

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

LOCAL GOVERNMENT (OFFICIAL CONDUCT) AMENDMENT BILL 2005

Second Reading

Resumed from 16 November 2005.

MR G.M. CASTRILLI (Bunbury) [5.25 pm]: In principle, the opposition supports this bill. This debate provides us with an ideal opportunity to refine some of the important processes contained in some of the key clauses of the bill. I welcome the thrust of the bill because, if it is passed, ultimately it will absolve innocent people from taking the rap for the sins of others. The amendments to which I will refer will overcome the situation that arises following the adverse actions of a councillor or councillors; that is, sometimes it results in the dismissal of an entire council. The dismissal of whole councils has often dealt an undeserved blow to the long-serving councillors who have been doing the right thing. Councils that have been dismissed have the potential to ruin the reputations of many faithful servants of local authorities who have acted only with integrity. I am sure that members know many people in local government who act with integrity.

If this bill is passed, there should not be any more unwitting casualties of the process. The actions of a few individuals have led to a number of councils being dismissed, and the administration of these councils has ultimately been taken over by administrators appointed by the Minister for Local Government. This bill will add some fairness to the situation. Minor and serious breaches will be addressed without disrupting entire local councils, and the potential for innocent people to be caught up in council dismissals will be greatly reduced. Proposed amendments to the legislation will provide that consultation with the stakeholders is a highly desirable outcome. We must optimise the opportunity to get things right. By careful scrutiny of this bill, we can get it right. We cannot squander this opportunity to amend the legislation. I am treating this occasion with the respect that is due to it, and from the perspective of having been involved in local government in Bunbury for 14 years. From my experience, I can tell members that a code of conduct is necessary for only a very few councillors. As members know, most councillors live their lives with integrity and honesty. Those qualities and characteristics are reflected in the decisions they make for their communities and in their working lives and council business.

Presently, there is no recourse against members of Parliament who breach the standing orders. In many institutions a code of conduct is a fact of life. It has become an inevitable part of their operations, and it has been brought about by the actions of the disruptive few.

I am mindful of the need to respect the intent of this bill, but it is important that it be carefully scrutinised to achieve the best outcome.

I refer to the issue of complaints. Under this bill complaints will be referred to a senior officer who is designated to be the complaints officer. Will the complaints officer be designated by the local government's chief executive officer or the council? A good case could be put for the complaints officer to be the CEO, because that person will have the qualifications and sufficient grounding to occupy this position. The appointment of an independent departmental person as complaints officer is a better way to proceed. In considering the capacity of people to make complaints, it must be acknowledged that unscrupulous people attempt to use this means for their own purposes. One way to test the sincerity of a person who is making a complaint is to require the complaint to be made by statutory declaration. A statutory declaration should be the prerequisite for lodging a complaint. It will indicate that lodging a complaint is a very serious matter and it should not be taken lightly. The standard form simply will not have the same effect as a statutory declaration, despite the fact that the bill sets a penalty for making a false complaint. The requirement for a statutory declaration will have the potential to weed out the frivolous from the genuine complaints.

What will be the procedure if an investigation reveals that the complaint cannot be substantiated? Will the complaints officer deal with minor breaches that are referred to as complaints? If the complaints officer deems the complaint to be of a serious nature, what process will follow? Local governments have always been concerned that it takes far too long from the complaint being lodged to an investigation taking place. An appropriate time frame should be established to overcome any undue delay in reaching a determination. A suitable time frame in which the complaint must be lodged with the complaints officer should be 10 working days instead of the 14 days proposed in this bill. This change to the time frame will fall within acceptable practices. In addition, the reduced time frame will take into account public holidays and the like that might fall within that 14-day period. If the time frame is 10 working days, it will be fair to everyone.

Will the proposed standards panel meet in the metropolitan area or regional areas for its deliberations? Who will bear the additional cost for the standards panel if it meets in regional areas? The requirement in the bill for the costs incurred by the standards panel to be met by the council whose member is the subject of the complaint needs to be challenged. In fact, for various reasons these costs should be met by the state government. The

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department should be given an additional allocation in its budget to meet the cost of this function. The impact of imposing this cost on the smaller councils could be substantial. I refer to councils in the north west and wheatbelt. They will need to meet airfares, accommodation costs and meals and if the investigation proceeds for more than one day, who will pay the cost? Smaller councils in the north west and wheatbelt have limited capacity to meet what could be substantial costs in some of these investigations. It would be much fairer if the government were to make an allocation to the department to carry out these investigations. There will be variations in the costs incurred, irrespective of where the standards panel meets. If it meets in the metropolitan area, the metropolitan councils will not have too many costs but country councils will incur greater costs; however, if it meets in a regional area the metropolitan councils will have to meet higher costs than the country councils. Local government should be protected from what will be another form of cost shifting from the state.

It would be beneficial, if not essential, for a regional standards panel to be established. It would help defray some of the costs to which I have referred to regional local governments. Is it possible and has it been considered?

In some circumstances, complaints could be laid against persons who are no longer a member of a council. Under these circumstances, will the investigation continue or will the status of the complaint remain? Given the complex nature of some of the complaints, if the director general decides not to send the complaint to the State Administrative Tribunal, what appeal rights will the standards panel have against the director general's decision? Alternatively, the situation may arise in which a complaint sent to the standards panel as a minor breach is deemed by the standards panel to be a serious breach. What provision is there in the legislation for the panel to send the complaint to the director general?

Confidentiality must apply to all complaints that are lodged with the complaints officer. Confidentiality is important and its application, regardless of when the complaint is lodged, either within an election period or outside an election period, is also important. I know this point can be debated one way or the other, but in any debate the issue of the public's right will be raised. What will happen if a complaint is lodged a week before an election period or a day before an election period? If it were lodged a day before the election period, the complainant could rush to the press which could splash a headline across the local newspaper indicating that a complaint had been lodged against a certain person.

It is anticipated that a register of complaints will be maintained. However, a problem could arise with the preservation of confidentiality if people can inspect the register of complaints. How will it be addressed? Perhaps I have missed reference to it in the bill, and the minister will explain it to me. The register will include the outcomes of an investigation. Will it also include outcomes that are not proven? There are good reasons why it should be the case. For example, those people who are affected will be in a position to refer to documentation which is an assessment of their case. If a complaint is made prior to a campaign period, there is every possibility that the complaint could affect the outcome of an election. In such a case the confidentiality provision would not apply; however, the damage would have been done. In that case, will the election be null and void and will a fresh election be called? The bill does not include a provision to this effect. A person who lodged a complaint the day before an election period and made a frivolous complaint that was totally false may have intended to wreck a candidate's chance to be elected to council. However, the candidate will have copped the brunt of it. He would have been left out in the cold for four years suffering the indignity of people thinking he was not of the standing that they thought he should be. These problems could be overcome with an extension of the confidentiality period, which I think should be extended.

Penalties should be imposed on people who disclose confidential information. Penalties should be inserted in the appropriate clauses. I advocate that an amount of up to \$5 000 should be specified. What is more, I urge the minister to provide a guarantee that anybody who commits an offence will be vigorously pursued by the department. Another concern of people in local government is that when a complaint is made the department might not pursue it as vigorously as it should. The confidentiality clauses need to be taken seriously.

The seriousness of making a false or misleading statement must be exemplified also. What are the enforceable penalties? None are stated. The penalties should be stated; they should be included in the clause. As I said previously, most members of local councils are serious about the tasks for which they have been elected, and most of the proposed amendments will be necessary only for the few who fail to comply with the spirit and the letter of the law. It is important that care be taken in the way that the amendments and resolutions are formulated to ensure that the outcomes are workable, enforceable and in the best long-term interests of local government.

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I also remind the minister that the Western Australian Local Government Association is a vital stakeholder and advocate in these matters. I hope its submissions continue to be given due regard and that the minister will entertain some of the amendments that we will propose during consideration in detail.

MR T.G. STEPHENS (Central Kimberley-Pilbara) [5.42 pm]: I was distracted while the member for Bunbury was speaking, but I hope he commenced his comments by congratulating the minister and the government for getting this bill into the house and by indicating that it is a most welcome piece of legislation. If he did not, I will do that for him, because the government should be commended for getting the bill here, finally.

Mr G.M. Castrilli: I said that we agree with the bill, but it was remiss of me not to thank the government for bringing it forward.

Mr T.G. STEPHENS: I am glad to hear that resonate around the chamber. This is an important bill and it is amazing how legislation like this can be so long in coming. The process is like watching grass grow: from the original observation that the legislation is needed until it actually lands in the chamber. I was the minister who observed the need for this legislation and I tried to get it raised as a priority and put into the system. I do not know how many ministers have been involved since - I think about three - but the legislation has taken a long time to get here. Now that it is here I will not delay it.

I will tell the house one of the reasons for being enthusiastic about it. It absolutely horrified me to watch a minority of local government members get themselves into strife, whether in South Perth, Joondalup or York, and then for the taxpayers of Western Australia to be faced with the extraordinarily tortuous process of having commissioners appointed to see whether the councillors should be reinstated or dismissed. Councils did not have an easier process for dealing with these problems. In particular, individual councillors could not raise concerns about their mode of operation in council and have them dealt with through a complaints mechanism and be treated seriously. However, at the end of a tortuous process this legislation has finally arrived, and it requires signing off by a variety of stakeholders. It amazes me that some of them could ever be happy about anything. That is testimony to the fact that a large number of local government organisations sometimes have discordant views, which lead them in a variety of directions. I am pleased that sufficient consensus has occurred for the creation of this legislation, which should be advanced through this house. It will be cheaper for the taxpayers than the appointment of commissioners and inquiries.

I remind the member for Bunbury that, even though the provision has not been utilised in recent times, the Local Government Act provides that, when a council falls apart and it is necessary for a minister to intervene and appoint commissioners and subject the council to inquiries, the full cost of that process can land on the ratepayers of that local government. In recent times that has not happened - under the Gallop and Carpenter Labor governments the costs have been borne by the government of Western Australia - but that was not always the case. The expense of the Cockburn local government inquiry landed on the ratepayers of Cockburn. We came into government, reimbursed the ratepayers and picked up the tab for that inquiry. This legislation provides a more efficient mechanism for dealing with complaints than was previously on offer and it should be welcomed.

Local government does have a vital role to play. However, this legislation does not provide the full reform job that is needed. A welcome amendment to a bill like this would be one that delivered compulsory voting to local government simultaneously, because ultimately the will of the people will resolve and clean up the problems in local government. Full participation in that process, with compulsory voting through democratic procedures, would be a very welcome adjunct to this legislation. That has not happened yet, but at some stage I hope the Western Australian Local Government Association will recognise that if it wants to be treated as a full partner with national and state governments, and be engaged in the full set of democratic processes, it will have to create a situation for constituents within council boundaries to cast judgment on who will be the elected officials of their municipalities, shires or towns that form that sphere of government.

I welcome the bill. I commend the officers who have taken part in the process of delivering this legislation to the Parliament. It is an amazing process in which people commit themselves to public administration to deliver legislation such as this for the community of Western Australia. I have recognised that I am temperamentally unsuited to such a calling. My patience with this sort of process lasts about five minutes. I like to go from recognising that something needs to happen to working out what needs to happen, and then getting on with it and delivering it. Instead of that, public officials are left trying to bring on board the various stakeholders in the process and going through the exhausting and time-consuming negotiations with those stakeholders. I commend those officers who have served this community and their minister - I was a previous minister - in getting the bill to the house, so that it can finally be advanced. I will not contribute to delaying the process, other than to commend the bill to the house.

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MR T.R. BUSWELL (Vasse - Deputy Leader of the Opposition) [5.51 pm]: I will make some observations on the bill and speak broadly in support of the comments by my colleague in both the Parliament and local government, the member for Bunbury. I commence by acknowledging the fundamental role that local government plays in Western Australia, not only in the delivery of governance and government-related services, but also in community building. Some people would argue that perhaps there are too many local government authorities in Western Australia - that is an argument for another day - but the facts of the matter are that there are 142 mainland local government authorities in Western Australia. As I have said, local government plays a critically important role for three or four key reasons, and I will outline those reasons.

As the member for Bunbury has outlined, this bill in many ways will support, enhance and strengthen local government and the role it can play. However, the most important attribute of local government, of all the three tiers of government in Australia, is that it is close to the people. It is a fact that nearly everybody bumps into their local councillors in aisle six at the shops while buying their dry goods. It is often stated in modern society that people feel alienated from government at all levels, and that the distance between people and the decision makers they elect is becoming increasingly great, yet in local government there is an opportunity for government to re-engage the local community. It plays a critically important role in the community. This sense of community for individuals is a critically important factor in the quality of life of the people. Local government plays a very important role in community building. That happens in shires such as mine, the Shire of Busselton, whose population will double in the next 10 to 15 years. Local government plays an important role in nurturing communities in growing environments, as well as in environments that are in decline, such as those in the wheatbelt. People are struggling to hold onto that which they value in their local communities. Local government plays an important community-building role.

Another important attribute of local government is its increasingly important role in the provision of critical services and facilities. There was a time when we used to talk about the three Rs of local government: roads, rates and rubbish. The role of a contemporary local government organisation is far broader than roads, rates and rubbish. Local governments now play a critical role in community development. Very few local government authorities in this state, especially the larger ones, do not employ at least one community development person, if not a team of them. Those people look after the senior citizens' centres, infant health centres and a range of other social infrastructure. Local governments also play a critical role in economic development, which is also important and underestimated.

The third factor is that local governments not only in Western Australia, but also across Australia, face significant financial constraints. One of the problems they face is that the growth in demand from their ratepayers far outstrips the capacity to grow the rate base to keep up with that demand. This is a significant factor and it merges with the issue of cost shifting from state and commonwealth governments. First, the role of local governments is becoming more important and, secondly, it is becoming more difficult and certainly more financially challenging. That is my personal view on local government and its significance in modern Australian society. It is a pleasure to support the bill, as it has been indicated the opposition will. As I have said, it is clear that this bill will enhance local government. However, some issues need to be worked through. One of the critically important issues in local government is probity. The people who elect the councillors have confidence that those councillors will serve them and the best interests of their communities. I have observed in my time in local government, which was only six fleeting years -

Mr G.M. Castrilli: Is that all?

Mr T.R. BUSWELL: Yes, that is all. I did not have a grey hair on my head when I went into local government! In that time I observed that if the confidence of a community in its local government is eroded for whatever reason, and there are issues around probity, behaviour or whatever term we might like to use, it has a significant impact on the operations of that local government, as well as on the value that the members of that community place on the local government. The trust, understanding and confidence that build up over time between communities and their local governments form a very important link. Let us not forget that local government is the only tier of government that has been created by an act of Parliament. The other two tiers of government in Australia are, thank heavens, constitutionally defined, albeit under constant threat. Local government is a product of this Parliament, through the Local Government Act. It is great that we can use amendments to legislation to protect and enhance local government.

I will touch on a couple of points in relation to the bill. The member for Bunbury outlined the way in which this bill attempts to formalise what most local governments call their code of conduct. That code of conduct will become uniform and will apply to all local governments in Western Australia. In my experience, the term "code of conduct" has wide and varied application, depending on the local government, how individual councillors observe the local government code of conduct and the degree of importance they place on it. It is good that this

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bill will formalise the concept of a code of conduct. The behaviour of councillors in fulfilling their duties to their communities must be above reproach. At least there will be consistency under the bill. It will be far more difficult to misunderstand the provisions and the requirements of local governments and local government councillors in the code of conduct.

As the second reading speech highlighted, it is also important to understand that it has always been difficult for state governments to know how to deal with local governments when there has been a breach, whether it be a breach of the act, the code of conduct or some other form of legislation. If the complicated road map provided to me and the members of my legislative committee by the departmental officers at the briefing is anything to go by, it is good that a mechanism will be available to follow through on the different levels of severity in breaches and, more importantly, to deal with individual councillors. The old adage is that one rotten apple, for want of a better term - I should add that there are not a lot of rotten apples in local government, but experience has shown that they do drop from the tree every now and again -

Mrs M.H. Roberts: You're in Parliament now!

