LOCAL GOVERNMENT LEGISLATION AMENDMENT BILL 2019

Consideration in Detail

Resumed from 9 April.

Clause 51: Part 5 Division 9 heading amended —

Debate was adjourned after clause 50 had been agreed to.

Clause put and passed.

Clause 52: Section 5.102A amended —

Mr A. KRSTICEVIC: It is great to be back here this afternoon, working through this very important piece of legislation. Hopefully, some good discussion will ensue. In respect of clause 52 and the rules of conduct, I want to find out whether there has been an assessment of the increase in complaints or issues potentially going to the standards panel.

Mr D.A. Templeman: Member, could you just elaborate a little?

Mr A. KRSTICEVIC: We are putting in rules of conduct, which is another avenue that people can potentially breach or in which things can go wrong. I want to know whether this will be another avenue where it will be easier for people to make referrals to the standards panel as opposed to the other criteria.

Mr D.A. TEMPLEMAN: There is no change in relation to the practice, if you like, that currently exists with this clause.

Clause put and passed.

Clause 53: Sections 5.103 and 5.104 replaced —

Mr A. KRSTICEVIC: This is a very important clause that has been introduced. As we are all aware, in the last round of council elections the behaviour of candidates and, in some cases, elected members, was an absolute disgrace. I think that has been noted across the sector and in this Parliament, so I think it is really great that there are going to be regulations around a model code of conduct for council members, committee members and candidates. It talks about three areas—general principles to guide behaviour, requirements relating to behaviour, and the provisions specified to be rules of conduct. I want to know whether councils could make changes to that and add further requirements to behaviour, guiding principles or rules of conduct beyond what the standard regulations will provide for.

Mr D.A. TEMPLEMAN: The short answer is yes, but only in relation to proposed section 5.103(2)(b). There are three key principles, as the member has highlighted, that are focused on. The first outlines specific principles to which council members and candidates are expected to adhere, and they include issues around acting with care, diligence, honesty and integrity and upholding the law et cetera.

The second part—behaviour—will set out the standards of behaviour to enable and empower council members to meet the principles. A breach of this part will be resolved by the local government. Behaviours are expected to include requirements around attending and participating meaningfully in council meetings; using all forms of media, including social media, in a way that complies with the code—that highlights an issue that the member has already noted; not bullying or harassing council staff or other council members; while acting as a council member, not disparaging the character of any council member or using offensive language; and abiding by decisions of council.

The third part relates to rules of conduct. These will be matters that adversely affect the honest or impartial performance of a council member. A breach of the rules of conduct can be referred to the standards panel. If the panel makes a finding of a breach, sanctions can be imposed in accordance with the Local Government Act.

Mr A. KRSTICEVIC: The last part of my question was: can councils add extra parts to the behaviour component? Proposed section 5.103(3) states that it "may include provisions" about how to deal with alleged breaches and alleged breaches of the rules of conduct by committee members. Firstly, can the requirements be added to, potentially under paragraph (b)? Secondly, with the way that alleged breaches are dealt with, is it the intention of the minister to make sure that they are standard across local governments or will each local government be able to come up with its own penalties for breaches, and therefore we will have inconsistency across the sector?

Mr D.A. TEMPLEMAN: Regarding the provisions of the code and the capacity for local government to tailor the code to suit its particular circumstances, yes, it is possible that it can be done. That is in relation to behaviour referred to in paragraph (b), as the member highlighted. But, of course, any such amendment or additions cannot be contrary to or inconsistent with the model.

In relation to breaches, a breach by a candidate can be dealt with only once the person is elected. They will then be subject to the same process as any other elected member to deal with the alleged breach. Guidelines will inform councils of that framework. Breaches of behaviour will be dealt with by local government. These will be general

behavioural matters that are more appropriately dealt with at a local level because we want local councils to deal with them in-house as much as possible. But obviously, clear breaches of the rules of conduct will be subject to the standards panel's response.

Mr A. Krsticevic: How quickly will breaches be put on the website? The bill indicates they must be put on the website, but is there a time frame within which that needs to be done? What about updates?

Mr D.A. TEMPLEMAN: There will still be some consultation to finalise an appropriate time line but we would expect them to be published on the website as soon as practicable. There will be some further discussion around an appropriate time line in which breaches will be published on the website.

Mrs A.K. HAYDEN: First of all, I thank the minister's advisers and officers, and the clerks and staff for last night and early this morning, and for being back here today.

Mr D.A. Templeman: How did you sleep?

Mrs A.K. HAYDEN: Very well, thank you. I think we should have; we worked very hard!

The ACTING SPEAKER: Members!

Mrs A.K. HAYDEN: Sorry. Regarding clause 53, I know it is about making the regulations and that it will all be in the regulations and so forth, but one of the questions that has been raised with me a number of times is about councillors making repeated vexatious claims because there is a personality clash or for whatever reason—for want of a better term, they are repeat offenders in putting up claims against people. If those claims are proven to be false, will they go up on the website? Is there a penalty or anything to deal with a person who keeps putting up vexatious claims over and over, which go nowhere, to stop that behaviour from happening? I notice further on in the bill that if someone is found to have breached the code of conduct or the rules, they could be liable for the cost. Would the same happen to a person who keeps putting up false claims?

Mr D.A. TEMPLEMAN: I will answer that, hopefully, in the order that the member raised them. Only adverse findings will be published. If there have been no adverse findings, there is no requirement to publish them. I think the former government made amendments to the legislation that dealt specifically with the issue of vexatious complaints. The standards panel now has powers to dismiss vexatious complaints. Quite honestly, patterns of behaviour will usually demonstrate that. If the same names keep appearing, the standards panel already has the powers to declare those claims as vexatious and not deal with them. Again, I think the important aspect here, including the requirement for payment of costs, is that it is all framed around getting the appropriate allegations of breach to the standards panel. Vexatious issues need not get there, if they are clearly vexatious, because of the levers that are already in the legislation.

Mrs A.K. HAYDEN: I thank the minister; I am pleased to hear that. But, obviously, it is still occurring even though there are powers already available in the act to stop it. Was it raised that there is a need to try to prevent these people from repeating their bad behaviour by making false claims? It ties up a lot of time and energy.

Mr D.A. TEMPLEMAN: Amendments to the confidentiality framework will hopefully reduce the number of vexatious complaints. The reality in the world is, as the member would know, that there are some people whose waking hours are spent trying to "get" their council or individuals. That is a factor of human nature in many respects. I am very hopeful that the frameworks we have here, particularly regarding changes to confidentiality and the existing requirements and opportunities for the standards panel, will reduce that vexatious aspect. Will it stop them entirely? As the member knows, human nature is an interesting animal and there are some people who wake up every day driven only by what they see as being an angst or an injustice and they will pursue it no matter what.

