Local Government Standards Panel

ANNUAL REPORT 2011 – 2012

August 2012

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

From the Presiding Member ................................................................. 4
Overview ............................................................................................... 5
Composition of the Standards Panel ......................................................... 5
Disciplinary Framework ........................................................................... 6
Administration and Support Services ......................................................... 7
Number of Standards Panels Established ................................................... 7
Complaints Received by the Department Member ........................................ 7
  o Sources of complaints received in 2011 – 2012 ........................................ 8
  o Metro / Non-Metro split .................................................................. 8
Number of Standards Panel Meetings Held ............................................... 9
Findings of Minor Breach or Otherwise .................................................... 9
Types of Allegations ............................................................................... 10
  o Allegations Finalised Between 01 Jul 2011 and 30 Jun 2012 .................... 10
Complaints Dealt With under Section 5.110(6)(b) or (c) ............................. 11
  o SAT Reviews .............................................................................. 11
Non-Compliance with a Standards Panel Order or a SAT Order .................. 11
Costs to Local Governments of Panel Non-Public Servant Member Fees and
  Allowances ....................................................................................... 12
  o Billed Local Governments in Billing Cycle 004 .................................... 13
Requirement for Annual Report ............................................................... 13
Schedule 1 ............................................................................................ 14
  o PART 1 - Complaints dealt with by the Local Government Standards Panel
    under s 5.110(6)(b) or (c) of the Local Government Act 1995 during
    the period from 1 July 2011 to 30 June 2012 ..................................... 14
Schedule 1 ............................................................................................ 21
  o PART 2 – Update of details in regard to complaints dealt with by the Local
    Government Standards Panel under s 5.110(6)(b) or (c) of the Local
    Government Act 1995 prior to 1 July 2012 and mentioned in a previous
    Standards Panel annual report ......................................................... 21
Schedule 2 ............................................................................................ 24
  o Details of any Local Government Standards Panel order made on or
    before 30 June 2012 that was not complied with, and the outcome (or the
    state of progress of any proceedings at the date of signing of this report) in
    relation to the non-compliance ......................................................... 24
From the Presiding Member

To: The Minister for Local Government

The following report is the annual report of the Local Government Standards Panel (the Standards Panel) for the period from 1 July 2011 to 30 June 2012.

As you are aware, the composition of the Standards Panel has recently changed as a consequence of the expiry of the terms of the inaugural legal member, Mr John Lyon, and local government member, Cr Carol Adams. I would like to take this opportunity to thank Mr Lyon and Cr Adams for the considerable time and effort they provided in their respective roles. Their contribution to the manner in which the Standards Panel operates today cannot be overstated. As a result of their hard work and commitment, we now have a body of knowledge and precedent which are an invaluable resource to the recently appointed legal member, Mr Glenn Cridland, local government member, Cr Paul Kelly, and myself as returning departmental member.

Having presided over the first meeting of the newly appointed panel, it is apparent that the new members share the same objectives of the previous panel, to make decisions that promote and enforce high behavioural standards by elected members in local governments across Western Australia.


The Review Report made a number of recommendations in relation to improving the timeliness and efficiency of the Standards Panel and its administration and support services. The Panel and the Department, who provide support services to the panel, are working towards the implementation of a number of those recommendations. In this regard there has been considerable emphasis placed on standardising and refining the pre-hearing processes and procedures with the intended result of obtaining a reduction in the time taken to process complaints. This has been done while still maintaining the provision of procedural fairness (or, natural justice) as the circumstances require.

The Review Report also made recommendations as to non-statutory matters thought appropriate to be included in the Standards Panel’s annual reports to the Minister. Some of the recommendations were implemented in the Standards Panel’s annual report for the period 2010 – 2011. Others are implemented in the following annual report.

It is my view that the Panel and its support services will continue to build on the achievements of 2011-12 and strive to maintain increased efficiency in relation to its operations and service provided to the local government industry.

Brad Jolly
Presiding Member
Local Government Standards Panel
August 2012
Overview

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

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

Composition of the Standards Panel

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

The Standards Panel’s Presiding Member is a designated office holder appointment (i.e. the person who is the holder of a designated office in the Department of Local Government), as is the Presiding Member’s deputy member.¹

The Standards Panel’s Presiding Member, and the Department of Local Government’s Member, is Mr Brad Jolly who is Executive Director Governance and Legislation in the Department.

