



Department of  
**Local Government, Sport  
and Cultural Industries**



Local Government Act 1995 review  
Agile • Smart • Inclusive

# ***Local Government Act 1995 Review***

## **Agile • Smart • Inclusive – Local governments for the future**

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Phase 1: Consultation Paper

8 November 2017

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# 1. Relationships between council and administration

## Introductory questions

- 1) Would you like your submission to remain anonymous?  
No
- 2) Postcode:  
6401
- 3) Who are you submitting on behalf of?  
Company/Organisation/Other
- 4) Local government name:
- 5) Organisation name  
Central Regional TAFE
- 6) Are you a:  
Other

## Defining the roles of council and administration: Guidance questions

- 7) How should a council's role be defined? What should the definition include?  
Should be defined as representing the community's voice and best interests. Should include rules for expert opinions and outside consultation to make better informed decisions
- 8) How should the role of the CEO and administration be defined?
- 9) What other comments would you like to make on the roles of council and administration?
- 10) Are there any areas where the separation of powers is particularly unclear?  
Yes
- 11) How do you propose that these are improved?

Clearer definitions on delegation of powers, better register?

## **Improving relationships between council and administration: Guidance question**

12) Do you have any other suggestions or comments on this topic?

## 2. Training

### 2.1 Competencies required to be an elected member

#### **Elected member competencies: Guidance questions**

- 13) What competencies (skills and knowledge) do you think an elected member requires to perform their role?

Knowledge of building matters, materials, do's and don'ts. Knowledge of environmental matters, ecosystems. Knowledge of community profiling and basic community behaviours, dynamics and psychology.

- 14) Do these vary between local governments?

Yes

- 15) If so, in what way?

### 2.2 Funding training

#### **Funding training: Guidance questions**

- 16) Who should pay for the costs of training (course fees, travel, other costs)?

Councillors should pay a minimal fee. Council should cover the cost of course fees. State Govt should pay for travel and accommodation as a matter of equity between regional and metro councils

- 17) If councils are required to pay for training, should a training fund be established to reduce the financial impact for small and regional local governments?

Yes

- 18) Should contribution to such a fund be based on local government revenue or some other measure?

Should be based on a percentage of revenue

Do you have any other suggestions or comments on this topic?

Use structured training from LGA04 local government training package

## 2.3 Mandatory training

### Mandatory training: Guidance questions

19) Should elected member training be mandatory?

Yes

20) Why or why not?

They are making important decisions sometimes involving large financial amounts. These should be informed decisions to avoid wasting funds on errors from ignorance

21) Should candidates be required to undertake some preliminary training to better understand the role of an elected member?

No

22) Should this be Compulsory?

23) Should prior learning or service be recognised in place of completing training for elected members?

Yes

24) If yes, how would this work?

Prior learning is an assessment process, if they do not meet the standard during the assessment process then they should study instead

25) What period should apply for elected members to complete essential training after their election?

Within 6 months

## 2.4 Continuing professional development

### Continuing professional development: Guidance questions

- 26) Should ongoing professional development be undertaken by elected members?

Yes

- 27) If so, what form should this take?

Working towards a complete qualification over time

### Training: Guidance question

- 28) Do you have any other suggestions or comments on training?

Councillors do not have to travel to receive training. There are accredited training providers who will deliver in-house, it is cheaper for one person to travel to them than the other way around. Training does not have to be face to face, there are plenty of media available for course delivery, eg Skype, Zoom

### 3. The behaviour of elected members

#### 3.1 Current Situation

##### **Codes of conduct: Guidance questions**

29) Should standards of conduct/behaviour differ between local governments?

No

30) Please explain.

They should all play by the same rules

Which option do you prefer for codes of conduct and why?

Codes of conduct are required

Local governments must adopt a model code, with certain clauses subject to modification

It gives less experienced councils a model to work from

31) How should a code of conduct be enforced?

A body to hear and deal with the more serious complaints, similar to SAT.  
In-house dealing with minor infractions, recordable/reportable and with process guidelines

#### 3.2 Regulation of elected member conduct: rules of conduct

##### **Streamlined rules of conduct: Guidance questions**

32) Do you support streamlined Rules of Conduct regulations?

Yes

33) Why?

Uniformity and pitched at the correct level of importance

34) If the rules were streamlined, which elements should be retained?

conduct, disclosure

35) Do you support a reduction in the time frame in which complaints can be made?

No

36) Is three months adequate?