Mrs A.K. HAYDEN: I am happy to be guided by the minister on whether he wants to discuss this under another clause, but I believe the issue also comes under the provisions of clause 53. My question relates to a candidate who is already a councillor breaching the code of conduct or rules by which they have to abide. What happens if a sitting mayor, who is now a candidate, breaks the code of conduct but is not re-elected? The damage is already done if we are not able to jump in quickly enough to stop the mayor from doing the wrong thing and breaking the code of conduct. Does this legislation strengthen that to reduce the time frame? If a sitting mayor or sitting councillor, who is a candidate, breaks the code of conduct, can they be stopped before the damage is done? If they are not re-elected, do they get away with it?

Mr D.A. TEMPLEMAN: Some would say that they have not got away with it because they have not been re-elected. The simple fact is that if they are successfully re-elected and there is an alleged breach, that will be investigated. Indeed, it can only be investigated if they are re-elected. If they are not re-elected, one argument could be that the public has made a judgement of them.

Mrs A.K. HAYDEN: The issue I have is that although they were not re-elected, the damage was done to another individual and may have ruined that person's reputation. They may not have got up due to what the mayor or the sitting councillor has done, so two people will have been penalised for one person's bad actions. That person would

have got away with it scot-free, but the innocent person who has been misrepresented or targeted by the mayor or councillor may have had their reputation and their ability to be re-elected ruined.

Mr D.A. TEMPLEMAN: Of course, the legal process is an option for a person who is aggrieved. They may take the legal avenue to deal with what they may see as being either slander or an imputation on their character. That is an option for them to take.

Mr A. KRSTICEVIC: On that point, has consideration been given to whether it is possible to look at a code of conduct or appropriate behaviour for candidates? Say someone has completed an induction and submits the nomination form but there is an obvious and clear breach of pretty much every rule that could be thought of in the way the person is conducting themselves during the campaign. Would it be too extreme for the Department of Local Government, Sport and Cultural Industries to cancel their nomination and say that they are not eligible to run for council because of what they have done? I know that is a slightly unusual way of looking at it, but that may be a solution in extreme circumstances. It would only be in extreme circumstances that that would occur. I wonder whether that is feasible or has been considered, or is just a wish.

Mr D.A. TEMPLEMAN: That is an interesting concept. It would be very difficult to police because ultimately a value judgement would be required. Again, the idea behind the induction process—an eyes-wide-open process, for example—will hopefully assist people to understand their responsibility in terms of conduct during the campaign. At this time, that extreme measure has not been considered. As the member is aware, elections are part of the second phase of reform, and that element is certainly open to be looked at in that phase.

Mr A. KRSTICEVIC: I have another scenario: two individuals decide to run in tandem and to support each other but, effectively, one is running and the other is the spoiler. One candidate will throw the mud and make sure that someone has a difficult time, while the other candidate, who they are working with, will be seen as the cleanskin. That candidate will not have committed any breaches, but they are in partnership with an individual who has. It may be an extreme circumstance, but I know that people take that approach from time to time, which is not appropriate. Again, it reinforces the fact that if the department were able to strike someone out, it would stop that sort of behaviour as well. I know that it may be something to consider further down the track in the second phase, but there are lots of different scenarios. I know that we cannot close all scenarios and that sometimes the panacea is that people need to do the right thing. We cannot have an answer for everything, but if candidates could be struck out in extreme circumstances, it would send a strong message early on. I know that there is natural justice, but I would be keen to support such a measure through regulations or some other mechanism when people are clearly doing the wrong thing. It will be a value judgement, but sometimes a value judgement will need to be made.

Mr D.A. TEMPLEMAN: There is also the sincere hope that when people nominate, they do so with the correct intentions. In many respects, the scenario the member highlighted can be influenced by the voting process. That is also something that is under consideration as part of the second phase. However, my view is that we hope that people intend to do good. If we start to make value judgements and direct the department, the director general or the minister to intervene, it is a pretty risky thing to do. There is always the accusation of political interference, and that is something that one would seek to avoid. Again, these matters could be considered in the second phase.

Mrs A.K. HAYDEN: The member for Carine raised a very good point. It would be advantageous if candidate inductions included that they can be removed if they act against the code of conduct during the campaign. We want to stop people from doing it, rather than haul them over the coals afterwards. It is more about preventing them from going down that path in the first place. If the induction clearly outlines that this behaviour will not be tolerated, we will end up with better behaviour during elections. Local council elections can get quite personal. I have experienced a few of them in my time. We need to rule that out. One of the most common complaints to my office, and I am sure the offices of other members, is that constituents wish councillors got on and did their jobs and stopped playing petty games. If we can make it very black and white that this behaviour will not be tolerated in any way, it will be a way of preventing it from happening. I disagree with the minister about ministerial intervention. A minister, no matter who is in government, has the overpowering authority. Maybe the idea that a minister can intervene and will have the power of oversight will prevent things from going further.

Mr D.A. TEMPLEMAN: Appropriate behaviour and conduct during the campaign is part of the induction process. I think that highlights behaviour to prospective candidates and councillors. But human beings are very interesting animals. Behaviour that one person might see as obstinate and inappropriate may not be seen by somebody else as obstinate and inappropriate. For example, the suspension and dismissal legislation that we passed gives the department, on recommendation of the minister, the capacity to suspend or dismiss if somebody reaches a threshold and their behaviour requires intervention. It has a very high threshold. A councillor might raise their voice or thump the table in a council meeting because they are attempting to persuade. That might be a bit unnerving for someone. They might still speak civilly and say "You are doing this wrong, you guys. This is not the right decision."

It is a very fine line with who makes the judgement that that behaviour is in some way inappropriate. If they use an expletive towards them, that is clearly inappropriate and is against the code and is unacceptable behaviour. I am very conscious that we do not want to sanitise chambers around the state. We want people to have robust debate. We want people to express their point of view and have a say. What we do want them to do is accept the decision. If it goes against them, they tried—and they might try again. When I was elected to the City of Mandurah council in 1994, the vote was always 9–3. I was always one part of the three. We would often have that result. Our view was that we had a go and it was done in a respectful way and we put the argument. Of course, the numbers changed after a while and it was the other way around, but it is that element of respect. We need to be mindful that if we use a big stick every single time that involves a value judgement, that is a little dangerous. There are some great councillors in Western Australia who have big voices and who passionately argue their view. Some might actually find that a little intimidating and a little unnerving, but they have not breached a code; they have just been passionate about their point of view. If after a decision they then become abusive, swearing and threatening, clearly they have breached that code. I understand where the member for Darling Range is coming from, but these measures are sensible and go a long way to at least making sure people understand what sort of behaviour would be expected as a candidate and if they were successful at the election.