The Presiding Member’s deputy member is the Executive Director Strategic Policy and Local Government Reform in the Department – Ms Wendy Murray from 1 July 2011 to 26 October 2011; Mr Mark Glasson since 23 January 2012.

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¹ Section 53 of the *Interpretation Act 1984* (WA) relates to certain appointments that may be made by name or office, and reads: “Where a written law confers a power or imposes a duty upon a person to appoint or designate a person to —

(a) perform any function;
(b) be a member of any board, tribunal, commission, committee, council, or other similar body, whether corporate or unincorporate; or
(c) be or do any other thing, that person may make the appointment or designation either by appointing or designating a person by name or by appointing or designating the holder of an office by the term designating his office; and any such appointment or designation of the holder of an office shall be construed as the appointment or designation of the person from time to time holding, acting in, or lawfully performing the functions of the office.”
From 1 July 2011 to 1 March 2012 when their terms of appointment expired, the other members of the Standards Panel were:

(1) The Local Government Member, Councillor Carol Adams, Mayor and current elected member of the Town of Kwinana. Her deputy member was Councillor Peter Best, an elected member of the City of South Perth.

(2) The Legal Member, Mr John Lyon, a former Deputy State Solicitor. His deputy member was Mr Graham Castledine, a legal practitioner.

Since 10 April 2012, when they were appointed for a term of four years, the other members of the Standards Panel are:

(1) The Local Government Member, Councillor Paul Kelly, a current elected member of the Town of Claremont. His deputy member is The Right Honourable The Lord Mayor, Ms Lisa-Michele Scaffidi.

(2) The Legal Member, Mr Glenn Cridland, a practising Barrister. His deputy member is Mr Peter Doherty, also a practising Barrister.

**Disciplinary Framework**

The Official Conduct Act established what is largely now Division 9 Part 5 of the *Local Government Act 1995* (the Act), and Schedule 5.1 to the Act. It provides for a complaints system whereby certain alleged (mis)conduct of an individual council member can be reviewed. Its enabling sections and the Regulations came into operation on 21 October 2007.

As a consequence of the Official Conduct Act, the Act provides for the establishment of a Standards Panel by the Minister for Local Government (the Minister). The Standards Panel’s function is to receive and deal with complaints, made by any person, of alleged minor breaches — that is, alleged breaches by a council member of:

- a. any rule of conduct in the Regulations; or
- b. a provision of a local government’s local law relating to conduct of people at council or committee meetings.

If the Standards Panel finds that a council member has committed a minor breach, the Standards Panel is required to deal with the breach under s 5.110(6) of the Act.²

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² Section 5.110(6) of the Act reads:

“The breach is to be dealt with by —
(a) dismissing the complaint;
(b) ordering that —
   (i) the person against whom the complaint was made be publicly censured as specified in the order;
   (ii) the person against whom the complaint was made apologise publicly as specified in the order; or
   (iii) the person against whom the complaint was made undertake training as specified in the order;

or
(c) ordering 2 or more of the sanctions described in paragraph (b).”
If the State Administrative Tribunal of Western Australia (the SAT) reviews such a decision and makes a finding that a minor breach occurred, the options available to the SAT are the same as those available to the Standards Panel.

Where the Panel has already made two or more findings of minor breaches against a council member, and a further complaint is made, the Panel may send the complaint to the Department’s Director General. The Director General must then decide whether to refer the matter back to the Panel, or make an allegation of a recurrent breach to the SAT.

If the Director General makes such an allegation and the SAT finds that a person has committed a recurrent breach then the SAT can order a member be suspended or disqualified from holding office in addition to the usual range of sanctions available to the Standards Panel.

If a council member fails to comply with a Standards Panel order made under s 5.110(6)(b) or (c) of the Act, the Chief Executive Officer (CEO) of the relevant local government is required to refer the failure to the SAT.

Where the SAT finds that a council member has failed to comply with a Standards Panel order made under s 5.110(6)(b) or (c) of the Act then the SAT can also order a member be suspended or disqualified from holding office in addition to the usual range of sanctions available to the Standards Panel.

