



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

# Local Government Standards Panel

## 2022-23 Annual Report



# Local Government Standards Panel

## 2022-23 Annual Report

August 2023

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**Responsible Minister**  
Hon David Michael MLA  
Minister for Local Government

# Message from the Presiding Member

## To the Hon David Michael MLA Minister for Local Government

The following is the annual report of the Local Government Standards Panel (the Standards Panel) for the period from 1 July 2022 to 30 June 2023.

The minor breach system is part of the disciplinary framework for council members in Western Australia under the *Local Government Act 1995* (the Act). The system responds to and deters conduct by council members that disrupts the effective functioning of their local government.

In 2022-23 the Standards Panel received **95** complaints comprising **203** allegations.

The Standards Panel convened **20** meetings in 2022-23 and considered **294** allegations in the **99** complaints finalised in 2022-23; with **155** findings of no breach and **53** findings that a breach had occurred. Five matters were suspended as the respondent was no longer an elected member and two matters were withdrawn.

The panel also refused to deal with **79** complaints, the majority of which were determined to be vexatious and/or frivolous.

The Standards Panel were provided with quarterly reports this financial year to monitor performance. This presented an opportunity to address the timeliness of the Standards Panel's response. Key Performance Indicators (KPIs) were introduced for the second half of the financial year and whilst a limited but noticeable impact on the timeliness can be seen this year, it is anticipated that the introduction of KPIs will result in a timelier response for the sector which will be reflected over the coming financial year.

The Standards Panel's processing times are impacted by legislative requirements and the provision of procedural fairness for those elected members responding to allegations.

In 2022-23, former Deputy of the Standards Panel, Darrelle Merritt, was replaced by Suleila Felton, Acting Director Local Government Financial Policy & Statutory Approval at the Department of Local Government, Sport and Cultural Industries (DLGSC).

I thank Darrelle for her contribution to the Standards Panel and welcome Suleila who has already considered a number of matters in the role of Deputy.

I would also like to thank both Councillor Peter Rogers and Councillor Renée McLennan for their commitment for this year and would like to acknowledge and thank our legal members, Emma Power and Elanor Rowe, for their ongoing support.

I take this opportunity to also thank staff at DLGSC for their continued work in providing administrative and executive support to the Standards Panel.

### **Tim Fraser**

Presiding Member, Local Government Standards Panel  
31 August 2023

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# Overview

The Local Government Standards Panel (the Standards Panel) is the primary complaints panel established under Part 5 Division 9 and Schedule 5.1 of the *Local Government Act 1995* (the Act). It provides for a complaints system whereby certain alleged misconduct by council members can be reviewed.

The Standards Panel's function is to receive and deal with complaints, made by any person, of alleged minor breaches by a council member of any rule of conduct in the Local Government (Model Code of Conduct) Regulations 2021 or a provision of a local government's code of conduct.

Administration and support services for the Standards Panel are provided by the Department of Local Government, Sport and Cultural Industries (DLGSC).

Whilst this report provides the details of complaints that were received in 2022-23, the findings also relate to complaints that were recorded but not finalised in previous reporting periods.

## 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).

## Members of the Standards Panel

The Standards Panel comprises three members and three deputy members, all of whom are appointed by the Minister.

At the conclusion of the 2022-23 financial year, the members and their deputies were:

### **Presiding Member:**

Tim Fraser, Executive Director, DLGSC

### **Deputy:**

Suleila Felton, Director Local Government Financial Policy & Statutory Approval, DLGSC

### **Local Government Member:**

Cr Peter Rogers, Elected Member, City of Mandurah

### **Deputy:**

Cr Renée McLennan, Elected Member, City of Bassendean

### **Legal Member:**

Emma Power

### **Deputy:**

Elanor Rowe

# Complaints and allegations received

In the 2022-23 financial year, the Standards Panel received **95** new minor breach complaints — a decrease of 13% compared to **109** new complaints lodged in 2021-22.

A single complaint can allege multiple breaches of one or more regulations relating to several different incidents. There were **203** allegations of breaches of the regulations within the **95** complaints received in 2022-23. For example, one complaint received by the Standards Panel contained **42** allegations of breaches of the regulations.

# Finalised complaints and allegations

**Ninety-nine** complaints comprising **294** allegations were finalised in 2022-23. These included complaints received in the previous financial year/s that had not been finalised during the previous reporting period.