Mrs A.K. HAYDEN: I totally agree with the minister; robust and boisterous debate is not a problem. It is the swearing and intimidation side —

Mr D.A. Templeman: That is not appropriate.

Mrs A.K. HAYDEN: — that is not appropriate—exactly. In these amendments and the regulations that will be drafted, if no-one makes a complaint, is it the chief executive officer's role to put one forward regardless? If this is happening and the councillors are too scared to say anything or they do not want to file a complaint, is the CEO responsible to make that complaint known?

Mr D.A. TEMPLEMAN: As the member is aware, anyone can make a complaint and ultimately after consideration, the seriousness and/or need to take action regarding that complaint would then be weighed up.

Mr R.S. LOVE: Proposed new section 5.103(3)(b) states —

> alleged breaches of the rules of conduct by committee members.

Who are the committee members to whom that refers? Are they elected councillors who happen to be serving on a committee of the council or does that apply to outside people serving on a committee of the council?

Mr D.A. TEMPLEMAN: It refers to just elected members.

Mr R.S. LOVE: Proposed new section 5.104(6) states —

> An alleged breach of a local government's adopted code of conduct by a candidate cannot be dealt with under this Division or the adopted code of conduct unless the candidate has been elected …

Is that provision included because the Local Government Act has no power to deal with anybody who is not an elected member? Is it not a deficiency of the act if candidates come under a code of conduct but committee members do not; if they act on committees of council because they are not elected councillors, but carrying out a function for the council? Is it possible for the Local Government Act to be expanded to cover those other definitions?

Mr D.A. TEMPLEMAN: The short answer to that question is that in this context the Local Government Act relates only to an elected member and legal advice clearly supports that that is all this clause can address. If someone is serving on a committee co-opted by the community and their behaviour is inappropriate, abusive and/or not conducive to the committee's workings, the committee itself can seek to remove that person. That is a natural process that they could already be involved in.

Mr R.S. LOVE: Has there been any consideration of widening the ambit of the Local Government Act to include candidates? How difficult would that be?

Mr D.A. TEMPLEMAN: I am advised that it could be possible, but this clause, as it is constructed, is designed to focus only on elected members. In answer to the member's first question on whether it could be considered, there is nothing to stop it being considered; however, in the context of this clause, it is focused only on elected members.

Mr R.S. LOVE: The clause is focused on elected members, but it states —

> Regulations must prescribe a model code of conduct for council members, committee members and candidates.

How can the minister claim that it is focused on elected members when it specifically includes candidates?

Mr D.A. TEMPLEMAN: The legal framework refers to candidates, but the punitive aspect—in other words, the capacity to take action, which includes the punitive mechanisms—ultimately can be actioned only against a person who is elected. The code of conduct and the awareness of the code of conduct to candidates is again referenced to

ensuring that somebody who is considering being an elected member is aware of the code and the implications of it if they are successful.

Mr R.S. LOVE: That is puzzling because two classes of people are conducting the election: people who will ultimately be selected by the constituents and those who are running for election in the same process who will escape any sanction from this provision. I cannot see how that could be construed as having any sense of natural justice involved in it. To me, it is completely unfair to the elected person. To whom would such a breach be reported? If it is happening during the election process, does the report for the breach have to take place after the election or during the election? If it takes place during the election, is it to the returning officer that the report is made? Could there not be a function there for the returning officer to advise at least the candidate that they are potentially in breach of the code of conduct?

Mr D.A. TEMPLEMAN: For any alleged breach during the election campaign, the first port of call would be the returning officer. Of course, sometimes the returning officer is the CEO of the local government.

Mr R.S. Love: Not necessarily, but sometimes.

Mr D.A. TEMPLEMAN: I said "sometimes". If the election is being conducted directly by the Electoral Commission, there is an appointed returning officer. Nothing prevents a person from making a complaint during the election process. In terms of the post-election period, if somebody had an alleged breach reported against them but was not successful at the election, ultimately, it is a call about the public interest: is there an expectation that the community would want the local government to pay for pursuing them through legal channels even though they were not elected? That is the result that the member is arguing for, and what would we do as a punishment?

Mr R.S. Love: Other electoral acts would contain punishments for the candidates. The Western Australian Electoral Act contains sanctions for state Parliament candidates and parties. In South Australia, local government candidates are sanctioned regardless of whether they are elected.

Mr D.A. TEMPLEMAN: Some sanctions already address this, but essentially it comes back to the focus that makes sure that people who seek to be elected are well aware of their responsibilities. Section 4.88 of the Local Government Act has been highlighted to me. It deals with, for example, offences related to the printing, publishing or distribution of misleading or deceptive material. The member will see that subsection (1) includes a potential penalty of $5 000 or imprisonment for one year. Some penalties are available if an offence of —

Mr R.S. Love: That would indicate we already have the power to deal with candidates, so it gets back to the question of why we are not doing that.

Mr D.A. TEMPLEMAN: In this case, it deals with a breach that is specific to the publishing of misleading or deceptive material, but that would still have to be proven through that legal process.

Dr D.J. HONEY: I have a broader question about the code of conduct for council members. I covered this in my contribution to the second reading debate. I understand that under this bill, it is up to individual councils to have a code of conduct for their employees. Why has the scope of this model code of conduct not been codified to include council employees? I am struggling to understand why we need this for councillors but not council employees.

Mr D.A. TEMPLEMAN: There is a difference between the code of conduct requirements for council members and those of employees. The debate last night canvassed this quite extensively. The CEO is ultimately responsible for the oversight of the code of conduct for employees. The development of the code of conduct areas in this bill, and in the Local Government Act, contain provisions related to employees, which covers the member's concern that there are none—there are. Of course, the oversight of that is the ultimate responsibility of the CEO because under this legislation they are charged with the recruitment, hiring and termination of employees under their jurisdiction.

Dr D.J. HONEY: I do not wish to waste the chamber's time going through last night's debate. Unfortunately I was ill last night and could not be here for that. Looking forward, if it is necessary to codify a code of conduct for individual councillors, I would expect that a core set of standards should apply to officers within councils as well. Perhaps this is an encouragement to look at that in future. I cannot see why that should be idiosyncratic to individual councils.

Mr D.A. TEMPLEMAN: There are already provisions for that consideration and also the capacity to expand those in the future.

Clause put and passed.

Clause 54: Section 5.105 amended —

Mr A. KRSTICEVIC: There is no need to harbour what has already been discussed in terms of candidates being in contravention or potentially in breach of the act and then being dealt with afterwards by the standards panel. I am more concerned about proposed section 5.105(1B), not in terms of the minor breach component, but what it

means if a person has conducted a serious breach while they are a candidate. Does this provision allow a serious breach to be dealt with in the same manner or a different manner to a minor breach?

