# Principal Adjudicator

#### Operational Context and Role Overview

Under the *Local Government Act 1995* (Act), the Model Code of Conduct provides for a mandatory code of conduct to be observed by all mayors, presidents, councillors and committee members, including the rules of conduct.

At present, these rules are enforced by the Standards Panel, which consists of Department of Local Government, Industry Regulation and Safety (LGIRS) staff members, a council member and a person with relevant legal knowledge.

The *Local Government Amendment Act 2024* (Amendment Act) amends the Act and advances a second tranche of reforms, including the introduction of the Local Government Inspector (the Inspector) to oversee compliance and conduct for the local government sector and the Adjudicator function to review conduct breach complaints.

* A conduct breach is committed where a council member contravenes a rule of conduct.
* Allegations will be submitted to the Inspector, who will be able to use basic investigative powers to collect relevant evidence, such as video footage of council meetings. Complaints that are frivolous, vexatious, trivial, misconceived or without substance will not satisfy the initial assessment.
* When the Inspector decides that a breach complaint it received alleges a conduct breach, other than a recurrent breach, the Inspector must refer the complaint to the Principal Adjudicator.
* On receipt of a conduct breach, the Principal Adjudicator will either deal with the conduct breach themselves or allocate it to one of the Deputy Adjudicators.
* Adjudicators will be responsible for reviewing evidence briefs (provided by the Inspector), receiving submissions from the respondent, requesting parties to participate in mediation (where applicable), and making decisions on conduct breach complaints.

While Adjudicators are generally free from direction of the Minister or the Inspector (unless otherwise provided for in the Act), a Statement of Expectation will set key performance indicators that will further guide the Adjudicators and reporting to the Minister.

From the commencement of the Inspector’s powers and functions, the making of findings and sanctions against council members for conduct breaches will be referred to a Principal Adjudicator.

The functions will be supported by LGIRS.

#### The Position

The Minister for Local Government can appoint one Principal Adjudicator for a period of up to four years. They can be reappointed for subsequent terms.

While the prerequisites of both the Principal Adjudicator and Deputy Adjudicator positions are the same, the Principal Adjudicator is required to undertake additional responsibilities including coordinating the allocation of conduct breach complaints amongst Adjudicators for consideration, determination of processes, reporting to the Minister for Local Government as well as general leadership for the Adjudicators.

Adjudicators are not employees of LGIRS and are more akin to board members.

#### Role Responsibilities

The Principal Adjudicator will be required to undertake the functions and responsibilities conferred on them by the Act. This will include:

**Complaint management**

* Receiving complaints from the Inspector.
* Either dealing with a breach complaint themself or allocating the breach complaint to a Deputy Adjudicator to deal with.

**Adjudication and decision making**

* Considering evidence briefs as they relate to the complaint.
* Inviting submissions from the parties as the Adjudicator considers appropriate.
* Arranging mediation, and where sufficiently experienced, conducting mediation.
* Making findings and preparing reports.
* Determining appropriate sanctions.

**Leadership, oversight and reporting**

* Determination of practice and procedure to the extent where they are not defined under the Act, and if they wish, provide written directions as to the procedure to be followed by Adjudicators (otherwise Adjudicators may determine their own procedure).
* Reviewing Deputy Adjudicator reports to ensure accuracy and that they are drafted to the required standard.
* Certifying remuneration to Deputy Adjudicators.
* Preparing and providing an annual report on breach complaints to the Minister for Local Government.
* Reporting to the Minister in relation to agreed key performance indicators.
* Providing general leadership to the Deputy Adjudicators.

#### Role Specific Requirements

* To be eligible for appointment, Adjudicators must be legal practitioners with at least 5 years’ experience who are not council members, local government employees or employees of WALGA.
* A preexisting knowledge of the *Local Government Act 1995* may be beneficial but is not mandatory.

#### Remuneration

Remuneration and allowances for Adjudicators will be determined by the Minister, based on recommendations from the Public Sector Commissioner. The position is currently subject to a remuneration determination by the Public Sector Commissioner.

#### Positions Supporting this Role

An Adjudicator Administration and Research Officer will be provided to the Adjudicators to support and conduct research to facilitate the management of conduct breach complaints referred by the Local Government Inspector to appointed Adjudicators.

The position will be responsible for:

* facilitating the decision-making process;
* corresponding with complainants and respondents when needed;
* acting as a conduit between the Inspector and Adjudicators;
* arranging for the billing of local governments;
* maintaining the Adjudicators’ records;
* preparing the Principal Adjudicator’s annual report; and
* coordinating the notification of decisions.