



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

# Local Government Standards Panel

## 2020-21 Annual Report



# Local Government Standards Panel

## Annual Report 2020-21

August 2021

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### **Responsible Minister**

Hon John Carey MLA  
Minister for Housing; Local Government



# Message from the Presiding Member

**To the Hon John Carey MLA  
Minister for Housing; Local Government**

The following report is the annual report of the Local Government Standards Panel (the Standards Panel) for the period from 1 July 2020 to 30 June 2021.

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 minor breach provisions were introduced into the Act in 2007 to address conduct by individual council members, with the aim of responding to disruptive or inappropriate conduct. The system responds to and deters conduct by council members that disrupts the effective functioning of their local government.

Changes to the Act came into effect in February 2021 which resulted in the replacement of the *Local Government (Rules of Conduct) Regulations 2007* with the *Local Government (Model Code of Conduct) Regulations 2021*.

The new provisions require local governments to adopt a prescribed code of conduct as per the *Local Government (Model Code of Conduct) Regulations 2021*. If a complaint involves an alleged breach of the code of conduct by a council member, a complaint must be lodged with the relevant local government. If it is alleged that a councillor has breached a rule of conduct, a complaint may be lodged with the Local Government Standards Panel.

The Standards Panel composition changed from the previous financial year with my appointment as the Presiding Member with effect from 8 June 2021. 2020-21 saw a significant increase in the number of new complaints being lodged with 154 lodged compared to 121 in 2019-20.

There continues to be a trend of the majority of complaints resulting in no breach being found, either by a finding of no breach being made or by the panel refusing to deal with a complaint. Out of 175 complaints finalised in 2020-21, 81 findings of no breach were made, and the panel refused to deal with 32 complaints.

The Standards Panel convened 25 meetings in 2020-21 compared to 13 meetings in 2019-20 however, there was a slight increase in the average time taken for complaints to be finalised.

The Standards Panel remains committed to its objective of making decisions that promote and enforce high standards of behaviour by elected members in local governments across Western Australia; and it will continue to build on its achievements of 2020-21 and strive to maintain increased efficiency in relation to its operations and the important service it provides to the community and the local government sector.

I would like to take this opportunity to thank the staff at the Department for Local Government, Sport and Cultural Industries for their continued work in providing administrative and executive support to the Standards Panel.



Tim Fraser  
Presiding Member - Local Government Standards Panel  
31 August 2021

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## Overview

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

The Standards Panel's function is to receive and deal with complaints, made by any person, of alleged minor breaches, by a council member of any rule of conduct in the *Local Government (Rules of Conduct) Regulations 2007* or a provision of a local government's code of conduct.

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

## Requirement for annual report

This report is prepared to satisfy Clause 11 of Schedule 5.1 of the Act which requires that:

- “(1) By 31 August in each year, the primary standards panel is to prepare and provide to the Minister a report on the complaints dealt with by all standards panels during the previous financial year.*
- (2) The annual report must not include information that identifies or enables the identification of a council member against whom a complaint was made if the complaint was not dealt with under section 5.110(6)(b) or (c).”*

## Members of the Standards Panel

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

At the conclusion of the 2020-21 financial year the members and their deputies were:

### **Presiding Member:**

Mr Tim Fraser, Executive Director, Department of Local Government, Sport and Cultural Industries

### **Deputy:**

Mr Gordon MacMile, Director Strategic Coordination and Delivery, Department of Local Government, Sport and Cultural Industries

### **Local Government Member:**

Cr Peter Rogers, elected member of the City of Mandurah

### **Deputy:**

Cr Deborah Hopper, elected member of the Shire of Cuballing

### **Legal Member:**

Ms Emma Power

### **Deputy:**

Ms Elanor Rowe

## Complaints received and finalised

In the 2020-21 financial year, the Standards Panel received **154** new minor breach complaints and finalised **175** complaints. Finalised matters include complaints received in the previous financial year.

The lodgement of **154** new complaints in 2020-21 compared to **121** in 2019-20 represents a **27%** increase in complaints referred to the Standards Panel.

