



# Elections

## Introduction

Elections are a fundamental part any democracy. An election should be transparent and deliver governance that represents the values and views of the community.

Local government elections give communities a direct voice. It is the primary means of holding local governments to account and ensure representation that is reflective of our many diverse communities.

## How elections are conducted

Historically, voter turnout in local government elections is significantly low compared to other jurisdictions. In most local government elections less than one-third of eligible electors cast a vote. This places a question over how well the council represents the interests of the entire community they represent.

Issues that need consideration around voting in local government elections are focused towards increasing voter turnout, ensuring we have adequate community representation guiding our local government decision making processes and increasing community engagement with their local governments. The more voices contributing to our local democracies, the more accountable and reflective they will be.

Currently in Western Australian local government elections:

- Voting is not compulsory.
- The election method applied is first past the post.
- Are either conducted 'in-person' or through a postal vote.
- Residents, ratepayers, corporations and property occupiers are eligible to vote.

## Opportunities for reform

### Compulsory voting

It is a requirement of every elector to cast a vote in both State and Federal elections throughout Australia, but this same requirement does not extend to all local government elections. In Western Australia, voting in a local government election is not compulsory.

Western Australia, South Australia and Tasmania do not compel people to vote in local government elections. On the other hand, Victoria, New South Wales, Queensland and the Northern Territory do have compulsory voting for local government elections.

Historic voter turnout in local government elections in Western Australia is significantly low with only 34.2% of eligible voters casting a vote in the 2017 ordinary elections. This raises the question as to how reflective local government councils are of the communities they represent.

Introducing compulsory voting for local government elections would ensure greater turnout in elections. However, there may be little desire for such a change to occur from the broader community as it would impose an obligation on electors that was not there previously.

### **First past the post**

The current voting method for local government elections in Western Australia is first past the post (FPP). Simply put: the person with the most votes win. FPP is inconsistent with the voting method applied at both a State and Federal level where preferential voting is required.

FPP can often lead to outcomes that do not adequately represent the community's preferences with many successful candidates being elected without a clear majority of votes. For example, a successful council candidate can be elected even though they may only receive 8% of the total votes cast or a successful mayoral/presidential candidate may receive significantly less than 51% of total votes cast.

Ensuring our elected representatives adequately reflect our broad communities is essential to maintain confidence in our democratic institutions.

While changing the voting method has been applied to the Western Australian local government sector previously, it was not wholly supported by the sector. Having an optional preferential voting system for electors could be seen as an adequate compromise.

### **In-person/postal/electronic voting**

Each local government can choose to conduct an election as either an 'in-person' election or as a 'postal' voting election.

In a 'postal' voting election the ballot papers will be automatically sent to every elector. At an in-person election people who are unable to vote in person may request a postal vote. In-person elections are conducted by the local government themselves while all postal elections must be conducted by the Western Australian Electoral Commission.

Postal voting has increased voter turnout in local government elections but not to the point that reflects State and Federal election turnout.

Electronic voting is touted as an alternative to traditional voting methods where the voter records their vote digitally (on a computer) rather than marking a ballot paper and lodging it at a polling booth or via post. Online voting is seen as convenient, more efficient and, in the long term, more cost effective.

Online voting has not been adopted widely principally due to concerns with the integrity of voter registration, the casting and scrutiny of votes and the high costs in establishing and conducting elections online.

While there is no evidence of instances of deliberate voter manipulation through online voting in Australia, there is a level of risk with all internet applications. These risks would necessitate the continuous application of best practice with respect to security and also need to be balanced against the risks inherent in conventional paper based systems.

### **Who can vote (franchise)**

The eligibility criteria to vote establishes who can have their say in a local government's future. Currently, the criteria in Western Australia is broad and includes owners of property and corporations that are not eligible to vote in State or Federal elections.

#### **Property franchise**

Owners of property are currently eligible to vote on the basis that they contribute to a local government through the payment of rates and therefore have a right to a say in how that money is used.

With property franchise, a person may vote in multiple districts in which they own property. A maximum of two owners can enrol per property.

Some see property franchise as archaic and contrary to the principles of one person, one vote. Property franchise is not linked to voter eligibility in State or Federal elections but is a feature of local government elections in all other States except Queensland, which removed the practice in 1921.

## Corporate franchise

The eligibility of land owners to vote also extends to corporations. A corporation is entitled to a maximum of two votes in each district in which the company owns land. Corporations, like other rate payers, make a significant contribution to local government revenue through the payment of rates.

Corporate franchise is not linked to voter eligibility in State or Federal elections but is a feature of local government elections in all other States except Queensland.

## Occupiers franchise

As well as land owners and residents, occupiers of business premises are eligible to vote if they apply.