Mr D.A. TEMPLEMAN: The member's concern is related to what might be defined as a serious breach. A council member commits a serious breach if they breach a provision of the Local Government Act or another written or local law that is identified as an offence. An element of that offence must be that the person is a council member. These can then be referred to the State Administrative Tribunal by the director general of the department. In answer to how the breach is ultimately determined, the evidence must lead to the conclusion that it is more likely that the breach occurred than it did not—that is legal speak. Essentially, that is the difference between what would be considered to be a minor breach —

Mr A. Krsticevic: I know that proposed subsection (1A) refers to subsection (1) and the offences that occur there. My real question is: if a candidate has committed a serious breach, which can be dealt with as a minor breach, and they then become a councillor, can it then be dealt with as a serious breach if they committed that breach as a candidate?

The ACTING SPEAKER: Member, there are about three questions there.

Mr D.A. TEMPLEMAN: Let us go into this; this is very interesting. Is the member asking: what are the implications for a candidate who allegedly has committed a serious breach, and then that candidate is elected?

Mr A. Krsticevic: Yes.

Mr D.A. TEMPLEMAN: First of all, if that is the case and it is defined as a serious breach, the process would be followed with regard to dealing with a serious breach. That is my understanding, but I will seek confirmation of that.

Mr A. Krsticevic: It is more from the point of view that they did it as a candidate rather than a councillor. I know that there are provisions for a minor breach and I can see that subsection (2) relates back to subsection (1) and it does a loop there.

Mr D.A. TEMPLEMAN: As the member is aware, the intention is to do the third reading tomorrow morning. We will get some further advice to answer that particular question. I would like to give the member a correct answer that has been confirmed.

Mr A. Krsticevic: It is a serious question.

Mr D.A. TEMPLEMAN: If the member is happy for that to happen, I will agree to it.

Mr A. Krsticevic: That would be good; thank you.

Clause put and passed.

Clause 55: Section 5.107 amended —

Mr A. KRSTICEVIC: Why is the time within which a complaint has to be made being changed from two years to six months? More importantly, what happens if it takes more than six months to collect the information and gather the evidence? What would happen if someone were sick or had another valid reason for not being able to make a complaint within that six-month period? Could there potentially be a scenario in which a valid complaint needs to be lodged, but due to the six-month limitation it does not happen? It may not be a concern, but I can see situations arising in which it might take at least that long to gather evidence—for example, people from whom evidence is required may be on leave. Why is two years being amended to six months, and is six months an appropriate time to make a complaint?

Mr D.A. TEMPLEMAN: From a historical perspective, since 2007, which is a significant span from then to now, only eight per cent of complaints were made after six months. Historically, there is an issue that highlights the framework for lodging complaints. For example, from the period 2007–2015, 17 per cent of complaints were made within seven days; 49 per cent, or nearly half, were made within 30 days; 79 per cent were made within 90 days; and 92 per cent were ultimately made within six months. There is clearly a pattern there. The time has been reduced to provide greater natural justice for the person alleged to be in breach of a rule of conduct. They are considered by the standards panel on the basis of the documents and claims put before them. Of course, through natural justice, there is a requirement that the accused council member is requested to provide a response to the allegation. Ultimately, it can be very difficult if the alleged conduct occurred some time ago and is not dealt with or reported in a timely fashion. The pattern we show, as I have highlighted, is that only eight per cent in the past, or over that time period since 2007, have been after a six-month period.

Mr A. Krsticevic: So just by way of interjection —

The ACTING SPEAKER (Ms M.M. Quirk): Minister, before you proceed. I am told that this is quite extraordinary, but Hansard is reporting that they are finding it hard to hear you.

Mr D.A. TEMPLEMAN: Hear me?

The ACTING SPEAKER: Yes. So would you please bring your voice up. Thank you.

Mr D.A. TEMPLEMAN: Yes.

Mr A. Krsticevic: They had no such problem last night!

Mr D.A. TEMPLEMAN: No. Last night I was in great form. Sorry, through interjection?

Mr A. Krsticevic: Through interjection, is there an analysis on what that eight per cent was over that time? Was it a valid reason or do we understand it?

Mr D.A. TEMPLEMAN: No. The information is that there has not been any formal analysis of that, but it is very low.

Mr A. Krsticevic: Okay, so we don't really know whether there were genuine circumstances in that eight per cent that maybe, for a valid reason, took longer than they needed to.

Mr D.A. TEMPLEMAN: Because the percentage is so low, the in-depth analysis has not really been done in the context that the member has asked for.

Mr A. Krsticevic: Again, by way of interjection again, if you really left it at two years and didn't change it to six months, the percentage is so low and it wouldn't make a real difference to the volume of complaints that are coming in, really, and it might allow those genuine ones to have that little bit of extra time, because there aren't that many frivolous ones, and with the changes that we're making to the rest of the act, it should tighten up all of those other mechanisms around behaviour and everything else. So even if you left it at two years, that eight per cent, technically, should reduce quite considerably and then those one or two that we maybe don't know about that might be genuine could actually be lodged.

Mr D.A. TEMPLEMAN: I think if people are genuinely concerned about someone's behaviour, one would expect that normally there would be a sense of urgency to report that concern. However, the member's summation that he highlighted is one I generally support and agree with.

[Quorum formed.]

Clause put and passed.

Clauses 56 and 57 put and passed.

Clause 58: Section 5.110 amended —

Mr A. KRSTICEVIC: I have a couple of questions under clause 58. I raised the first one with the advisers yesterday. I went online to look at the Local Government Standards Panel's list of issues that have been dealt with. I noticed that the website was updated to only 20 April 2018. The information on standards panel complaints is nearly 12 months out of date. I am trying to get an analysis of what was going on. When is the website going to be updated and how regularly is it updated?

Mr D.A. TEMPLEMAN: I acknowledge that there is a backlog. I am advised that the department is working as diligently as possible to address that.

Mr A. KRSTICEVIC: Thank you very much. Obviously, as we know, only the standards panel breaches that are upheld are put on the website. At the moment there is no way for anyone in the community to know anybody who has committed a breach in the last 12 months, which is probably not very good for transparency and accountability in those local governments. I think that is good and hopefully that can be updated on a more regular basis when those cases are done. I just thought I would bring it to the attention of the chamber, because I was trying to do some research. It is not a criticism; it is just an observation.