**Chart 1** provides a comparison of complaints lodged and finalised for the last five years.

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

**Chart 3** indicates the time that the Standards Panel has taken to finalise complaints compared to previous financial years and shows that a further reduction in the number of days taken to finalise complaints was achieved in 2020-21.

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

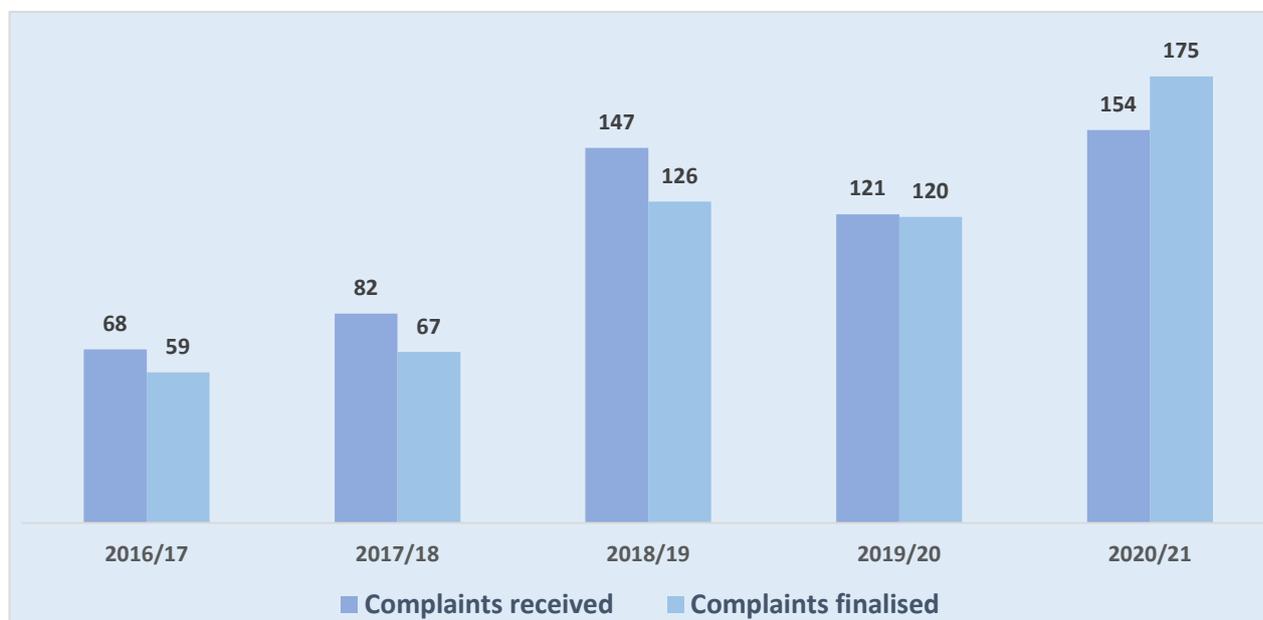
**Chart 5** provides details of the findings for complaints finalised in 2020-21.

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

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

A single complaint can allege multiple breaches of one or more regulations relating to several different incidents, adding to the complexity of the matters under consideration. As illustrated in **Table 1**, there were **227** allegations of breaches of the regulations within the **175** complaints finalised in 2020-21. This data does not include instances where a complaint may allege multiple breaches of the same regulation. **Table 2** provides details of the sanctions imposed, by regulation, for each of the complaints where a breach was found.

**Chart 1: Number of complaints received and finalised**



## Metropolitan and Regional breakdown

Of the **154** complaints received by the Standards Panel during 2020-21, **113** relate to metropolitan local governments while **41** related to regional local governments.