Administration and Support Services

During 2011 – 2012 the Standards Panel’s administration and support services (including pre-hearing matters) were provided by the Department.

Number of Standards Panels Established

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

Complaints Received

The Panel received 28 complaints of minor breaches in 2011 – 2012, and finalised 34 complaints in the period from 1 July 2011 to 1 March 2012. The newly appointed Panel has considered a further 11 complaints since 10 April 2012 which are still to be finalised. Those complaints received in 2011 – 2012 included:

- some with multiple allegations about the same council member;
- some with one or more allegations about two council members;
- some with an allegation or allegations in common with another complaint or complaints about the same council member; and
- some which are now suspended as a result of the member ceasing to be on council after the complaint was made.
The following table compares the respective number of Minor Breach Complaints received and finalised in the period 2011 – 2012 compared to the number of such complaints received and finalised in earlier financial years.

### Standards Panel ongoing tally of complaints

<table>
<thead>
<tr>
<th>Year</th>
<th>Received</th>
<th>Finalised</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007 – 2008</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2008 – 2009</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009 – 2010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010 – 2011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011 – 2012</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Sources of complaints received in 2011 – 2012

The chart below indicates the sources of the 28 complaints the Standards Panel received in the period 2011 – 2012.

### Source of Complaints Standards Panel 2011 – 2012

- Councillor: 34%
- Member of the Public: 19%
- Employee: 3%
- Chief Executive Officer: 22%
- Mayor: 13%
- Other: 6%
- Deputy President: 3%

### Metro / Non-Metro split

Of the 28 complaints received during 2011 – 2012 by the Standards Panel 22 were from Metropolitan councils. The other six were from councils outside the Metropolitan Area.
Number of Standards Panel Meetings Held

During 2011 – 2012 the Standards Panel held nine meetings, seven in the period from 1 July 2011 to 1 March 2012, and two between 10 April 2012 and 30 June 2012. (This compares to 14 meetings in 2010 – 2011).

Findings of Minor Breach or Otherwise

During 2011 – 2012, 34 Complaints of Minor Breach were finalised, and in relation to them:

(a) the Standards Panel made findings that:
   • no breach occurred in relation to nine complaints; and
   • at least one minor breach had occurred, in relation to six complaints;

(b) the Standards Panel did not make any finding in relation to 15 (now suspended) complaints, due to the council member complained about ceasing to be a council member after the complaint was made; and

(c) four complaints were not allocated to the Standards Panel for determination, as no minor breach was alleged in them.

In regard to the six complaints where the Standards Panel made at least one finding that a minor breach had occurred, three were dismissed by the Standards Panel pursuant to s 5.110(6)(a) of the Act.

As noted above, 15 complaints are suspended as a consequence of elected members ceasing to be council members after the complaint about them was made. Of these, 11 related to council members not re-elected at the ordinary local government elections held on 15 October 2011.
## Types of Allegations

### Allegations Finalised Between 01 Jul 2011 and 30 Jun 2012

*For Minor Official Conduct Projects*

<table>
<thead>
<tr>
<th>REGULATION</th>
<th>Reg 3</th>
<th>Reg 4</th>
<th>Reg 6</th>
<th>Reg 7</th>
<th>Reg 8</th>
<th>Reg 9</th>
<th>Reg 10</th>
<th>Reg 11</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>For Minor Official Conduct Projects</td>
<td>Miscellaneous</td>
<td>General Principles Governing elected member behaviours</td>
<td>Breach of Meeting Procedures Local Law (Standing Orders)</td>
<td>Improper use of information</td>
<td>Securing personal advantage or disadvantaging others</td>
<td>Misuse of local government resources</td>
<td>Prohibition against involvement in administration</td>
<td>Relations with local government employees</td>
<td>Non-disclosure of interest adverse to impartiality</td>
</tr>
<tr>
<td>No Breach</td>
<td></td>
<td></td>
<td>1</td>
<td>7</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td></td>
<td>12</td>
</tr>
<tr>
<td>Public Apology</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Training</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Public Censure</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>Complaint Dismissed</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>No Jurisdiction</td>
<td></td>
<td></td>
<td>4</td>
<td>1</td>
<td>15</td>
<td>1</td>
<td>5</td>
<td></td>
<td>26</td>
</tr>
<tr>
<td>Censure and Public Apology</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Non-Complying Complaint</td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>0</td>
<td>0</td>
<td>6</td>
<td>4</td>
<td>27</td>
<td>7</td>
<td>4</td>
<td>9</td>
<td>0</td>
</tr>
</tbody>
</table>
Complaints Dealt With under Section 5.110(6)(b) or (c)

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

- dismissing it under s 5.110(6)(a);
- ordering sanctions under s 5.110(6)(b); or
- ordering a combination of sanctions under s 5.110(6)(c).