With regard to this particular issue around standards panels, I previously raised with the minister the mediation aspect. I just wanted to get an idea whether mediation will be recommended by the standards panel in all cases. Who will pay for that mediation? More importantly, how much can that mediation cost grow to? Again, depending on who is choosing the mediator and the charges and costs of that mediator, will some standard people be used, or can someone get whomever they like if they have the appropriate qualifications? The main part that I am concerned about is the cost around mediation. I know that the regulations may have some views around the mediation aspect. I am just wondering whether the regulations will actually appoint mediators or people who are qualified around that particular area. The legislation says "may", so is it the minister's intention to actually do that, or is it something the minister is leaving to allow some flexibility? Who will make the decision on how that is then adhered to?

Mr D.A. TEMPLEMAN: There are a series of questions in there. Mediation will be considered when it is evident to the standards panel that there has been a breakdown in the relationship between two parties that could be better addressed by dealing with the underlying issues. Who pays for the mediation if the panel requests the parties to participate in such? The local government will be responsible for the associated costs. In terms of why mediation is not required by the standards panel rather than requested, although the person subject to the complaint will

always be a council member or a candidate, the complainant may, of course, be a member of the public. Therefore, it is also questionable how useful mediation is between non-consenting parties, because there is the issue of parties sometimes not agreeing to participate. If that is the case, the standards panel will have no power to enforce mediation. It is unlikely that mediation will be effective if there is an unwilling participant. The objective of the panel is not to punish but to address the inappropriate behaviour and to stop the recurrence of such behaviour. That is the focus of any intervention.

Mr A. KRSTICEVIC: Does the minister see regulations coming into force on this, or is he leaving this up to the standards panel or others to determine the points under proposed section 5.110(8), which obviously cover the appointment, the procedures, the time frame, and the payment and recovery of the costs of mediation. On the payment and recovery of the costs of mediation, will the regulations state that the council will pay? Could the regulations state that the councillor pay for the mediation? Has any consideration been given to that? There seems to be some flexibility about the recovery of costs around mediation within that regulation.

Mr D.A. TEMPLEMAN: There will be further discussions with the standards panel about addressing some of the matters the member has highlighted. Essentially, there has been no ultimate landing on those at this point. They will be discussed with the standards panel and its advice will be sought to find the best way to make sure these proposals work appropriately.

Mr A. KRSTICEVIC: The minister is saying that, potentially, the cost of mediation could be passed on to the participants of the mediation if the standards panel decides that is appropriate. Likewise, the bill refers to the cost of the standards panel process potentially being passed on to a councillor who is found guilty.

Mr D.A. Templeman: That is not the intention.

Mr A. KRSTICEVIC: Is it not the intention to pass on the cost of mediation?

Mr D.A. Templeman: No; it is not the intention.

Mr A. KRSTICEVIC: It may not be the intention now but it could easily be included in the regulations.

Mr D.A. Templeman: It is not the intent of this clause to do that, but we will have further discussions with the standards panel around this.

Mr A. KRSTICEVIC: That is obviously an important point because everyone will be looking at that with bated breath. If a councillor is found guilty of a minor breach, obviously this clause allows for the cost of that to be passed on to that councillor. I would like the minister to confirm whether it is at the discretion of the standards panel in every case to pass on that cost. I wonder why that would be the case for minor breaches. The changes through this legislation to improve the code of conduct, behaviour et cetera, training, and the standards panel's confidentiality, will, hopefully, lead to a reduction in these sorts of things occurring. We hope that would be a by-product. The "Local Government Standards Panel Annual Report 2017–18" shows that only, I think, 82 cases were looked at by the standards panel. More specifically, only 31 per cent were found to be minor breaches. We are not talking about a huge number of minor breaches in the context of that report, bearing in mind that the provisions in the bill will do that.

I have a bit of a concern about the cost being passed on to councillors when people may want to try to push that situation to get the person convicted of something, hoping they can then bear that cost. I realise that the cost is around the $1 200 mark. I think last year's average cost to the standards panel was $1 030.23 per case. Now when a councillor commits a minor breach and receives a sanction, they accept it on the chin. If, all of a sudden, a cost is passed on to them, and they think they have been hard done by, they will go to the State Administrative Tribunal. That will cost another $500, but they would feel that it is worth it to defend the issue in SAT rather than pay the potential $1 200 and the additional costs that are incurred in the process. The "Local Government Standards Panel Annual Report 2017–18" indicates the amount of money charged to councils. The Shire of Chittering was the highest at $6 964, and the Town of Port Hedland was charged $5 169. A lot of councils did not feature in the list. The City of Stirling paid $980, which is a surprise given it is the biggest council in Western Australia and considering some of the things that have happened there in the past with standards panel issues. I want to know from the minister how much of that cost, and in what circumstances, will be passed on to councillors who have been convicted of a minor breach.

Mr D.A. TEMPLEMAN: Under schedule 5.1, remuneration and allowances paid to the standards panel are to be paid by the local government of the council member who is subject to the complaint. Ultimately, the awarding of cost is an option, but it is not the only option. It is a discretionary decision and not a mandated one. The question is: should ratepayers foot the bill for the behaviour of an individual or should it be the individual? That is the question that would be considered. Essentially, it is hoped this would be used rarely. As the member said, the average highlighted in the 2017–18 period was just over $1 000. We expect this provision to be used rarely. However, there is an issue around who ultimately pays if a breach is found to have occurred.

Mr A. Krsticevic: We are talking about minor breaches. By "rarely", does the minister mean when someone has been convicted of their third minor breach as opposed to someone who has a first minor breach and may be a newly elected councillor who has slipped up in some form? What would be the weighting and how would the minister expect that to be looked at?

Mr D.A. TEMPLEMAN: An individual who has been repeatedly reported and breached has obviously demonstrated a pattern of behaviour that I expect would weigh heavily in the standards panel's consideration. We do not want to limit when the standards panel could award costs. We expect the power to be used for repeated breaches by a person, or someone who shows a pattern of behaviour. That is the expectation. That is why I said it would be rarely used. The member referred to a new councillor, but new councillors, by and large, not only want to do the right thing but want to be seen to be doing the right thing.

Mr A. KRSTICEVIC: Thank you, minister. It is great to hear that will not be a matter of course but will be a rare situation.

On the standards panel scenario, the minister mentioned 82 complaints. As I said before, 31 per cent were in breach and 69 per cent had either no finding of a breach or the complaint had been refused. From evidence presented through various forums, most breaches referred to the standards panel are through either other councillors or CEOs. That seems to be where the general volume comes from. Obviously some very silly things are referred to the department or the standards panel. Has the department issued any advice through circulars, training or anything else, to local councils and councillors to educate them about other ways to identify whether an issue should be sent to the standards panel? Obviously, the objective is to not get more complaints to the standards panel but to get genuine complaints to the standards panel. I realise that it is a matter of interpretation, but, again, we are talking about minor breaches as opposed to serious breaches. One would think that minor breaches could be dealt with appropriately in most cases. In my contribution to the second reading debate, I mentioned the lemon-gate scandal, which was about someone being given a bag of lemons. I cast no aspersions on the person who lodged that complaint, which was the mayor, but there had been a no-confidence vote against the mayor with a result of 10–1. I got some information today that another no-confidence vote against the mayor was taken last night.