**Table 1** provides details of the allegations and the results of the Standards Panel findings in those matters.

Refer to **Table 2** (page 14) which provides details of the sanctions imposed, by regulation, for each of the complaints where a breach was found.

**Chart 1** provides a comparison of complaints received and finalised in the past five years.

**Chart 2** provides details of the number of allegations against each of the regulations.

**Chart 3** indicates the time the Standards Panel has taken to finalise complaints compared to previous financial years.

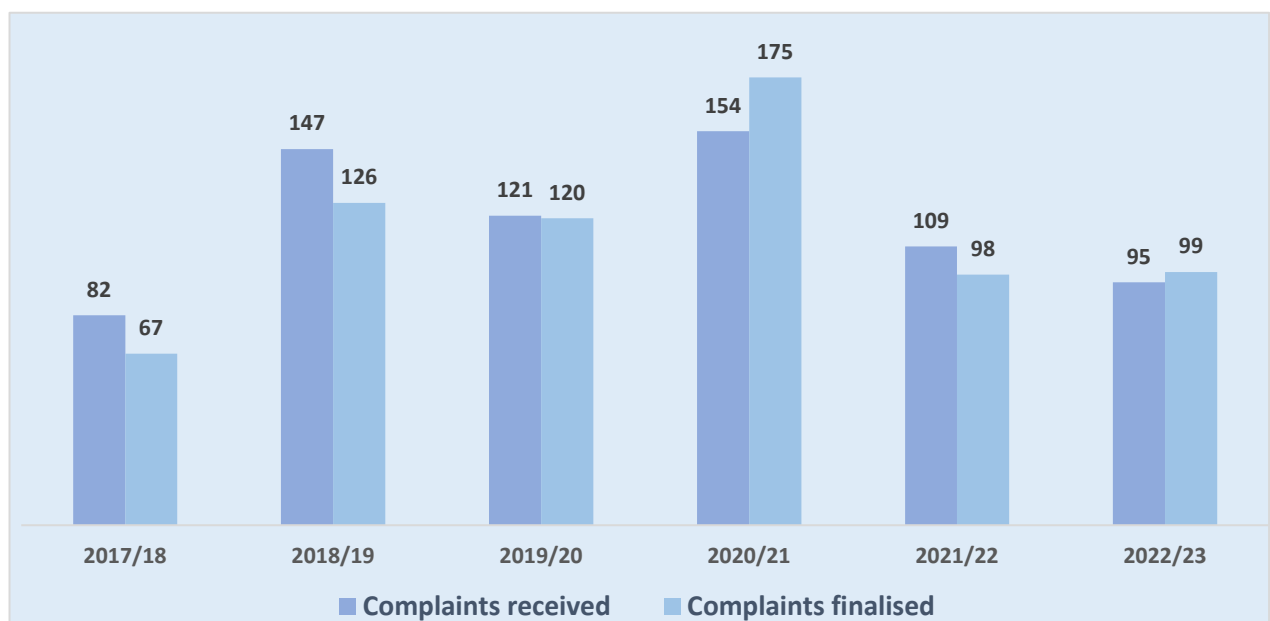
**Chart 4** shows which local governments were subject to complaints and the number of complaints lodged.