## Number of allegations by regulation

Chart 2: Number of allegations by regulation\*

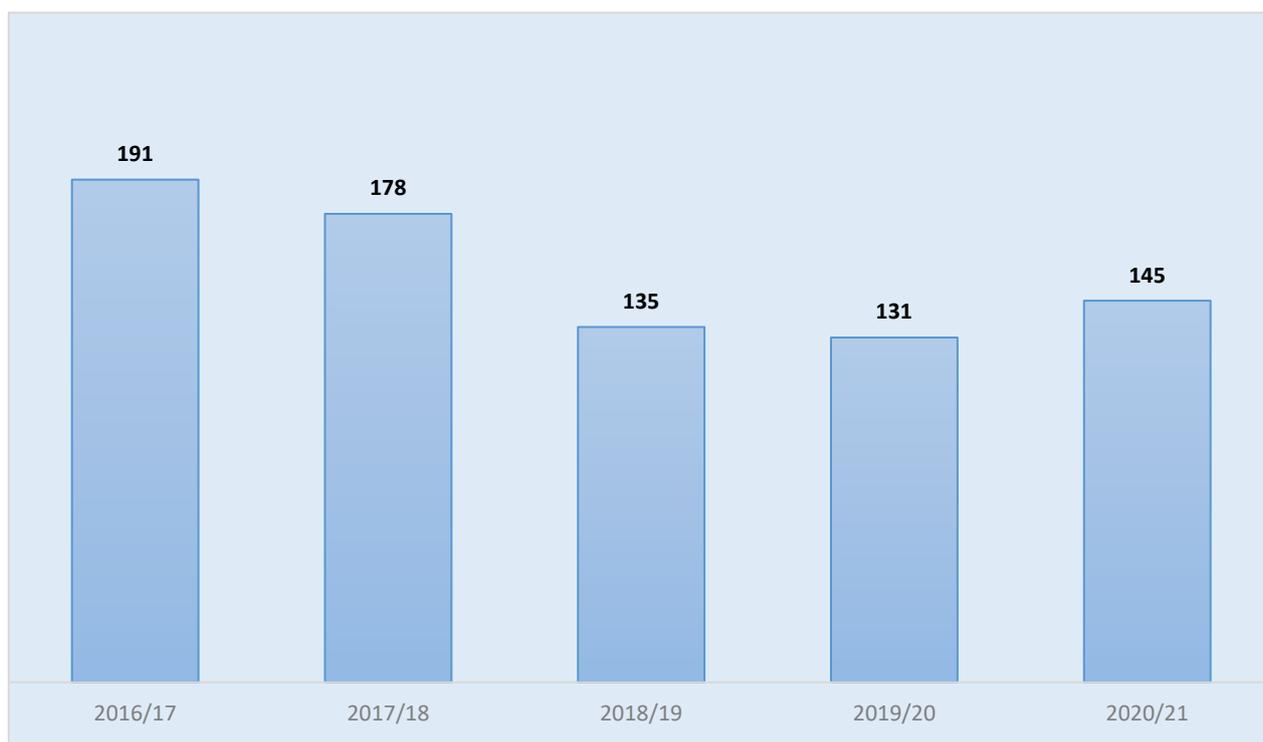


\*Local Government (Model Code of Conduct) Regulations 2021 formerly Local Government (Rules of Conduct) Regulations 2007. For Regulation 34D, Local Government (Administration) Regulations 1996. For detailed description – see page 13 “Types of Allegations.”

## Time taken to finalise complaints in 2020-21

The chart below indicates the average time that the Standards Panel took to finalise complaints during 2020-21 compared to previous financial years.

