

OFFICIAL

Behavioural Standards Panel



GUIDANCE PAPER

GENERAL INFORMATION

THE BEHAVIOURAL STANDARDS PANEL

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Local Government Association
of South Australia

Behavioural Standards Panel



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Behavioural Standards Panel

What is the role of the Behavioural Standards Panel?

The Behavioural Standards Panel (the Panel) is an independent statutory body established under section 262F of the *Local Government Act 1999* (the Act), comprising of three members.

The Panel is responsible for assessing and dealing with specific complaints about the alleged behaviour of council members that have been referred to it by a council or other persons from the council enabled under section 262Q of the Act to do so (see under the heading 'Who can refer a complaint to the Panel?').

The Panel is an important part of the framework that is in place to guide and manage council member conduct. For further information, refer to the separate paper on 'General Information - Council Member Conduct Management Framework'.

Under this framework, councils will continue to have primary responsibility for managing the complaints about the alleged poor behaviour of council members, in the first instance.

The Panel has been established to deal with complaints about the behaviour of council members that cannot be resolved at the council level, particularly 'repeated' and 'serious' misbehaviour, as defined under section 262E of the Act (see under the heading 'What complaints can be referred to the Panel?').

The Panel has been given wide-ranging powers to enable efficient resolution of difficult behavioural issues involving council members that can arise. The Panel can take actions, under section 262W of the Act, including the power to suspend a council member for a maximum period of three months (with or without allowance), and require the member to reimburse the council a specified amount (which may include the reimbursement of the council's costs relating to investigation of the complaint). For further information, see under heading 'What can the Panel do?'.

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What complaints can be referred to the Panel?

Complaints on the following three types of alleged behaviour of a council member (defined under section 262E of the Act) may be referred to the Panel—

- **Misbehaviour** – This is a failure by a member to comply with their council’s efforts to resolve a behavioural matter. This is a failure by the member to comply with:
 - a process or requirement under a council’s behavioural management policy; or
 - an agreement following a council’s dispute or conflict resolution process in relation to a complaint; or
 - a requirement of a council on the council member following an inquiry under section 262C(1) (e.g. a requirement that the member apologise or undertakes specific training).
- **Repeated misbehaviour** – This is a failure by a member, on two or more instances, to comply with Chapter 5 Part 4 Division 2 of the Act, that is, the Behavioural Standards or a council’s adopted behavioural support policy.
- **Serious misbehaviour** – This is a failure by a member to comply with the health and safety duties under section 75G of the Act.

Only complaints that fall within the definitions under section 262E of the Act may be referred to and considered by the Panel. For further information, refer to a separate guidance paper on the ‘*Types of behavioural matters that may be referred to the Panel*’.

What can the Panel do?

The Panel has been given wide-ranging powers to enable efficient resolution of difficult issues that can arise from the poor behaviour of council members, that are unable to be resolved at the council level.

Following the assessment of a complaint, the Panel may inquire into a complaint referred to it, in such manner as the Panel considers appropriate, conducting the inquiry in accordance with principles of procedural fairness.

After inquiring into a complaint, the Panel may, in accordance with section 262W of the Act, order one or more of the following actions be taken—

- reprimand the member (including by means of a public statement);
- direct the council to pass a censure motion in respect of the member;
- require the member to issue a public apology (in a manner determined by the Panel);
- require the member to attend a specified course of training or instruction, or to take other steps;

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- require the member to reimburse the council a specified amount (which may include the reimbursement of the council's costs relating to investigation of the complaint and giving effect to an order);
- remove or suspend the member from one or more offices held in the member's capacity as a member of the council or by virtue of being a member of the council (other than the office of member of the council);
- suspend the member from the office of member of the council for a period not exceeding three months, with or without an allowance (as determined by the Panel);
- direct the council to lodge a complaint against the member with the South Australian Civil and Administrative Tribunal (SACAT).

The Panel may also, at any time, arrange for mediation, conciliation, arbitration or other dispute or conflict resolution measures to be conducted in order to resolve a matter (section 262V of the Act).

For further information, please refer to the Panel's practice directions.

Other complaint handling authorities

Councils

Councils will continue to have the primary responsibility for managing the complaints about the behaviour of council members. Complaints about alleged breaches of the *Behavioural Standards for Council Members* or any behavioural support policy (a council may have adopted) are to be lodged with the relevant council, in the first instance.

Anyone with a complaint should refer to their council's behavioural management policy for further information.

Integrity agencies

SA Ombudsman

Complaints about alleged breaches of the integrity provisions under the Act, such as breaches of conflicts of interest or confidentiality requirements, may be lodged with the South Australian Ombudsman.

If the complaint may raise a potential issue of misconduct or maladministration (but not corruption) in public administration, a report may be made to the South Australian Ombudsman. This can be done by completing an online form via the South Australian Ombudsman website at ombudsman.sa.gov.au, or by calling (08) 8226 8699.

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Office for Public Integrity

If a complaint may raise a potential issue of corruption, misconduct or maladministration in public administration, a report may be made to the Office for Public Integrity (OPI), which will assess the complaint and refer it to the appropriate body or agency.

A complaint or report can be made by completing an online form via the OPI website at publicintegrity.sa.gov.au. Alternatively, telephone the OPI on 8207 1777 (or 1300 782 489 for country callers).

Equal Opportunity Commissioner

Under the *Equal Opportunity Act 1984*, the Equal Opportunity Commissioner can help people resolve discrimination, sexual harassment or victimisation complaints.

The Office of the Equal Opportunity Commissioner is an independent statutory body who supports the Equal Opportunity Commissioner.

Enquiries may be made by emailing OCEO@sa.gov.au, by completing an online contact form via the Equal Opportunity Commissioner website at eoc.sa.gov.au, or by phone on (08) 7322 7070 or for Country Callers on 1800 188 163.