**Chart 5** provides details of the findings for complaints finalised in 2022-23.

**Chart 6** provides details of the findings for each regulation.

**Chart 7** provides details of the sanctions imposed for complaints finalised.

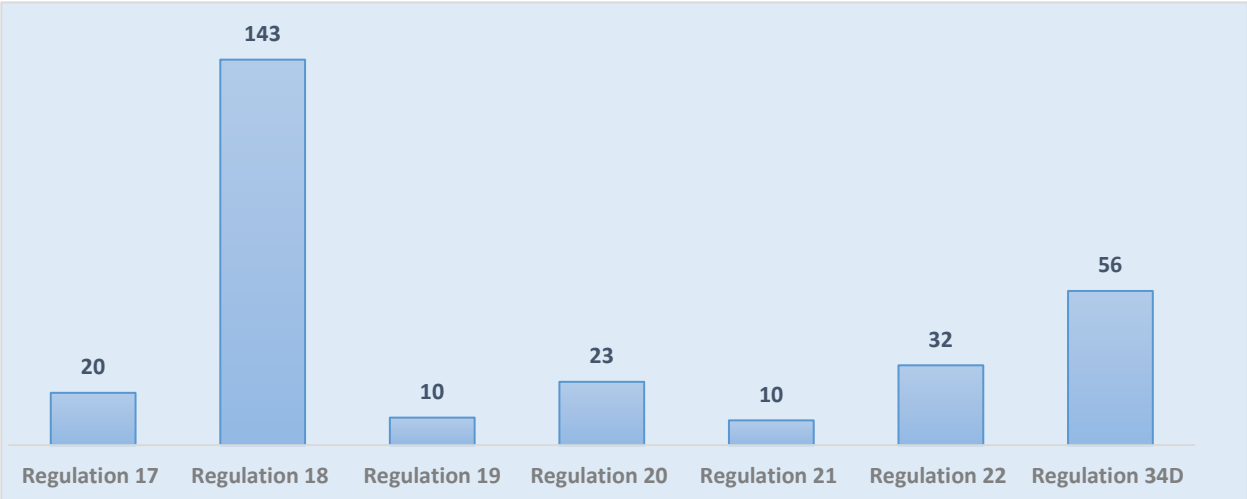
## Chart 1: Number of complaints received and finalised



Of the **95** new complaints received by the Standards Panel during 2022-23, **75** relate to metropolitan local governments while **20** relate to regional local governments.

# Allegations by regulation

Chart 2: Number of allegations by regulation\*



\*Local Government (Model Code of Conduct) Regulations 2021 and 34D Local Government (Administration) Regulations 1996

Of the **294** allegations considered in 2022-23, the majority were for breaches of regulation 18 of the Local Government (Model Code of Conduct) Regulations 2021:

### Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office:
  - (a) to gain, directly or indirectly, an advantage for the council member or any other person;
  - (b) to cause detriment to the local government or any other person.

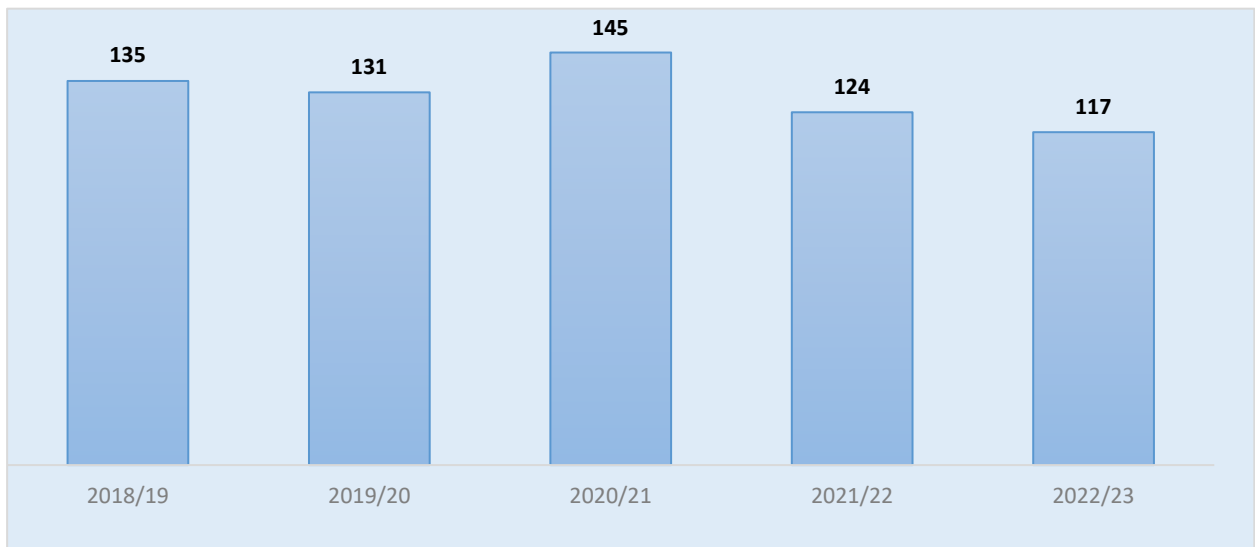
## Time taken to finalise complaints in 2022-23

Chart 3 shows the average time taken to finalise complaints received during 2022-23 compared to previous financial years.