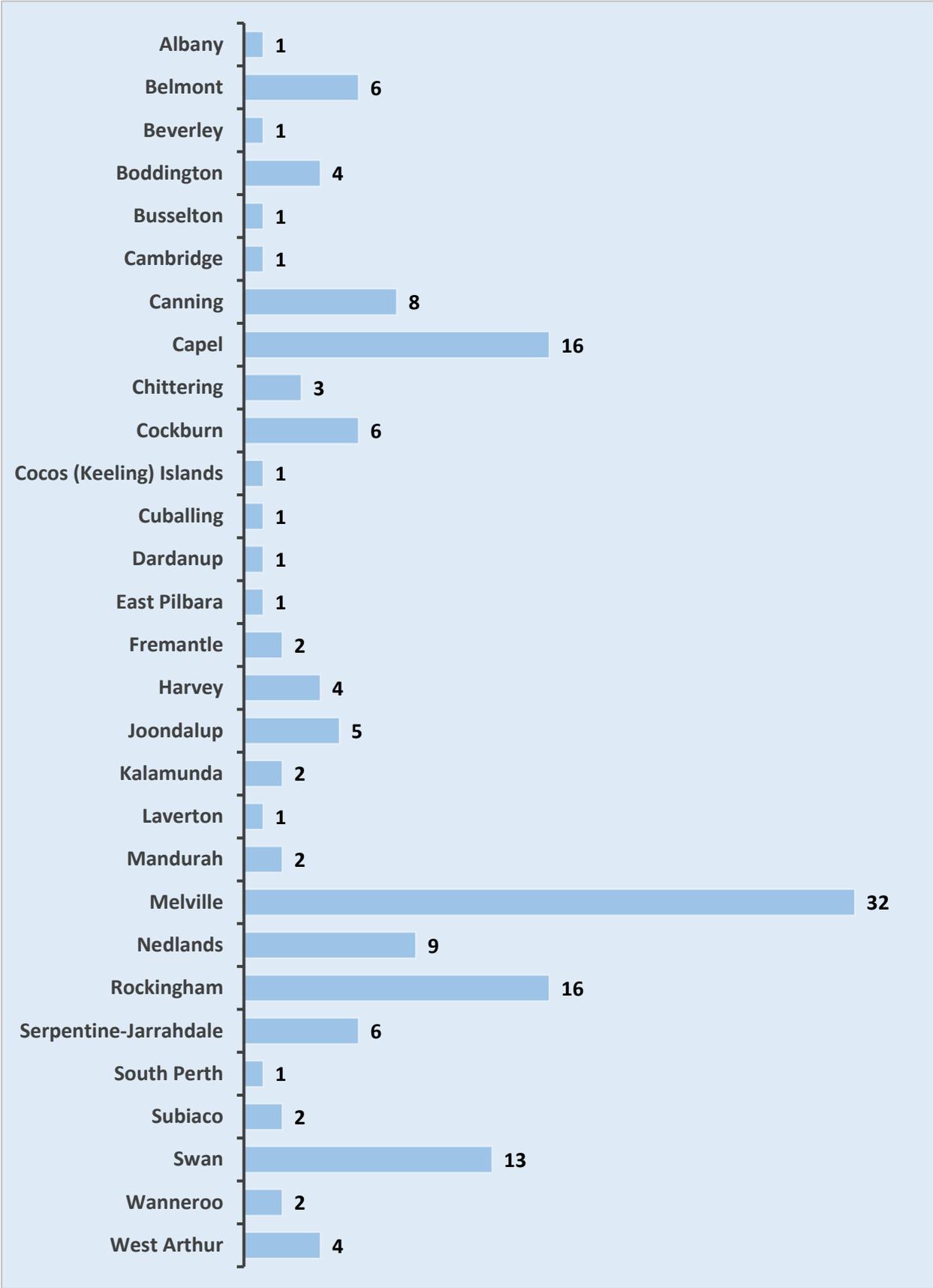
Chart 3: Average working days taken to process complaints



# Complaints for each local government

The **154** complaints received during 2020-21 by the Standards Panel were related to **30** local governments as indicated in the table below.

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



## Findings

Under section 5.110(2) the Standards Panel is required to make a finding as to whether the alleged breach occurred.

In relation to the **175** complaints finalised in 2020-21, the Standards Panel:

- Made **49** findings that a breach occurred.
- Made **81** findings of no breach.
- **10** complaints were withdrawn and **3** were suspended as the respondent was no longer an elected member due to resignation.
- Refused to deal with **32** complaints.

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

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 and, where appropriate, materials published by the relevant local authority's website.

It is the responsibility of both complainants and respondents to provide the Panel with all information they wish the Panel to consider when making its determination and the Panel must also have regard to the general interests of local government in Western Australia.

In 2020-21 the majority of complaints that were refused to be dealt with were on the basis of being misconceived, with three being vexatious, three being without substance and one being misconceived and without substance.