Mr T.R. BUSWELL: Yes, especially those ones from the City of Perth who fell out of the dining room, rolled up the Terrace with enough momentum to get them up the hill and lobbed in here - apparently!

Mrs M.H. Roberts: I think you may have offended some people at the City of Perth.

Mr T.R. BUSWELL: There we go. There are some broad issues with the legislation that I will bring to the attention of the house. The first issue that I find interesting is that it sets a high bar for the standards of behaviour that will apply to individual councillors, the individual elected members of local government, without necessarily requiring those same standards of the staff of local governments.

Sitting suspended from 6.00 to 7.00 pm

Mr T.R. BUSWELL: Madam Deputy Speaker, it is wonderful to see you return to the chamber after a sumptuous feast. It was a hard-pressed struggle to drag the member for Bunbury back into the chamber, but I managed to do it. Before I was rudely interrupted by the arrival of the Governor, I was talking about three broad issues.

Mr M.P. Whitely: That is another friend you have lost!

Mr T.R. BUSWELL: I may have! The Governor is a lovely man.

The DEPUTY SPEAKER: Does the Deputy Leader of the Opposition want to get his other foot out of his mouth?

Mr T.R. BUSWELL: Madam Deputy Speaker, I thought you were about to cast forward an apple in defence of our viceregal representative. I thought you had resorted to the fruit bowl and that you were going to strike me down with a rotten apple! As it turns out, Madam Deputy Speaker, you are holding an orange coloured glasses case. I can relax and try to compose myself as I discuss three serious issues.

The first issue, which I think I may have already discussed, is that a lot of the regulations that will control the way in which individual councillors and a council collectively operate will do so without casting those same standards on the staff of local government authorities. Indeed, one can draw an interesting point of comparison between those stringent and appropriate controls with the flimsy probity controls that guide us in this Parliament and, I am sure, our colleagues in the federal Parliament.

The second broad issue is posed in a question: what is the intent of this legislation? If we accept that the intent of the legislation is to provide a mechanism to monitor, control and guide the behaviour of councillors, is this legislation the best way to go about it? There is an argument that the government and, indeed, local government collectively, could have embraced other methods. They have chosen not to embrace any of those other methods, so we must deal with this legislation. The third point of interest is the fact that the standard uniform code of conduct will be set by regulations; however, despite the fact that we have seen some draft proposals, it is fair to say that we are not aware of the detail of the regulations or the exact requirements that will be placed on councillors through the operation of this bill. It is a concern that we will effectively empower the government to control the behaviour of local government without having a grasp of what it is we will be requesting of them. It is quite odd, but it seems to be the way of this place that regulations and their detail - as always, the devil is in the detail - follow the legislative framework that we put in place.

As the member for Bunbury indicated, the opposition will support this bill. However, I place on the record some reservations that I and my colleagues on the opposition benches share about the ramifications of the bill. I will touch on three issues. The first is the potential cost impost of this bill for local government. In particular, I refer to the cost impost as it will be relatively felt by smaller local governments. In a number of smaller local

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governments, especially those in regional areas and perhaps some in the metropolitan area, the complaints officer, or whatever the term may be, will, by default, become the chief executive officer of the council. There is a significant cost in tying up what for most local governments is their most expensive human capital resource - namely, the CEO - as complaints officer. As the member for Bunbury pointed out, costs are associated with the running of the review panels and the like, which this legislation intends to hoist on local government. It is important that we acknowledge that this bill may impose significant costs, either directly or indirectly, on local government. The second issue relates to smaller local government authorities in which the CEO, by default, becomes the complaints officer; I refer to the potential of the requirements placed on a CEO to undermine the very important relationship between the CEO and the elected members of the council, either collectively or individually. In many instances, if a CEO fulfils the role of complaints officer, he or she will be required to effectively pass judgment on a number of complaints that have to be dealt with as a result of this legislation. In addition, if the CEO is the complaints officer, under the bill the CEO may be put in a position in which he or she is required to initiate a complaint. Those of us who have been involved in local government understand that the relationship between a CEO and the elected members of a council is critically important to the function of local government. After all, as the bill clearly defines, any local government, irrespective of its size, employs only one officer - namely, the CEO. It is through the CEO that every aspect of the operation of a local government authority is guided by and led by council and, in some cases, followed by councils, with excuses following. However, the point is that is the relationship between a CEO and a council is critically important. Sadly, in Western Australian local government history, that relationship has broken down from time to time because of enormous pressures. This bill has the potential to exacerbate those pressures and to increase the friction between individual councillors, the council and the CEO. As someone who has come from local government and made it my business to work closely with the CEO, I feel that there is enormous potential to undermine the efficient, effective and cordial operations of local government.

The third point I raise at a broad level is that one element of this model - I refer to my very good road map that indicates how complaints will be processed through the system - is missing, and I would like to see it included; I refer to the capacity at the initial point that a complaint is made for the complaints officer to instigate some sort of conflict resolution process whereby the parties to the conflict are brought together and voluntarily attempt to resolve their conflict. Problems in local government often arise because of misunderstandings and personal conflicts. I am a great believer in bringing the parties together, discussing the issues and attempting to resolve the conflict quickly and effectively at the point of instigation. I admit that that is not always possible. Unfortunately, under this process, once a complaint becomes formalised and the correct form is filled in and sent through the system, there is no avenue to initiate a conflict resolution process. It is with those three main areas of concern that the opposition supports this legislation. It would be useful if a formal review mechanism were inserted into the bill.

The government, through the Department of Local Government, and with councils across Western Australia, could at some stage in the future revisit this act and understand how it has impacted on local governments financially, on the role of chief executive officers and their relationship with councils and whether the legislation could be made to work more effectively through the addition of a conflict resolution process. I know those matters are not in the legislation, but it is important to note them for the public record. I know they are not positions that cause the Western Australian Local Government Association particular concern.

As the member for Bunbury indicated, the opposition will move some amendments concerning the issue of confidentiality of complaints, tests for false and misleading information, the ability of the complaints officer to initiate complaints, and issues associated with costs. Together with my colleagues in opposition, I am pleased to support the intent of this bill, with those qualifications.

MR A.J. SIMPSON (Serpentine-Jarrahdale) [7.10 pm]: I consider I am qualified to speak on this bill because for four years I served as a councillor of the Shire of Serpentine-Jarrahdale. Much has been said about the number of local governments in Western Australia. In November 2004, while I was a councillor, a local government conference was held at the Burswood International Resort Casino at which the guest speaker was Jeff Kennett. As members will know, he was the Victorian Premier who wiped out 20-odd local governments in Victoria. It was, therefore, interesting to hear him speak about how local government infrastructure works and what is required to make local governments work. One of the biggest problems we face in Western Australia, which comprises 144 local governments, is financial management. I understand that a report is soon to be released of a study done of all local governments. I believe it indicates that 90 of them are operating on borrowed incomes. I have heard about the report; someone spoke to me on Friday about it. I hope it is released soon, because I am waiting to read it.

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I was for four years a council member of the Shire of Serpentine-Jarrahdale, which covers almost 1 000-odd square kilometres, more than half of which is state forest. The shire distributed about 4 500 rate notices, which provided a rate-base of about \$4.5 million. However, the Shire of Serpentine-Jarrahdale's budget was approximately \$10 million. The shire sought to ensure that for every dollar of ratepayers' money it spent, it doubled the amount through fundraising and grants. The shire was very good at doing that. During the four years I was a member of the shire council, it raised more than \$10 million budget a year.

Councillors are elected because of their local profile; people know who they are. They step up to the mark. I was the president of a playgroup and that led to my becoming president of a kindergarten, of which I am now a life member. I have also been involved with primary schools and sporting groups. As a local businessman, I have been involved also with a local business group, which led me to being voted onto the Serpentine-Jarrahdale council. We step up to the mark, so to speak, as opportunities arise. The Shire of Serpentine-Jarrahdale comprised 10 local members, some of whom had been members for 12 years and some, including me, had been members for only three or four years. We were all local people who shared the goal of achieving the best for our community.

As the member for Vasse pointed out, this is an important bill in providing a new code of conduct to deal with situations that have got out of hand or when standards have been breached. When a council comprising a membership of 10 local people is considering a submission for a subdivision, eight or even the 10 councillors will know the developer personally because he has been, say, a farmer in the area for a long time. That can create a conflict of interest and make decision making difficult. I understand the difficulties councils face in that regard. I can understand how they sometimes get themselves into trouble. I hope this bill will help alleviate those sorts of difficulties. As the member for Vasse pointed out, the chief executive officer is the only person employed by a council. Under the Local Government Act, any line of questioning must go through the CEO. He is therefore likely to find himself in a compromised position because he is the first person to whom a complaint will be made. As the paid employee, a considerable burden is placed on the CEO, particularly at some of the smaller councils, because councillors and the executive officer work hard together.

The Shire of Serpentine-Jarrahdale, which encompasses some 930 or 940 square kilometres - I used to know the area, but I seem to have lost touch with the detail - is a small council. Half of it was within the City of Armadale until about 1974, when it was returned to Serpentine-Jarrahdale. It is finding it more and more difficult to survive. In light of its population growth, it must provide more infrastructure. When I was a member of that council, we borrowed close to \$3 million, and the Department of Sport and Recreation provided an additional \$1 million to build the Serpentine-Jarrahdale Community Recreation Centre, which opened last year. That amounted to a considerable amount of funding for a local government. The shire thought it was important to take the plunge and build the infrastructure in light of the new developments that would provide the income to pay off the loan. The amount of \$3 million was a big debt for a small council that has less than a \$5 million rate base. As it goes down that borrowing path, the council becomes limited in the amount that it can borrow.

I have concerns about how the bill can be implemented. In his second reading speech, the minister states -

The bill establishes a statewide standards panel to deal with complaints about minor breaches.

I hope local government will be well represented on that panel. Councillors are volunteers who receive a small remuneration. I was paid \$7 000 a year, which does not reflect the heavy workload of councillors. This issue should be considered, because councillors do a lot of work for the love of the community. I suppose the problems that this bill seeks to avoid are likely to arise in councils through no fault of their own. If the panel comprises a good number of local government representatives, they will be able to put out the sorts of fires that have led to some councils being sacked. I have noticed during my time in local government and since being a member of Parliament that the big councils are more likely to get into strife than the small councils, albeit small councils have problems from time to time. The City of South Perth and the City of Joondalup are two large metropolitan councils that were sacked. The smaller country councils lack the large rate base that tends to lead to difficulties.

I became a member of local government as a small business owner. I was often amazed during council meetings at the lengthy debates that were held regarding the purchase of an item worth, say, \$3 000 to \$5 000; about whether it could be purchased for less and whether the council was supporting a local supplier. However, the request to purchase a \$1 million grader was granted with the stroke of a pen. I formed the opinion that the councillors could not get their thinking around \$1 million but they could deal with something worth less than \$20 000; therefore, we debated at length the purchase of something worth \$200.

Mr T.R. Buswell: It sounds like this place.

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Mr A.J. SIMPSON: It does. As the member for Vasse pointed out, this bill will go a long way towards assisting local government. I thoroughly support the work of local councillors; they do a great job, although they are not paid enough. Many years ago, local governments were seen as being responsible for the three Rs - rates, roads and rubbish. Now they do everything from community development services to youth work. They do a lot of good work in our community. I support the bill. It is the government's intention, with this bill, to help the local government process. We are looking forward to the consideration in detail stage, when we will move a few minor amendments that we think will improve the bill.

MR M.W. TRENORDEN (Avon) [7.18 pm]: I have a few comments and observations of my own. I spent nine years as a councillor of the Town of Northam. During my political career as a member of the National Party and, prior to the last election as part of the coalition, I focused on local government issues. Like many members, I have travelled the length and breadth of Western Australia. I have visited most of the 142 councils, not counting the two that are offshore; there are a couple of councils I have not visited.

I have a strong view on local government and the role of this Parliament and its legislation and where it is all going. The first thing I can say is that, long after Madam Deputy Speaker and I are pushing up daisies, local government will take over state government in this state. Regional local government will occur. Regional local government will go to the federal government en masse for money; it will not approach the state. The federal government will happily comply with that push. We can see that happening already in a range of areas in which the federal government is working to get close to councils. Regional councils will exist in the future. It will be easier for local government to have 30 or 40 councils - whatever the figure will be - in a regionalised process in Western Australia. It will be easier to deal with them. It will not make one shade of difference whether the coalition or the Labor Party is in power federally. Getting rid of state administrations will solve many issues for federal parliamentarians. The argument that Professor Craven of Curtin University put in *The West Australian* some weeks ago about industrial relations legislation is a legitimate argument. Those arguments have been happening at an ever increasing pace since the Second World War. The federal government is regularly chipping away at the base of state government. The obvious move is towards a regionalised local government focus. As I said, that will not happen quickly, but it will happen.

We get carried away in this Parliament. Compared with Europe and some American states, we are just a large local government. We have only two million people and a tiny budget. We may argue differently about things, but we still have a tiny budget. We think that we are the be all and end all. I do not want to denigrate myself or any member of the chamber, because we fulfil an important role. The role of a state government within the federal system is to deliver services. There is no reason why an enhanced local government process could not deliver similar services. That is a distinct risk. I am not saying that as a National Party politician. The Greens have it in their policy documents. My crystal ball, which has a working rate of about half a per cent, shows that that is what the future is likely to hold for all of Australia, not just Western Australia. I throw that into the ring as a reason for thinking the way I do.

There is a raft of issues within state government and local government that I am uncomfortable with. We love to put conditions on local councils that we would not and do not accept in this chamber. In my view, that is abhorrent and we should not be doing it. Time after time in the corridors I hear colleagues - I am not talking about any particular individual from the National Party or the other parties - talking about the incompetence of local government. We have a collective view in this place and the other place that local government is incompetent. I see several prominent former local government people, such as the member from Bunbury, quite rightly shaking their heads. We know those views are around; we have heard them.

Mr G.M. Castrilli interjected.

Mr M.W. TRENORDEN: That is right. When I was the Leader of the National Party I travelled to Bunbury. I was very impressed with what the member was doing down there as the mayor and with the activities that were occurring in Bunbury. It was a credit to him and his group at the time. However, I must say that Bunbury has the resources. My home town of Northam does not have the resources.

There will be a raft of issues about how the councils will be put together in the future. My other call from my crystal ball, which as I have said is right 50 per cent of the time, is that if we do not put the right groupings together with the right powers for the regions, it will be a disaster. It will be a disaster for not only the people in the regions, but also the state. I know that there are some very prominent and well-intentioned people looking hard at a model that will work for all groupings. The reality is like health. The member for Geraldton and I finished a job for the Minister for Health a few months ago. The member for Geraldton will agree with me - we have had this conversation in private - that we cannot fix the Kimberley health issues and the wheatbelt health issues with the same policy. It will not happen. It is the same with local government. We cannot bring in the

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same process that will fix Joondalup and also Leonora. It will not work. Some people love putting people in boxes and putting fences around people and saying that such and such is a new system - like this bill - and that everybody should live under it. Take the Wiluna Shire Council, for example - the local member is not in the house - it will react very differently from the Stirling City Council to this bill.

Those are the points I wanted to make. I see significant issues. I will repeat the main issue: we keep on passing legislation that puts pressures on local government that we do not accept. Why do we do that? We do it all the time. I want to make clear where I am coming from. Within my electorate is a council that another member mentioned earlier in the debate. I cannot remember who it was. I am referring to the Shire of York. The councillors of York are an outstanding group of people; I love them dearly. However, they cannot work together. An election is coming up in a few weeks. Nominations closed in York only a few days ago. Thirteen people have put forward their names for election, which is good. The member for Avon got involved; I pressured a range of people to stand for the council. Not one of the people I pressured was prepared to stand. Of the 13 people, not one of them was pressured by the member for Avon to be a councillor. I approached people who I thought had the capacity. I am not necessarily referring to the 13 people, because I know them well and I did not have to talk to them. On the other hand, I approached people who I thought would make excellent councillors for the Shire of York. I have a very severe concern that York will go back to where it was. Not one of the individuals I approached was prepared to stand. Madam Deputy Speaker will love the following sexist remark. On three occasions the wives of the persons I approached said to me, "Max Trenorden, stop talking. If you convince my husband to do that, there will be a divorce in this family!"