In 2011 – 2012 the Panel dealt with three complaints by ordering sanctions, as shown in Part 1 of Schedule 1 of this report. The Schedule also indicates which of those orders were not complied with, or are yet to be complied with. The progress or result of any related proceedings (such as appeals to the SAT for review of the Panel’s decisions) at the date of this report’s completion is also set out in that Schedule.

SAT Reviews

Part 1 of the attached Schedule 1 also indicates, in regard to the three complaints dealt with under s 5.110(6)(b) or (c) of the Act in 2011 – 2012:

(a) the complaints that have been or are the subject of an application made to the SAT, during the period 1 July 2011 to the date of signing of this report, for a SAT review of the Standards Panel’s decision; and

(b) the outcome of the application or review, or the current status of the application or review at the date of signing of this report, as the case requires.

Part 2 of the attached Schedule 1 is an update of details in regard to complaints dealt with by the Standards Panel under s 5.110(6)(b) or (c) of the Act prior to 1 July 2011 and which are mentioned in a previous Standards Panel annual report.

Non-Compliance with a Standards Panel Order or a SAT Order

All sanctions ordered by the Standards Panel under s 5.110(6) of the Act during 2011 – 2012 (and not set aside by the SAT on review) have been complied with.

There is only one relevant order made by the SAT during 2011 – 2012 which has not been complied with. The details of the non-compliance and the current associated actions are shown in the attached Schedule 2.
Costs to Local Governments of Panel Non-Public Servant Member Fees and Allowances

Subclauses 9(1) and 9(2) of Schedule 5.1 to the Act relate to the amount (if any) of the remuneration and allowances of the Standards Panel members and their deputies. A member or deputy who is an officer of the Public Service is not entitled to any remuneration or allowances for being such member or deputy. A member or deputy who is not an officer of the Public Service is entitled to the remuneration and allowances that the Minister from time to time determines on the recommendation of the Minister for Public Sector Management.

Unless the Local Government Member is an officer of the Public Service, his or her current sitting fees are $720 per full day meeting (more than 4 hours) or $470 per part day meeting (4 hours or less), and he or she may be reimbursed for travel expenses as set out in Premier’s Circular 2006/01, Reimbursement of Travel Expenses for Members of Government Boards and Committees.

Unless the Legal Member is an officer of the Public Service, his or her current sitting fees are $900 per full day meeting or $480 per part day meeting. In addition, when the Legal Member is required to write a ‘reasons for decision’ he or she is currently entitled to $240 per hour up to a maximum of $900 per matter. The Legal Member may also be reimbursed for travel expenses as set out in the said Premier’s Circular 2006/01.

Subclauses 9(3) and 9(4) of Schedule 5.1 to the Act relate to how the amount (if any) of the remuneration and allowances of the Standards Panel members and their deputies is to be paid.

To the extent that a member’s remuneration and allowances relate to a particular complaint, they are to be paid by the local government of the council member who is the subject of that complaint.

If the remuneration and allowances for members of the Standards Panel relate to two or more complaints dealt with by it on the same occasion (that is, at the same meeting), liability for payment is to be apportioned between the relevant local governments as the Standards Panel determines.

In practice, the Department pays the remuneration and allowances of the eligible members or deputies, and then from time to time carries out a billing cycle where it issues invoices to the respective Local Governments concerned to recover the relevant amounts or portions they are liable for, as apportioned by the Standards Panel, plus GST (where the recipient is not GST exempt).

To date four billing cycles have been completed. The fourth and most recent of these billing cycles covered: the period from 23 May 2011 to 31 January 2012 in regard to sitting fees; and the period from 18 May 2011 to 29 February 2012 in regard to ‘writing reasons’ fees.
The costs billed to the Local Governments concerned in the fourth billing cycle in regard to the Standards Panel’s non-Public Servant members’ fees and allowances are as set out in the following table.