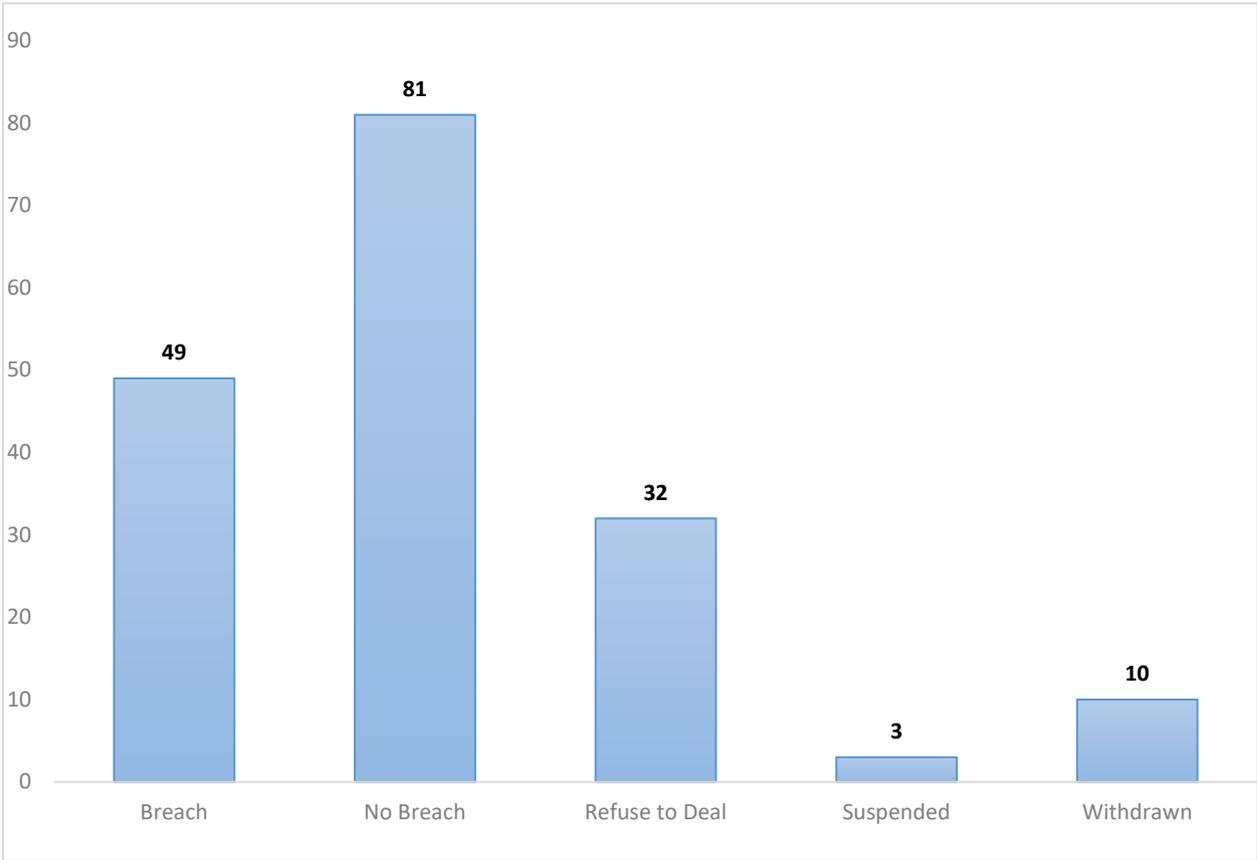
The Standards Panel relied on the following definitions in making these findings:

- "*vexatious*" means "an action is vexatious if it has no reasonable prospects of success. The term has also been said to be apt 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."