No

### **Revised disciplinary framework: Guidance questions**

37) Do you support an outcome-based framework for elected members?

Yes

38) Why or why not?

Consistency, uniformity and subsequently correctness

39) What specific behaviours should an outcomes based framework target?

Yes



### 3.3 Other matters recommended in the 2015-16 review

#### Application of the Rules of Conduct: Guidance question

- 40) Should the rules of conduct that govern behaviour of elected members be extended to all candidates in council elections?

Yes

- 41) Please explain.

To avoid incorrectly damaging a person's reputation, etc

#### Offence Provisions: Guidance questions

- 42) Should the offence covering improper use of information be extended to former members of council for a period of twelve months?

Yes

- 43) Why?

Why not

- 44) Should this restriction apply to former employees?

Yes

- 45) Please explain?

Just because they are no longer in the position doesn't mean that they aren't accountable for their actions

#### Confidentiality: Guidance question

- 46) Is it appropriate to require the existence and details of a complaint to remain confidential until the matter is resolved?

Yes

- 47) Why?

To avoid incorrectly damaging a person's reputation, etc

### 3.4 Reforms to the Local Government Standards Panel and the means to review alleged breaches of the Rules of Conduct Regulations

#### **Sector conduct review committees: Guidance questions**

48) What do you see as the benefits and disadvantages of this model?

Cumbersome process. The complaint can go through 4 agencies (LG, LG local area, Standards Panel, SAT), until an outcome, too many players.

49) What powers should the Conduct Review Committee have?

To deal with minor matters themselves and forward major issues to the SAT

50) In your opinion what matters should go directly to the Standards Panel?

Nothing, they should not be part of the chain

51) Who should be able to be a member of a panel: elected members, people with local government experience, independent stakeholders?

People with local government experience

52) Who should select the members for the pool?

CEOs

53) How many members should there be on the Review Committee?

4

54) Are the proposed actions for the Review Committee appropriate?

No

55) If not, what do you propose?

More streamlined, less than 4 agencies involved

### **Review of elected member non-compliance: Guidance questions**

56) Which of the options for dealing with complaints do you prefer? Why?

Neither, there are too many bodies involved. State Govt is trying to "trim" resources, so this model is not cost effective

57) Are there any other options that could be considered?

Complaint to the Conduct Review Committee with clear guidelines on jurisdiction, ie level of matters. Serious matters should go straight to the SAT

58) Who should be able to request a review of a decision: the person the subject of the complaint, the complainant or both?

Both

## **3.5 Sanctions and other Standard Panel matters**

### **Mediation: Guidance question**

59) Do you support the inclusion of mediation as a sanction for the Panel?

No

60) Why or why not?

Should happen at council level

## **Prohibition from attending council meetings: Guidance questions**

- 61) Do you support the Panel being able to prohibit elected members from attending council meetings?

Yes

- 62) Why or why not?

To prevent further breaches if occurring

How many meetings should the Panel be able to order the elected member not attend?

Unlimited

- 63) Should the elected member be eligible for sitting fees and allowances in these circumstances?

- 64) Why

Cannot say, it will depend on the nature of the issue

## **Compensation to the local government: Guidance questions**

- 65) Do you support the Panel being able to award financial compensation to the local government?

No

- 66) Why or why not?

Not sure what they are being compensated for???

- 67) What should the maximum amount be?

cannot answer, not enough information

## Complaint administrative fee: Guidance questions

68) Do you support this option?

Yes

69) Why or why not?

To ensure only valid complaints are submitted. The fee should not be excessive or inhibitive

70) Do you believe that a complaint administrative fee would deter complainants from lodging a complaint?

Yes

71) Is this appropriate?

Yes

72) Would a complaint administrative fee be appropriate for a sector conduct review committee model?

No

73) Why or why not?

It is all public monies

74) What would be an appropriate fee for lodging a complaint?

\$20

75) Should the administrative fee be refunded with a finding of minor breach or should it be retained by the Department to offset costs?

Yes

76) Why or why not?

Offset costs

## Cost recovery to local government: Guidance questions

77) Do you support the cost of the panel proceedings being paid by a member found to be in breach?

Yes

78) Why or why not?

They should pay for the resources spent dealing with their inappropriate behaviours

### **Publication of complaints in the annual report: Guidance question**

79) Do you support the tabling of the decision report at the Ordinary Council Meeting?

No

80) Why or why not?