Mr D.A. Templeman: Which shire?

Mr A. KRSTICEVIC: It was the City of Gosnells. The result was 9–2. The council is asking for some advice on what it can do. The council has indicated that it has issues. The advice I gave was that it should write to the minister and the department to ask them to look at the suspension and dismissal provisions and see whether the department needs to get involved in some way, perhaps in training, mediation or whatever it might happen to be. The council may or may not take my advice, but I bring to the attention of the minister that a second vote was taken. I cast no aspersions on the mayor or anyone else, because I am not familiar with the circumstances there; I just raise that for the minister's information. It is therefore very important to make sure that these things are done properly. I again highlight the point and ask: has some sort of education, advice or circular happened up to now; and, if not, will something happen in the future to make sure we do it properly?

Mr D.A. TEMPLEMAN: I think it is a very good point. Yes, there have been. Ongoing education on these matters is always useful. I have been assured that the department will continue to update this regularly. The member talked about those who lodge minor complaints and highlighted the statistical information. As the member would be aware, in the 2017–18 period, 38 per cent of the minor breach complaints were lodged by councillors; 14 per cent were lodged by presiding officers, mayors or presidents; CEOs made up 21 per cent of those reports or complaints; other employees accounted for six per cent of complaints; and the public lodged 21 per cent of the complaints. We can continue to improve and continue the education process. The member has my assurance that the department will do that.

Clause put and passed.

Clause 59: Section 5.118 amended —

Mr A. KRSTICEVIC: Under this provision, censure motions are published on the website. Is it correct that they still need to be published in the newspaper, or is the information available just on the website? If a cost is incurred, will that cost be passed on to the member who is censured or found guilty of an offence?

Mr D.A. TEMPLEMAN: The short answer is that the bill is not changing the current practice, but is adding to it. The reported sanction also will be reported on the website of the local government.

Clause put and passed.

Clause 60: Section 5.120 replaced —

Mr A. KRSTICEVIC: This is where the complaints officer is designated to be the CEO or is an employee who is designated as such by the CEO. The issue about the CEO being the complaints officer has been raised multiple times. If a CEO lodges a complaint against a councillor, that will create some tension and, potentially, dysfunction, as has occurred in some councils. People then take sides and that creates issues down the track. Has any thought

been given, obviously not at this point in time, to whether this can be done differently or better? Is there a more appropriate way of dealing with complaints against a councillor through the CEO, and should it be a senior employee or complaints officer to provide better practice? The CEO could potentially then have some oversight of that, but not necessarily have that responsibility. That would take away the issue of CEOs and councillors being at loggerheads or disputing things, and would prevent toxicity slowly growing over time, especially if the complaint is without substance and someone feels offended by it. Can the minister please explain that for me?

Mr D.A. TEMPLEMAN: I thank the member for the question. It is true that most CEOs have particular expertise and experience in the delegation of powers. There is nothing here that prevents a CEO from delegating the position of complaints officer to another officer. However, in terms of further exploration, this matter is subject to the second phase of considerations. A paper and question have been framed around the issue of the complaints officer and some suggestions have been made. In answer to the member's question, yes, it is being considered in the second phase.

Clause put and passed.

Clause 61: Section 5.121 amended —

Mr A. KRSTICEVIC: What is the rationale for recording a finding of a breach when no sanction has been imposed in terms of the register of certain complaints? How quickly does the CEO need to update the register, bearing in mind, as I have indicated, that the department needs to update its systems? I ask that just in terms of the CEO.

Mr D.A. TEMPLEMAN: It is a transparency matter. The change relates to a consequential amendment to the act. I refer to the amendment to section 5.110(6)(a). There is a consequential amendment there. In terms of the second part of the member's question, once there has been the recording of a complaint, due process will follow as soon as is practicable.

Mr A. Krsticevic: Do you think it is appropriate, when somebody has been convicted and put in the system, for the name of the person who made the complaint to also be on there?

Mr D.A. TEMPLEMAN: There is a commitment, of course, to make sure that the standards panel's outcome is published.

Mr A. Krsticevic: Of course, but on the website they also put the name of the person who made the complaint.

Mr D.A. TEMPLEMAN: That would be a transparency issue, I suspect.

Mr A. Krsticevic: The standards panel is one thing, but it is more from the point of view of the anonymity of someone who has made a genuine complaint. Would that discourage people from making a genuine complaint if they know that their name will be on a website and they will be associated with dobbing someone in or making a complaint? There may be a stigma attached to that. People may be reluctant to lodge a complaint knowing that their name will be associated with it, in instances in which someone is found guilty.

Mr D.A. TEMPLEMAN: Once the determination is made by the standards panel, even if a breach is found but no sanction given, there is still a requirement to report the outcome. Included in that outcome are the details of the complainant and the complainer. There is nothing new to that. That is the practice.

Mr A. Krsticevic: Has that created any issues up until now or is that a non-event?

Mr D.A. TEMPLEMAN: I am advised not.

Mrs A.K. HAYDEN: I will be very brief and the answer will be a simple yes or no. The minister said earlier on that if a person was not found to have breached, they would not be reported. I just want to confirm that in the debate on this clause.

Mr D.A. TEMPLEMAN: If it is found that a person is not in breach, there is no publishing, obviously.

Clause put and passed.

Clause 62: Section 5.123 amended —

Mr A. KRSTICEVIC: This is a very important clause, making sure that referrals to the standards panel are kept confidential until after a breach has been confirmed. I want the minister to tell me what the process would be if information is put out into the public domain. Who would investigate that? How vigorous would the investigation be to find out where that information came from? How serious a penalty would be applied? I raise that because I want to know whether there would be a thorough investigation. Would the police be potentially called in? What if someone just happened to find out who did it by accident? There are many ways in which information can be leaked, and we cannot always easily, without doing a lot of work, find out where it came from.

Mr D.A. TEMPLEMAN: Obviously the department has responsibility for the investigation process. I remind the member that there is a substantial penalty for breaching confidentiality. It is an offence to breach that confidentiality, with a $5 000 fine applying, so there is that clear sanction if confidentiality is breached. The

department has a key role. The nature of the investigation is ultimately a matter for the investigator, and there are complexities that relate to that matter. The investigator is charged with the responsibility of investigating the matter brought before them. Ultimately, the punishment and conviction is a matter for the courts.