Mr C.J. Barnett: You would be a wonderful Mayor of York.

Mr M.W. TRENORDEN: I would be!

Mr C.J. Barnett: I can see the statue in the main street now! Why do you not nominate yourself?

Mr M.W. TRENORDEN: I would have to buy some property there, which I would love to do. I would not object to owning property in York.

Mr C.J. Barnett: Is this your election speech?

Mr M.W. TRENORDEN: Yes, this is my election speech. As I said, York will go to an election very shortly. Before that happens, I put on record my deep appreciation of Gavan Troy's work in York as the administrator. He has been almost universally accepted. I put to all members that when they come under pressure in the future - probably the member for Cottesloe before others - from people saying that because they have been members of Parliament they should not undertake such roles, they should regard it as bull dust. Gavan Troy used his experience of this place beautifully for the benefit of York. It is hard to fault anything he has done. He will be sorely missed when he leaves. As everyone in this chamber knows, he is a member of the Labor Party. I have no problems with that. Gavan Troy and I do not have any difficulties.

Mr M. McGowan interjected.

Mr M.W. TRENORDEN: He is saying it publicly, put it that way. He is consciously telling people that he is a member of the Labor Party. He does not hide his allegiances. He is a competent individual. I will leave it at that.

I am amazed by some of the lines in the second reading speech. I am lucky enough to have travelled on overseas trips that were paid for by the Western Australian public. I have been to the legislature in California and listened to some of its debates. California has a direct election method. Most members probably know that if constituents in California do not like what a politician is doing, they present a petition and with just five per cent of the vote, the politician loses his seat. Also, members of the Californian legislature cannot serve more than one term. That is probably why California is the most ungovernable state in the world. It is sensational. I love its method of dealing with the budget. I was there some time in the 1990s - I cannot remember exactly when - two months after its budget was supposed to have been passed. On budget day, the politicians stopped the clock at 11 o'clock and everything froze. The budget had not been passed for months. Public servants were being paid by the banks because the banks knew that when the budget was finally passed, the state would reimburse them. The state's Constitution requires the budget to be passed by a certain time on a certain day; therefore, the state froze time by stopping the clock, and the debate continued for several months. The point I am making is that if a group on a panel is to decide who should or should not be a member of a government - I am saying this to be positive rather than negative - the panel could decide, for example, that the member for Mindarie should not be a member. Using this type of logic, they might decide that he should not be a member of Parliament because he is a stirrer who has freed people from jail and done all sorts of things that some people do not like. Under the code

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of conduct, a panel of Western Australians could have members of Parliament removed from this chamber. How good would that be? It is disgraceful. This proposal is disgraceful. I am making that point as clearly as I can.

My constituents, and constituents throughout Western Australia and in the metropolitan area believe that too many people stand for local government for the wrong reasons. They stand only because they are against the removal of trees or the building of a bypass, they want a road fixed or they are unable to get into a sports ground free of charge. People who are opposed to particular issues are elected to council to put those matters right. A big slice of Western Australians join local government for that reason. They have no idea about 99 per cent of the activity that goes on in the council chamber, and are shocked once they are elected. They find that they cannot push their own pet project through, and they encounter a climate and an atmosphere that they were not expecting. That is the process that must be fixed. TAFE and other organisations run education courses for councillors, which is good. Local government desperately needs people to stand for council for the common good and because they want to do something for the community. That is an overused statement, which applies also to this chamber. Madam Deputy Speaker, you will be shocked by this statement: a good friend argues that no-one should be allowed to become a member of Parliament unless they are a lawyer. I do not want to pick on the member for Nedlands and others; however, that sort of talk sends a tremor down my spine. The good thing about Parliament is that if the people elect someone to be a member, the member brings his or her experience to the chamber. That is a good aspect of local government, too. The people who are elected bring their experience to it. However, restrictions are placed on councillors that are beyond all credibility. Although I was a good boy and voted for the Local Government Act because I was in the coalition at the time, I opposed it. The Leader of the Opposition will kill me when he comes into the chamber. The Local Government Act is terrible. It should be written off as soon as possible. It is a shocking piece of legislation. It is over-prescriptive, overbearing and wildly bureaucratic. It should not exist. It should go. I am probably the only member in this chamber who holds that point of view.

As I said, many councillors join local government thinking that they can decide where staff can work, who will get certain employment conditions within the office and where planning will be done. That is not their role. Some of the definition issues in local government are pretty important. We do not want a panel that has no idea about the deep-seated feelings of the people of York to be appointed by the department, and to tell the councillors that they are out of tune. Frankly, that panel would not have a clue about the situation, no matter who they were. I presume that no panel has yet been appointed, so I am not picking on anyone personally. My crystal ball, which is right 50 per cent of the time, predicts that that panel will not be able to function properly. It will gain opprobrium, much of which it will not deserve. When the panel sacks two or three local heroes - some councillors are local heroes - from the region, who will take the rap for it? It will be the minister of the day.

[Member's time extended.]

Mr M.W. TRENORDEN: I am passionate about local government. I have made a submission, as I promised the member for Murchison-Eyre I would when he was the Minister for Local Government. My submission states - I will be the only member who agrees with it - that there should be a single council in the metropolitan area, similar to the Brisbane or Wellington councils. I say that because if planning issues involving the location of the next sporting ground, the height restrictions on a particular region or beachfront, and road and riverfront issues were the province of a well-funded and structured single council, this state would be considerably better off. I am not sure how many councils there are in the metropolitan area. Is it 27 or 30?

Mr M. McGowan: It is between 30 and 40.

Mr M.W. TRENORDEN: It does not really matter. I do not want to pick on those councillors. I favour the parish council model, for members who know what that means. I would be happy if there were regional councils in the regions, and if Perth had a single council which comprised parish councils within designated boundaries. That is my preferred model, which is not very complicated. The issues listed on the notice paper in this house are metropolitan issues. When the electoral boundaries are redrawn in 2007 and the next election is held, this Parliament will be a metropolitan Parliament, which a country person will occasionally attend. That is the cold, hard fact. Why should there not be a situation whereby the common interest is dealt with by a single council within the metropolitan area? That would be similar to Brisbane, Wellington, Greater London and many other places in the world. It makes a lot of sense. We could then encourage regional local governments to get together in groupings of between five and 10, depending on where they are. The process by which local governments are grouped with other local governments should be voluntary rather than mandatory.

Mr M. McGowan: Do those regional councils have one CEO and one shire president?

Mr M.W. TRENORDEN: Yes, one chief executive officer and one shire president. However, a small community such as Wandering would continue to have a shire office, and the rubbish would continue to be

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collected by a council employee on about \$40 000 a year. There would be a place to go to with a complaint, as three councillors would continue to be elected to Wandering, but they would be under the umbrella of one council, with one CEO and one shire president or mayor, whatever he or she is called in that area. It could be the same in Perth; there could be one council. The City of Stirling would continue to exist but with a more localised, reduced model without 12 councillors and a CEO on \$100 000-plus a year, although it would have some councillors with local knowledge. I advise members who are considering this issue, that that is the model for a parish council.

I will vote against the second reading of this bill. I am not speaking for the National Party; I am speaking for Max Trenorden. With a bit of luck the vote might take place on Thursday. I will not be in this place on Thursday; I will be in my electorate where a range of Anzac Day functions will be held. I will break the rules of the house and tell members about one function. It is at Bakers Hill Primary School, my favourite school. I will not say that loudly so that my whole electorate hears it! Bakers Hill Primary School is a wonderful little school. For years it has been getting Jack Sue to go there for its Anzac Day function. He will be there on Thursday morning, I will be there on Thursday morning and Jack's fantastic son will be there as well. Bakers Hill Primary School has decided to go on a trip to the site of the Sandakan death march, and asked me a year ago whether I would participate. Some time next week, therefore, I will be on a plane to Borneo, with some Bakers Hill Primary School students and some other people from around Bakers Hill who are related to the school, on my way to the site of that terrible march. There were 3 000 soldiers on that march and, although I should not generalise, 2 000 were Australian and 1 000 British; six survived. I felt so proud that the Bakers Hill Primary School was prepared to get itself involved in that process that I committed myself to being involved. I am not going on the full trip, but I will go for half of it and be proud to be there. I will be proud to attend the assembly at the school on Thursday morning. I will also be proud to accompany the students from the school at the site of the Sandakan tragedy. The vote on this bill might be taken on Thursday in this place. I might be the only member of the house voting against this bill, but I will oppose it if I am in the chamber. I think the bill is nonsense.

MR M.P. MURRAY (Collie-Wellington - Parliamentary Secretary) [7.42 pm]: Firstly, thanks to the other speakers. I am presenting this bill on behalf of the Minister for Local Government and Regional Development in the upper house. As it is my first bill, it has been quite exciting to hear members on the other side cheering! I served in local government for 12 years on one of the luckier councils that sorted out its differences, rather than taking them through the system and causing all sorts of problems along the way. The long-suffering people, of course, in problem councils are the constituents in those electorates. It is unfortunate that we have to bring a bill like this into this place. If everyone played the game properly, there would be no need for such a bill. However, we could say that about drivers' licences, Multanovas and the like that we hear about from time to time. As with anything, we have to put rules in place for the minority. Having been on local government, I must say something - like the member for Avon who gave his electorate a plug - about the role that the local government in Collie has just played. Collie has just won the Australian Tidy Towns competition against strong competition Australia-wide. The Shire of Collie works very hard for what it believes in; that is, improving amenities in the town and the town itself. It is a while since the shire made the decision to spend \$40 000 - a huge take out of its budget - to display at the Royal Show the produce available in the region. That display produced instant results. It turned around the community, which was a bit depressed after losing between 400 and 500 jobs in the coal industry. It was a turning point, in that people came back to Collie from the Royal Show saying that they had underestimated Collie. I take my hat off to the local government, as the town has gone from strength to strength. That was a local government decision.

Mrs M.H. Roberts: I congratulate you on winning the Australian Tidy Towns competition.

Mr M.P. MURRAY: I thank the Minister for Housing and Works.

However, in saying that, it is not all about the three Rs, as mentioned by a member - roads, rates and rubbish. Things have certainly moved on. Unfortunately, we have to take into account unscrupulous people who use local government for their own ends, or for the ends of others, to achieve results that are very selfish and that have provided them with monetary gains.

Mr M. McGowan interjected.

Mr M.P. MURRAY: What is the Minister for the Environment on about?

Mr M. McGowan: I think you deserve some credit too.

Mr M.P. MURRAY: I swept the streets for a long time.

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Mrs M.H. Roberts: I remember the Minister for Planning and Infrastructure saying that you ran the town at the time.

Mr M.P. MURRAY: All right!

I will get onto the bill. The views of each speaker, overall, are probably similar. However, those views are dissimilar to the views of the member for Avon. He spoke not about the code of conduct, but more about the broader sense of local government. We must be very aware of what this bill is about; it is about a code of conduct. If this legislation had been in place when I was in local government, I might have been suspended a few times just as I was when I played footy -

Mr M.W. Trenorden: Would you, as the member for Collie-Wellington, accept these rules that the bill will place on local government?

Mr M.P. MURRAY: I certainly would because I have seen what has happened -

Mr M.W. Trenorden: Would you accept them on you, I am asking?

Mr M.P. MURRAY: Members talk about whether they will accept the rules. One issue has been about the cost to councils. However, I ask members to think about the cost of appointing an administrator to the City of Joondalup and what it cost to have a tribunal -

Mr T.R. Buswell: This bill won't help.

Mr M.P. MURRAY: Of course it will, because scrutiny will be a lot more stringent than it is now. People currently have nowhere to go to vent their spleen and say, "I think there's something smelly here; I think there's something not right." This bill will give them that avenue to go to the relevant person, not necessarily the CEO, who is designated to the position.

Mr T.R. Buswell: If you follow your flow charts through, you end up in a panel inquiry.

Mr M.P. MURRAY: It does not have to be the CEO; it can be a designated person. It is probably preferable that it be the CEO, but it does not have to be. At least people will be able to register a complaint. A problem over past years has been the lack of a complaints mechanism. If people did speak up, someone on the other side would say, "I will square that one up for you."

Ms S.E. Walker: Can you lay a complaint at the moment, and how would you?

Mr M.P. MURRAY: How can people? Through the Ombudsman.

Mr T.R. Buswell: No, through the department.

Mr M.P. MURRAY: People can go through the department, but not in the same sense that this bill -

Mr T.R. Buswell: How do you lodge a complaint about a council with the Ombudsman at the moment?

Mr M.P. MURRAY: There is a range of ways, but through this bill they will not have to go to the full-blown model. The model in this bill will nip a complaint in the bud, whether it be a minor or major complaint; it is very clear in the bill. The development of the Local Government (Official Conduct) Amendment Bill, if I must make the point again, relates to the conduct of an individual. The bill is a chance to put a mechanism in place, so that events do not go a long way down the track before action is taken. We hear rumours in this place months and months before a shire falls apart, whether it be the Shire of Augusta-Margaret River or any other shire. Members hear rumours a long time before something is done. In this case, we will be able to bring them to the fore and utilise this code of conduct to make sure everything is above board.

Mr T.R. Buswell: Didn't they all resign in Margaret River?

Mr M.P. MURRAY: There will be an investigation of a type - not a full-blown one. I really believe we can get through without sacking the council and putting in an administrator, whereby innocent people are hurt.

Mr T.R. Buswell: They all resigned in Margaret River.

Mr M.P. MURRAY: Margaret River is only one case. What about Joondalup? Were the people there all guilty? No, they were not, but they were tarred with the same brush. That is totally unfair to a person who stands and does the job to the best of his ability. We must remember that. That is what it is about. It is about cutting out the rotten little bits that might contaminate the whole council. That is very important in this bill.

I will go back. How many people really get nailed for being corrupt in a council? It is not many, but, by gee, do those few cause some damage? They are the ones we are aiming at in this bill.

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Mr T.R. Buswell: If they are accused of corruption, surely they will still have to go through the same process through the department and be referred to the Corruption and Crime Commission, which is exactly what happens nowadays.

Mrs J. Hughes: The CEO is bound to do that.

Mr T.R. Buswell: No, the CEO can't refer them to the CCC; the CEO must follow this process.

Mr M.P. MURRAY: The member for Vasse is saying that the chief executive officer does not deal with the problem. The CEO will accept the problem, if he is the designated person. The only thing he must do is make sure that the form is filled out correctly or the procedure is followed correctly. He has no say in what goes on after that. The form is then referred.

Ms S.E. Walker: What if it is a Machiavellian complaint?

Mr M.P. MURRAY: How do we value the complaint?

Ms S.E. Walker: No. What if it is a complaint that is just a factional complaint?

Mr M.P. MURRAY: They all should be factual, should they not?

Ms S.E. Walker: No, factional. What if someone just does not like somebody else?

Mr M.P. MURRAY: I am sorry. Again, there are rules to deal with that in the bill.

Ms S.E. Walker: Member for Collie-Wellington, I have not looked at this bill, but I am interested in what you have to say.

Mr M.P. MURRAY: There is a process in the bill for that to happen, and there are fines of up to \$5 000 for pursuing something, knowing that it is not true.

Ms S.E. Walker: Are we, as parliamentarians, subject to the same rigorous code of conduct in this place? Have you looked at that?

Mr M.P. MURRAY: No. The code of conduct is in this bill because there are corrupt people in society.

Ms S.E. Walker: Member, I will not go into that. You are very good to take my interjection. I am wondering whether you have looked at -

Mr M.P. MURRAY: Again, it comes back to the fact that we are putting the rules in place. An administrative process will then be gone through, and the matter will be sorted out along the way.