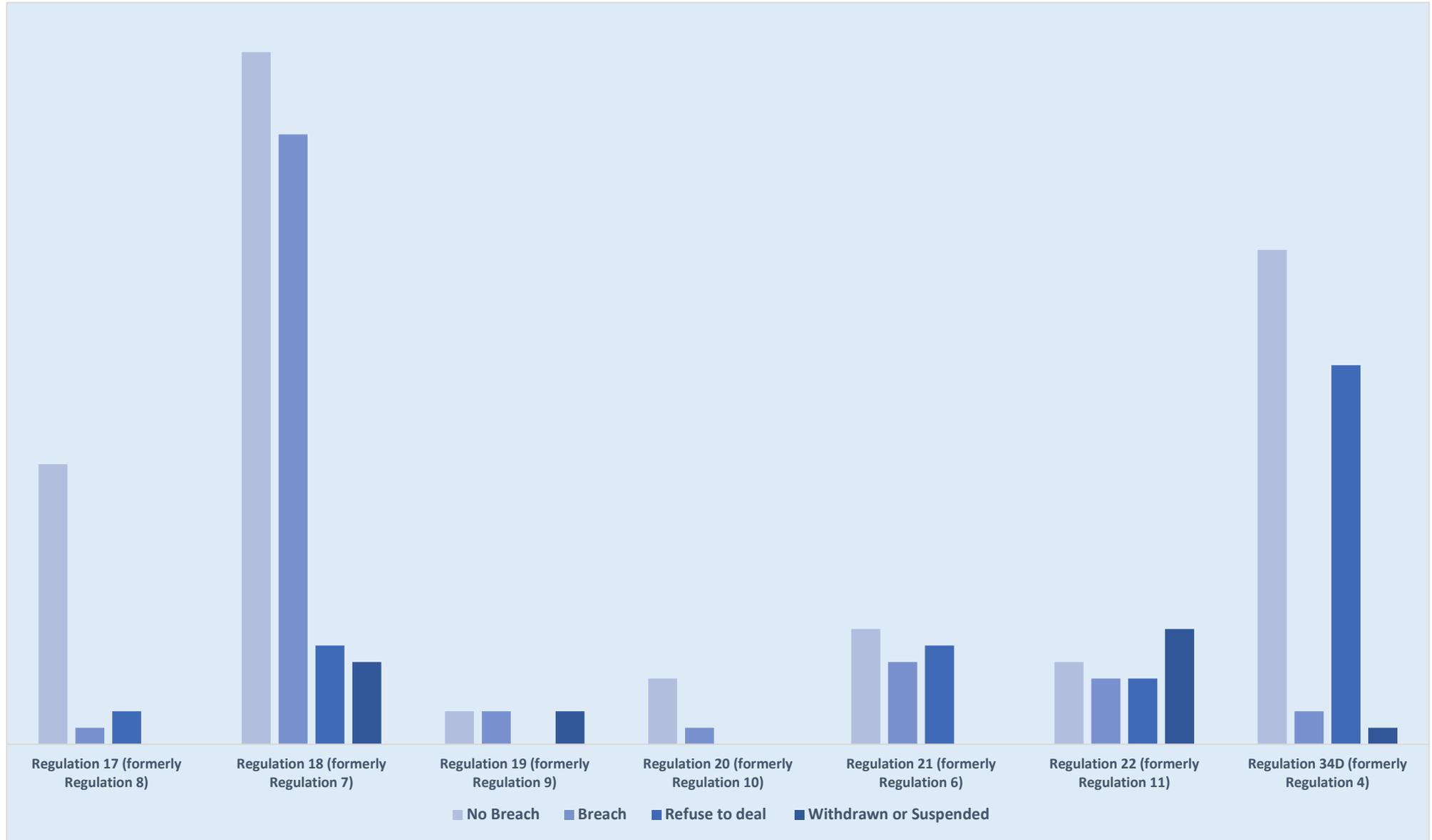
Examples include the Panel finding:

- a complaint was vexatious as there was no reasonable prospect of success of the complaint and the complaint was brought for the predominant purpose of unjustifiably annoying and harassing the respondent.
- a complaint was misconceived on that basis that the allegation as made out did not give rise to grounds on which to base a complaint i.e., the information disclosed by the respondent was not confidential as defined in the Regulations.
- a complaint was without substance as there was insufficient supporting evidence to reasonably establish the alleged conduct. Broad and unsubstantiated allegations do not give rise to grounds on which to base a complaint.