This is a community document, complaints should be elsewhere

### **Tabling decision report at Ordinary Council Meeting: Guidance question**

81) Do you support this option?

Yes

82) Why or why not?

All in the area need to be informed

## **3.6 Elected member interests**

### **Elected member interests: Guidance questions**

83) Should not-for-profit organisation members participate in council decisions affecting that organisation?

No

84) Why or why not?

Many are very passionate about their organisations and may exhibit the same behaviours as members of profit organisations

85) Would your response be the same if the elected member was an office holder in the organisation?

Yes

### **Improving the behaviour of elected members: Guidance question**

86) Do you have any other suggestions or comments on this topic?

full declarations and transparency

## 4. Local government administration

### 4.1 Recruitment and selection of local government Chief Executive Officers

#### **Recruitment and selection of local government CEOs: Guidance questions**

- 87) Would councils benefit from assistance with CEO recruitment and selection?

Yes

- 88) Why?

To ensure the best candidate using a greater pool of recruitment experience

- 89) How could the recruitment and selection of local government CEOs be improved?

Better administration of the process and clearer guidelines

- 90) Should the Public Sector Commission be involved in CEO recruitment and selection?

Yes

- 91) If so, how?

Monitors the council and ensures correct application of process

- 92) Should other experts be involved in CEO recruitment and selection?

Yes

- 93) If so, who and how?

Better overall outcomes for all concerned



- 94) What competencies, attributes and qualifications should a CEO have?

Business management, self-development and keeping up with modern issues, psychology and people/community management, ability to empower staff and stay informed, mediation skills

## 4.2 Acting Chief Executive Officers

### Acting CEOs: Guidance questions

- 95) Should the process of appointing an acting CEO be covered in legislation?

Yes

- 96) Why or why not?

Clear guidelines for councils to adhere to

- 97) If so, who should appoint the CEO when there is a short term temporary vacancy (covering sick or annual leave for example)?

Council's Mayor

- 98) Who should appoint the CEO if there will be vacancy for an extended period (for example, while a recruitment process is to be undertaken)?

Council

## 4.3 Performance review of local government Chief Executive Officers

### Performance review of local government CEOs: Guidance questions

99) Who should be involved in CEO performance reviews?

Council + minister's office delegate

100) What should the criteria be for reviewing a CEO's performance?

Achievements, financial management, community infrastructure development, social capital

101) How often should CEO performance be reviewed?

Annually unless there have been issues, then more frequently

102) Which of the above options do you prefer?

Option 1, councillors skills in this area are often limited and assistance would be beneficial to all parties concerned

103) Why?

No

104) Is there an alternative model that could be considered?

#### 4.4 Extension or termination of the Chief Executive Officer contract immediately before or following an election

##### **Termination or extension of CEO contract around an election: Guidance questions**

105) Would a 'cooling off' period before a council can terminate the CEO following an election assist strengthening productive relationships between council and administration?

Yes

106) What length should such a cooling off period be?

3 months

- 107) For what period before an election should there be a restriction on a council from extending a CEO contract?

3 months

- 108) Should there be any exceptions to this?

Appeals or special cases could be heard as needed

## 4.5 Public expectations of staff performance

### Public expectations of staff performance: Guidance questions

- 109) Is greater oversight required over local government selection and recruitment of staff?

No

- 110) Should certain offences or other criteria exclude a person from being employed in a local government?

Yes

- 111) If so, what?

Criminal records and serious offences should be considered

### Strengthening local government administration: Guidance question

- 112) Do you have any other suggestions or comments on this topic?

Greater intervention by a third party would ensure correctness and consistency



## 5. Supporting local governments in challenging times

### Remedial intervention: Guidance questions

113) Should the appointed person be a departmental employee, a local government officer or an external party?

Departmental employee

114) Why?

higher level and independent with a broader scope of knowledge and experience

115) Should the appointed person be able to direct the local government or would their role be restricted to advice and support?

Direct the local government

116) Please explain.

Need some powers else they may simply be ignored

117) Who should pay for the appointed person?

Joint funded between DLG and the council

118) Why?

Council money is public funds and should not bear the entire cost

### Powers of appointed person: Guidance question

119) What powers should an appointed person have?

Research and construct a report on the matter and then issue a form of direction notice with a time period given. Where not complied with penalties may apply

### **Remedial action process: Guidance questions**

120) Do you think the proposed approach would improve the provision of good governance in Western Australia?

Yes

121) Please explain.