I will respond to a couple of comments made by the member for Bunbury. I believe my response will encompass quite a few other matters, so I hope the member will bear with me. The member suggested that the complaints officer should be a departmental officer. However, it is intended that complaints regarding local government codes of conduct should be dealt with at a local level. I believe that in any case that is where it should start. Why go straight to the top when it can be sorted out locally, with minimal cost to the council? In the main, it will be done quickly.

Mr G.M. Castrilli: I was suggesting that if a complaints officer is designated as a senior officer, and if there is a war between two councillors, undue pressure might be applied to either lodge a complaint or not lodge a complaint. Therefore, I would have thought it would be sensible if an independent person outside the particular local government received the complaint. There would then be no pressure. That is where I was coming from.

Mr M.P. MURRAY: How can that so-called independent person be identified? In my life, I have not seen an independent person. All people have a view one way or the other. All we would be doing is shifting it to another area. Again, that is why I come back to keeping it in house. Once the complaints officer has assessed that the complaint has been formally completed - as I said, that person's only job is to make sure that the form is filled out properly - it will be passed on.

The member also suggested that there was a need for a time limit. That is something that I am quite passionately against. That is a personal view; it is not about the bill itself. As we know, if time limits are imposed, people want to find a solution, and sometimes it is the wrong solution. The finger could be pointed at the wrong thing. Natural justice must take its course, and that is the idea of the bill. I am very keen on that. Once a set time is imposed, and the inquiry is running short of time, people get a bit flustered, and then there are problems. A rushed decision could cause some people huge embarrassment. They must then appeal before they are cleared. That is the last thing I want to happen.

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The member also raised the costs of the panels and how those costs would be met. The bill provides for a local government to pay for only the cost of the panel members' sitting fees. It is intended that the Department of Local Government and Regional Development will meet the costs of all other expenses that are incurred. This would include the costs of staff support to the panel, administrative operations and travel for panels to visit regional areas. One of the comments was that, if it were in Kalgoorlie or wherever, the costs would add up. The department will look at meeting these costs through the normal budget process.

Mr G.M. Castrilli: What are the sitting fees?

Mr M.P. MURRAY: They will be set along the way. There is still quite a bit of work to be done in that area. We will come to that at a later date.

The member queried whether the legislation could apply to ex-councillors. That will not be the case. A person would need to be a sitting councillor to be subject to these requirements.

Reference was made to confidentiality and the provision in the bill for complaints to be kept confidential in the lead-up to an election. I believe that is very wise. There are enough games played in our own elections without having to worry about a local government election, which is closer to the bone. The rumour mill may be running, and someone in the community may be ostracised because of false rumour. Those sorts of matters can be kept for a later date. Of course, it is very difficult to set the boundaries. If we know that an election is three months out, do we start three months early and try to bury someone, which happens sometimes, or do we just make sure that it does not happen at all? I just hope that that sort of rubbish does not happen. I certainly had a few problems in my last election campaign, when people tried to use my family to gain an edge. I have since heard - I was not in the house at the time - that the member for Cottesloe said that families should not be targeted. I find that quite strange, given that at the time he was the Leader of the Opposition. Justifiably, my family was cleared afterwards. I did not bring up that matter at the time. I just thought I would wait to see what happened. It is quite funny how the wheel goes around.

Mr C.J. Barnett: I hope you are not implying that I had any part in attacking your family.

Mr M.P. MURRAY: No. I am saying that the member for Cottesloe was the Leader of the Opposition at the time, and he did not stop it.

The member for Bunbury asked whether an assurance could be given about the department following up people who deliberately make false complaints. This will certainly be a matter that the department will monitor, because the purpose of these provisions is to ensure that people do not use complaints for inappropriate purposes. That is what I have been talking about. The member also asked about the penalty for false and unfounded statements. The penalty is \$5 000. However, this provision is located in section 9.14 of the act, where the general penalty for an offence is located.

The Deputy Leader of the Opposition has certainly had experience of local government, and I listened intently to him. The situation is similar with the member for Bunbury. I know what their roles in their communities were. I am grateful for the overall support for this bill. I believe we are much wiser and better able to make these decisions when we have served in local government. There is a bit more work to be done. I presume that attempts to amend some of this legislation will be made in consideration in detail. I believe this is quite a good bill. I also note that several ministers have had input to this legislation along the way. One is the member for Murchison-Eyre, John Bowler; and the member for Central Kimberley-Pilbara, Tom Stephens, certainly had a lot to do with the bill along the way.

I do not think we should be drawing a long bow and saying "what if". If we can get closer to the real meat of the subject, which is the code of conduct for local government, we will all be better off. I again emphasise the fact that only a minority of people do the wrong thing. It is unfortunate that we need to introduce this bill to control that minority of people.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 to 5 put and passed.

Clause 6: Section 5.53 amended -

Mr G.M. CASTRILLI: Proposed new paragraph (hb)(i) refers to the number of complaints recorded in the register of complaints. Will all complaints that are made against a councillor be recorded, regardless of whether a finding is made against that person?

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Mr M.P. MURRAY: It is my understanding that if a complaint is made against a person, it is recorded.

Mr G.M. Castrilli: If no finding is made against the person, is it still recorded?

Mr M.P. MURRAY: There will be no recording if no finding is made against the person.

Mr G.M. CASTRILLI: I seek clarification. If a complaint is lodged against a councillor and it is deemed that there is no case to answer, then the actual complaint will have been entered on the register, but there will be no indication on the register that there was no case to answer.

Mr M.P. Murray: If no finding is made against the person, no details will be recorded.

Mr G.M. CASTRILLI: If a complaint is lodged against a councillor and a finding is made that there is no case to answer, does that mean the complaint is automatically withdrawn from the register, or that no complaint is entered on the register in the first place?

Mr M.P. Murray: Nothing will be recorded whatsoever.

Mr G.M. CASTRILLI: Obviously when the complaint is made the first time, it is recorded?

Mr M.P. Murray: Nothing will be recorded on the register.

Mr G.M. CASTRILLI: Proposed new paragraph (hb)(i) refers to the number of complaints recorded in the register of complaints. I am getting a bit confused.

Mr M.P. Murray: The complaint is recorded only if a finding is made against the person.

Mr G.M. CASTRILLI: So it will be recorded on the complaints register only if a finding is made against the person?

Mr M.P. MURRAY: That is right.

Clause put and passed.

Clause 7: Section 5.94 amended -

Mr G.M. CASTRILLI: Section 5.94 of the act is proposed to be amended by deleting all of the section before paragraph (a) and inserting instead -

A person can attend the office of a local government during office hours and, unless it would be contrary to section 5.95, inspect, free of charge . . .

Can the parliamentary secretary identify what part of section 5.94 would ensure the confidentiality of any complaints made?

Mr M.P. MURRAY: It is my understanding that that is dealt with in the proposed amendment in section 5.123.

Clause put and passed.

Clauses 8 to 10 put and passed.

Clause 11: Sections 5.104 to 5.126 inserted -

Mr G.M. CASTRILLI: Proposed section 5.104(1) states that the regulations may prescribe rules. Have the regulations been finalised; and, if so, how close are they to the draft regulations that were put together in consultation with the Department of Local Government and Regional Development, the Western Australian Local Government Association and Local Government Managers Australia?

Mr M.P. MURRAY: A draft is in progress; further work is being done on that draft. However, if the member wishes, we can certainly furnish him with a copy of that draft.

The DEPUTY SPEAKER: There is an amendment in the name of the member for Moore. Does the member for Bunbury plan to move that amendment on his behalf? Someone will need to formally move the amendment.

Mr G.M. CASTRILLI: Is there also an amendment to the clause in the name of the parliamentary secretary? I have not received a copy of it.

The DEPUTY SPEAKER: Yes, there is, but the amendments need to be moved in the right sequence.

Mr G.M. CASTRILLI: It is just that I have not received a copy of it, so I cannot work through it. I do not think the member for Vasse has received a copy of the amendment either.

I now proceed to proposed section 5.104(6), which states -

The rules of conduct do not limit what a code of conduct under section 5.103 may contain.

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Obviously, draft regulations are being prepared and local governments can prepare their code of conduct according to the draft regulations. They may also add other provisions to the code of conduct beyond the scope of the regulations. If those provisions in the code of conduct are outside the scope of the regulations, they may not be legally enforceable. Is there any other way they can be enforceable?

Mr M.P. MURRAY: There certainly can be other issues outside the scope of the legislation, but they certainly will not be in the bill itself. They could be run in conjunction with the bill or the bill could be expanded on.

Mr G.M. CASTRILLI: If the regulations provide that a local government can draft its code of conduct within these parameters, but it wants to put in its code of conduct provisions beyond those parameters, they would not be legally enforceable under this legislation?

Mr M.P. Murray: That is correct.

Mr T.R. BUSWELL: Madam Deputy Speaker, I seek some guidance from you on an amendment to proposed section 5.109 in the name of my colleague the member for Moore.

The DEPUTY SPEAKER: The amendments have been circulated. The first amendment is that in the name of the member for Moore and it seeks to delete lines 11 to 31 on page 9.

Mr G.M. CASTRILLI: With your indulgence, Madam Deputy Speaker -

The DEPUTY SPEAKER: Does the member not have a copy of the amendments?

Mr G.M. CASTRILLI: I do, but I have a question about an earlier proposed section.

The DEPUTY SPEAKER: As long as it relates to clause 11, the member is safe.

Mr G.M. CASTRILLI: It does relate to clause 11. The amendment in the name of my colleague is to proposed section 5.109. I have a question about proposed section 5.107. I am sorry; we have jumped a bit ahead of ourselves.

The DEPUTY SPEAKER: At this stage, members can speak broadly about any matter within clause 11 because we are still debating that clause. Before we move on, members need to be conscious of the amendments that they may or may not choose to move. Members can speak broadly to the clause, but they must be conscious that there are amendments to the clause and I will need clarification of whether they intend to move them.

Dr E. CONSTABLE: This clause covers many pages and has many proposed sections. Is it possible to go through the clause proposed section by proposed section so that we can follow it in order, rather than debate it all over the place? Each proposed section is like another clause. It would make much more sense to go through it systematically.

Mr N.R. Marlborough: Good suggestion!

Dr E. CONSTABLE: I thank the minister.

The DEPUTY SPEAKER: I will take advice from the house. I am quite happy to break the clause into the proposed sections, but the question before the house will still be that clause 11 stand as printed. I am quite happy if members want to refer to different proposed sections and leave the amendments until the end. However, I want members to be careful that we do not move on without moving the amendments.

Dr E. Constable: It would give more structure to the debate.

Mr G.M. CASTRILLI: I refer to proposed section 5.107. The Western Australian Local Government Association sought to have the requirement for a statutory declaration incorporated in the complaints procedure. It would have been a deterrent to people making vexatious or frivolous complaints and would have also ensured that complainants were fully aware of the importance of providing accurate information. This issue also relates to proposed section 5.124, "Giving false or misleading information". One of the issues I raised during my contribution to the second reading debate is that instead of using a prescribed form, a statutory declaration could be used, which says to people that it is a serious matter if they give false information. A statutory declaration indicates to people that it is a serious situation. Would the parliamentary secretary entertain replacing the prescribed form with a statutory declaration that any person making a complaint would sign?

Mr M.P. MURRAY: I understand that a fine will be imposed if a person gives misleading or false information. However, if a person provided that information in a statutory declaration, he or she could end up in jail. That is not the intent of the code of conduct. The intention is for the complaint to be made outside the legal system, so that it is dealt with in a quicker manner.

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Mr G.M. Castrilli: You are saying that if an offence is committed in filling in a statutory declaration, the penalty is jail - is that right?

Mr M.P. MURRAY: Yes.

The DEPUTY SPEAKER: I have a suggestion that might help members. I am able to track the parts of clause 11 that will be amended by these amendments. The first amendment in the name of the member for Moore is to proposed section 5.109. Members of the opposition could move that amendment and still move on if they so wish.

Mr T.R. Buswell: It was my fault. I jumped ahead. I believe that my colleague the member for Bunbury has other questions about proposed section 5.107. We will deal with the amendments as we get to them.

The DEPUTY SPEAKER: It would be safer to leave the debate broad. When we get to the relevant part of clause 11, the member will move the amendment?

Mr T.R. Buswell: Yes.

Mr G.M. CASTRILLI: Proposed section 5.107(3) reads -

Within 14 days after the day on which the complaints officer receives the complaint, the complaints officer is required to -

If possible, the period should be changed from 14 days to 10 working days. That is a fairer period, because public holidays could fall during the 14 days and make the time somewhat short. If the period is set at 10 working days, people will know exactly where they stand. Will the parliamentary secretary consider agreeing to that change?

Mr M.P. Murray: I find that a little difficult to accept because, in most cases, the 10 working days are picked up within 14 days. The answer is no.

Mr T.R. BUSWELL: It is a fact that these matters cause confusion for people from time to time because of weekends and public holidays. The member for Bunbury has made a valid point. The insertion of "10 working days" would make it clear-cut and beyond disputation. This definition of 14 days will cause consternation from time to time. With all due respect, the parliamentary secretary should give serious consideration to this matter to simplify it and give clarity to it.

Mr M.P. MURRAY: It has been drawn to my attention that the act has been structured with 14 days. If we amend this proposed section, it will be out of kilter with existing sections.

Mr G.M. CASTRILLI: Proposed section 5.107(4) reads -

A person can make a complaint under this section within 2 years after the breach alleged in the complaint occurred, but not later.

Why is the period in this proposed subsection two years?

Mr M.P. MURRAY: This follows the usual statute of limitations that applies in other law.

Mr T.R. BUSWELL: I believe we are now dealing with proposed section 5.109 on page 9 of the bill. I move -

Page 9, lines 11 to 31 - To delete the lines.

Mr M.P. MURRAY: Without approval from the minister, I do not have the authority to agree to this amendment, given the short notice of it that the house received. The amendment can be moved in the upper house.

Mr G.M. CASTRILLI: Perhaps the parliamentary secretary can explain why that amendment cannot be accepted. The Leader of the House is nodding. How is that so? We are dealing with a bill in this house. If the parliamentary secretary does not have the authority to agree to this amendment, does that mean none of the amendments on the table, including those of the government, can be passed?

Mr J.C. KOBELKE: The parliamentary secretary has explained what is normal practice; namely, when the minister responsible for the legislation is in the other place and amendments are placed on the notice paper, then there would have been time to discuss them with the minister. A decision is then made whether to accept them. These amendments were presented to the parliamentary secretary only a few minutes ago. He is therefore in no position to agree to them. He needs the advice of the minister in the other place. The bill has been on the notice paper since last November, so there has been ample time to place amendments on the notice paper so that they could be properly considered.

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Dr E. Constable: Members can move an amendment any time.

Mr J.C. KOBELKE: Yes, members can do that. I am supporting the parliamentary secretary's position. When the member for Vasse moved the amendment, he did not provide one single explanation for why it should be accepted. On that basis, the amendment will not be supported by the government.

Mr T.R. BUSWELL: I understand that these amendments were tabled earlier today. When did that happen, if that advice is available?

The DEPUTY SPEAKER: They were not provided early enough to get them on the notice paper, and that is why we have the difficulty before us at the moment. The member should probably take the advice of the Leader of the House and have the amendment moved in another place in light of the parliamentary secretary's response. Opposition members have the right to move amendments. They will be recorded in *Hansard* and the government will respond to them as it chooses.

Mr G.M. CASTRILLI: I am disappointed. The amendment was moved because the principle relates to the risk of a complaints officer being caught between opposing groups of councillors or two warring councils. I alluded to that in my speech earlier. Subsequently, they could be pressured into making a decision one way or another. That would not be a good outcome. That is why we are seeking to delete lines 11 to 31. I thought that amendments could be moved in consideration in detail, debated and voted on. However, our amendments will not be discussed because the parliamentary secretary has no authority to agree to them. Obviously, we can move the amendments and then sit down.

