

3 January 2018  
Hon Mathew Swinbourn MLC  
Chairman  
Standing Committee on Environment and Public Affairs  
Parliament House  
PERTH WA 6000

Via Email: [council@parliament.wa.gov.au](mailto:council@parliament.wa.gov.au)

Dear Mathew

**Petition No: 097 Performance of Local Government Standards Panel**

I am writing in response to your letter dated 5 December requesting a submission in relation to the petition I tabled in the Legislative Council on the 28 November 2018 titled *Performance of Local Government Standards Panel (LGSP)*

Whilst I am aware that there was an Independent Government review into the Local Government Standards Panel in 2016, due to previous multiple requests by both members of the public and Elected Members, over several years, into many issues, but in particular, the apparent selective application of the *Local Government Act 1995, Code of Conduct Regulations, (Code)* by LGSP. Unfortunately, the details of that review were not released and therefore the outcomes in which to ensure a fairer and legislative administration of LGSP and addressing other repeated issues of concern were not validated, discussed or implemented by the State Department governing Local Government.

Now three years on and these same issues of the inequity in the administration of the LGSP in the application of the *Code* remains and has escalated and this has been brought to my attention by my constituents and concerned taxpayers and ratepayers for action by Parliament, as innocent lives are being destroyed as costs are mounting.

An example of misuse in interpretations by LGSP is seen under Regulation 7(1)(b):

*“Securing personal advantage or disadvantaging others (1) A person who is a council member must not make improper use of the person’s office as a council member — ... (b) to cause detriment to the local government or any other person*

There is anecdotal evidence available that this particular misuse of the *Code* by complainants targeting certain elected members, is often used without Council approval by CEO’s and City management. To access and to reallocate ratepayer funds to charge selective elected members with breeches under the *Code* is unacceptable.

The word detriment according to the dictionary is; *loss, damage, disadvantage, or injury* which then becomes subjective in the opinion of LGSP. Often though the truth is told by one party which causes the other party to take offence because an uncomfortable truth has come to light. It is at these moments the LGSP decides what has been said is a breach or not depending on who the elected member is.

The other term “remorse” is constantly referenced by LGSP when delivering its “reasons for decision” in upholding a complaint. But the question often asked with no answer is; how can “no remorse” be gleaned from a complaint form when there is no mediation? unless there is an unconscious or conscious bias against an Elected Member.

Some Local Governments work out any alleged code of conduct issues in-house where as other CEO's habitually send selective elected members to the LGSP for insignificant issues that should have been dealt with in-house!

Those with a political agenda know that they need to have three guilty breeches found against an elected member to have them removed from office and now they just need the Premier to say, "You are guilty," and they can be dismissed. From the anecdotal evidence offered to me this process is like a medieval Star Chamber or Kangaroo Court than a procedural fair process of evaluation of innocence.

The LGSP on-line database of "reasons for decisions" need to be addressed as the new system only shows cases that were found guilty instead of all cases that are raised with LGSP. There is no indication of how many of the 'breach' cases by LGSP have been found to be overturned by SAT or the Supreme Court which would also be an indication of the LGSP procedural fairness and uniformity in their decision making. It is worth pointing out that SAT now does not list the LGSP cases in its in annual report, which is also of a concern and has a potential for covering up which Elected Members are being targeted. It would also show which elected member's complaints to LGSP are being dismissed and those that are not.

Unfortunately, it is impossible to determine the cost to both to the taxpayer, the ratepayer and the general public since the implementation of the *Code of Conduct regulation* in 2007. However, as departments are constantly asking for additional staffing and resources one would assume the cost of this new regulation has not had the fiscal objective that its initiators had intended. The fact that the Local Government staff are not subjected to the same regulations as Elected Members (which was in the initial draft of the regulations) is the bias of this misuse, abuse and use of the *Code* and is also politically motivated with the LGSP being a vehicle for its distribution, especially around election time.

The local government CEO makes the decision as to whether a complaint against an elected member is forwarded to LGSP, knowing the internal politics involved, their own bias and knowing the complainer's costs are covered by ratepayers and taxpayers whereas the elected member has to pay for their own legal cost and this is often prohibitive and so many good elected members resign from Local Government beaten by a system that is supposed to protect them. Another stab in the back for our basic right to freedom of speech and procedural fairness.

I ask that the Standing Committee on Environment and Public Affairs as part of their review of the issues raised in this petition 097, include the release of the 2016 report into the review of the LGSP; that all complaints referred to LGSP and their outcome / reasons for decision be available on the DLGSC website; amendment to the Local Government Act 1995, Code of Conduct Regulations to include all Local Government staff, contractors and consultants in order to assess the issues raised and ascertain if LGSP is meeting its initial objectives since its inception in 2007 in supporting a safe workplace.

Thank you for your consideration

Regards Charles