

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

Dear Mathew

Petition No: 101 State Government Integrity Oversight Bodies

I am writing in response to your letter dated 6 December requesting a submission in relation to the petition I tabled in the Legislative Council on the 5 December 2018 titled '*State Government Integrity Oversight Bodies.*'

It has been reported many times in the media and to myself and other parliamentary colleagues from time to time regarding complaints concerning several issues involving various public servants from various state government departments.

Public servants whether they are under local or state or federal government jurisdiction give the impression of disdain for the public, the community and apply red tape and excuses rather than respect and following procedural fairness to assist the public.

Some of the issues relate to provision of correct and full disclosure of information, particularly with FOI documents, which appears to be decided in the opinion of whoever receives the request and therefore chooses to not follow laid-down procedures and contributes to red tape and delays to the public in gaining information they require.

The complaint system is becoming a farcical reality. Anecdotal evidence presented to me suggests complaints are selectively looked into; confidentiality breaches; procedures not followed; nepotistic collaboration on the truth and above all, there does not appear to be any public servant that you can forward the public complaints to that considers honesty and evidence as the front runner to establishing what is actually happening in the workplace and in the community.

Some of this inequity lies in the fact that public servants are not subjected to the same rules, the same code of conduct, the same regulations as those of state parliamentarians and of local government elected members. The latter in particular needs to be changed, as there is a growing demand that the *Local Government Code of Conduct Regulations 2007 (The Code)* are amended to include public servants, contractors and consultants that work for local government. There is also a concern from electors that CEO's and management have access to funds and legal assistance to drive their own objectives, which is often perceived to be at the detriment of the public and the innocent and honest Parliamentarians and Elected Members. For example, under *The Code: A member must not – (a) reflect adversely on the character or actions of another member or employee;* Yet it is ok for an employee to? double standards that need to be addressed to show the public that there is fairness and equity in all workplaces.

A further major complaint raised to me and from what I have read that is the rules of evidence and application of perjury is non-existent in some of the State Government run departments. The Family Law Court, The Local Government Standards Panel (LGSP) and the State Administrative Tribunal (SAT) are commonly brought to my attention, as governing bodies whereby evidence does not have to be proven and there is no penalty for telling lies or withholding the truth or the required information. It is also my view that non- compulsory

mediation, seriously needs to be addressed if we are to ensure justice, integrity and improve society as a whole.

As quoted from the SAT annual report in 2012, whereby to date there has been no changes to the legislation, no review or improvements and yet it was flagged as an issue then

.... Previous suggestions for legislative reform in previous annual reports, the President has noted possible legislative reforms connected with the Tribunal's jurisdiction which might be considered. The Tribunal maintains the following suggestions for law reform referred to in previous annual reports: A review of the Local Government Act 1995 dealing with complaints, breaches, rules of conduct by local government councillors to consider whether the process of dealing with minor breaches of conduct should incorporate some facility, such as mediation, earlier in the complaint process by the Standards Panel (see 2008-2009 Annual Report at pp 24-25). The Tribunal understands that this legislation is currently under review by Government....

The establishment of SAT in 2005 was to provide a one-stop-shop for the public for appeals and decision of government to be challenged and was to supposed to be economical and encourage mediation etc. which has not been the case, and it is up to the presiding member to decide if evidence is required and if the truth or lies are acceptable in their decision making process which is making a very inequitable tier of the judicial system and causing a lot of grief and financial constraints in the community and the public.

A common case at SAT is when opinions of detriment are found guilty by the LGSP which is often politically motivated and the Elected Member has to engage in lawyers in which to challenge the appeal at SAT and of course no mediation takes place at LGSP or SAT to address these complaints, and no evidence or action is taken for perjury.

Also seen and with no third-party appeal rights within the planning and the Development Assessment Panel, which in itself is made up of three planners and two local government Councillors. This is another example of injustice and falls short of procedural fairness, equity and good governance and should be changed. Appeals to SAT become costly and the community has no say at all

When SAT was first established in 2005, the actual expenditure was \$6,395 and ten years on the 2015/ 2016 actual expenditure was just over \$21 million dollars. Plus, they were originally located in an old government building and this year they sit in a very expensive modern new building, whereby people have said to me how is this fair? is this the correct use of taxpayer's money? is SAT really meeting its original objectives? A cavern for developers to win at all cost? a Place where the rules of justice are the opinion of the presiding member and if you don't agree then it is very costly trip to the Supreme Court

So I ask on behalf of the public, the taxpayers, the community to provide a report into the performance of the various government agencies and if they are meeting their objectives and statutory obligations and in particular how they fairly assess complaints, confidentiality, FOI, mediation, applications and perjury issues especially in relation to local and state government officers and staff

Your consideration in this regard would be appreciated

Regards Charles

4 January 2018