**Chart 5: Findings of complaints finalised**



**Chart 6: Findings for each regulation**



\*Local Government (Model Code of Conduct) Regulations 2021 formerly Local Government (Rules of Conduct) Regulations 2007. For Regulation 34D, Local Government (Administration) Regulations 1996. For detailed description – see page 13 “Types of Allegations.”

## Decisions

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

- that no sanction be imposed under section 5.110(6)(a); 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 52 breaches of the regulations occurred in 49 complaints and imposed the following sanctions:

- 35 orders that the elected member make a public apology
- 13 orders that the elected member be publicly censured
- 18 orders that the elected member undertake training
- 7 orders that the elected member make a monetary payment to the local government
- 3 complaints where no sanction was ordered

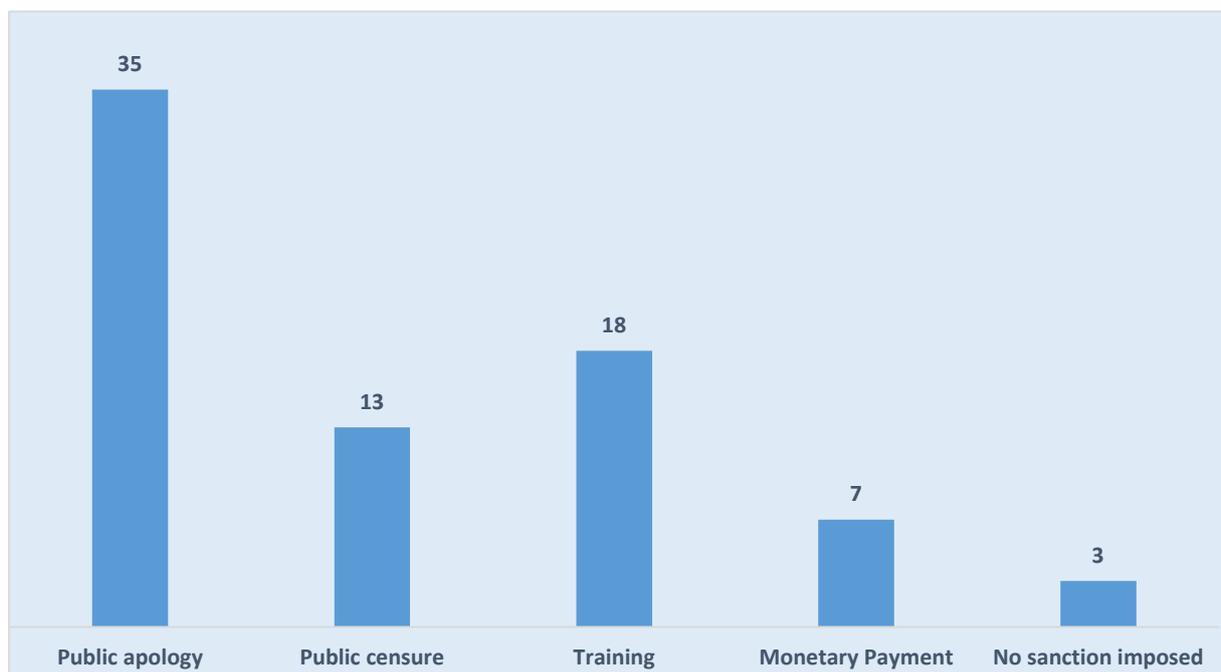
**Note:** A single complaint can allege multiple breaches of one or more regulations. This can subsequently result in a number of sanctions being imposed for each complaint.

Where a breach is found, parties to a complaint can seek a review of the Standards Panel's decision by the State Administrative Tribunal (SAT) within 28 days of notification. The matters reported here may be subject to review by the SAT and findings or decisions may be overturned.

In 2020-21, 18 complaints were appealed to SAT. Of the three cases heard, the Standards Panel decision was upheld in one case and overturned in one case and a third case was dismissed. One case was withdrawn and the remaining 14 are yet to be heard.