### Billed Local Governments in Billing Cycle 004

<table>
<thead>
<tr>
<th>Local Government</th>
<th>No. of complaints</th>
<th>Sitting fees</th>
<th>Writing reasons fees</th>
<th>Amount billed (incl. GST)</th>
<th>Average billed per complaint</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Albany</td>
<td>2</td>
<td>$618.45</td>
<td>[2 complaints]</td>
<td>$2,330.30</td>
<td>$1,165.15</td>
</tr>
<tr>
<td>Town of Bassendean</td>
<td>8</td>
<td>$2,933.25</td>
<td>[4 complaints]</td>
<td>$4,414.58</td>
<td>$551.82</td>
</tr>
<tr>
<td>City of Bayswater</td>
<td>2</td>
<td>$1,907.28</td>
<td>[2 complaints]</td>
<td>$3,523.61</td>
<td>$1,761.80</td>
</tr>
<tr>
<td>City of Canning</td>
<td>2</td>
<td>$568.51</td>
<td>[2 complaints]</td>
<td>$1,958.56</td>
<td>$979.28</td>
</tr>
<tr>
<td>Shire of Christmas Island*</td>
<td>1</td>
<td>$79.16</td>
<td>[1 complaint]</td>
<td>$199.16*</td>
<td>$199.16</td>
</tr>
<tr>
<td>City of Nedlands</td>
<td>3</td>
<td>$579.91</td>
<td>[3 complaints]</td>
<td>$2,208.70</td>
<td>$736.23</td>
</tr>
<tr>
<td>City of Rockingham</td>
<td>2</td>
<td>$206.53</td>
<td>$0.00</td>
<td>$227.18</td>
<td>$113.59</td>
</tr>
<tr>
<td>Shire of Shark Bay</td>
<td>1</td>
<td>$554.15</td>
<td>[1 complaint]</td>
<td>$767.97</td>
<td>$767.97</td>
</tr>
<tr>
<td>City of Stirling</td>
<td>2</td>
<td>$905.98</td>
<td>[2 complaints]</td>
<td>$2,910.57</td>
<td>$1,455.28</td>
</tr>
<tr>
<td>City of Swan</td>
<td>1</td>
<td>$158.37</td>
<td>[1 complaint]</td>
<td>$359.01</td>
<td>$359.01</td>
</tr>
<tr>
<td>City of Wanneroo</td>
<td>3</td>
<td>$708.44</td>
<td>[2 complaints]</td>
<td>$2,429.28</td>
<td>$809.76</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>27</strong></td>
<td><strong>Total</strong></td>
<td><strong>Total</strong></td>
<td><strong>$21,328.92</strong></td>
<td><strong>Average</strong> $789.96</td>
</tr>
</tbody>
</table>

* GST exempt

### Requirement for Annual Report

Clause 11 of Schedule 5.1 of the Act requires that:

“(1) By 31 August in each year, the primary standards panel is to prepare and provide to the Minister a report on the complaints dealt with by all standards panels during the previous financial year.

(2) The annual report must not include information that identifies or enables the identification of a council member against whom a complaint was made if the complaint was not dealt with under section 5.110(6)(b) or (c).”
## SCHEDULE 1

**PART 1 - Complaints dealt with by the Local Government Standards Panel under s 5.110(6)(b) or (c) of the Local Government Act 1995 during the period from 1 July 2011 to 30 June 2012.**

