

Hon Mathew Swinbourn MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000
Via Email: council@parliament.wa.gov.au

Dear Honourable Swinbourn MLC

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 that was tabled on behalf of myself and my communities by the Honourable Charles Smith MLC in the Legislative Council on the 28 November 2018 entitled *Performance of Local Government Standards Panel (LGSP)* and I thank you for the opportunity to do so

The LGSP was established by the State Government of WA in 2007 to be the administrative arm for the implementation of the Local Government Act 1995, Code of Conduct Regulations 2007.

Unfortunately, as we as ratepayers and taxpayers have observed over the years, as the employees of the local government councils were not subjected to the same adherence to the Code of Conduct and its penalties, it has often used as a vexatious attack on certain Councillors who have not been aligned to either or both of the ethos of the CEO and the Mayor / President of the day

Whilst the Department governing the LGSP, has changed its name regularly over the last 12 years unfortunately the staff involved have largely stayed the same which has contributed to a view from the outside that certain Councillors appear to be charged with breeches and other Councillors appear to have their complaints continually dismissed. Many concerned ratepayers, residents, Councillors and even the media have raised this blatant anomaly with Ministers, parliamentarians, Premiers and even the Public Sector Commission but to no avail. Instead the new department has now removed all cases from their data base other than those that are successfully charged by them which gives a false view of what is actually happening and the lack of procedural fairness and equity.

It would be good to see a report on the pattern of both Councillor names and staff names as they have emerged over the years both of Minor and serious breeches forwarded to LGSP

The Local Government departments are committed to writing policies and legalisation, however it is apparent that the power and penalties are only applicable to Councillors and the public, as there is nothing to stop CEO and staff from using and misusing ratepayer's money to set up cases against Councillors and the public, making them victims in this political game with no avenue for justice.

Under the Local Government Act, all complaints are to be forwarded to the complaints officer, which is often the CEO and most Councils prefer to sort out issues in house, however some councils appear to be selective in what Councillors they send through to the LGSP, which has been raised many times to no avail and of course no penalty to the non-conforming CEO applies.

Councillors are gagged and intimidated to speak their mind or their views of support of their community, who elected them to represent them, by policies created by WALGA, to which this organization itself needs to be audited not only from the millions of dollars of ratepayers money forwarded by the various local government in WA, under a dubious agreement (that has also seen many Councils in WA leave WALGA in recent years) but also in how their policies are not

representative of the views of most of the Councils within WA and they are often in opposition to the Individually voted Councils motions. This of course leaves a Councillor open for the CEO to forward a complaint to the LGSP

Councillors are on the one hand are advised when they undertake initial training to ask questions about officers reports especially with regard to finances however if a CEO or Mayor / President does not like the interference, the questioning then they forward a complaint to the LGSP, highlighting the breeches as “interfering in operational issues” and then LGSP finds them guilty of this breach.

No Mediation is taken place at the LGSP level, often evidence is not required for LGSP to make its decision and no cross examination of any information provided by the CEO to substantiate sending through the complaint to LGSP is evaluated and assessed by the Councillor or member of the public.

If the Councillor wants to appeal as they do not believe that the evidence has been provided, and they are not guilty, then comes the costly trip to the State Administrative Tribunal (SAT) which of course then continues to be an expensive taxpayer exercise. While the complainant, the CEO, Staff and Councillors who placed the initial complaint pay no costs at all and this often used as a political tool around election time and promulgated by the inequity and selectiveness of the LGSP in handling and deciding on justification of guilty breeches.

At SAT, there is again no mediation and again no cost to the complainant and the local government however the defender has to bore all his own cost and when he wins he is not reimbursed for legal cost, work related costs or anything else. Further as this process usually takes more than two years it then is outside the statutory time in which for him to take the initial complaint for a breach of the code of conduct regulations, such as using his position as a councillor to bring detriment or disadvantage etc. so again the LGSP is a political tool used and abused mainly by local government staff with no controls or accountability and who suffers the most is the Community.

If the appeal is then challenged in the Supreme court, again the complainants and the local government are not held accountable for financial outlay of ratepayers or taxpayers money or even if they are found to have lied, misappropriated the evidence or failed in their employee role, nothing happens to the staff, the complainants and the targeted Councillor even though vindicated is left with a huge financial legal bill and has had his character assonated and immortalized on the internet forever with no avenue for justice or compensation

As stated in my petition, we respectfully request the Legislative Council inquire whether the current reporting scheme for the referral of Councillors to the Local Government Standards Panel: is being Misused; its impact on Councillors; the use of ratepayers and taxpayers money; determine if Councillors are being selectively targeted; determine whether there are inherent flaws in the current reporting scheme; and how best to avoid innocent Councillors from being targeted for personal and political gains by local government Councillors and staff.

Thank you for the opportunity to raise these issues and I am happy to be contacted or be given the opportunity to discuss the matter further at any time

Yours Sincerely

Jack Garber

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4 January 2019