Increases accountability and "care factor"

122) What issues need to be considered in appointing a person?

Level of knowledge and experience, ability to deal with people, good investigation skills

### **Supporting local governments in challenging times: Guidance question**

123) Do you have any other suggestions or comments on this topic?

Council's level of professionalism and capability should be assessed against a valid benchmark. Early intervention can then occur where a council falls short

## 6. Making it easier to move between State and local government employment

### **Transferability of employees: Guidance questions**

- 124) Should local and State government employees be able to carry over the recognition of service and leave if they move between State and local government?
- 125)
- 126) What would be the benefits if local and State government employees could move seamlessly via transfer and secondment?

n/a

### **Making it easier to move between State and local government employment: Guidance question**

- 127) Do you have any other suggestions or comments on this topic?

State and Local Governments are different entities. It is incorrect that an employee from one should expect to move to the other and it will be the same

## 7. Gifts

### 7.1 Simplifying the gift provisions

#### **A new framework for disclosing gifts: Guidance questions**

128) Is the new framework for disclosing gifts appropriate?

Yes

129) If not, why?

130) Is the threshold of \$500 appropriate?

No

131) If no, why?

Too high

132) Should certain gifts – or gifts from particular classes or people – be prohibited?

Yes

133) Why or why not?

To avoid bias or the perception of it

134) If yes, what gifts should be prohibited?

Firearms, alcohol, sexual favours, the bad societal stuff...

#### **Excluding gifts received in a personal capacity: Guidance questions**

135) Should gifts received in a personal capacity be exempt from disclosure?

Yes

136) If yes, how could 'personal capacity' be defined?



Very carefully

137) Should there be any other exemptions from the requirement to disclose a gift over the threshold?

No

138) If so, what should these be? Please justify your proposal.

### **Gifts: Guidance question**

139) Do you have any other suggestions or comments on this topic?

Anything that appears to be influential should be declared. There should be a rider that if in doubt, declare and let the appropriate assessor decide

## 8. Access to information

### 8.1 Public notices

#### Public notices: Guidance questions

140) Which general option do you prefer for making local public notices available?

Option 5

Why?

Suits both people with and without computer access and skills

141) Should the requirements for any notice in the Supplementary Information - Public Notices be changed?

Yes

142) Please list and explain the reasons for the proposed change.

Keep it in house for the council

143) Could any of the notices in the Supplementary information be published on alternative websites?

No

144) Please provide details

Keep it in house for the council

### 8.2 Information available for public inspection

#### Information available for public inspection: Guidance questions

145) Using the following table, advise how you think information should be made available:

Provision	Documents	In person only	Website only	Both	Neither
Section 5.53	Annual Report Both Website only				
Section 5.75 & 5.76	Primary and Annual returns – for Elected members Includes – sources of income Trusts Debts Property holdings. Interests and positions in corporations. Website only				
Section 5.87	Discretionary disclosures generally Website only				
Section 5.82	Gifts (already required to be on the website) Website only				
Section 5.83	Disclosure of travel contributions (already required to be on the website) Website only				
Elections Regulations 30H	Electoral gifts register Website only				
Section 5.98A	Allowance for deputy mayor or deputy president				

	Website only
Section 5.100	Payments for certain committee members Website only
Functions and General Regulations 17	Tenders register Both
Section 5.94 & Administration Regulations 29	Register of delegations to committees, CEO and employees Website only
	Minutes of council, committee and elector meetings Website only
	Future plan for the district Both
	Annual Budget Website only
	Notice papers and agendas of meetings Website only
	Reports tabled at a council or committee meeting Website only
	Complaints register (concerning elected members) Website only

Contracts of employment of the CEO and other senior local government employees	Website only
Schedule of fees and charges	Both
Proposed local laws	Both
Gazetted Local laws (and other law that has been adopted by the district)	Both
Rates record	Website only
Electoral roll	Website only

**Note:** There is no intention to amend the current limitations imposed by section 5.95 of the Act which limits the disclosure of certain information.

146) Should the additional information that is available to the public in other jurisdictions be available here?

Yes

147) If so which items?

148) How should they be made available: in person, website only or both?

Required

149) Is there additional information that you believe should be made publicly available? Please detail.

cant think of anything at the moment

150) For Local Governments: How often do you receive requests from members of the public to see this information?

n/a

151) What resources do you estimate are involved in providing access in person (hours of staff time and hourly rate)?

n/a

### **Access to information: Guidance question**

152) Do you have any other suggestions or comments on this topic?