There has been a slight decline in the time taken by the Standards Panel to finalise complaints. To support continuous improvement, the Standards Panel were provided quarterly reports in 2022-23 to better identify opportunities to improve the timeliness of the Standards Panel’s decision making.

The introduction of Key Performance Indicators (KPIs) for finalisation of reports in the second half of this financial year has had a positive impact on the time taken to finalise complaints in the final quarter of 2022-23. It is anticipated that this will show further improvement over time.

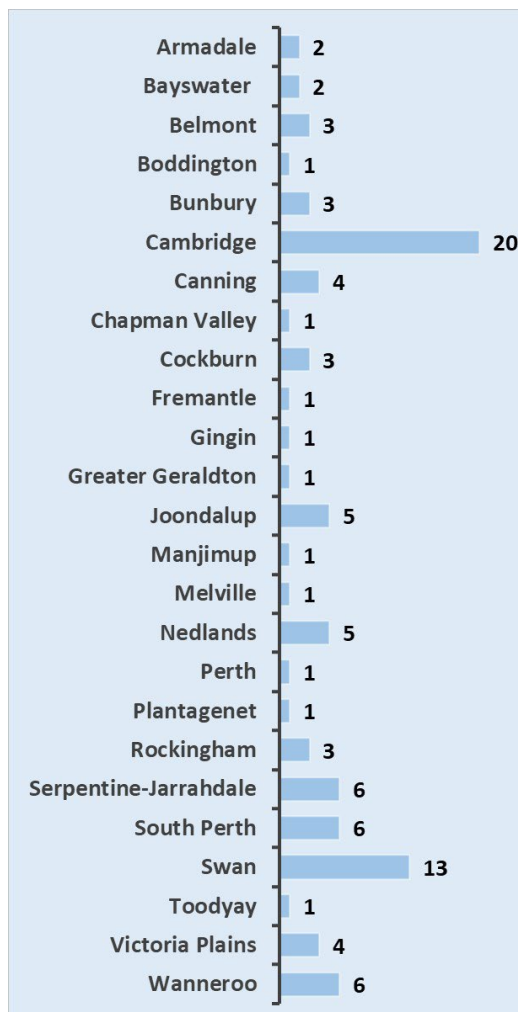
**Chart 3: Average days taken to process complaints**



## Complaints for each local government

The **95** new complaints received by the Standards Panel during 2022-23 related to **25** local governments as indicated in chart 4.

**Chart 4: Number of complaints received for each local government**





# Findings

The findings reported in 2022-23 are a combination of allegations that were not resolved in the previous financial year and new complaints received.

In 2022-23 the Standards Panel considered **99** complaints comprising of **294** allegations.

In accordance with section 5.110(2) of the Act, the Standards Panel is required to make a finding as to whether the alleged breach occurred. The Standards Panel does not possess investigative or supervisory powers and makes decisions about complaints regarding minor breaches solely upon the evidence presented to it by the complainant and the respondent.

In relation to these **294** allegations:

- The Standards Panel made **53** findings that a breach occurred.
- The Standards Panel made **155** findings of no breach.
- **2** complaints were withdrawn.
- **5** were suspended as the respondent was no longer an elected member due to resignation.
- The Standards Panel refused to deal with **79** complaints.

## Refuse to deal

Section 5.110(3A) of the Act provides that the Standards Panel can, at any stage of its proceedings, refuse to deal with a complaint if it is satisfied that the complaint is frivolous, trivial, vexatious, misconceived or without substance.

The Standards Panel relied on the following definitions:

- Vexatious means “an action that has no reasonable prospects of success. The term has also been used to describe an action which is a sham and which cannot possibly succeed.”
- Misconceived means to “fail to understand (something) correctly.”
- Without substance means lacking the quality of “having a solid basis in reality or fact.”