Mr A. Krsticevic: If a breach is passed on by the CEO, they would essentially be the only person who knows. Potentially, the person who has committed a breach would know that they have been reported, I am assuming, as part of the process. Would there be a similar penalty for the person who has been reported for the breach if they had made people aware that they had been reported for the breach? They could tell a confidant, a lawyer and lots of people while seeking support and help in the process, and those people could leak that information. Would they, as a third, fourth or fifth innocent party in the chain who does not even understand what is going on, be able to be convicted, and would they be convicted under this provision?

Mr D.A. TEMPLEMAN: The member raised an interesting scenario, but ultimately it is a matter that would be determined by the legal process, and professional legal privilege and principles prevail.

Mr A. KRSTICEVIC: I understand what the minister has said if it were a lawyer, but what if someone is sharing the issue raised with their partner, friend or a business partner because they may be impacted or involved in some way, shape or form? I am just trying to understand generally whether a person who is third or fourth down the chain who has leaked information will be prosecuted. Will they be prosecuted? Will they be prosecuted in every single case in which confidentiality is breached; and, if not, in what cases would it be considered that action be taken against someone? Is there flexibility to say that someone has inadvertently made this information public and there is, for want of a better word, a defence for someone who has innocently disclosed it? I think this is very serious. There is a serious penalty here. We are obviously doing this to stop people using political advantage or trying to destroy people, but I just want to know whether there are any consequences for people who accidentally get caught up in releasing this information.

Mr D.A. TEMPLEMAN: I understand the member's concern and the vein of his argument; however, ultimately these are matters that still relate to circumstance and are tested within the legal framework. The member has raised a number of scenarios. We know it is an offence to breach confidentiality. We know there is a regime of penalties that apply. That is successful or otherwise depending on the outcome of an investigation and a court action. I am not able to provide the member with definitive answers about this or that circumstance, because I do not have the power to direct. It is a judicial process that will ultimately determine whether somebody has breached the confidentially aspect and the court's decision about what penalty might be imposed.

Mr A. Krsticevic: Would the department undertake that prosecution or would it be someone else who goes into that process, and whoever that person is, what if it was the person who was being reported?

Mr D.A. TEMPLEMAN: I direct the member to section 9.24 of the act, which refers to the prosecutions commencing. They can be commenced by the departmental CEO—in this case, the director general—or a person acting in the course of his or her duties as an employee of a local government or regional local government, or a person who is authorised to do so by a local government or a regional local government. The act states who can ultimately commence that. I cannot determine the outcome of that because it is a legal process.

Mr A. Krsticevic: If someone who has been reported were to accidentally get that information out—that would obviously be to their detriment, if the fact that the information is confidential is protecting them, as the person has been reported—and go to the department or CEO and say that no-one else had leaked the information and they had done it by accident and asked that no legal action be taken because it was their fault and they were being impacted, I assume there is some flexibility there. Is it mandatory that action has to be taken or is it open to discretion?

Mr D.A. TEMPLEMAN: As the member is aware, there are issues of discretion in investigations. I do not determine that. They relate to circumstances. I would not want to leave the member with any impression that I would be responsible for determining that course of action. There are people charged with that responsibility, but there is a discretionary aspect.

Clause put and passed.

Clause 63: Section 5.125 amended —

Mr A. KRSTICEVIC: Will a breach be included on the register if the matter has been referred for review to the State Administrative Tribunal?

Mr D.A. TEMPLEMAN: If the outcome is that a breach has been confirmed, it would be registered. If an appeal is then lodged and is successful, it would be removed.

Mr A. KRSTICEVIC: On that point, we know, obviously, that once information about people is in the public realm, they are pretty much judged on that at that point in time. I am concerned that a person can in the first instance be found guilty and that information can spread very quickly, but through a subsequent process of SAT that person can be found to be innocent, but nobody will ever see that part of the process and it will definitely not

get out in the same context. In the instance that it is published that someone has been sanctioned for or found guilty of a breach but then subsequently through an appeal found to be innocent, will there be a process to ensure that the innocent verdict is publicised to the extent that it needs to be to offset the fact that it would already have been advertised that they were guilty?

We have seen many instances of this. A good example is when people are under investigation by the Corruption and Crime Commission. Just the fact that the CCC is looking at a person is enough for people to wipe them out, even though there may be nothing there and ultimately nothing to see. But the act of that information getting out in the public is an issue. Is there a way to say, "Yes, we will publish this, but we will do it after the principles of natural justice have been applied, it has gone to SAT and it has been reviewed"? Whether it is done a week earlier or a week later probably does not matter, but it will stop situations in which people are inappropriately penalised. I do not see any negatives in doing it that way, but maybe there is a reason why the minister thinks it is not the appropriate process.

Mr D.A. TEMPLEMAN: An adverse decision by or outcome of the Local Government Standards Panel is, and it is proposed always will be, advertised. It is not correct to say that SAT does not get out there; there is a publication requirement for a determination by the State Administrative Tribunal. Should ratepayers pay for further publication of a SAT determination? It is not local governments' or, indeed, ratepayers' responsibility to pay for that because there already is a public process that results from a SAT determination. Whether it is the dismissal or the upholding of an appeal, it will be published as per the State Administrative Tribunal's processes.

Mr A. Krsticevic: By interjection, is there any cost or negative reason to hold over releasing the determination subject to SAT? Obviously, we are talking about confidentiality. Do people need to know before a person is found guilty? Is a person guilty when the standards panel finds that they are guilty or when SAT has had a look at the case or when it has gone through the court system? At what point is a person found guilty?

Mr D.A. TEMPLEMAN: If the standards panel finds that someone is guilty of a breach, it is published. The same occurs in a court of law; if someone is found guilty, that is published. If they lodge an appeal, that is usually published by the media, particularly in high-profile situations, and an appeal process is then undertaken in regard to the court sanction. But we are not in a position to legislate outcomes that have already been determined. In this case, the standards panel makes a decision and finds that someone is guilty of a breach. It is reportable and it is reported on the website. That person lodges an appeal with SAT. The requirement for transparency reasoning is that the panel's decision remains on the website until such time as the SAT process is exhausted. If the appeal is successfully upheld, there is a process that sees the removal of the original decision from the website and the subsequent outcome posted.

Clause put and passed.

Clause 64: Part 5 Division 10 inserted —

Mr A. KRSTICEVIC: Obviously, this clause inserts a critically important new division into the act that refers to the training and development of councillors, which I have strongly supported for a long time. But the potential cost of this provision and the impost it would put on councils concerns me. I realise that councils have quite substantial budget allocations for the training and development of councillors. I think some councils allocate councillors about $15 000 every two years to go through training and to attend conferences. I am also aware that some councillors, as we know, do the company directors course and put quite a bit of effort into developing themselves to a high standard.