Occupiers can include people leasing property such as small business operators who are impacted by council decisions and make a financial contribution to the local government through the payment of fees and charges.

## When we can vote

Western Australia is the only jurisdiction that holds council elections every two years, with nominations sought for half of a council's positions at each election. In all other jurisdictions, council elections tend occur every four years, in line with the election cycle of their respective State Governments.

## Opportunities for reform

### Changing the election cycle

Having elections every two years was intended to provide greater continuity on council and provide greater accountability by enabling the public to more regularly have a say through elections. However, the current two-year cycle creates additional costs for every local government and has been argued to contribute to voter fatigue which leads to fewer people voting. One alternative is to hold elections every four years offset with State Government elections.

## Representation

Every local government in Western Australia is unique in determining who we can vote for. Each local government can have a different number of councillors to represent the community, different methods for electing a mayor/president and can also have their entire district broken up into voting wards.

A major issue raised about local governments in Western Australia is the inconsistency from each jurisdiction. Applying a more consistent approach to community representation is a core issue that needs to be addressed. Ensuring that all electors have a near equal say and representation on their respective local government councils, no matter in which jurisdiction they reside, brings everyone onto an equal playing field.

## Opportunities for reform

### Number of council members

The number of council members within a local government is set upon the establishment of said local government and may be varied by the Minister following a recommendation of the Local Government Advisory Board. The number of council members across the State's local government varies from six to 15, with the most common number being nine.

With the great variability in population across local government districts, the number of elected representatives per elector varies greatly. Explicitly linking population to councillor numbers could result in greater consistency across the State and more equal representation throughout all jurisdictions.

### Election of mayors/presidents

Mayors and shire presidents can either be elected by the community or elected by the elected council body.

- If the mayor/president is elected by the council body, the council itself can decide to have the position elected by the community.
- If the mayor/president is elected by the community, only the community can decide to change back to having the position elected by the council body via a referendum.

The direct election of a mayor/president can increase public confidence and strengthen the role in the eye of the community. However, the popular election of mayors/presidents has been linked to greater politicisation, instability and friction on council itself, especially when elected on a single issue.

Determining a consistent method of election for a mayor/president would result in more equal representation throughout all jurisdictions.

## **Wards**

Wards are intended to ensure that all parts of a district are fairly represented. While councillors are only elected by voters in a ward, they must represent and make decisions that are in the best interests of the entire district.

Fifty-four of the 137 local governments currently have wards, including 19 of the State's 20 most populous local governments. The least populated local government has a population of approximately 100 people and is split into two wards.

Wards reduce the overall pool of candidates and reduce the total number of votes required to be elected. Statistically, there is little or no correlation in Western Australian local government elections between wards and voter turnout.

In 2017, one local government which has no wards, had 31 candidates contest seven positions on council. In this election the candidate who received the most votes received under 10% of the total vote. In the same year, the successful candidate in a different local government became a council member after receiving 12 of the 13 valid votes lodged in their district's ward.

## **Set a minimum population threshold for wards**

Twelve local governments with fewer than 1000 electors employ wards which has resulted in 16 local government wards that have fewer than 100 electors. 10 of these ward elections in 2015 and 2017 were resolved without contest.

Setting a minimum population threshold before a local government could introduce wards would create greater consistency in local government representation. For example, requiring local governments to have at least 2000 electors before they could subdivide these into wards would streamline the ward system in 13 local governments.

## **Set a mandatory population/requirement threshold for wards**

Large local governments without wards tend to have sizeable numbers of candidates. Large numbers of candidates running in a district provide greater choice for electors but can also make it difficult for electors to know about a candidate and their platform. The costs of campaigning for a council position would be significantly greater in a local government without wards as opposed to one that does have wards.

Setting a population threshold where a local government must be divided into wards may result in better representation and more efficient elections.

Alternatively, reforms could require local governments that meet certain characteristics to employ wards. These characteristics could include having multiple population centres or being formed because of an amalgamation.

## **Electoral Distribution Commissioners to oversee ward structure**

Current ward structures are determined by the Governor on the Minister's recommendation following a review by Local Government Advisory Board.

As an alternative, the Electoral Commissioner could be empowered to oversee the establishment and modification of ward boundaries.

For Western Australia, the State electoral boundaries are reviewed following each State Government election. A similar process could be implemented which would streamline the process, provide a regular schedule for review and deliver consistency with State Government. It would, however, be costlier than the current system.

## **Resolving ties**

Currently, where two or more candidates receive the same number of votes, lots are drawn to determine the winner. Leaving a matter as important as the outcome of a local government election to chance has been criticised in the past.

## **Candidates**

All candidates in a local government election are potential councillors. It is important that we have a minimum standard imposed on those who want to represent our communities and ensure every community member has sufficient information on their candidates.