Of the **79** allegations that the Standards Panel refused to deal with in 2022-23:

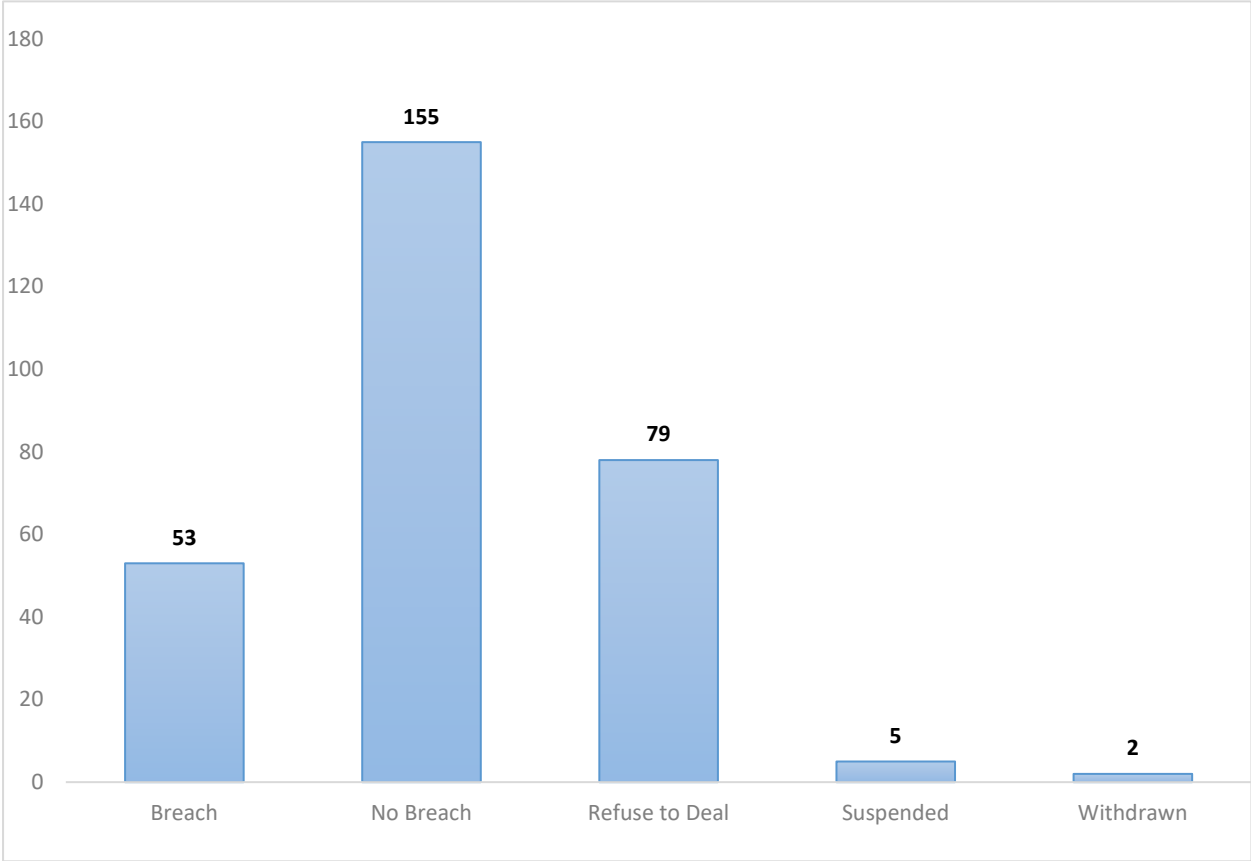
- 22 were deemed misconceived,
- 27 were deemed vexatious,
- 31 were deemed to be without substance, and
- 2 were found to be frivolous.

An example from a Standards Panel vexatious finding is provided below:

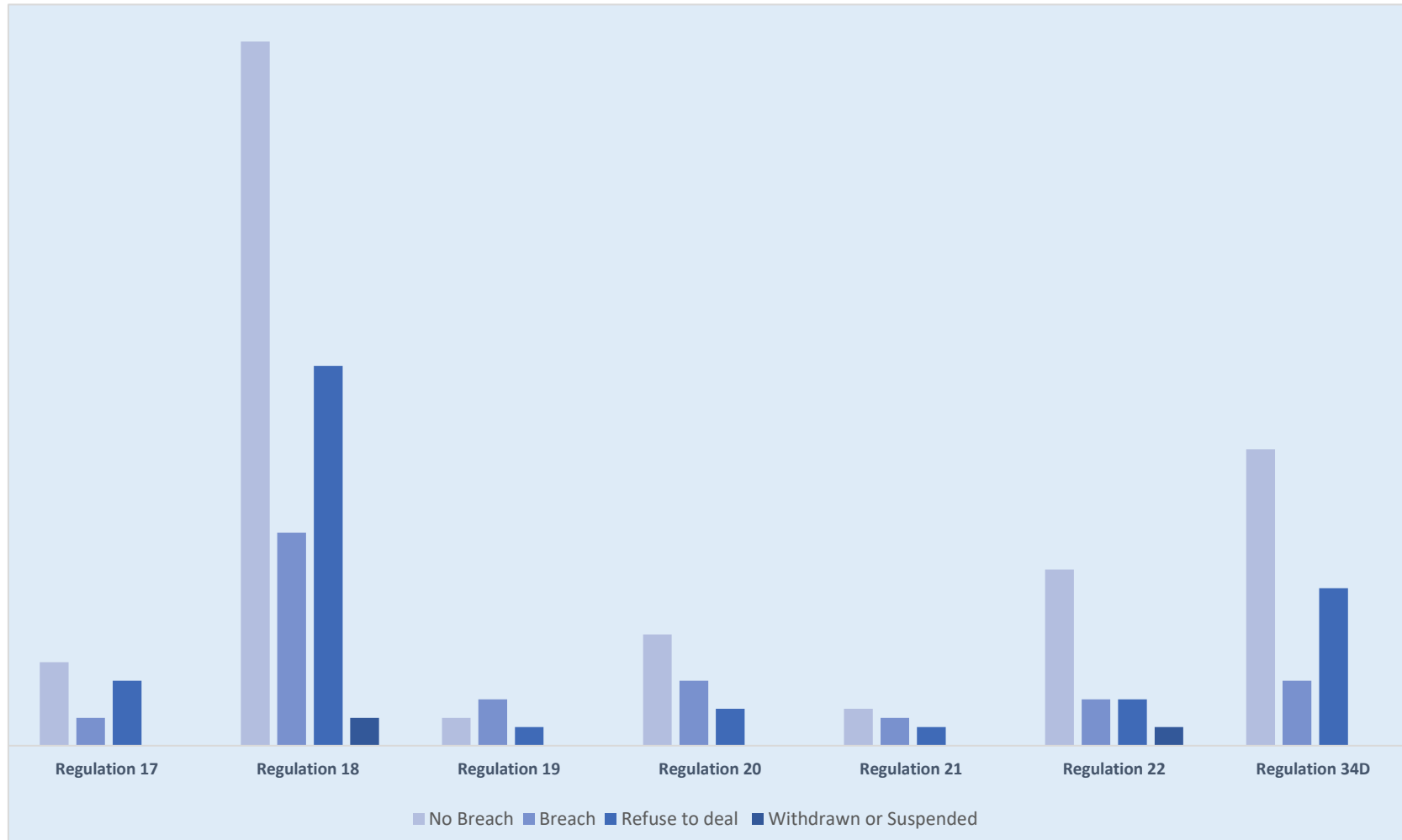
“The Panel finds, to the required standard, that the Complaint is vexatious as:

- a. there was no reasonable prospect of success of the Complaint on the basis claimed by the Complainant; and
- b. the Complaint was brought for the predominant motive of unjustifiably annoying and harassing the Councillor.”

**Chart 5: Findings for finalised allegations**



**Chart 6: Findings for each regulation\***



\*Local Government (Model Code of Conduct) Regulations 2021. For Regulation 34D, Local Government (Administration) Regulations 1996. For detailed description see page 13, "Types of Allegations."

## Decisions

Section 5.110(6) of the Act provides for the Standards Panel to deal with a minor breach by ordering:

- that no sanction be imposed under section 5.110(6)(a); or
- a sanction under section 5.110(6)(b); or
- a combination of sanctions under section 5.110(6)(c).