I have a couple of points on this clause. Firstly, when we introduce the five modules of mandatory training, some of the councillors who previously would have attended high-level training—for example, the company directors course—may say that they do not need to do all that high-level training, because really all they have to do is the five modules and there is no point setting themselves up at that higher level. Does the minister think that bringing in these training modules may discourage some councillors from taking those extra steps? At the moment, new councillors do not really understand what they need to do. People tell them that they should do the company directors course because it is really good and will help them in the role. They think, "Okay, I'll do that", because nothing else is mandated. But when these training modules are mandated, they will not have to have that discussion about what training they have done and what additional qualifications they need.

Secondly, in terms of cost of the modules and competitive tendering in the space, I am concerned that we will have 1 200 councillors going through this process every five or eight years, depending on which option they take. We say that all councillors need training, but we would hope that councillors who have been on council for 20 years would already know the content of some of the training modules—for example, understanding local government meeting procedures. We would hope that with the training and development budgets they have at their disposal they would have also done plenty of courses. If they have done the company directors course or they are a qualified lawyer, accountant or financial planner, which a lot seem to be, could they just tick the box to say they have three degrees in this area? If they have meeting procedures down pat, why would they have to spend $2 000, $3 000 or $5 000 of the council's money to do the training modules? Will there be the potential for exemptions in some cases,

bearing in mind that training is important and everyone needs to be skilled up? There is no doubt that some people in those roles are overqualified. It is a bit steep to then ask ratepayers to bear the cost in those cases. I would like to get the minister's opinion on that.

Mr D.A. TEMPLEMAN: The member referred to a number of items. The company directors course is different. It relates to company directors; it is not necessarily specific to understanding the requirements of local government, so I think there is a clear difference in the course for company directors that the member referenced. Nothing in the bill will stop people from undertaking that course. The focus is on local governments having responsibility for professional development. There is a requirement for a commitment to ongoing professional development by the council through policy.

In relation to the costs, the member will be aware that expressions of interest have been canvassed for the provision of training. Providers that have expressed an interest include the Western Australian Local Government Association, which currently operates similar modules to those proposed under this regime; TAFE; the Australian Institute of Management; and the Australian Institute of Company Directors. There has been some interest from a cross-section of providers. WALGA's modules cost approximately $2 500. I am sure that the providers will be competitive. Ultimately, we want to ensure that the content and design of the five identified modules are specific to local government operations from an elected member's perspective. Indeed, it is expected that five days over a 12-month period will need to be committed to complete the modules. That is not an onerous requirement, and, indeed, it is appropriate. There will be flexibility in tailoring the completion of those modules. A person will be able to do them online at their own pace. There will be no requirement that they must all be completed within a set time period, except for the 12-month period. Some people may choose to space the training out according to their own lifestyle demands. Again, I reiterate that this has been requested by and strongly supported by the sector. I am glad that the member strongly supports it. I understand the issues about cost, but, ultimately, we believe that good-quality training will result in good-quality decisions and will impact on the high-quality delivery by local governments to their communities. All of that is an important consideration in the introduction of universal training.

Mrs A.K. HAYDEN: This is the last area that I have any questions about, and the minister will be happy to hear that the member for Carine has asked many of them already. Proposed section 5.126(2) refers to training, time frames and exemptions. I just want to know whether there will be a pass or a fail for this training. Yes, they might have attended, but did they just sit in the room and do nothing? Is there a way of ticking the box and acknowledging what they have learnt and, if they have failed or have not done it properly—I know there is an offence under the legislation—what other avenues are there to ensure that the councillor has done it? If the training needs to occur, what is the fallback plan if they choose not to do it or they simply turn up and tick the box to show that they turned up but did not participate? Can the minister also outline the exemptions? Surely a certified practising accountant will not have to do the financial module. They could probably teach the person who is conducting the financial module! Can the minister advise what sort of exemptions will be in place if councillors have previous experience or certifications?

Mr D.A. TEMPLEMAN: To answer the first question, yes, it will be assessed, so there is a requirement to pass, if you like. If someone is not able to complete a module satisfactorily, there will be the option of repeating it so that they are fully cognisant of and understand that module. Exemptions may be provided for council members who have been assessed and passed equivalent units in the previous five years, so there is an exemption element.

Again, I want to underpin the fact that these modules are not designed to be onerous, to trick people, to trip them up or anything of that nature. It is about information and education and ensuring that people have enhanced skills and understanding so they can do their job well and better. That is the whole premise of universal training. As I said, it is strongly supported by the sector. A lot of councillors who will ultimately undertake this training will find it very useful and rewarding. Coupling that with the requirement for local governments to have an ongoing commitment to professional development is admirable.

Mrs A.K. HAYDEN: If they are a certified practising accountant, will they have to do the financial module? Will those things be acknowledged and an exemption given? The minister mentioned that there will be an assessment. If they do not pass the assessment and they repeat it but again they do not pass it, what will happen? They are an elected member.

Mr D.A. TEMPLEMAN: We will want them to keep doing it. To answer the member's question about the accountant, yes, they will have to do it. If they fail, one would probably be a little embarrassed. Ultimately, they need to understand the financial elements within the local government context. I am sure that most accountants would pass that element with flying colours, as I am sure would the member for Carine, as a former accountant—hopefully! They will still be required to undertake that module.

Mrs A.K. Hayden: And if they don't pass?

Mr D.A. TEMPLEMAN: They will do it again.

Mrs A.K. Hayden: If they don't again.

Mr D.A. TEMPLEMAN: They will do it again.

Mr A. KRSTICEVIC: With regard to the development of the modules, will they be tailored for people who have cultural sensitivities or who are dyslexic or have other difficulties, because those factors need to be taken into account? Has that been taken into consideration? Will that be an additional burden?

Mr D.A. TEMPLEMAN: It is a very good and important point. The department is working with Inclusion WA to ensure that the needs of people with disabilities or who have particular constraints are accommodated with assistance for the training modules if they are elected to council. Yes, we are very conscious of the importance of that. Inclusion WA will provide ongoing input into the module development on behalf of those people who need those considerations.

Mr A. KRSTICEVIC: This is my last point on this, minister. Obviously continued professional development will be required as well, post the first year modules, and how that professional development is carried out will vary from council to council. Will that continued professional development be taken into account if it crosses over with some of these core modules so that they do not have to repeat them? I think the minister indicated that that would apply if they had done a similar course within the past five years. The other issue is about the course, if it has not changed over four or five years and is exactly the same course, as it applies to people who understand local government and have been councillors for 20 years.

Debate interrupted, pursuant to standing orders.

[Continued on page 2423.]