Local Government Association of South Australia

EMA LEGAL

LOCAL GOVERNMENT GOVERNANCE PANEL

ANNUAL REPORT 2017

1. INTRODUCTION

The Local Government Association (**LGA**) established the Local Government Governance Panel (**the Panel**) in October 2009 to assist Councils in addressing complaints about conduct of Council Members under a Code of Conduct.

As of 1 April 2017, the function of the Panel was contracted to an external provider, EMA Legal.

2. MEMBERS OF THE PANEL

Panel Manager	Kaye Smith, Partner, EMA Legal
Deputy Panel Manager	Daniel Krips, Senior Associate, EMA Legal
Panel Member	Greg Stevens, former Industrial Relations Commissioner of the Industrial Relations Commission of South Australia
Panel Member	Farrah Seidel, Industrial Relations Consultant
Panel Member	Beth Dunning – former senior State Government Public Servant and senior Council officer
Panel Member	Bruce Linn – Management Consultant, former CEO of Finlaysons Lawyers and former Councillor
Panel Member	Stephen Hains, Local Government Consultant, former CEO

During 2017, Panel Members Sue Vardon and Fiona Stevens concluded their service with the Panel.

3. OPERATION OF THE PANEL

The function of the Panel is to assist Councils in addressing complaints about conduct of Council Members under the Code of Conduct for Council Members Part 2 – Behavioural Code.

Referrals to the Panel are initially considered by the Panel Manager. The Panel Manager assesses each individual complaint and decides if the matter is within the remit of the Panel. An Initial Assessment is provided to Council. If it is considered appropriate, the matter is referred to an appropriate Panel member to undertake an investigation into the complaint, with a focus upon the matters identified by the Initial Assessment.

The Initial Assessment of complaint referral by the Panel Manager also determines the value of mediation in seeking resolution of a matter, or whether the matter should be dismissed (or referred back to the Council) if the complaint is frivolous, vexatious or misconceived.

The Panel has no coercive or other powers. Its practice is to consider, investigate and assess referrals from Councils of alleged breaches of the Code of Conduct of Council Members Part 2 Behavioural Code, and make findings and recommendations in the event of a breach or non-co-operation of any member with the investigation process.

Referrals to the Panel are made by Councils in accordance with the Council's Complaint Handling Procedure under the Code of Conduct for Council Members. The Panel does not receive complaints directly from the public, nor will it investigate allegations of misconduct under Part 3 of the Code of Conduct for Council Members.

In exercising any functions, all Panel members accord natural justice and procedural fairness to any party that may be adversely or deleteriously affected by any part of the Panel process, whether by virtue of the Panel's investigation, recommendations or otherwise.

The Panel is an independent advisory body that makes its own decisions about the conduct of investigations.

4. SUMMARY OF MATTERS REFERRED TO THE PANEL IN 2017

From 1 April 2017 to 31 August 2017, the Panel received a total of 12 referrals of alleged breaches of Part 2 of the Code of Conduct for Council Members. All were

subject to a level of investigation. One of the referrals determined at the stage of Initial Assessment that no breach was committed, and it was resolved without further investigation.

Please see attached[i] chart for referring Council issues and outcomes.

Yours sincerely,

Kaye Smith
Panel Manager
Local Government Governance Panel

16 October 2017

[i] Complaints Report

LGA GOVERNANCE PANEL COMPLAINTS REPORT
As at 31 August 2017

EMAL Matter / Ref no	LGA Member	Complainant Council Member (CM) / Member of Public (MOP)	Status			Findings		
			Initial Assessment Provided	Preliminary Report Provided	Final Report Provided	Favour of Complainant	Favour of Council Member	Comment
FROM 1 APRIL 2017								
170094	Alexandrina	CM			Yes	✓ but breach of provision different to that alleged by complainant		Each to apologise to the other
170112	Adelaide Hills	MOP	Yes	Yes	Yes	✓		CM to provide public apology
170114	Adelaide Hills (Complaint 1 against 2 CMs)	CM	Yes	Yes	Yes	✓ (for one CM complaint 2)	✓ (for one CM complaint 1)	CM1 – complaint dismissed CM2 – breach found, issue apology
170114	Adelaide Hills (Complaint 2 against 1 CM)	CM	Yes	Yes	Pending final comment			
170174	Barossa Council	MOP	Yes				✓	No breach
170189	Charles Sturt	MOP	Yes	Yes	Yes		✓	No breach
170197	Coober Pedy	MOP	Yes	Pending investigation				
170238	Robe Council (2 complaints)	CM	Mediation offered – rejected – investigation needed	Pending investigation				
170282	Playford	MOP	Yes	Pending investigation				

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			Initial Assessment Provided	Preliminary Report Provided	Final Report Provided	Favour of Complainant	Favour of Council Member	Comment
170306	Playford	MOP	Yes	Pending investigation				
170310	Yorke Peninsular	CM	Yes	Pending investigation				
170344	Unley	MOP and CM	Yes	Pending investigation				
FROM 1 SEPTEMBER 2017								