The DEPUTY SPEAKER: Members are free to move amendments and provide an explanation, which will be recorded in *Hansard*. It is up to the government to respond. Members opposite can fulfil their role of moving amendments if they wish.

Mr T.R. BUSWELL: I assume I can speak to the amendment.

The DEPUTY SPEAKER: The member can.

Mr T.R. BUSWELL: I apologise for sitting down so quickly without providing an explanation when I moved the amendment. I was caught up in the excitement of juggling all this information. The opposition in this house will move four amendments to this bill and debate the nature of each of them because that is our right. I accept the parliamentary secretary's position that he has limited capacity to negotiate, for want of a better term, with the opposition. By the same token, I am sure he accepts that we have a right to raise points in this house that we feel are significant, if for no other reason than to put our feelings on the public record and to provide some guidance to our colleagues in the upper house when they wrap their substantive intellects around these very difficult issues. I am interested that the Leader of the House comes into this place and treats us dismissively because our amendments were not put on the table in time. He asks how dare we have the audacity to even discuss them here, yet the parliamentary secretary has brought into this place an amendment that none of us had seen until the Clerk photocopied it and dropped it on our table. It is all well and good to have one set of rules and procedures for us in opposition and a different set for those in government.

Mr J.C. Kobelke: They are exactly the same rules.

Mr T.R. BUSWELL: That certainly is not the slant the Leader of the House tried to put on it, and I think he knows that. The facts are that we will discuss each of these amendments - there are only four - and we will discuss them because they are amendments grounded in good argument. The argument for this amendment to delete the proposed section relating to the capacity of a complaints officer to initiate a complaint is real and serious. I made the point earlier that, irrespective of the parliamentary secretary's point, in many small local government authorities, the complaints officer will be the chief executive officer, and that officer will be put in a very difficult situation. The parliamentary secretary knows as well as I do that in local governments, for better or for worse, people form groupings. We can call them whatever we like, but there are often divisions -

Ms S.E. Walker: Factions.

Mr T.R. BUSWELL: No; we do not use that word. Often there are divisions or groupings of people, and those groupings argue with each other. There are arguments and disputes between councillors and staff. Through this bill a staff member - the complaints officer - could be put under enormous pressure to initiate a complaint. I do not understand why the complaints officer will have the power to initiate a complaint. I hope that the parliamentary secretary rises to his feet and, with the assistance of his advisers, provides us with the rationale for why a complaints officer will have the capacity to initiate a complaint. Others have the capacity, within reason, to either initiate or arrange for somebody else to initiate a complaint. This bill is creating a huge potential difficulty for the person who is given the onerous responsibility of being the complaints officer. Our amendment

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stands, and the argument supporting it is very firm. I think the parliamentary secretary would know, given his experience in local government, that these things do happen. They happen even in a place that is as full of harmony and goodwill as is Collie - unless the person is lined up in the back pocket! The potential for pressure to be unfairly put on an individual is real and will create significant problems for local government.

Mr M.P. MURRAY: The advice is that the provision is in the bill so that if the complaints officer wishes to lodge a complaint, he can. That is probably the opposite of the opposition's argument.

Amendment put and negatived.

Mr G.M. CASTRILLI: I refer to proposed section 5.110(2) and the process for dealing with a complaint of minor breach. Will the panel assess whether it is a minor or serious complaint? If the complaint is serious, will the panel then send it to the State Administrative Tribunal or the director general? Alternatively, will it be the primary responsibility of the complaints officer to make that judgment?

Mr M.P. MURRAY: The complaints officer will, after making sure the form is filled out correctly, have a duty to send that form to the department for deliberation on whether the complaint is serious. In some cases it may relate to only a minor breach and will be dealt with as a minor complaint.

Mr G.M. Castrilli: Does the complaints officer determine whether it is a serious or minor breach?

Mr M.P. MURRAY: That is right.

Mr G.M. CASTRILLI: Proposed section 5.110(5) states -

... a council member has committed a minor breach, the standards panel is required to give the council member an opportunity to make submissions about how the breach should be dealt with under subsection (6).

Proposed subsection (6) refers to dismissal of the complaint. In actual fact, this is saying that the councillor against whom the complaint has been lodged can suggest what should happen to him under proposed subsection (6). Is that how the parliamentary secretary reads the proposed subsection? If that is the case, why is the councillor being given an opportunity to say in which way he should be dealt with, when it should be up to the panel?

Mr M.P. MURRAY: It is in the bill, so that the person against whom the complaint has been made has access to natural justice.

Mr G.M. Castrilli: The proposed subsection suggests that the person against whom the complaint is made can turn around and say how he thinks he should be dealt with. He could say that the complaint should be dismissed. Is he asked that in the process of gathering further information or getting an explanation from that person?

Mr M.P. MURRAY: Yes.

Mr G.M. CASTRILLI: Where will the standards panel meet? Will it be in only the metropolitan area or the regional area or in both places; and, if so, who will pay the additional costs? The parliamentary secretary mentioned something about the other costs that the department will pay for if the panel meets in a regional area. Maybe he could clarify those now. I am concerned about the sitting fees, which is what the parliamentary secretary said the council will pay. How will it be determined who pays for what? I know it is a broad question. The panel could sit for three days, or the hearing could take only two days. If the panel has to go back and forth to a location in regional Western Australia, the council might be disadvantaged. What assurances or safeguards are in the bill so that regional local governments, especially smaller ones, will be treated fairly through the amount of money they have to pay for sitting fees and costs?

Mr M.P. MURRAY: Certainly it is the case that the council will have to pay the sitting fees, whether the panel sits for one, two, three or however many days. The department would support all the administrative assistance and costs such as that.

Mr G.M. Castrilli: Will the panel sit in only the metropolitan area?

Mr M.P. MURRAY: No, that is not intended. In most cases, it will travel to the local government.

Mr G.M. Castrilli: Will regional local governments not have to travel to Perth?

Mr M.P. MURRAY: Yes.

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Mr P.D. OMODEI: I presume that under this clause there is a provision that refers to vexatious complaints. What happens when a person makes a vexatious or vindictive complaint against a councillor? What punishment is provided for the person who makes the vexatious complaint?

Mr M.P. MURRAY: That is dealt with under proposed section 5.124, "Giving false or misleading information". It clearly outlines what the penalties are.

Mr G.M. CASTRILLI: I refer to obtaining additional information and other submissions from complainants or any other interested party. What powers does the panel have? Is it all encompassed in the bill? What powers does the panel have to legally obtain information from any other source that the panel thinks is required?

Mr M.P. MURRAY: The panel will not have the power to force people to give information, but it will have the power to request that the information be made available.

Mr G.M. CASTRILLI: The parliamentary secretary has previously said that if a person is no longer a councillor, this provision will not apply. I do not know what situation might arise, but it might be that someone commits a breach that is more than a minor breach but not one that would be referred to the Corruption and Crime Commission. Is there a mechanism in the bill to provide that although the person is no longer a councillor, the offence that was committed is of such significance that perhaps, although it does not warrant investigation by the CCC, some other organisation should investigate it? Is there a provision in the bill or another act that may provide for that?

Mr M.P. MURRAY: If an offence is committed under the act, the offender can be prosecuted under the act.

Ms S.E. WALKER: I have not spoken on this bill, but I am quite concerned about it. I have listened to the debate. I did not realise it was coming on so soon. I have spoken to some councillors in my electorate who are concerned about it. The member for Collie-Wellington asked why, if a few councillors caused some damage, the whole council should go down. That is the parliamentary secretary's rationale for why this code of conduct is necessary. If that were the case, the previous Labor government would not have lost government over WA Inc and the former coalition government would not have lost government over the belltower or Doug Shave and the other stuff. That is just the way it is. Since I have been the member for Nedlands, I have seen how local councils operate.

Mr A.D. McRae interjected.

Ms S.E. WALKER: The member for Riverton was subject to what he said was a vicious complaint to the CCC.

Mr A.D. McRae: Vexatious.

Ms S.E. WALKER: It was not vexatious. Vexatious means the complaints are ongoing and are multiple; it was one complaint on the eve of the election. My point is that it depends who has the power. I have had occasion in this chamber to move a motion to send a government member to the privileges committee and it was knocked out. It should not have been. However, when the government wanted to send one of our members to the committee, the government sent that member to the committee. The point is that it is about power and control. I find this bill disturbing. I can see what will happen because I have seen local government. I have not been a member of local government and I have no aspirations to be in local government. Local governments should all be abolished, and the local member of Parliament should take on their responsibilities.

Several members interjected.

Ms S.E. WALKER: Some councillors are really good and some are really bad.

Several members interjected.

The DEPUTY SPEAKER: As entertaining as this is, I remind members that we are dealing with clause 11, and it would be helpful if one member spoke at a time.

Ms S.E. WALKER: I have seen some intelligent councillors ask questions, and those in power get uncomfortable and start talking about the behaviour or conduct of the intelligent councillors. Who judges what is good behaviour or conduct? When I read the bill, I ask myself: who will determine what the behaviour or conduct is? Will that decision be made by each council, or will it be in the regulations that we have not seen? We have not seen the definition of "conduct" or "behaviour". It is staggering to suggest that a person can bring a minor complaint about the behaviour or conduct of a councillor up to two years after the conduct or behaviour occurred. I have seen how vicious local governments can be. I have seen the degree of viciousness in politics. This code of conduct will leave people open to all sorts of abuse. I refer to the type of abuse that the member for Riverton complained about regarding his conduct when he appeared before the CCC. I do not have an opinion on the member for Riverton's complaint because I do not know anything about it, although I accept what he said

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in his personal explanation. It caused him distress. The same thing can happen under this legislation. Will the parliamentary secretary tell me where the definition of “conduct” or “behaviour” is outlined in the bill?

Mr M.P. MURRAY: I will refer to my notes. A complaint about a minor breach is to be made under new section 5.107 in the bill on a form that has been given to the local government complaints officer. We have already spoken about that. A minor breach is a breach of the rules of conduct to be included in regulations under proposed section 5.104. A complaint about a serious breach is to be made under new section 5.114 on a form to be given to the executive director of the Department of Local Government and Regional Development. A serious breach is a contravention of an offence under a written law, when the offence specifically applies to a council member. This does not include regulations made under proposed section 5.104.

Ms S.E. WALKER: That has not answered my question at all. I am not sure whether I should call the member for Collie-Wellington the member or parliamentary secretary; I do not want to offend him. Who will judge the conduct or behaviour of a councillor? It could be a group of women who have something against a bloke or it could be a group of men who have something against a woman. That is the problem. I have asked the parliamentary secretary to define for me what behaviour or conduct of a councillor will attract a minor breach of the code. I am not talking about a serious breach; I am talking about a minor breach. What behaviour or conduct will constitute a minor breach? Will it be considered a minor breach if someone looks sideways at another person? What is it?

Mr M.P. MURRAY: The regulations are there and there is also a code.

Ms S.E. Walker: Where are the regulations? Have they not been prepared yet?

Mr M.P. MURRAY: The bill contains detailed provisions enabling regulations to be made prescribing the uniform rules of conduct for council members. The rules are to cover the following key areas: standards of general behaviour; use of information; securing unauthorised advantages or disadvantages; disclosing certain non-financial interests; and restrictions on receiving, and the disclosure of, certain gifts. They are still there.

Ms S.E. WALKER: We are voting on legislation and we do not have a clue about what we are voting for.

Mr R.C. Kucera: No, you haven't got a clue.

Ms S.E. WALKER: I know that the member for Yokine is bitter but he should not take it out on me every time I get up to speak. I did not cost the member for Yokine his ministerial portfolio. I am trying to debate this bill at the moment, so he should carry on with his computer.

This bill is all about conduct and behaviour, yet the parliamentary secretary cannot tell us which conduct or behaviour will attract a complaint. That is the danger with this legislation. I am asking: what is it? I know that pecuniary interests and those sorts of things are in the bill, but I am talking about behaviour. For example, a group of men could set against a woman because they do not like her asking questions, or a group of women could set against a man. All sorts of entrenched attitudes or factional interests could generate a complaint. For example, I am referring to the member for Riverton, to what has happened in this chamber since I was elected to this place, to who has power and control and to who can say what is acceptable conduct and behaviour. There is one set of rules for those who are in power and control and one set of rules for others.

Mr J.J.M. Bowler: Are you saying that the Speaker is biased?

Ms S.E. WALKER: The member for Murchison-Eyre has just come into the chamber. I will go through it again.

Mr J.J.M. Bowler interjected.

Ms S.E. WALKER: It was a vote in the chamber. The member for Murchison-Eyre has come into the chamber at the last minute. I am saying that we have set up legislation - for instance, the Corruption and Crime Commission Act - that could be used by people with a Machiavellian agenda. The parliamentary secretary would understand that; everybody in the chamber would understand what a Machiavellian agenda is. I am saying the same about this bill, which is called the Local Government (Official Conduct) Amendment Bill. What is the conduct? The parliamentary secretary cannot tell me; that is why I do not like this bill. I know some decent people in local government who ask probing questions, but those who have control and have the numbers in local government do not like it. I will give an example of what happened in my electorate on an entirely different issue. There was an issue at Melvista Lodge in my electorate of Nedlands. The lodge is governed by a constitution. People who live in the lodge started asking the committee questions, so what did the committee do? The people who wanted to control the lodge got hold of the constitution and attempted to change it so that anyone who asked a question or anyone who did not conduct themselves properly could be jettisoned off the committee. That is the problem with this legislation. What is appalling about the legislation is that the

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

parliamentary secretary has today stood on the government side of the chamber and said to us that it is all about making sure that there is a penalty for the few who cause damage to local government. The judgment for that will be made by whoever has the power and control through the numbers on the local government. The member for Collie-Wellington has seen that occur in politics time and again. If the parliamentary secretary can give me the definition of “conduct” and “behaviour”, I will pass them on to my local councillors who have raised issues about this bill.

Mr M.P. MURRAY: It is clear. The bill contains detailed provisions enabling regulations to be made prescribing the uniform rules of conduct for council members.

Ms S.E. Walker: Tell me what the conduct is.

Mr A.D. McRae: They are regulations.

Ms S.E. Walker: They are not even done yet.

Mr A.D. McRae: That is right.

Ms S.E. Walker: That is why it’s crap! It’s ridiculous.

Mr M.P. MURRAY: Again, the rules are to cover the following key areas: standards of general behaviour; use of information; securing unauthorised advantages or disadvantages; disclosing certain non-financial interests; and restrictions on receiving, and disclosure of, certain gifts. As I said to the member for Bunbury, there is a draft copy of the regulations if the member wishes to receive a copy.

Ms S.E. Walker: Can you tell me what it says?

Mr M.P. MURRAY: I do not have the draft in front of me but there is a draft copy. I would love the member to pick it up so that she can read it.

Ms S.E. WALKER: It really is not good enough for the parliamentary secretary, who is in charge of the bill, to come into this Assembly and tell me to get the regulations, read them and work out what the bill is all about.

Mr M.P. Murray: The bill is in place to allow the regulations to be drawn up.

Ms S.E. WALKER: However, the parliamentary secretary should have them before him.

Mr A.D. McRae: Rubbish!

Ms S.E. WALKER: Rubbish, my foot!

Mr M.P. Murray: Given what the member wants to put in it, we would be here for seven months!

Mr G.M. CASTRILLI: Under proposed section 5.112(4), if the executive director decides not to make an allegation to the State Administrative Tribunal, what appeal rights does the standards panel have against the executive director?

Mr M.P. MURRAY: The executive director will make a decision on whether he wants to deal with the complaint under this proposed section or whether he wants to send it to the Corruption and Crime Commission or somewhere like that.

Mr G.M. Castrilli: What if the panel sends a serious complaint to the executive director and the executive director decides for some reason not to send it on to SAT? Obviously the executive director must do the things set out in paragraphs (a) to (c). However, if the panel thinks that the complaint should be sent on to SAT, but the executive director for some reason will not send it to SAT, what remedy does the panel have to force the executive director to send it to SAT?

