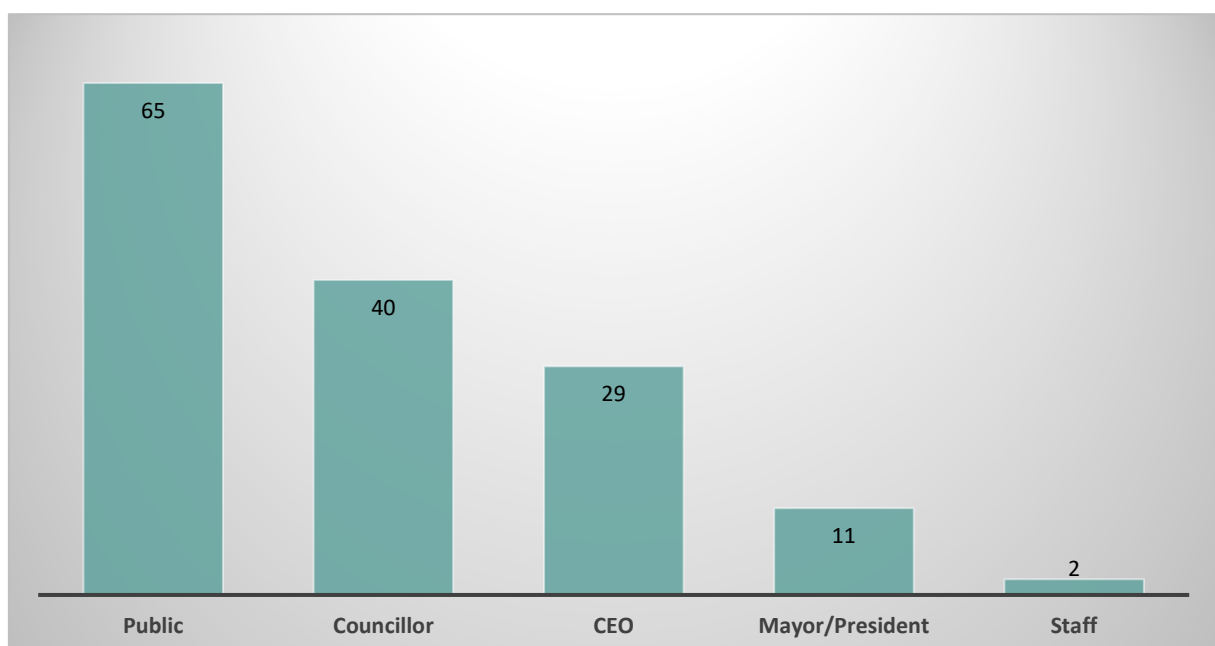
Chart 2 – Metropolitan and regional breakdown



Source of complaints

The chart below illustrates the source of the 147 complaints received by the Standards Panel in 2018-19.