<table>
<thead>
<tr>
<th>Matter details</th>
<th>Description of minor breach/es the Standards Panel found had occurred</th>
<th>Details of action taken under section 5.110(6)(b) or (c) of the Act</th>
<th>SAT Review Details</th>
<th>SAT Order after SAT Review</th>
<th>Details of SAT proceedings where non-compliance with a Standards Panel order or a SAT Order</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SP 37 of 2010</strong></td>
<td>Four minor breaches, as follows: (1) That on or before 16 March 2010 Cr Yates committed a breach of regulation 8 of the Local Government (Rules of Conduct) Regulations 2007 by directly or indirectly using the Town's resources (that is, its official logo) for the purpose of advertising a Town community workshop, without such use or purpose being authorised under the Act or by the Council or the Town’s CEO. (2) That on or before 16 March 2010 Cr Yates committed a breach of regulation 9(1) of the Local Government (Rules of Conduct) Regulations 2007 in that he undertook a task that contributed to the Town’s administration without being authorised to do so.</td>
<td>The Standards Panel made an order under s 5.110(6)(b)(i) that Cr Yates be publicly censured on specified terms in two specified newspapers.</td>
<td>Cr Yates applied to SAT for a SAT review, which has taken place. On 30 March 2012 the SAT decision in Yates and Local Government Standards Panel [2012] WASAT 52 was delivered. IN THE SAT REVIEW THE TRIBUNAL AFFIRMED THE STANDARDS PANEL’S MINOR BREACH FINDINGS (1), (2) AND (4) AND SET ASIDE THE STANDARDS PANEL’S MINOR BREACH FINDING (3).</td>
<td>THE SAT SET ASIDE THE STANDARDS PANEL’S ORDER AND DISMISSED THE COMPLAINT PURSUANT TO s 5.110(6)(a).</td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>Council member complained about:</strong></td>
<td><strong>Cr Donald YATES (Town of Bassendean)</strong></td>
<td><strong>Complainant:</strong> Cr M. Stubbs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Matter details</td>
<td>Description of minor breach/es the Standards Panel found had occurred</td>
<td>Details of action taken under section 5.110(6)(b) or (c) of the Act</td>
<td>SAT Review Details</td>
<td>SAT Order after SAT Review</td>
<td>Details of SAT proceedings where non-compliance with a Standards Panel order or a SAT Order</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------------------------------------------------------------------</td>
<td>---------------------------------------------------------------</td>
<td>------------------</td>
<td>--------------------------</td>
<td>--------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>by the Council or the Town’s CEO to undertake the task. The task concerned was his placement of an advertisement for a Town community workshop, to be published in the Eastern Reporter newspaper issue of 16 March 2010, with the advertisement including a mark or design substantially similar to the Town’s official logo. (3) That in or about February 2010 Councillor Yates committed a breach of regulation 8 of the Local Government (Rules of Conduct) Regulations 2007 by directly or indirectly using the Town’s resources (that is, its official logo) for the purpose of promoting the Cyril Jackson Physical Education and Community Recreation Centre, without such use or purpose being authorised under the Act or by the Council or the Town’s CEO.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Matter details</td>
<td>Description of minor breach/es the Standards Panel found had occurred</td>
<td>Details of action taken under section 5.110(6)(b) or (c) of the Act</td>
<td>SAT Review Details</td>
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<td>(4) That in or about March 2010 Councillor Yates committed a breach of regulation 8 of the Local Government (Rules of Conduct) Regulations 2007 by directly or indirectly using the Town’s resources (that is, its official logo) for the purpose of advertising one of the events of the Ashfield Soccer Club, without such use or purpose being authorised under the Act or by the Council or the Town’s CEO.</td>
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<td><strong>SP 42 of 2010</strong></td>