Mr M.P. MURRAY: In the first instance the panel would not send it to the executive director; it would be sent by the complaints officer.

Mr G.M. Castrilli: Yes, but if the complaint of a minor breach goes from the complaints officer to the panel and the panel believes it is a serious breach, can the panel then send it to the executive director?

Mr M.P. MURRAY: It is my understanding that it would not be sent in that form to the executive director. Only if there was a repeat of the complaint would it be sent to the executive director.

Mr G.M. Castrilli: Therefore, the complaints officer might send a complaint to the panel that the officer believes is a minor breach, but if the panel assesses it and decides that it is a serious breach, the panel could not then send it to the executive director.

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Mr M.P. MURRAY: The understanding is that the complaints officer would certainly be doing the work at the front end; then if the officer deemed it to be a major breach, it would go directly to the executive director.

Mr G.M. Castrilli: Someone may get it wrong and therefore there is no recourse whatsoever. Is that what the parliamentary secretary is telling me?

Mr M.P. MURRAY: It would be possible for the complaints officer to communicate with the department to make sure that it was sent to the right place.

Mr G.M. Castrilli: Would the panel then send it back to the complaints officer and say that it is a serious breach and should be sent the other way?

Mr M.P. MURRAY: Yes.

Ms S.E. WALKER: Will the parliamentary secretary tell me what evidence a person would have to provide after two years to substantiate a complaint? Are there any guidelines?

Mr M.P. MURRAY: It is my understanding that the period of two years in the statute follows the same complaints procedure as any other complaint. The complaints form would have to be completed and then sent to the relevant person.

Mr M.W. TRENORDEN: I have been listening to this debate in my room. I am now very clear that the parliamentary secretary and his advisers do not have a clue what they are talking about. Having listened closely to this debate, and without being involved in it, I have no comprehension of what the parliamentary secretary is talking about. Can he help me? In the town of Northam, somebody's cat may have strayed. A person may go to the local councillor and say, "A cat has strayed. Will you keep the cat off my property?" The local councillor may say that there is nothing he can do about it. Therefore, the person may say that the councillor is not acting on his behalf, so he will make a complaint about him. What happens in that circumstance?

Mr M.P. MURRAY: I certainly would like to cover that. As I said before, the rules will cover a number of key areas, and one of the rules will cover standards of general behaviour. In my view, it will clearly define what must be done, and it will not be about a cat that has run away.

Mr M.W. TRENORDEN: It does not cover it, from my point of view, because the elector has an expectation that the councillor will do his job. Obviously, the councillor's job is to get the cat off the person's property.

Mrs J. Hughes interjected.

Mr M.W. TRENORDEN: Of course it is. I am not saying that it is a fact, but a lot of people have that attitude. However, the member and I hear these complaints on a daily basis. In my electorate office, I perform this complaint-handling function on a daily basis. I ring my councils and try to sort out these complaints in an amicable manner. However, under the future regime, because the local councillor has not fixed the problem of the cat, that councillor will not have acted in a reasonable manner.

I want to ask a number of questions, and then the parliamentary secretary may want to answer them. At what level does the ratepayer involve the local councillor and make a complaint? Is it when the local real estate agent is on the council and, therefore, the ratepayer thinks he is corrupt? Every real estate agent who is on a council in Australia is considered corrupt by some section of the ratepayers. Does the ratepayer make an application in which he says that because somebody got involved with a property next to his, that councillor is corrupt? How will it work? How will it work when the chief executive officer makes an arbitrary decision, without going to council - we all know that CEOs do that from time to time - and the council says that the CEO should go? Is that a complaints process? None of this makes any sense at all, parliamentary secretary. I cannot see one iota of sense in the bill.

Mr R.C. Kucera: You obviously haven't read the bill.

Mr M.W. TRENORDEN: I have read the bill. I cannot see one iota of logic in this bill. I would like the parliamentary secretary to explain to me how this will work. How will a ratepayer interface with this process? How will a councillor interface with this process? None of that is clear.

Mr M.P. MURRAY: I am sure that the member is aware that in the majority of cases, if not all cases, the rules and regulations are written after a bill has been through the house. That is generally the case. The rules need to be tightened so that they will suit a lot of the councils, with the Western Australian Local Government Association having its say also. That has been said more than several times tonight.

Mr T.R. BUSWELL: With all due respect, I believe the parliamentary secretary may have opened the can of worms a little more than he had anticipated with this issue.

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Mr R.C. Kucera: You haven't read the bill.

Mr T.R. BUSWELL: I have read the bill, my friend. I have had briefings on the bill. I probably know a bit more about the bill than the member knows, because I have taken the time to read it, as has the member for Avon and a number of other members on this side of the house. Unfortunately, or fortunately, in opposition, one of the requirements is that we understand the legislation that we come into this house to talk about and debate. During our second reading contributions, most members on this side said that we support the broad thrust of what this legislation is attempting to do, but we are very nervous about the fact that we are setting in place a legislative framework to control the behaviour of local government elected officials without us knowing the detail that will govern their behaviour.

Mr M. McGowan: You can disallow it. Do you know what that is?

Mr T.R. BUSWELL: I am familiar with disallowance, my friend.

Mr M. McGowan: You probably don't know what that is.

Mr T.R. BUSWELL: I know more about disallowance than the minister knows about dead fish. I will give him the tip on that. That is the issue. I support my colleagues' right to stand in this chamber and continually present to the parliamentary secretary their arguments to highlight that this is a significant issue, because it is. Why is it a significant issue? It is because local government, by its nature, is complex and involves an amazing plethora of personal interactions. When that is happening in a complex environment that is personality based, there is conflict all the time. Members on this side are nervous that the regulations will open up a can of worms that the government cannot even begin to contemplate. I understand the government's frustration that we are making much of this issue, but it is important. I am sure that our colleagues in the upper house, where perhaps the numerical balance is tilted slightly in favour of fairer and more reflective assessment of legislation, will look at this issue in some detail, and the government will not get away with saying that it will show us a copy of the draft regulations later. When the bill goes to the other place, the minister had better have his act in gear, and he had better be able to clearly explain these regulations and what the implications of them will be.

Ms S.E. WALKER: Can the parliamentary secretary tell me whether this legislation is based on any other legislation in any other jurisdiction in Australia?

Mr M.P. MURRAY: No, it is new, but it has been worked out with WALGA on the way through. It has not been just plucked out of the air. It has certainly gone through the Western Australian Local Government Association.

Ms S.E. WALKER: That says a lot. We can look at it -

Mr P.B. Watson interjected.

Ms S.E. WALKER: I thank the member for Albany. I never see the member stand and contribute to a debate. He sits over there and carps and picks. I ask him to look at himself, and I ask the member for Yokine to do the same.

Let us get down to the nitty-gritty. This legislation is not in place anywhere else in Australia. It could be seen as legislation to deal with people who are judged to be troublemakers, difficult people or people who ask questions. It could be used against councillors who have control. I am led to believe that there are no regulations before us to say what sort of conduct or behaviour that a councillor may engage in would attract a breach. I am talking about a minor breach, not a serious breach. A serious breach is already covered; it can be covered by the CCC. I have been asked to look at the regulations. I would have thought that in this Assembly we were more professional than that. Frankly, I believe that we owe more to the people of Western Australia. The government owes more to the people of Western Australia. When the government brought the bill into this place, it should have clarified the issue for the people of Western Australia, and also for members on this side of the house. However, clarifying it for members on this side is a different issue. Now that I know that this legislation can be found nowhere else in Australia, it makes sense. It is dangerous legislation. It is dangerous that the government will send out a stereotypical form to all councils to use, and they can then add to, or subtract from, that form regarding what they say is their code of conduct.

Mr T.R. Buswell: You can't subtract.

Ms S.E. WALKER: I see. How many local government authorities are there in Western Australia?

Mr M. McGowan: One hundred and forty two.

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Ms S.E. WALKER: That means it will be possible to have 142 different codes of conduct. I have seen people change codes of conduct, and constitutions, to suit themselves and get rid of people whom they judge personally -

Mr M. McGowan: You are the one who wants to get rid of them!

Ms S.E. WALKER: No. The minister wants to get rid of them. The minister is not listening. He did not listen in law school. That is why he could not get a job in the outside world.

Mr R.C. Kucera: Don't go down that road!

The ACTING SPEAKER (Mr A.P. O'Gorman): Order, member for Yokine! The member for Nedlands is on her feet. However, the member for Nedlands is encouraging and inviting interjections, and that probably does not help the process. I would like to get out of here by 10 o'clock, and this is not helping.

Ms S.E. WALKER: Thank you, Mr Acting Speaker.

This bill is very skeletal. It does not provide us with any meat or substance. It is our job as opposition members to question the government on legislation; and that is what we are going to do, and that is what I am doing on behalf of my electorate. I have pointed out tonight the problem with this legislation. We agree with a code of conduct. I have seen some appalling conduct by local councils. I have seen some unbelievable viciousness. However, I have also seen some excellent conduct. The government side of the house has complained that legislation that deals with misconduct - other than the CCC legislation - can be misused in a Machiavellian sense by political opponents. I am very disappointed in this bill. If this legislation comes in, I will be speaking long and loud in my electorate if I believe any councillor is being abused by this legislation. It is appalling that a person can bring a complaint after two years when we do not know what conduct or behaviour will be required and what form the complaint will have to take. It is draconian.

Mr R.C. KUCERA: My understanding of this bill is that it will establish a statewide standards panel to deal with complaints about minor breaches that are considered to contravene a new code of conduct, with penalties including public censure, public apology or an order to undertake training. The bill will establish a statewide set of standards for all councils to follow in establishing their code of conduct. The code of conduct will include the areas that have been outlined by the parliamentary secretary. One of those key areas is standards of general behaviour. No-one can ever prescribe what constitutes general behaviour, because that is very much in the eye of the beholder. The standards panels that will be appointed to deal with complaints will therefore need to make a deliberation on the day as to what is good behaviour and what is not good behaviour. Obviously we need a mechanism such as this to enable that to be done. The other key areas that the code of conduct will cover are the use of information; the securing of unauthorised advantages or disadvantages; the disclosure of certain interests that are not financial; and a restriction on receiving, and the disclosure of, certain gifts. The bill contains detailed provisions that will enable regulations to be made prescribing those particular issues, and prescribing a set of uniform rules that will govern that behaviour. If someone were to make a complaint about the cat that we were talking about earlier -

Ms S.E. Walker interjected.

The ACTING SPEAKER (Mr A.P. O'Gorman): Order, member for Nedlands! The member for Yokine is trying to make his point, and the member for Nedlands is continually interjecting. The member for Yokine is not accepting those interjections, so the member for Nedlands should desist.

Mr R.C. KUCERA: I appreciate that the member for Vasse has had long experience in local government. I would be concerned also if these provisions were not in the bill. However, they are in the bill. I am not sure whether the member went through the briefing process and got an overview of the bill, as I did. I also took the time and trouble to read the bill. It is clear that the panel will establish a code of conduct that will be applied by each council. Any complaints of a minor nature that are not settled at that point will go to that panel. I do not have any problems in understanding that. Of course, we all have concerns when people walk in off the street and want to make minor complaints. We get that every day of the week as members of Parliament. This bill puts in place two mechanisms. The first is for minor complaints, which will be dealt with by the statewide standards panel. The second is for major breaches, which will be governed by certain laws and regulations. I do not think anyone is arguing about that. The rules are laid out clearly in the bill. It is impossible to talk about the regulations until the bill has gone through the Parliament. The same situation applies to every piece of legislation that has ever gone through this place under the Westminster system of government. It is an absolute nonsense to try to harass the parliamentary secretary into specifying the type of conduct we are talking about. We should get on with it. Those things are in place in the bill.

Mr M.P. MURRAY: I move -

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Page 14, line 15 - To delete “the breach” and substitute -
a serious breach

Mr M.W. TRENORDEN: That amendment makes this bill as clear as mud. What we have here is a government agency that does not want to do its job and wants to handpass this function to someone else. That will not work. This bill is typical of a range of bills that have come forward in the past few years. This has nothing to do with the parliamentary secretary. The parliamentary secretary would be pleased to hear that the reason he is paid that extra substantial salary is so that he can handle bills like this; however, this is not actually the parliamentary secretary’s bill, so I know he cannot do anything about it. As I have said, this bill is about the bureaucracy running out of control and trying to put in place a process that will take the pain away from it but has absolutely no chance of working. When the parliamentary secretary speaks to the minister, he should tell him to open the top drawer of his desk - which he obviously has not done - and he will find a letter that tells him how he should conduct himself as a minister. That means not letting a government agency handpass to someone else the abject nonsense that we find in this bill. The government’s amendment to insert the word “serious” is just pathetic. If a minister moved an amendment like that in this place 10 years ago, it would have been laughed out of here. How could the people who drafted the bill and those in the minister’s office miss the very serious matter of not inserting the word “serious” in the bill? This is really serious stuff! How does an amendment of this sort get moved in this chamber by the parliamentary secretary? It is abject incompetence! For that reason alone, the bill should be voted against.

Mr M.P. MURRAY: First, I will clarify a couple of issues. This bill has been drafted in conjunction with local governments and their peak body. They form one of the groups that asked for the bill to be drafted. They have had major input to this bill. However, because the member does not like it, he reckons that all local governments do not like it as well. That is not true. Their peak body has attacked the government on a regular basis for doing nothing. If we were to retain the situation of 10 years ago, what would happen to our state? We have moved on.

Mr M.W. Trenorden: Why is this amendment being made in its current form? Why insert the word “serious”? What has changed in the bill that is so important that you have taken the time to amend your own bill by inserting one word - “serious”?

Mr M.P. MURRAY: Parliamentary counsel has advised that a minor amendment should be made to the proposed section to clarify in proposed subsection (2) that this proposed section applies to all serious breaches that may come to the attention of the executive director. The current drafting may result in an interpretation that limits the proposed section only to breaches referred by another person. Changing the words “the breach” to the words “a serious breach” will ensure that the executive director may refer to the State Administrative Tribunal all serious breaches that come to the attention of the executive director by any method. This was the intention of the original drafting and this amendment will clarify that intent.

Mr M.W. TRENORDEN: I will restate my point. I would be greatly surprised if this bill was not written on the back of an envelope down the pub on a Thursday afternoon! How can the parliamentary secretary look me in the eye and in all honesty say that it is an important process to add the word “serious” to a bill that has had the due consideration of the agency and the minister’s office? This bill is a nonsense.

Mr T.R. BUSWELL: I will pick up on one point. I was intrigued to hear the rationale for the insertion of the word “serious” into the proposed section. I am keen to understand how it will impact on my little flowchart, which the minister’s officers kindly gave opposition members. I am interested in this thing called a mixed breach, which I understand does not appear in the legislation but certainly appears on the flowchart. The flowchart indicates that a mixed breach is a breach of the code-act identified. On the flowchart, it links to the department and then to SAT. I am intrigued whether this will encapsulate the mixed breach. The parliamentary secretary has often mentioned consultation with the Western Australian Local Government Association. The four amendments that the opposition is moving, which the parliamentary secretary cannot give us any leeway on, have been recommended to us by the government’s partner in the bill, WALGA. The parliamentary secretary should bear that in mind.

Amendment put and passed.