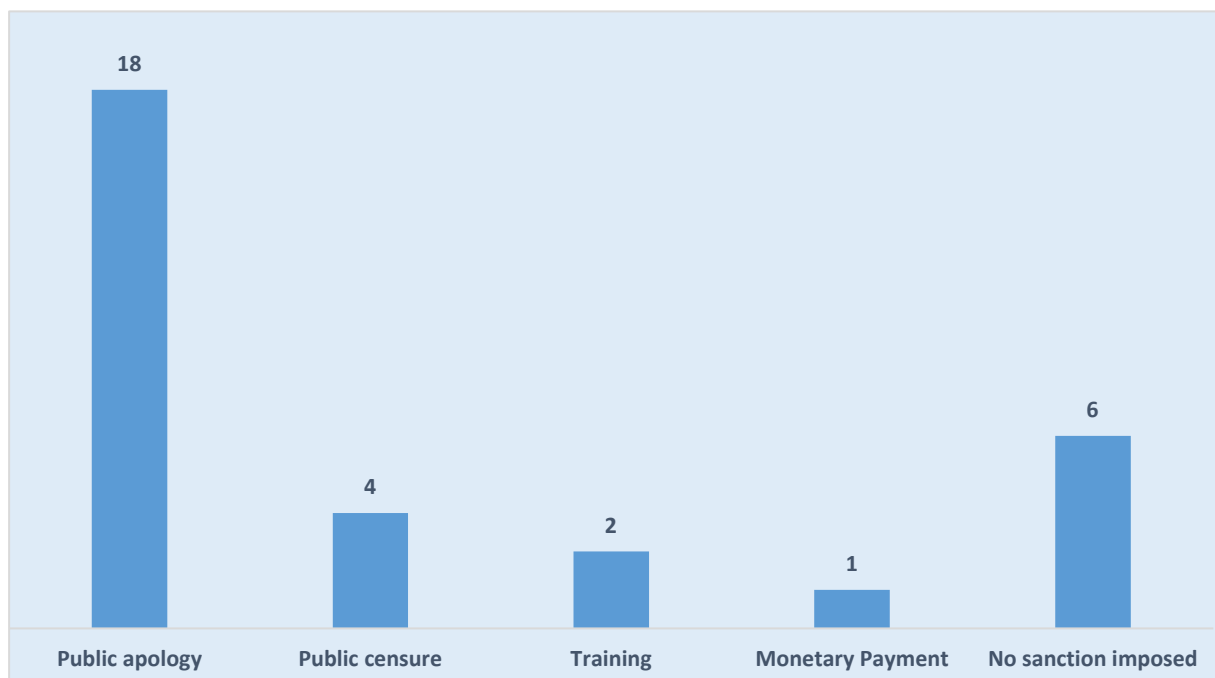
The Standards Panel determined that **53** breaches of the regulations occurred in **39** complaints, imposing **31** sanctions through the following orders:

- **18** orders that the elected member make a public apology,
- **4** orders that the elected member be publicly censured,
- **2** orders that the elected member undertake training,
- **1** order that the elected member make a monetary payment to the local government, and
- **6** orders where no sanction was imposed.

**Note:** The Standards Panel order can include sanctions for multiple breaches of one or more regulations. This can subsequently result in a number of sanctions being imposed for each order.

The Standards Panel's decisions relating to matters that result in a finding that a breach has occurred are published on the DLGSC [website](#) 28 days after the order has been made.

### Chart 7: Orders imposed for complaints finalised.



## Appeals

Section 5.125 of the Act provides for parties to a complaint to seek a review of the Standards Panel's breach decision by the State Administrative Tribunal (SAT) within 28 days of notification of the sanction. The matters reported here may be subject to review by the SAT and findings or decisions may be overturned.

In 2022-23, eight complaints were sent to the SAT for appeal.

# Types of allegations

**Table 1: Outcome of allegations for each regulation**

**Note: A single complaint can allege multiple breaches of one or more regulations relating to several different incidents.**

Regulation	Breach	No breach	Refuse to deal	Withdrawn or suspended	Total
Regulation 17 Misuse of local government resources	3	9	7	1	<b>20</b>
Regulation 18 Securing personal advantage or disadvantaging others	23	76	41	3	<b>143</b>
Regulation 19 Prohibition against involvement in administration	5	3	2	0	<b>10</b>
Regulation 20 Relationship with local government employees	7	12	4	0	<b>23</b>
Regulation 21 Disclosure of information	3	4	2	1	<b>10</b>
Regulation 22 Disclosure of interests	5	19	6	2	<b>32</b>
Regulation 23 Compliance with plan requirement	0	0	0	0	<b>0</b>
Regulation 34D* Breach of local law relating to conduct at meetings	7	32	17	0	<b>56</b>
<b>Total</b>	<b>53</b>	<b>155</b>	<b>79</b>	<b>7</b>	<b>294</b>