Nil

## 9. Available information

### 9.1 Expanding the information provided to the public

#### Expanding the information provided to the public: Guidance questions

153) Which of these options do you prefer?

Option 2: Additional reporting requirement

154) Why?

Greater accessibility for people who are travel restricted or time poor

155) In the table below, please indicate whether you think the information should be made available, and if so, whether this should be required or at the discretion of the local government:

Proposal	Should this be made available: No, optional, required?
Live streaming video of council meetings on local government website	Required
Diversity data on council membership and employees	Optional
Elected member attendance rates at council meetings	Optional
Elected member representation at external meetings/events	Required
Gender equity ratios for staff salaries	Required
Complaints made to the local government and actions taken	Optional
Performance reviews of CEO and senior employees	Not Required

Proposal	Should this be made available: No, optional, required?
Website to provide information on differential rate categories	Required
District maps and ward boundaries	Required
Adverse findings of the Standards Panel, State Administrative Tribunal or Corruption and Crime Commission.	Required
Financial and non-financial benefits register	Required

156) What other information do you think should be made available?

nil

### Expanding the information available to the public: Guidance question

157) Do you have any other suggestions or comments on this topic?

no



## Defining red tape: Guidance questions

158) Which regulatory measures within the Act should be removed or amended to reduce the burden on local governments? Please provide detailed analysis with your suggestions.

a) Briefly describe the red tape problem you have identified.

none

I

b) What is the impact of this problem? Please quantify if possible.

n/a

c) What solutions can you suggest to solve this red tape problem?

n/a

159) Which regulatory measures within the Act should be removed or amended to reduce the burden on the community? Please provide detailed analysis with your suggestions.

a) Briefly describe the red tape problem you have identified.

nil

b) What is the impact of this problem? Please quantify if possible.

n/a

c) What solutions can you suggest to solve this red tape problem?

n/a

## 10.1 Potential red tape reductions

### Special majority: Guidance question

160) Should the provisions for a special majority be removed?

Yes

161) Why or why not?

Too restrictive. If there is a vacancy it may prevent any matters from being passed and business stops

### **Senior employees: Guidance questions**

- 162) Is it appropriate that council have a role in the appointment, dismissal or performance management of any employees other than the CEO? Why or why not?

Prevent personal vendettas and personality clashes causing issues

- 163) Is it necessary for some employees to be designated as senior employees?

Yes

- 164) If so, what criteria should define which employees are senior employees?

Length of service and level of knowledge

### **Exemption from accounting standard AASB124 - Related party disclosures: Guidance questions**

- 165) Are the existing related party disclosure provisions in the Act sufficient without the additional requirements introduced by AASB 124?

No

- 166) Why or why not?

### **Disposal of property: Guidance questions**

- 167) The threshold for trade-ins was set originally to \$50,000 in 1996 and raised to \$75,000 in 2015. Should that threshold be raised higher,

No

168) if so how high?

n/a

169) Should the threshold remain at \$75,000 but with separate exemptions for specific types of equipment, for example plant?

Yes

170) The general \$20,000 threshold was put in place in 1996 and has not been amended. Should the threshold be raised higher than \$20,000?

Yes

171) If so, what should it be and why?

\$50,000 keep track with increasing prices

172) Would raising these thresholds create an unacceptable risk that the items would not be disposed of to achieve the best price for the local government?

Yes

173) Is there an alternative model for managing the disposal of property? Please explain.

Maybe?

### Reducing red tape: Guidance question

174) Do you have any other suggestions or comments on this topic?

no

## 11.1 Risks and benefits of borrowing

### Regional subsidiaries: Guidance questions

175) Which option do you prefer?

Option 2: Regional subsidiaries are permitted to borrow from Treasury Corporation

176) Should regional subsidiaries be allowed to borrow money other than from the member councils?

Option 2: Regional subsidiaries are permitted to borrow from Treasury Corporation

177) Why or why not?

Too much risk involved

178) If a regional subsidiary is given the power to borrow directly, what provisions should be put in place to mitigate the risks?

must be eligible to apply for funding

### Regional subsidiaries: Guidance question

179) Do you have any other suggestions or comments on this topic, including on any other aspect of the *Local Government (Regional Subsidiaries) Regulations 2017*?

must be eligible to apply for funding

### Local Government Act review: Guidance question

180) You are invited to make comment and put forward suggestions for change on other matters which have not been covered in this paper.