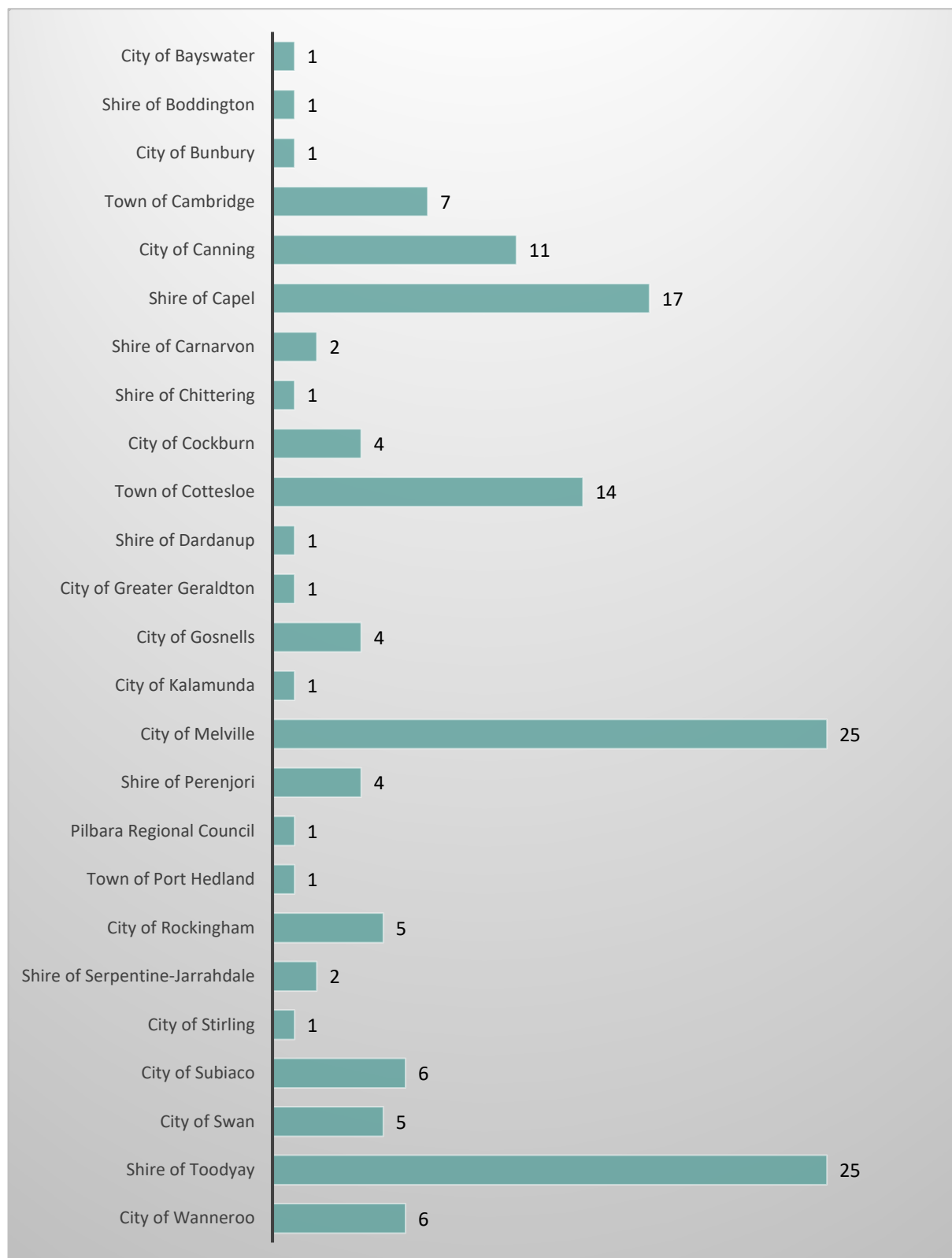
Chart 3: Source of complaints to the Standards Panel



Complaints for each local government

The 147 complaints received during 2018-19 by the Standards Panel concerned 25 local governments as indicated in the table below.