<td>Two minor breaches, as follows: (1) That between 14 November 2009 and 23 February 2010, without the authority of the Council or the Town’s CEO, Cr Yates undertook tasks that contributed to the Town’s administration, when he: sent copies of a drawing and a quote to the owner of the Bassendean Village Shopping Centre; and had meetings and discussions with the owner, in relation to the carrying out of works for the northern road vehicle entrance to such shopping centre in West Road, Bassendean, a breach of regulation 9(1) of the Local Government (Rules of Conduct) Regulations 2007. (2) That on 25 June 2010 Cr Yates made improper use of his office as Council member to cause detriment to at least some of the Town’s employees when he gave written notice to the Town’s CEO of his intention to propose a</td>
<td>The Standards Panel made an order under s 5.110(6)(b)(i) that Cr Yates be publicly censured on specified terms in two specified newspapers.</td>
<td>Cr Yates applied to SAT for a SAT review, which has taken place. On 30 March 2012 the SAT decision in Yates and Local Government Standards Panel [2012] WASAT 59 was delivered. <strong>THE SAT SET ASIDE THE STANDARDS PANEL’S ORDER, AND MADE ITS ORDER THAT THE SUBJECT COMPLAINTS WHICH LEAD TO THE TWO MINOR BREACH FINDINGS WERE DISMISSED UNDER s 5.110(6)(a).</strong></td>
<td>Not applicable</td>
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<td>motion at a forthcoming Council meeting, with the intention that the motion and the background information would appear in the publicly available agenda for that meeting, without stipulating or giving any indication to the Town’s CEO that the intended motion and the said background information, being critical of the Town’s administration, should be dealt with when that meeting was closed to members of the public (such detriment being that at least some of the persons who read such agenda would think less favourably of at least some of the Town’s employees), a breach of regulation 7(1)(b) of the Local Government (Rules of Conduct) Regulations 2007.</td>
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<tr>
<td>SP 45 of 2010</td>
<td>That on or about 12 August 2010 Cr Anderton committed a breach of reg 7(1)(b) of the <em>Local Government (Rules of Conduct) Regulations 2007</em> in that he made improper use of his office as a Council member to cause detriment to the City when he provided a letter on his personalised Council-issued letterhead for distribution, and other assistance, in regard to the advertising of a public meeting to form an action group regarding the 2010/11 fiscal year rates rise made by the City’s Council – such detriment being that at least some of the persons who read a distributed copy of his letter would think less favourably of the Council as the City’s governing body.</td>
<td>The Standards Panel made an order under s 5.110(6)(b)(i) that Cr Anderton be publicly censured on specified terms.</td>
<td>No SAT review was applied for.</td>
<td>Not applicable.</td>
<td>Not applicable.</td>
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**Complainant:**
Cr T. Kenyon (Mayor)
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| **SP 45 of 2010**  
**Council member complained about:**  
Cr Michael SABATINO (City of Bayswater)  
**Complainant:**  
Cr T. Kenyon (Mayor) | That on or about 12 August 2010 Cr Anderton committed a breach of reg 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* in that he made improper use of his office as a Council member to cause detriment to the City when he provided a letter on his personalised Council-issued letterhead for distribution, and other assistance, in regard to the advertising of a public meeting to form an action group regarding the 2010/11 fiscal year rates rise made by the City’s Council – such detriment being that at least some of the persons who read a distributed copy of his letter would think less favourably of the Council as the City’s governing body. | The Standards Panel made an order under s 5.110(6)(b)(i) that Cr Sabatino be publicly censured on specified terms. *THE CITY’S CEO COMPLIED WITH THE STANDARDS PANEL’S ORDER.* | No SAT review was applied for. | Not applicable. | Not applicable. |
**SCHEDULE 1**