Mr T.R. BUSWELL: The amendment in the name of the member for Moore has been circulated. Therefore, on behalf of the member, I move -

Page 18, line 21 to page 19, line 20 - To delete the lines and substitute -

5.123. Confidentiality

- (1) This section applies to a person who -

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

- (a) makes a complaint;
 - (b) performs a function under this Act in respect of a complaint made; or
 - (c) as a result of anything done under this Division, becomes aware of any detail of a complaint made knowing it to be relevant to the complaint.
- (2) A person to whom this section applies commits an offence if -
- (a) before the standards panel finishes (as described in subsection (3)) with a complaint of a minor breach;
 - (b) before the Executive Director finishes (as described in subsection (4)) with a complaint of a recurrent or serious breach; or
 - (c) before the State Administrative Tribunal finishes (as described in subsection (5)) with an allegation by the Executive Director,
- the person discloses information that the complaint has been made, or discloses information of any detail of the complaint.
- (3) For the purposes of subsection (2)(a), the standards panel finishes with a complaint of a minor breach when -
- (a) the standards panel has dealt with the breach under section 5.110(6)(b) or (c); or
 - (b) after the standards panel has sent the complaint to the Executive Director under section 5.111(1), the Executive Director makes an allegation to the State Administrative Tribunal that the council member concerned committed the breach.
- (4) For the purposes of subsection (2)(b), the Executive Director finishes with a complaint of a recurrent or serious breach when -
- (a) the Executive Director sends the complaint to the standards panel that sent the complaint and the standards panel has dealt with the breach under section 5.110(6)(b) or (c);
 - (b) the Executive Director makes an allegation to the State Administrative Tribunal that the council member concerned committed the breach and the State Administrative Tribunal has made an order under section 5.117(1); or
 - (c) the Executive Director decides not to make an allegation to the State Administrative Tribunal and to deal with the matter in another way.
- (5) For the purposes of subsection (2)(c), the State Administrative Tribunal finishes with an allegation by the Executive Director when the State Administrative Tribunal has made an order under section 5.117(1).
- (6) It is not an offence against subsection (2) to disclose information if -
- (a) the disclosure is made for the purposes of investigating or dealing with the complaint; or
 - (b) the disclosure is required under a written law.

This amendment has been suggested to the opposition by the government's newfound friend and partner in the bill, the Western Australian Local Government Association. The association's concern ostensibly is that the confidentiality clause of the bill, as it stands, relates only to complaints made during an election period. WALGA is particularly concerned about protecting the integrity of individual members of councils from vexatious complaints and complaints that have no foundation and about protecting the confidentiality of that process. That is the reason it has asked for this amendment to be moved. Experience in local government has shown that the first thing people do after they make a complaint is put out a press release or start telling everyone in the town about the nature of the complaint. This amendment is designed to prevent that happening.

Mr M.W. TRENORDEN: Are we not going to hear comment from the parliamentary secretary?

Mr M.P. Murray: I gave the house my position earlier.

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Mr M. McGowan interjected.

Mr M.W. TRENORDEN: That is right. The Minister for the Environment's view is that the government does not have to be accountable. His government has the numbers; it can just use them to crunch the bill through. It does not have to worry about bills being reasonable, being assessed and questioned; it can just crunch them through the house because members opposite do not have a point of view. This bill is a disgrace. The parliamentary secretary should be saying much more about it; he is being paid to be a parliamentary secretary. I am not having a personal go at him.

Mr P.B. Watson interjected.

Mr M.W. TRENORDEN: The member for Albany can get personal. The member for Collie-Wellington is the parliamentary secretary. He is paid a salary to do this job. He knows darned well that I do not dislike him. That is not the issue. I am taking him on as the person responsible for handling this bill. This bill is flying through this house like a brick and tile glider. It is a disaster. The least that we should be hearing is a description of how this bill will operate and assist local government in Western Australia. I have not heard any of that; I have heard only confusion. The member for Yokine made an impassioned speech, and that is fine. However, it cleared up nothing because there is nowhere -

Mr R.C. Kucera interjected.

Mr M.W. TRENORDEN: The member did not clear up a single issue.

Mr R.C. Kucera: I read the explanatory memorandum to you; the one that you obviously haven't read.

Mr M.W. TRENORDEN: The member for Yokine can try to protect his colleague sitting at the table. That is fine; I do not have a problem with that. However, his comments did not contribute to the debate. We can all read the documentation. That is not the issue; we are meant to be given a description of this bill. People will read the *Hansard* tomorrow and on other days to find out what this bill is about. How many councillors are in local government? How many councillors are members of the 144 councils - counting the two offshore and 142 without them? Are there 1 000 councillors? Do members opposite think those councillors might be interested in this bill? Do they think a couple of people might read *Hansard* tomorrow or later to try to work out what this bill is about? Is it reasonable that they should be able to read tonight's debate and say that the parliamentary secretary has given a fairly clear indication of what this bill is about? There has been none of that. There has been no description of how this bill will work. The bill is a mechanism seeking to provide an unworkable code of ethics.

Three sections in the old York council were terminated. It is public knowledge that I approached the Minister for Local Government to terminate that York council; he did not do that off his own bat. There were three distinct groupings in that old council. Which grouping would the government have backed?

Mr T.R. Buswell: What were they: the National Party, the Country Party -

Mr M.W. TRENORDEN: Fortunately, they were not divided like that. I could tell members how they were divided, but I will not go into that. There were three distinct factions. Which faction would the proposed tribunal have backed? Where in the bill does it describe how the tribunal would have decided which of the three factions should go? How will it work? None of that has been explained tonight?

Mr R.C. Kucera: That is like asking us to include in legislation how a judge should make a decision.

Mr M.W. TRENORDEN: If the member for Yokine were driving down the road and was pulled up by a booze bus, he would be dealt with through a pretty clear mechanism and face a clear outcome.

Mr T.R. Buswell: Like running away!

Mr M.W. TRENORDEN: Yes. The bill is supposed to provide for a considered process, but I cannot see it. In no way has any part of the discussion tonight given any clear indication of how the tribunal will work. I agree that it is difficult for the parliamentary secretary. I am not picking on him personally, but as the parliamentary secretary, it is his job to describe that to this house.

Mr M.P. MURRAY: I am surprised at that little outburst from a person who professes to seek open and accountable government. This amendment is about shutting the door and keeping people out. It will enable anyone on the street to say that they have made a complaint and then it will not be possible to find out whether that was true. The rumour mill in small towns will get into gear. Members opposite know what will happen: everyone in the street will say that they had a go at a particular councillor and made a complaint. How will we know whether that is true? We will not be able to find out because this amendment will make it confidential. This bill does not provide for that. Confidentiality will apply only before a council election. In the meantime,

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

people who are rumour mongering will make up all sorts of stories. As we know, that happens in local government probably more than anywhere else, and in small towns. If this amendment is passed, how will we find out whether a complaint was made; it will be confidential? Let us keep the windows open; let us allow people to look around and be accountable.

Mr T.R. BUSWELL: The parliamentary secretary is claiming that the amendment proposed by the Western Australian Local Government Authority and moved in this place by the opposition to improve what is a very serious part of the bill is designed to muddy the waters of open and accountable local government. That is a load of rot. The parliamentary secretary implied that it would fuel the local community rumour mill. I suspect that he has delved into the pages of one too many Mills and Boone books. The amendment is clear and provides that people cannot engage in that sort of activity. It is exactly the same as the provision in the government's legislation.

Mr M.P. Murray: You are dreaming.

Mr T.R. BUSWELL: I might be dreaming according to the parliamentary secretary, but at least I have a reasonable grasp of what we are talking about. I note that when referring to the limitation on confidentiality during election campaigns the Western Australian Local Government Association says that the limitation represents a significant departure from the original model established under the draft disciplinary framework and has the capacity to undermine the integrity of the new system. The parliamentary secretary has told us not to worry about the detail or the fact that some parts of the legislation do not seem to fit together well, because local government supports it. He has told us to accept as a fact that the Local Government Association supports the government's confidentiality provision in proposed section 5.123.

Ms A.J.G. MacTiernan: Are you objecting to the fact that there will be some confidentiality in the lead-up to an election?

Mr T.R. BUSWELL: No. I am saying it should be expanded to cover the entire period until an allegation is proved or otherwise. I agree that confidentiality should apply during an election, as does WALGA. However, we believe that confidentiality should be extended to cover the full period. As I said before, WALGA is keen to see confidentiality maintained because it is concerned about the use of vexatious and malicious claims made under this legislation. I will not say any more about it. It is not acceptable for the parliamentary secretary to say to us that this is what local government wants. In this instance the confidentiality proposed in the bill is not what local government wants.

Ms S.E. WALKER: I will give the parliamentary secretary his due; that is, he does not come into this place, as does his colleague the Attorney General when he is dealing with a world's first bill, and claim that it is a world's first bill. This is a world's first bill; this procedure has not been tried anywhere else in the world. We will implement it in Western Australia. We will vote on something now that we do not know anything about because we do not know what the outcome will be in any jurisdiction, what the benefits will be or what the disadvantages are. However, we know as parliamentarians and politicians how this legislation could be abused and used. It could be used in a vicious, pernicious and malicious way by local councillors against each other. I am shocked. I have just read that a chief executive officer could be the complaints officer! I am totally horrified. I do not want to have a go at the people who drafted this bill, but obviously they do not know what some CEOs get up to. I know what they get up to. All members know what they get up to, yet the CEO will be the complaints officer. I can see setups occurring all over the place. If government members cannot see that, they are not thinking. I do not know why they are not. It was suggested to me a few minutes ago that this legislation might be aimed at a particular council. If it is, that is poor form on the government's part. If that is true, it goes to show that the government is using its power and control.

Ms A.J.G. MacTiernan: Which council?

Ms S.E. WALKER: If the government is, shame on it. That puts paid to what I said.

Mr M.W. Trenorden: Your favourite council.

Ms A.J.G. MacTiernan: Which one is that? There are so many!

Ms S.E. WALKER: The City of Perth. Former City of Perth councillors can tell us about this. They attempted this sort of code of conduct for local councils in 1995 and the court shot it down. Has the parliamentary secretary looked at the regulations that the City of Perth made for a code of conduct that was shot down in the courts?

Mr M.P. Murray: I have not.

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Ms S.E. WALKER: That is something else that has not been looked at. Many people who are elected to council are raw and do not understand the processes.

Mr T.R. Buswell: Some are bitter.

Ms S.E. WALKER: Some government members are bitter. Will newly elected members have to sign a legal requirement for a code of conduct? Can that code of conduct be changed sometime after they have been elected?

Mr B.J. GRYLLS: Earlier the parliamentary secretary said that the public can make a complaint to the complaints officer. Can not only councillors, but also members of the public make a complaint?

Mr M.P. Murray: Yes.

Mr B.J. GRYLLS: A lot of people come to my electorate office who do not like the local council. Most of the vexatious complainants come to me and I tell them to write a letter to the Minister for Local Government and Regional Development.

Mr M.P. Murray: Do they?

Mr B.J. GRYLLS: They do.

Mr M.P. Murray: Most of them do not.

Mr B.J. GRYLLS: Most do not. However, the point I am making is that they would make a complaint to the complaints officer in the local community. Is that the way it will work?

Mr M.P. Murray: They can make a complaint to the complaints officer.

Mr B.J. GRYLLS: I do not think that will work.

Ms S.E. WALKER: I asked the parliamentary secretary a question a moment ago and was wondering whether he will answer it. Is there a legal requirement for a new councillor to sign the code of conduct?

Mr M.P. Murray: No. I have been told that it will be done in the regulations.

Ms S.E. WALKER: If a councillor is elected and a code of conduct is on foot, who can change the code of conduct once the elections have been held?

Mr M.P. Murray: The only way they can be changed is if the regulations are changed.

Ms S.E. WALKER: If a serious breach occurs under clause 11, the bill provides that a councillor can be suspended. What happens if a mayor is suspended? Where in the legislation does it refer to what happens if a mayor is suspended?

Mr M.P. MURRAY: This relates to council members. A mayor or a president of a council is a council member.

Ms S.E. WALKER: I refer to the provision to suspend a councillor for a serious breach. Is this on a par with what happens to parliamentarians if they contravene a local law? A serious breach constitutes a council member who commits any offence under the written law. What penalty can that result in?

Mr M.P. Murray: The serious breaches are referred to SAT.

Ms S.E. WALKER: What penalty will apply? Is it a six-month suspension?

Mr M.P. Murray: The worst penalty could be a five-year disqualification, or a councillor could be stood down for six months.

Ms S.E. WALKER: That would not happen to a parliamentarian if a parliamentarian breached a written law.

Mr M.P. Murray: We are not under the same bill either.

Ms S.E. WALKER: Why is this legislation so punitive?

Mr M.P. Murray: It is clear under standing orders what happens here. Unfortunately, what governs the conduct of local councils is not as strong as the standing orders for the chamber. That is what we are trying to rectify.

Ms S.E. WALKER: Under this bill, a councillor can be suspended for five years just by committing a serious breach, which is any offence under a written law for which an element of the offence is that the person is a council member. They can be suspended for five years.

Mr M.P. Murray: If a person commits a very serious breach, the person can be prosecuted and jailed.

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Ms S.E. WALKER: I am talking about what the panel can do. The panel can suspend a councillor. I am not talking about what happens to a councillor under the written law.

Mr M.P. Murray: The idea of this provision is that a lesser penalty than jail will apply to make councillors pull in their heads and do the job they are elected to do. If councillors go past that point, they will be suspended. That is the idea. It is to cut out the cancer that slowly and surely creeps through when somebody gets away with something at the bottom end and then he takes the next step and the next step. Under this legislation, people like that can be pulled into line.

Ms S.E. WALKER: Pulled into line? They are subjective judgments.

Mr A.D. McRae: They are standards.

Ms S.E. WALKER: The member has not even seen them yet. We do not know what they are and they can be changed by the 142 councils of Western Australia. The member for Riverton complained to Parliament when he was the subject of what he says was a vexatious complaint. I am defending councillors who may be subject to vexatious or vicious complaints. They will be subject to penalties to which we are not subject. Where is it written that members of Parliament can be suspended for five years for committing an offence against any written law? Where does it say that?

Mr M.P. Murray: It does not.

Ms S.E. WALKER: It does not.

Mr M.W. TRENORDEN: We have not cleared up this process. It is a serious matter for a panel of unknown people to lay serious charges against an individual. The penalties imposed can range up to five years. That could affect a councillor in the electorates of Collie-Wellington or Northam. That is a very significant slap in the face to the individual. Why should those people have this power? What part of the government's argument says that this will be a worthy thing to do? The member for Nedlands has said, and I totally agree with her, that we do not impose this on ourselves. We had a bit of banter with the member for Riverton. I will not pick on his case, but the fact is that any member can stand in this chamber and say what he or she likes under the protection of privilege. We have been given that right, which many of us have misused over the years, which we can use in the defence of this chamber and our role as members of Parliament. Councillors have absolutely nothing like that.

Mr A.D. McRae: There is a difference between a sovereign chamber, which is sovereign in its own role, and a chamber established by statute. You are confusing the two.

Mr M.W. TRENORDEN: Why should we impose on those 1 000-plus councillors penalties that we would not accept ourselves?

Mrs J. Hughes interjected.

Mr M.W. TRENORDEN: Five years? Has the member ever been a councillor?

Mrs J. Hughes: Yes.

Mr M.W. TRENORDEN: If the member had been kicked off the council for five years because she had taken a principled stand that no-one else agreed with, even if she was wrong, what a huge penalty that would have been.

Mrs J. Hughes: It must still be proved that it breaches the act.

Mr M.W. TRENORDEN: By whom?

Mrs J. Hughes: By the Parliament. They could go and suspend the whole lot and put in commissioners. Is that better?

Mr M.W. TRENORDEN: Yes it is.

Mrs J. Hughes: To have the whole lot suspended?

Mr M.W. TRENORDEN: Someone asked earlier in this debate about the terrible cost. In the case of York it has not been a cost, because York has moved forward under the administration of Gavan Troy. That cannot be argued. Whatever cost has been paid, the Town of York has been through a beneficial process. It may not be the same for Joondalup, Margaret River or wherever. We are talking about a group of people who will in the end stand in judgment. How will they do that? I will give members the example of the old York council, which was dysfunctional, but I consider that each of its councillors is a decent person.

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Mr R.C. Kucera: You think it is fair, do you, that for the one disruptive councillor, for whatever reason, the whole council should be sacked?