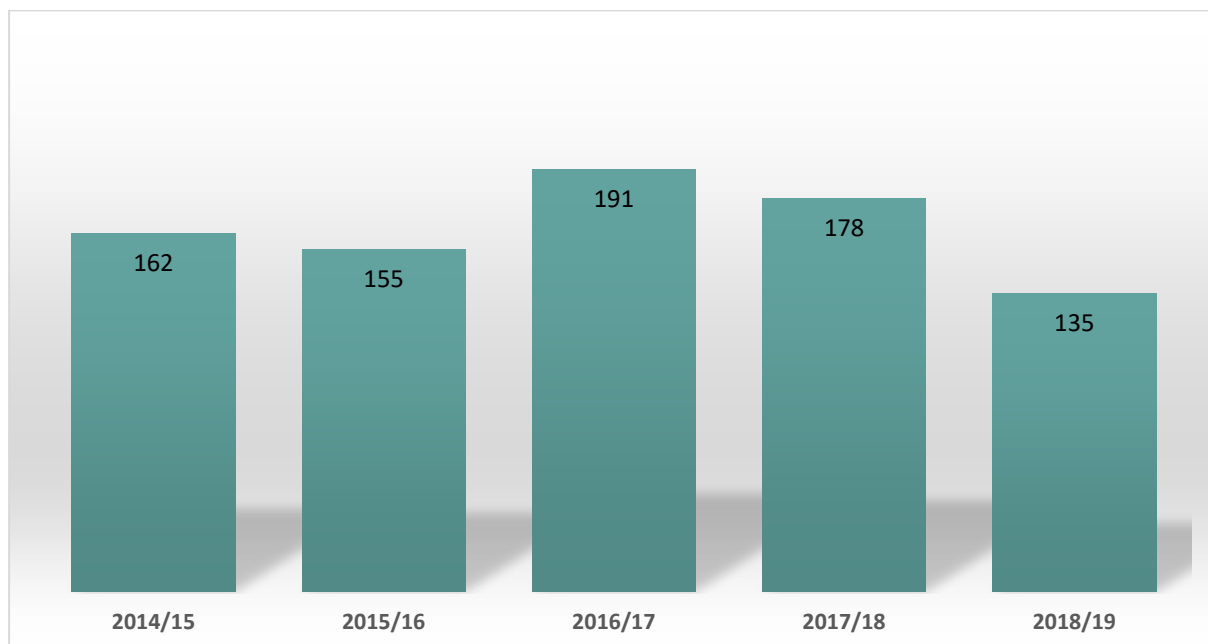
Chart 4: Number of complaints by local government



Time taken to finalise complaints in 2018-19

The chart below indicates the time that the Standards Panel took to finalise complaints during 2018-19 compared to previous financial years.

Chart 5: Average working days taken to process complaints



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 126 complaints finalised in 2018-19, the Standards Panel:

- Made 38 findings that a breach occurred.
- Made 60 findings of no breach.
- Refused to deal with 21 complaints.

Four complaints were not submitted to the Standards Panel as they were invalid, one was withdrawn and two 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.