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

**Chart 7: Sanctions imposed for complaints finalised**



## 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 (formerly Regulation 8) Misuse of local government resources	1	17	2	0	20
Regulation 18 (formerly Regulation 7) Securing personal advantage or disadvantaging others	37	42	6	5	90
Regulation 19 (formerly Regulation 9) Prohibition against involvement in administration	2	2	0	2	6
Regulation 20 (formerly Regulation 10) Relationship with local government employees	1	4	0	0	5
Regulation 21 (formerly Regulation 6) Disclosure of information	5	7	6	0	18
Regulation 22 (formerly Regulation 11) Disclosure of interests	4	5	4	7	20
Regulation 23 Compliance with plan requirement	0	0	0	0	0
Regulation 34D* (formerly Regulation 4) Breach of local law relating to conduct at meetings	2	30	23	1	56
<b>Total</b>	<b>52</b>	<b>107</b>	<b>41</b>	<b>15</b>	<b>215</b>

\* Local Government (Administration) Regulations 1996

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

**Note: Multiple sanctions can be imposed for a single complaint where a breach is found, eg. Public apology and training; Public apology and public censure**

Regulation	Public apology	Public censure	Training	Monetary Payment	No sanction imposed	Total
Regulation 17 (formerly Regulation 8) Misuse of local government resources	1	0	0	0	0	1
Regulation 18 (formerly Regulation 7) Securing personal advantage or disadvantaging others	30	13	12	6	1	62
Regulation 19 (formerly Regulation 9) Prohibition against involvement in administration	1	0	1	0	0	2
Regulation 20 (formerly Regulation 10) Relationship with local government employees	1	0	0	0	0	1
Regulation 21 (formerly Regulation 6) Disclosure of information	0	0	2	1	2	5
Regulation 22 (formerly Regulation 11) Disclosure of interests	1	0	2	0	0	3
Regulation 23 Compliance with plan requirement	0	0	0	0	0	0
Regulation 34D* (formerly Regulation 4) Breach of local law relating to conduct at meetings	1	0	1	0	0	2
<b>Total</b>	<b>35</b>	<b>13</b>	<b>18</b>	<b>7</b>	<b>3</b>	<b>76</b>

\* Local Government (Administration) Regulations 1996

## Meeting attendance 2020-21

Clause 9 of Schedule 5.1 to 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, each 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 with in 2020-21**

Panel member	Meeting attendance	Fees payable
Mr Michael Connolly	9	Nil
Mr Tim Fraser	1	Nil
Mr Gordon MacMile	15	Nil
Councillor Peter Rogers	13	Nil
Councillor Deborah Hopper	12	\$6,110
Ms Emma Power	13	\$69,192
Ms Elanor Rowe	12	\$83,160

## Costs to local governments

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

The average cost per finding or decision was \$791.20 (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 2020 to 30 June 2021 are set out in the following table.

**Table 4: Standard Panel fees recoverable from local governments for 2020-21**

Local government	Amount (including GST)
Albany	\$222.51
Augusta Margaret River	\$908.11
Belmont	\$5,147.20
Beverley	\$524.23
Boddington	\$4,057.73
Busselton	\$2,112.71
Cambridge	\$3,004.16
Canning	\$7,345.48
Capel	\$17,883.25
Chittering	\$1,476.67
Cockburn	\$34,684.75
Cocos (Keeling) Islands	\$1,303.42
Cuballing	\$897.60
Dardanup	\$1,078.00
East Pilbara	\$1,512.50
Fremantle	\$2,668.50
Harvey	\$3,113.74
Joondalup	\$3,007.92
Kalamunda	\$1,070.38
Laverton	\$1,070.38
Mandurah	\$786.50
Meekatharra	\$1,117.20
Melville	\$18,395.98
Nedlands	\$6,824.06
Rockingham	\$8,823.72
Serpentine-Jarrahdale	\$4,299.64
South Perth	\$3,995.63
Subiaco	\$2,951.30
Swan	\$18,422.96
Toodyay	\$6,355.47
Wanneroo	\$2,400.93
West Arthur	\$665.87
Wiluna	\$3,561.70

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