Mr M.W. TRENORDEN: The member for Yokine is in the chamber. This is the point I am trying to make: why is it such a terrible thing if a councillor is disruptive? If that councillor is doing something in due conscience, why should we think it is a terrible thing?

Mr R.C. Kucera: This is not about conscience.

Mr M.W. TRENORDEN: Yes it is.

Mr R.C. Kucera interjected.

The ACTING SPEAKER (Mr A.P. O’Gorman): Order!

Mr M.W. TRENORDEN: I have only a minute and a bit. I will put this in the context of the York situation, when three factions in the council were fighting and the council was dysfunctional. All of those councillors were decent people, but they had a bee in their bonnet, so they would not back down. Who will adjudicate on who will go?

Mr R.C. Kucera: Have you not read the bill?

Mr M.W. TRENORDEN: Solomon must be up there with a sword, deciding whether to cut the baby in half.

Ms S.E. WALKER: Under clause 11, proposed section 5.122, headed “Standards panels”, complaints made to a chief executive officer are to be taken to a standards panel. Is that right? Where does this standards panel come in?

Mr M.P. Murray: It is my understanding that if the CEO wants to make a complaint to the panel, he can do.

Ms S.E. WALKER: In a situation, such as that of the Cambridge council, in which this government had a stoush with the local mayor and somebody decided to make a complaint against the local mayor, who would select the standards panel to whom the CEO would refer the complaint received? Will the minister select the standards panel? The standards panel can comprise anybody. I am not suggesting that it would be done by this Minister for Local Government and Regional Development, but the panel could comprise people whom the minister could direct. Therefore, the parliamentary secretary can see how he could get rid of that one troublesome person. Is this bill set up for the Town of Cambridge? Is it set up for Mayor Anderton? Under this bill a member of the public could make a complaint against, say, Mayor Anderton. The new CEO would say that his or her duty under the bill was to take the complaint to the standards panel, which would be convened by the minister, and the person against whom the complaint was made would be suspended for five years. I have seen people set up before. The member for Yokine has said ad nauseam that it is all designed to get rid of that one person, that troublemaker, that difficult person.

Mr R.C. Kucera: No, I didn’t. Don’t tell lies in the house.

Ms S.E. WALKER: The member for Yokine tells lies in the house. He should not tell porkies. Whatever he does, he should not verbal me.

That is what will happen and I am asking the parliamentary secretary, who did not answer me: is this bill set up for the Cambridge council? The parliamentary secretary is not responding to me. However, it seems strange when one considers that this government has had a big stoush with the Cambridge council and now this bill is before members. I think, as I said, that under this bill anyone will be able to set up someone and get rid of that person, and the person will incur a penalty under punitive legislation that we in this house do not have to incur.

Who will pay for the standards panel? Will there be fees for the people who serve on the standards panel, and who will pay them? If it is the local council, is there an open-ended chequebook, or will the government pay for the standards panel, given that any member of the community and any councillor can make a complaint?

Mr E.S. Ripper: It has nothing to do with Cambridge.

Mr M.P. MURRAY: The local government will pay the fees, and the state government will then pick up the associated costs.

Ms S.E. WALKER: Will the parliamentary secretary just repeat the fee structure again, please?

Mr M.P. MURRAY: The main fees will be paid by local government, and the associated costs will be picked up by the state government.

Ms S.E. Walker: What sort of associated fees?

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Mr M.P. MURRAY: Travel and administration support; those sorts of things.

Mr M.W. TRENORDEN: Has any work been done on the expected number of complaints at any given place? My expectation, from reading the bill, is that complaints would go to the Northam council at a very frequent and hot pace. Has anyone spent time working out the expected complaint process in councils such as Joondalup, Bunbury or Northam? As I have said repeatedly, York is an example of a nice little hotbed of local government activity. The member for Moore is not in the chamber, but Toodyay is heading that way too. I can foresee a huge amount of activity developing within a small council, and the council will have to pick up the cost. Has anyone done any costings on the expected number of complaints?

Ms S.E. WALKER: Yes, they have. Someone who read the bill did a costing for me, and calculated that if there are 144 local governments in Western Australia, each with an average of 10 members, a single standards panel covering the whole state could conceivably have to hear three or four complaints every day of the year, including Saturday and Sunday, just to determine whether there was a case to answer, a fine to administer or a complaint was vexatious, frivolous or false. That is only if the councillors make a complaint; I am not talking about ratepayers. There we are; this will cost an enormous amount of money. Knowing the number of wars that go on in councils, I wonder whether a costing has been done.

Mr M.P. MURRAY: The department receives approximately 330 complaints per annum regarding the activities of local governments, council members and staff. Approximately 60 of these would be serious complaints about the behaviour of council members under the act. These complaints principally relate to the failure to declare a financial interest or improper use of information. However, it is anticipated that no more than 10 of these would be considered to have sufficient evidence for possible prosecution action. Accordingly, it is expected that the numbers referred to the State Administrative Tribunal each year for action under this new legislation would be less than 10.

Mr M.W. TRENORDEN: That is absolute dreamtime. We are speaking about a new system here. After a short period of its operation, ratepayers and councillors will know about its existence. The parliamentary secretary knows from his own office the number of people who come in and complain to him. As he says a few words and people get heard, they walk out the door without doing anything more about it. The parliamentary secretary said that earlier. That is the way it is in my electorate office. Our electorate offices are buffers for local government. When people come into my office from now on, I will tell them not to talk to me, but to go and put in a complaint with the tribunal. The number of complaints will go up tenfold or a hundredfold.

Mr R.C. Kucera: Don't you think that if we put in place a proper system that had codes, rules and regulations, and allows people to be dealt with quickly, properly and sensibly, it would do away with these frivolous complaints?

Mr M.W. TRENORDEN: That is not the real world. I have not done a count, but I have a very busy office, like the member for Yokine, and local government complaints take up a fair slice of my office time. Most of those complaints do not leave my office. I say that I will ring the shire clerk and see what I can do for the person, and often take part in a bit of negotiation. That will no longer be my business. A process is being put in place here, and it will no longer be my business. The honest answer is that I will not deal with them. Local government is not my province. State government is my province.

Mr R.C. Kucera: If we all thought like that, the government would grind to a halt. We are in this house to serve the community.

Mr M.W. TRENORDEN: The member just asked me whether I wanted a system that would do this. This system will take over. Max Trenorden's office will no longer say that it will try to mediate this, because I have no role. The only role I have is because I know the shire clerk or the planning officer, and I can try to work something out. That will no longer be my responsibility. I will give out a complaint form and tell the person to put in a complaint. People come into my office in their dozens complaining about Western Power. I do not call up Western Power. I just give them the form for the Office of Energy to fill in and send. It is beautiful; a great system.

Mr R.C. Kucera: I call Western Power and ask them to fix it.

Mr M.W. TRENORDEN: I do not. When the power has been off for 18 hours, how can I fix it?

The complaint level will increase exponentially. The parliamentary secretary will not be able to pick it, and I will not be able to pick it, but he can add one or two noughts to those figures he just read out. Even on the serious side, as the parliamentary secretary knows, many people come into his office very angry, with steam coming out of their ears. However, by the time they have told their story, and got a smile from the member, they

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will walk out of the office without any further complaint. Every member of this chamber knows that is true. We are putting in a brand-new process here. Why would I want to take on a chief executive officer? I have a rule in my office that I do not take on local government bodies. I try to work hard with them, even though I often get abused by councillors and by local government bodies. I rarely, if ever, retaliate, because to get things done in an electorate such as the parliamentary secretary's electorate or my electorate, we must work together. There is no other alternative. I do not want to handle the cat problem and the neighbour's trees leaning over the fence. We had a famous case a few years ago in which a neighbour had to put up scaffolding so that he could paint the opposite side of the fence, without touching the fence, because of the law. The parliamentary secretary knows these stupid things occur. I do not want to be involved in them, and the parliamentary secretary does not want to be involved in them. They will go straight to this tribunal.

Ms S.E. WALKER: Can the parliamentary secretary tell me what the penalty is for giving false or misleading information under proposed section 5.124?

Mr M.P. Murray: It is up to \$5 000.

Ms S.E. WALKER: If a person maliciously gives false information about a councillor, the punitive measure for that person is \$5 000. However, for a councillor, is it suspension for five years, six months or what? What are the other penalties? I would not be a councillor for quids under this bill.

Mr M.P. Murray: It is a penalty of \$5 000 for the person giving the false information, and, under the act, the councillor can be suspended for six months.

Ms S.E. WALKER: Or five years.

Mr M.P. Murray: Yes, five years' disqualification, not just suspension.

Ms S.E. WALKER: Why does the government not hang them? It would be easier and kinder.

Mr M.P. Murray: I must say that in this case - others have a different view - the Western Australian Local Government Association supports these fines.

Ms S.E. WALKER: The parliamentary secretary is talking about WALGA. What about all the councillors? Has the parliamentary secretary gone to all the councillors and asked them? Has a survey of all the councillors been done?

Mr M.P. Murray: Is WALGA not their lead body?

Ms S.E. WALKER: Yes. So what? They are just the people who run WALGA. Has a survey of all the councillors been done regarding this bill?

Mr M.P. Murray: It is the same as any association. WALGA has checked with its members. It has sent out the information, gathered the information and come back to us with it.

Ms S.E. WALKER: Is there any mechanism for a councillor being excluded on the grounds of mental illness or physical ill health etc?

Mr M.P. Murray: There is no intention to include those types of provisions in the regulations, and I do not think they should be.

The ACTING SPEAKER (Mr A.P. O'Gorman): Members, nobody is on his or her feet. Nobody has the call. If anybody wants to speak, he or she needs to seek the call. The member for Nedlands has just spoken. Nobody has had the call since she has spoken.

Mr M.W. TRENORDEN: There has been a bit of casualness. I do not pick on the parliamentary secretary for that, because this is the first time he has been in charge of a bill. Unfortunately, he has been given a lemon. He has been given what used to be called a Friday Commodore. I can see the parliamentary secretary laughing, because he knows precisely what I am talking about.

I think the parliamentary secretary understands our concerns; I am sure he does. The problem - I can speak only for myself - is that I am not convinced, and I believe that quite a few people in this chamber are starting to wonder whether they should be convinced.

Ms S.E. WALKER: I want the parliamentary secretary to clarify whether four working party groups concocted the bill. How was the bill created?

Point of Order

Mr John Castrilli; Mr Tom Stephens; Mr Troy Buswell; Deputy Speaker; Mr Tony Simpson; Mr Max Trenorden; Mr Mick Murray; Dr Elizabeth Constable; Mr John Kobelke; Mr Paul Omodei; Ms Sue Walker; Acting Speaker; Mr Bob Kucera; Mr Brendon Grylls

Mr J.C. KOBELKE: I understand there is an amendment before the chamber. If that is the case, debate must be on matters relevant to the amendment and not to clause 11 or the whole bill. The line of questioning that is taking place goes beyond the amendment before the house.

Debate Resumed

The ACTING SPEAKER (Mr A.P. O’Gorman): The question is: That the words to be deleted be deleted.

Amendment put and negatived.

Mr T.R. BUSWELL: I move -

Page 19, lines 22 to 25 - To delete the lines and substitute -

- (1) A person commits an offence if the person gives information, in any of the circumstances described in subsection (2), without a reasonable belief that the information is true and not misleading.

I indicated earlier to the parliamentary secretary that this is the third of four amendments that we will move tonight and, no doubt, they will be followed up by our colleagues in the other place, particularly as they relate to advice we have received from the Western Australian Local Government Association. This relates to a very serious issue; that is, the type of information that people give. It comes back to vexatious claims and the reason that people lodge complaints under this legislation.

WALGA has a concern, which I share, with the burden of proof used to test whether a claim is vexatious; in other words, to test whether that person is knowingly giving false and misleading information. It has been contended that, given the ramifications that false and misleading information may have on the integrity of a person within the disciplinary framework and the reputation of a person subject to a complaint, there must be greater protection to prevent abuse and to uphold the rights of parties to a complaint - the complainant or the complainer.

This proposed amendment to the legislation will give a more objective test for reasonableness. In other words, the basis for substantiating an offence will be amended from giving information which a person knows to be false and misleading to giving information without a reasonable belief that the information is true and not misleading. It will put a greater onus on the person making the complaint and, therefore, that person will need to take steps to ensure that the information is true and not misleading. This amendment will tighten up the requirements on individuals before they bring complaints into the system. It is important that it happen, firstly, to protect the integrity of the person against whom the complaint is made; and, secondly and equally importantly, to protect the integrity of the entire management process. If the integrity of that is undermined through continual use of inappropriate and/or vexatious claims, it will serve no purpose and the entire intention of the legislation will be defeated.

I understand the parliamentary secretary’s difficult position, but I raise that for his consideration and foreshadow that this will be a matter further pursued in the other place.

Amendment put and negatived.

Ms S.E. WALKER: Who were the members of the four working party groups that created this bill?

Mr M.P. MURRAY: There were representatives from the Western Australian Local Government Association, the Department of Local Government and Regional Development, the Corruption and Crime Commission, and the Ombudsman’s Office. They were the people who played a major part.

Ms S.E. Walker: What are their names?

Mr M.P. MURRAY: We do not have any names at this stage.

Clause, as amended, put and passed.

Clause 12 put and passed.

Clause 13: Schedule 5.1 inserted -

Mr T.R. BUSWELL: I move -

Page 24, lines 3 to 11 - To delete the lines.

This is one of the most important amendments that we have proposed to this bill. This amendment relates to the issue of who will pay for this wonderful initiative. Unfortunately, as it stands in the government’s legislation, this new disciplinary framework will be financed by local government. We contend, as does the Western

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Australian Local Government Association - and as the member for Avon has also outlined - that the government is attempting to shift the cost burden for this legislative initiative squarely onto the shoulders of local government. The opposition does not think that is acceptable. I assure the parliamentary secretary that local government does not think that is acceptable either. This amendment is designed to address that matter. We acknowledge that in some respects an attempt is being made to make local governments more accountable for the assessment of complaints and the enforcement of official conduct. However, we contend that local government should not be forced to pick up the bill for that. In my ideal world the model would not involve local government in the way this bill involves local government. Members of the opposition have serious concerns about several aspects of this bill. Notwithstanding that, we will be supporting the bill. However, I assure the government that when the bill goes to the upper house, we will be pursuing these amendments. We will also be raising serious questions about the regulations.

Amendment put and negatived.

Clause put and passed.

Title put and passed.

As to Third Reading

MR M.P. MURRAY (Collie-Wellington - Parliamentary Secretary) [10.19 pm]: I move -

That the third reading of the bill be made an order of the day for the next sitting of the house.

Question put and a division taken with the following result -

Ayes (34)

Mr C.J. Barnett	Mrs D.J. Guise	Mr A.D. McRae	Mr T.G. Stephens
Mr D.F. Barron-Sullivan	Mrs J. Hughes	Mr N.R. Marlborough	Dr S.C. Thomas
Mr J.J.M. Bowler	Mr J.C. Kobelke	Mrs C.A. Martin	Ms S.E. Walker
Mr T.R. Buswell	Mr R.C. Kucera	Mr M.P. Murray	Mr P.B. Watson
Mr G.M. Castrilli	Mr F.M. Logan	Ms J.A. Radisich	Mr M.P. Whitely
Mr M.J. Cowper	Ms A.J.G. MacTiernan	Mr E.S. Ripper	Mr B.S. Wyatt
Mr J.H.D. Day	Mr M. McGowan	Mrs M.H. Roberts	Mr S.R. Hill (<i>Teller</i>)
Mr J.B. D'Orazio	Mr J.E. McGrath	Mr A.J. Simpson	
Dr J.M. Edwards	Ms S.M. McHale	Mr T.R. Sprigg	

Noes (3)

Mr D.T. Redman	Mr M.W. Trenorden	Mr B.J. Grylls (<i>Teller</i>)
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Independent Pair

Dr J.M. Woollard

Question thus passed.