## Opportunities for reform

### Who can run for council

An individual is not eligible to run for council if that individual is:

- in prison
- has been convicted of a serious local government offence within the last five years
- has been convicted of an offence for which the penalty is greater than five years imprisonment

Every elected council member performs a unique and important role in planning and building control. It has been proposed that a person who has been convicted under planning and building legislation in the previous five years should also be disqualified.

### Candidate nomination

Candidates are required to submit a written profile with their nomination of no more than 150 words which is confined to their biographical information and statements of the candidate's policies or beliefs. The profile cannot contain information that is false, misleading or defamatory.

Studies have found that lack of knowledge about candidates contributes to low voter turnout. The candidate profile is the only requirement imposed and it is often the only information that electors may have to make their selection, especially in larger local government districts. Requiring candidates to provide additional information in their candidate profile may assist electors in making more informed decisions and create a more reflective council body.

### Social media use

Concerns were expressed by many with the way social media was used in the 2017 local government election period to disparage candidates.

Amendments resulting from earlier consultation of the Act Review will address this problem through the development of a new code of conduct for council members which include provisions on social media use. The mandatory requirement to abide by the code of conduct will be extended to all candidates in local government elections.

## Campaigns

Election campaigns are the most public component of elections and the Local Government Act 1995 provides a basic framework for election campaign rules. Over the last 20 years, the way campaigns are conducted has changed significantly and it is important that any campaign reform be contemporary and in line with community standards and expectations.

## Opportunities for reform

### Campaign spending limit

Anecdotally, the average cost of local government campaigns has increased in recent years. This increase in costs may be tied to the growing number of candidates standing in many metropolitan local governments and the resulting greater competition. Election campaigning either requires personal financial investment from the candidate or receipt of campaign donations. The greater the cost of campaigning, the greater the investment required.

A well-financed campaign is not inherently improper and can be seen to be in the public interest as it contributes to a more informed and engaged voter base. At the same time, the escalating cost of campaigns can contribute to an 'arms-race' and ultimately lead to problems.

Good local democracy relies on maximising participation not just of voters but also potential candidates. An escalation of the costs of campaigning necessary to have a reasonable chance for success can reduce the percentage of people able to be a council member. High campaign costs can lead to candidates relying heavily on donors which, if unchecked, can lead to perceptions of impropriety and undue influence.

In Tasmania, a campaign advertising limit is set for all candidates at \$8000. Tasmanian local government candidates are required to lodge a return with the Tasmanian Electoral Commissioner stating how much they spent on advertising.

## Donation/gift rules

Currently, donations/gifts received or promised to a candidate from six months prior to an election until three days after the election for unsuccessful candidates and up to the start day for financial interests for people elected to council must be publicly disclosed.

There is also the requirement for donors to disclose their donation/gift given to candidates. These rules are intended to provide greater transparency of political donations and deter corruption.

## Donation/gift reform

The rules regulating the acceptance and declaration of election donations and non-election gifts differ considerably. In addition to different monetary thresholds for the declaration of gifts, different rules exist for the process and timeline for declaration.

One option is to, where practicable, align the two gift frameworks to achieve greater consistency in what gifts must be declared, the timetable for declaration and how these gifts must be reported.

Following earlier consultation, a proposal for a revised approach to gifts has been announced by the McGowan Government, requiring council members to declare gifts valued at \$300 or more received in their official capacity. This does not, however, apply to candidates who are not council members. A revised aligned framework would achieve greater consistency and reduce confusion.

## Prohibited election gifts

Two Australian jurisdictions prohibit donations from certain entities. In New South Wales, donations from property developers, the tobacco industry and liquor and gambling entities cannot be accepted. In Queensland, it is prohibited to receive donations from property developers in both local and State Government elections.

During the last ordinary council elections and in submissions received during earlier consultation on the Act review, concerns were raised regarding the growing reliance on donations from certain organisations and perceptions of greater politicisation resulting from the need to source funding to conduct a competitive campaign.

## Donor declarations

Donors as well as recipients are currently required to declare gifts they provide or promise to candidates. This was introduced as an added incentive for disclosure. The requirement for donors to declare gifts also exists in New South Wales.

This has been viewed as a duplication of the requirement placed on election gift recipients and is inconsistent with the rules for non election gifts. Requiring donors to declare gifts may strengthen transparency; however, it can be argued that the benefits are limited by the lack of a requirement to publish the declarations by donors.

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## Have your say

Have your say on these important issues by completing the [survey](#) or emailing [actreview@dlgsc.wa.gov.au](mailto:actreview@dlgsc.wa.gov.au). A [more detailed paper](#) is also available.