\* Local Government (Administration) Regulations 1996

**Table 2: Sanctions imposed for breaches of each regulation.**

**Note: Multiple sanctions can be imposed in a single order where a breach is found (for example public apology and training; public apology and public censure).**

<b>Regulation</b>	<b>Public apology</b>	<b>Public censure</b>	<b>Training</b>	<b>Monetary payment</b>	<b>No sanction imposed</b>	<b>Total</b>
Regulation 17 Misuse of local government resources	2	0	0	0	1	<b>3</b>
Regulation 18 Securing personal advantage or disadvantaging others	10	1	2	0	2	<b>15</b>
Regulation 19 Prohibition against involvement in administration	0	1	0	0	0	<b>1</b>
Regulation 20 Relationship with local government employees	2	1	0	1	2	<b>6</b>
Regulation 21 Disclosure of information	1	1	0	0	0	<b>2</b>
Regulation 22 Disclosure of interests	1	0	0	0	0	<b>1</b>
Regulation 23 Compliance with plan requirement	0	0	0	0	0	<b>0</b>
Regulation 34D* Breach of local law relating to conduct at meetings	2	0	0	0	1	<b>3</b>
<b>Total</b>	<b>18</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>6</b>	<b>31</b>

\* Local Government (Administration) Regulations 1996

## Meeting attendance

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

Under Schedule 5.1, clauses 2(a) and 3(2) of the Act, the presiding member and deputy are to be officers of the Department and clause 9(2) specifies that members who are officers of the public service are not entitled to any remuneration or allowances in their roles on the Standards Panel.

Councillor Peter Rogers was an officer of the public service for the relevant period and not entitled to any remuneration.

As recommended by the Public Sector Commissioner, sitting fees for the local government member are \$470 per part day meeting or \$720 per full day meeting and he or she may be reimbursed for travel expenses as set out in Public Sector Commissioner's Circular 2009-20 – Reimbursement of Travel Expenses for Members of Government Boards and Committees.

The legal members' sitting fees are \$480 per part day meeting or \$900 per full day meeting. In addition, the legal members are entitled to \$240 per hour (up to a maximum of \$900 per matter) for writing the Standards Panel's Reasons for Finding or Decision Reports.

**Table 3: Fees payable to members for matters dealt during FY 2022-23**

Panel member	Meeting attendance	Fees payable
Mr Tim Fraser	13	Nil
Ms Darrelle Merritt / Ms Suleila Felton	7	Nil
Councillor Peter Rogers	19	Nil
Councillor Renée McLennan	1	Nil
Ms Emma Power	12	*\$48,036
Ms Elanor Rowe	8	*\$39,780

\* Pending payments for 2022-2023

## Costs to local governments

Under clause 9(3) and (4), members' remuneration is costed to the local government of the council member who is the subject of the complaint. Liability for the cost of multiple complaints dealt with by the Standards Panel at the same meeting is apportioned equally between the relevant local governments.

The average cost per finding or decision for each allegation was \$329 (including GST).

The costs for non-public service members' sitting fees and writing fees billed to each local government concerned for the period 1 July 2022 to 30 June 2023 are set out in the following table.

Note that the Standard Panel fees may have been incurred by the local government in this financial year for a complaint that was received in the previous financial year.

**Table 4: Standard Panel fees recovered from local governments in 2022-23**

<b>Local government</b>	<b>Amount (including GST)</b>
Albany	\$1,034.00
Armadale	\$211.00
Belmont	\$2,085.00
Bayswater	\$4,555.46
Boddington	\$105.60
Bunbury	\$2,121.00
Cambridge	\$20,399.00
Canning	\$6,626.68
Cockburn	\$5,192.00
Chapman Valley	\$132.00
Fremantle	\$2,217.00
Greater Geraldton	\$52.80
Gingin	\$105.00
Joondalup	\$8,658.00
Kalamunda	\$3286.80
Melville	\$4,311.60
Mount Magnet	\$352.00
Nedlands	\$6,120.40
Nannup	\$277.20
Perth	\$2,143.43
Plantagenet	\$880.00
Rockingham	\$3,278.00
Swan	\$11,981.01
South Perth	\$2,591.60
Serpentine-Jarrahdale	\$105.60
Victoria Park	\$1,078.00
Victoria Plains	\$2,788.54
Wanneroo	\$3,965.70

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