Chart 6: Findings of complaints finalised

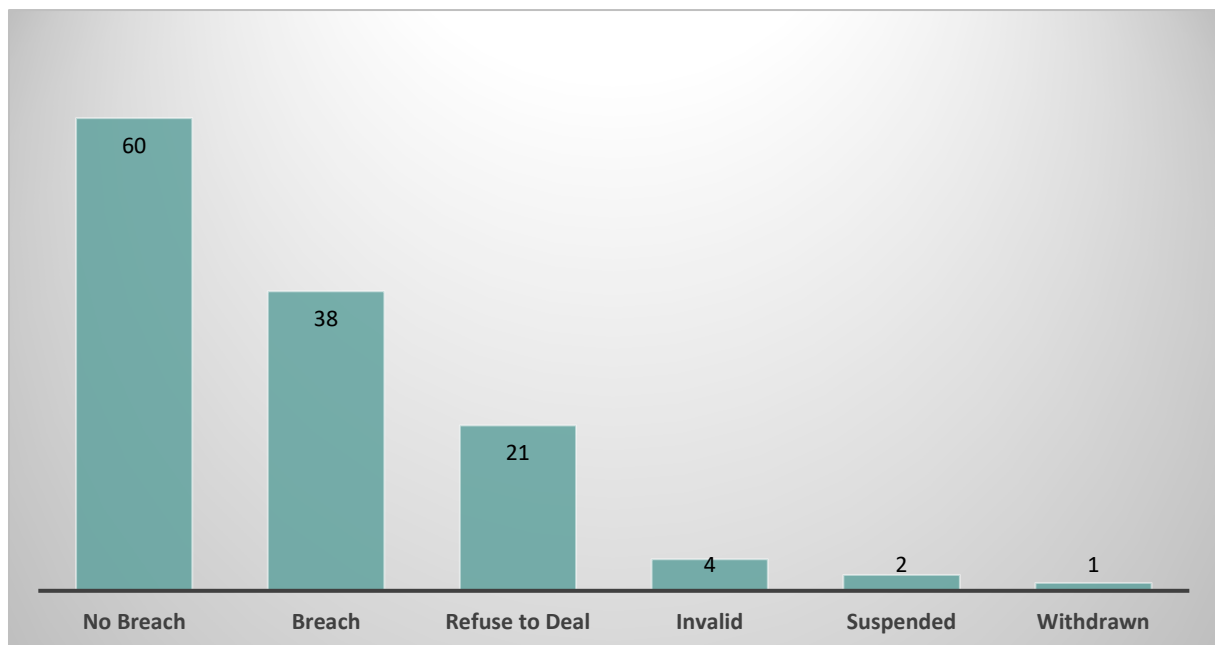
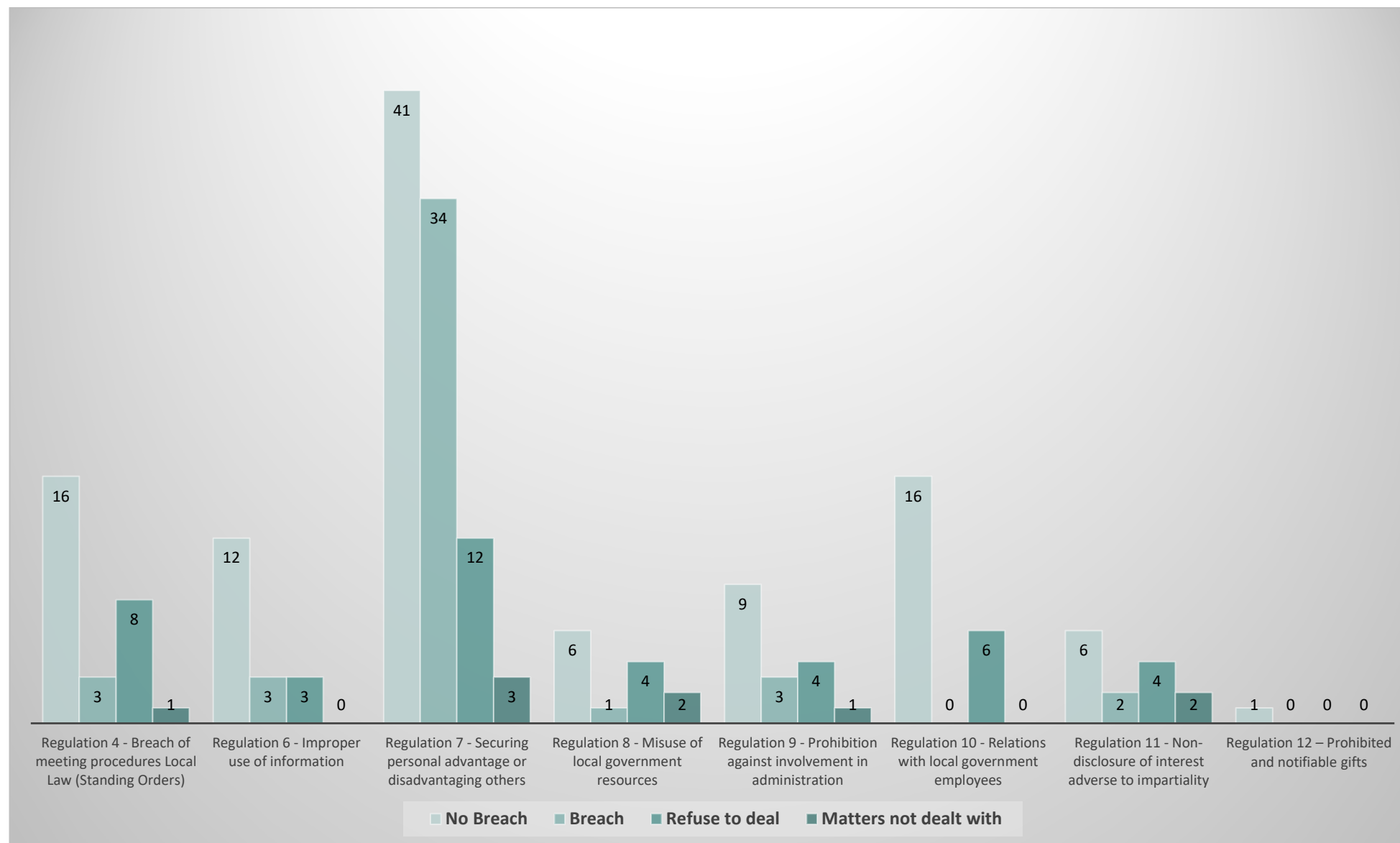