**PART 2 – Update of details in regard to complaints dealt with by the Local Government Standards Panel under s 5.110(6)(b) or (c) of the *Local Government Act 1995* prior to 1 July 2012 and mentioned in a previous Standards Panel annual report.**

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<td><strong>SP 29 of 2010</strong></td>
<td>That, on 6 July 2010 Cr Corr committed a breach of regulation 6(2)(a) during the discussion on item JSC06-07/10 at the City of Joondalup’s Special Meeting of Council when the meeting was open to members of the public, when he disclosed confidential information concerning particular litigation involving the City. That information was derived from a document marked by the City's CEO to clearly show that the information in it was not to be disclosed.</td>
<td>The Standards Panel made an order under s 5.110(6)(b)(i) that Cr Corr be publicly censured on specified terms.</td>
<td>Cr Corr applied to the SAT for a SAT review, which has taken place.</td>
<td>THAT CR CORR BE PUBLICLY CENSURED ON THE STANDARDS PANEL’S SPECIFIED TERMS IN TWO IDENTIFIED NEWSPAPERS.</td>
<td>Not applicable. THE CITY’S CEO COMPLIED WITH THE SAT’s ORDER.</td>
</tr>
<tr>
<td><strong>Council member complained about:</strong></td>
<td><strong>Cr Brian Corr (City of Joondalup)</strong></td>
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<td><strong>Complainant:</strong></td>
<td><strong>Mayor T. Pickard</strong></td>
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<td>SP 31 &amp; 40 of 2010</td>
<td>That on 13 July 2010 Cr Yates committed a breach of regulation 10(3)(a) during the debate on item 10.9 at the Town’s Ordinary Council Meeting when members of the public were present, in that he orally made statements implying that Mr Ian Craig McDowell (a Town employee at that date and the author of the officer report that was before Council on such item) was dishonest by deliberately including in that report: (a) unnecessary items of expenditure to improperly inflate the total budget for the project concerned to such an extent that Council would not approve the carrying out of the project; and (b) pricings that were dishonest in that they were deliberately ‘exaggerated’.</td>
<td>The Standards Panel made an order under 5.110(6)(b)(ii) that Cr Yates apologise publicly on specified terms to Mr McDowell in two specified newspapers.</td>
<td>Mr Yates applied to the SAT for a SAT review, which has taken place.</td>
<td>THAT FORMER COUNCILLOR MR YATES PUBLISH A NOTICE OF PUBLIC APOLOGY TO MR MCDOWELL, ON THE STANDARDS PANEL’S SPECIFIED TERMS, IN THE TWO SPECIFIED NEWSPAPERS.</td>
<td>Mr Yates failed to comply with the SAT’s order. SEE SCHEDULE 2 FOR FURTHER DETAILS.</td>
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<td>Council member complained about:</td>
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<tr>
<td>Cr Donald YATES (Town of Bassendean)</td>
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<td>Complainants:</td>
<td>Mr I.C. McDowell (SP 31 of 2010)</td>
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<td></td>
<td>Ms M. Stubbs (SP 40 of 2010)</td>
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<td>SP 35 of 2010</td>
<td>That on 9 March 2010 Cr Yates committed a breach of regulation 7(1)(a) in that he made improper use of his office as a Council member to gain directly or indirectly an advantage for an immediate next-door neighbour, when he sent an email to his fellow Town Councillors giving wrong advice to them, and inappropriately lobbying or attempting to influence and putting pressure on them, in relation to a request by the neighbour to the Town of Bassendean to have the R coding of the neighbour’s property increased from residential R25 to R40 (the matter), knowing that he had a proximity interest in the matter, and knowing that he was precluded from participating in the discussions and the decision making procedure relating to the matter when it was before the Town’s Council later on that date.</td>
<td>The Standards Panel made an order under s 5.110(6)(b)(i) that Cr Yates be publicly censured on specified terms.</td>
<td>Mr Yates applied to the SAT for a SAT review, which has taken place.</td>
<td>THAT FORMER COUNCILLOR MR YATES BE PUBLICLY CENSURED ON THE STANDARDS PANEL’S SPECIFIED TERMS IN TWO IDENTIFIED NEWSPAPERS.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Council member complained about: Cr Donald YATES (Town of Bassendean)</td>
<td>Complainant: Ms M. Stubbs</td>
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<td>THE TOWN’S CEO COMPLIED WITH THE SAT’s ORDER.</td>
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## SCHEDULE 2

Details of any Local Government Standards Panel order made on or before 30 June 2012 that was not complied with, and the outcome (or the state of progress of any proceedings at the date of signing of this report) in relation to the non-compliance.

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<td>The Standards Panel made an order under 5.110(6)(b)(ii) that Cr Yates apologise publicly on specified terms to Mr McDowell in two specified newspapers.</td>
<td>[Former Councillor] Mr Yates applied to the SAT for a SAT review, which has taken place. On 6 December 2011 the SAT decision in Yates and Local Government Standards Panel [2012] WASAT 196 was delivered. In the SAT review the Tribunal affirmed the Standards Panel’s minor breach finding and its ordered sanction. Mr Yates failed to comply with the SAT’s order that he publish a Notice of Public Apology to Mr McDowell, on the Standards Panel’s specified terms, in the two specified newspapers. The Town’s CEO referred this failure to the SAT, which held a hearing on it on 2 March 2012. The SAT’s hearing has been adjourned to allow Mr Yates to appeal the SAT’s decision (to affirm the Standards Panel’s minor breach finding) to the Supreme Court. On 6 March 2012 Mr Yates made application to the Supreme Court for such an appeal. At 17 July 2012 his application was awaiting the setting of a date for the Court of Appeal to hear it.</td>
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If you would like more information please contact us.

Department of Local Government
Gordon Stephenson House
140 William Street
Perth WA 6000

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