Chart 7: Findings for each regulation



Decisions

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

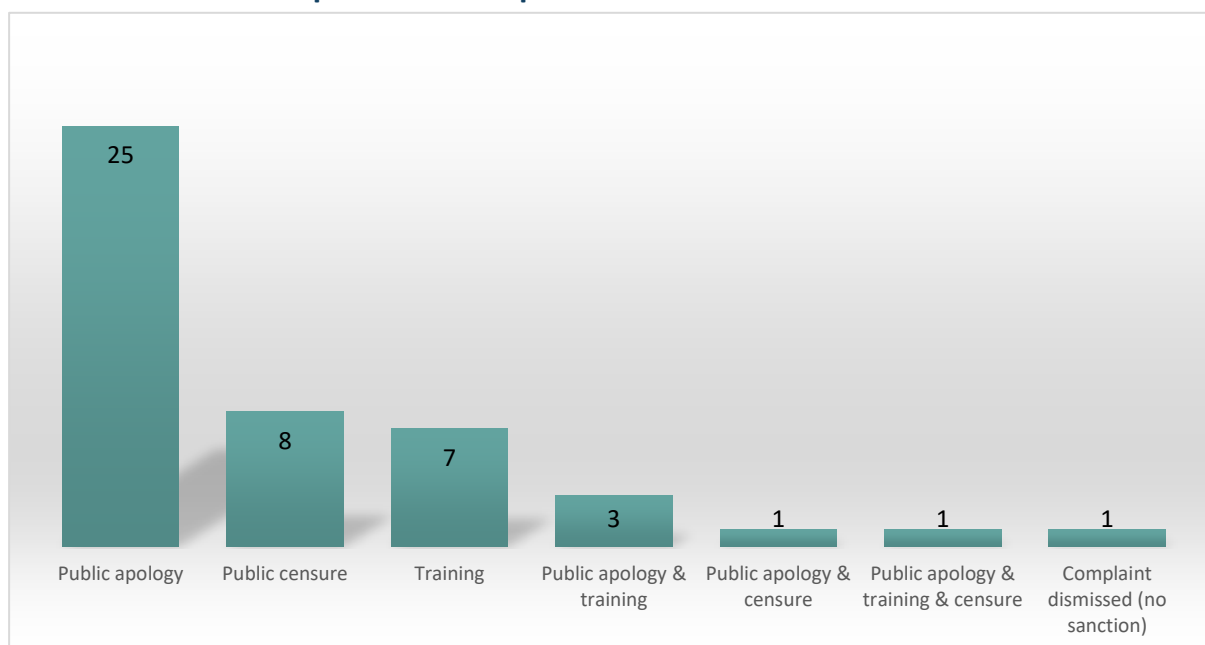
- Ordering that no sanction be imposed under section 5.110(6)(a) because no sanction was warranted
- Ordering a sanction under section 5.110(6)(b)
- Ordering a combination of sanctions under section 5.110(6)(c)

The Standards Panel dealt with the 38 complaints where findings that a breach occurred by imposing the following sanctions:

- 25 orders that the elected member make a public apology
- 8 orders that the elected member be publicly censured
- 7 orders that the elected member undertake training
- 3 orders that the elected member make a public apology and be publicly censured
- 1 order that the elected member make a public apology and undertake training
- 1 order that the elected member make a public apology, be publicly censured and undertake training
- 1 complaint was dismissed, and 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.

Chart 8: Sanctions imposed for complaints finalised



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 2018-19, 15 complaints were appealed to SAT and 13 cases are yet to be heard.

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.

Types of allegations

Table 1: Allegations of minor breaches per regulation for matters finalised in 2018-19

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 (Standing Orders)	16	3	8	1	28
Regulation 6 - Improper use of information	12	3	3	0	18
Regulation 7 - Securing personal advantage or disadvantaging others	41	34	12	3	90
Regulation 8 - Misuse of local government resources	6	1	4	2	13
Regulation 9 - Prohibition against involvement in administration	9	3	4	1	17
Regulation 10 - Relations with local government employees	16	0	6	0	22
Regulation 11 - Non-disclosure of interest adverse to impartiality	6	2	4	2	14
Regulation 12 – Prohibited and notifiable gifts	1	0	0	0	1
Total	107	46	41	9	203

Table 2: How minor breaches were dealt with per regulation for matters finalised in 2018-19

	Dismissed	Public apology	Public censure	Training	Total
Regulation 4 - Breach of meeting procedures Local Law (Standing Orders)	0	4	0	0	4
Regulation 6 - Improper use of information	0	1	1	0	2
Regulation 7 - Securing personal advantage or disadvantaging others	1	24	4	5	34
Regulation 8 - Misuse of local government resources	0	0	1	0	1
Regulation 9 - Prohibition against involvement in administration	0	0	1	2	3
Regulation 10 - Relations with local government employees	0	0	0	0	0
Regulation 11 - Non-disclosure of interest adverse to impartiality	0	1	0	1	2
Total	1	25	7	8	46

Standards Panel meeting attendance 2018-19

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.

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.

Table 3: Standards Panel attendance and fees payable to members for matters dealt with in 2018-19

Panel member	Meeting attendance	Fees payable
Mrs Sheryl Siekierka	11	Nil
Mr Michael Connolly	4	Nil
Mr Mark Beecroft	7	Nil
Ms Sarah Rizk	2	Nil
Cr Paul Kelly	11	Nil
Ms Rebecca Aubrey	11	\$5,170
Ms Merranie Strauss	1	\$4,560
Ms Elanor Rowe	10	\$61,600
Ms Emma Power	11	\$61,488

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 \$691.75.

The costs for non-public service members' sitting fees and writing fees billed to each local government concerned for the period 1 July 2018 to 30 June 2019 are set out in the following table.

Table 4: Standard Panel fees recoverable from local governments for 2018-19

Local government	Amount (excluding GST)
Shire of Augusta-Margaret River	\$3,828.75
City of Bayswater	\$968.57
Shire of Boddington	\$852.00
City of Bunbury	\$4,948.66
Town of Cambridge	\$4,663.31
City of Canning	\$5,951.17
Shire of Capel	\$23,551.33
Shire of Carnarvon	\$1,380.00
Shire of Chittering	\$996.00
City of Cockburn	\$2,932.08
Town of Cottesloe	\$7,876.53
Shire of Dardanup	\$2,038.33
Shire of Denmark	\$1,725.97
Shire of Esperance	\$996.00
City of Gosnells	\$1,485.97
City of Kwinana	\$1,058.33
City of Melville	\$21,080.97
Shire of Perenjori	\$4,534.90
City of Perth	\$2,956.00
Town of Port Hedland	\$5,786.41
City of Rockingham	\$9,134.81
Shire of Serpentine-Jarrahdale	\$794.36
City of Subiaco	\$5,790.53
City of Swan	\$4,467.56
Shire of Toodyay	\$10,516.66
City of Wanneroo	\$2,502.75
	\$132,817.95

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