



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

Phase 1: Consultation Paper

8 November 2017

Name: Sally Block

1. Relationships between council and administration

Introductory questions

- 1) Would you like your submission to remain anonymous?
No
- 2) Postcode:
6083
- 3) Who are you submitting on behalf of?
Company/Organisation/Other
- 4) Local government name:
- 5) Organisation name
Gidgegannup Progress Association Inc.
- 6) Are you a:
Elected member

Defining the roles of council and administration: Guidance questions

- 7) How should a council's role be defined? What should the definition include?

Representing the community, liaising between Administration and community, making policy 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?

The administration is not always as informed of local issues in the different wards as it could be. The administration in some cases makes decisions without fully informing Councillors. The Councillors are then aware of

issues that are subsequently raised with them from the community. There needs to be more transparency. This has improved with technology. Ratepayer groups can play an important role in smoothing these "misunderstandings". The formation and education of Ratepayer groups need to be addressed. Ratepayer groups must become more aware of the limitations both the Administration and Crs. work under and work with them. Ratepayers groups do need to be kept informed of issues though from their Crs. They also need to be encouraged to keep the wider community informed and provide feedback from that community Crs.

Improving relationships between council and administration: Guidance question

12) [Do you have any other suggestions or comments on this topic?](#)

This again comes back to transparency and all parties being fully informed.

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?

A thorough knowledge of the community they are representing and what their aims and wishes are. Basic financial knowledge, ability to communicate with both the Administration and the Community. Ability to question information and seek clarification if not understood. Ability to work with fellow Councillors as a team and respect fellow Councillors. A good knowledge of the Local Government Act. Knowledge of the appropriate Town Planning Scheme and Acts and Committees that are operative in their municipality.

- 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)?

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?

Yes, revenue and number of councillors

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

Sitting Councillors should only need to take refresher course to up date them. First time Councillors need more training.

2.3 Mandatory training

Mandatory training: Guidance questions

- 19) Should elected member training be mandatory?

Yes

- 20) Why or why not?

many councillors are ill equipped for the job to be done. This would give them more confidence and be able to improve their judgement on some matters. It would also mean that they could contribute more to the Council at an earlier stage

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

Yes

- 22) Should this be Compulsory?

Yes

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

Yes

- 24) If yes, how would this work?

Consideration of professional qualifications or prior experience of being a councillor. Training could be broken down into units with automatic assessment that a unit has been completed if there is prior knowledge or experience. Proof of such knowledge or experience would be necessary

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

1-2 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?

WALGA courses.

Training: Guidance question

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

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.

There needs to be uniformity

Which option do you prefer for codes of conduct and why? The sixth (last) option. This appears to be the fairest

- 31) How should a code of conduct be enforced?

Rap on knuckles for minor, Suspension if severe enough, Dismissal as a cr. If bad enough

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?

Dealt with more rapidly

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

Option 1

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

Yes

36) Is three months adequate?

Yes

Revised disciplinary framework: Guidance questions

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

No

38) Why or why not?

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

No

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.

there is no certainty as to the resolution

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?

this is still misuse of privileged information

- 44) Should this restriction apply to former employees?

Yes

- 45) Please explain?

even though they have left the employ the information is still privileged.

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?

there is no certainty as to the resolution

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?
- 49) What powers should the Conduct Review Committee have?
- 50) In your opinion what matters should go directly to the Standards Panel?
- 51) Who should be able to be a member of a panel: elected members, people with local government experience, independent stakeholders?
- 52) Who should select the members for the pool?
- 53) How many members should there be on the Review Committee?
- 54) Are the proposed actions for the Review Committee appropriate?
- 55) If not, what do you propose?

Review of elected member non-compliance: Guidance questions

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

Option 2 – streamlines the process and cuts red tape

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

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?

Yes

60) Why or why not?

talking it through has benefits and people have a cooling off period

Prohibition from attending council meetings: Guidance questions

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

No

62) Why or why not?

they still have their electorate to represent

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

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

No

64) Why

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 applicable in other professions

67) What should the maximum amount be?

Complaint administrative fee: Guidance questions

68) Do you support this option?

No

69) Why or why not?

This could deter complaints being made

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

Yes

71) Is this appropriate?

No

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

No

73) Why or why not?

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

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

76) Why or why not?

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?

It is appropriate for a member in breach to pay costs

Publication of complaints in the annual report: Guidance question

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

Yes

- 80) Why or why not?

Aids transparency

Tabling decision report at Ordinary Council Meeting: Guidance question

- 81) Do you support this option?

Yes

- 82) Why or why not?

transparency

3.6 Elected member interests

Elected member interests: Guidance questions

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

Yes

- 84) Why or why not?

as long as impartiality interest declared and recorded

- 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?

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?

Councils do not necessarily have this expertise

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

Often CEO's are selected from within the organisation, this is not necessarily the best course of action as they might not have the necessary Executive capacity.

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

Yes

- 91) If so, how?

Advisory

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

- 93) If so, who and how?

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

Management skills, ability to inter relate with all levels of staff and Councillors

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?

decisions can be made whilst acting that can have far reaching repercussions.

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

This could be handled by Council

- 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)?

This needs more serious consideration and PCS help should be enlisted

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?

Panel of Councillors including Mayor/President

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

Their ability to administer the Administration fairly and within budget. Their ability to ensure that the Municipality lives within its means and does not just increase staffing or budget figures as "empire building". Their ability to work with Council

- 101) How often should CEO performance be reviewed?

Every 1 to 2 years

102) Which of the above options do you prefer?

Option 3. This gives a degree of impartiality

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?

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?

Yes

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

Yes

111) If so, what?

criminal record particularly fraud. Need to be a citizen of Australia or permanent resident

Strengthening local government administration: Guidance question

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

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?

External party

114) Why?

impartiality

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

Restricted to advice and support

116) Please explain.

117) Who should pay for the appointed person?

Local Government

118) Why?

Powers of appointed person: Guidance question

119) What powers should an appointed person have?

- making recommendations to the council, CEO and the Department;
- mediating between parties;
- arranging for training; and
- reviewing, and making recommendations on, practices and procedures.

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.

Gives more transparency and direction

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

Expertise and impartiality

Supporting local governments in challenging times: Guidance question

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

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?

Years of experience could be kept in the system

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?

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?

Yes

131) If no, why?

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

Yes

133) Why or why not?

Gifts from Property Developers or from those who wish to derive a pecuniary benefit

134) If yes, what gifts should be prohibited?

All

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?

Giver directly related to recipient

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

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 6
- Why?
- Not everyone uses a computer.
- 141) Should the requirements for any notice in the Supplementary Information - Public Notices be changed?
- No
- 142) Please list and explain the reasons for the proposed change.
- Community websites
- 143) Could any of the notices in the Supplementary information be published on alternative websites?
- Yes
- 144) Please provide details
- Community websites

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 Both				
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. Both				
Section 5.87	Discretionary disclosures generally Both				
Section 5.82	Gifts (already required to be on the website) Both				
Section 5.83	Disclosure of travel contributions (already required to be on the website) Both				
Elections Regulations 30H	Electoral gifts register Both				
Section 5.98A	Allowance for deputy mayor or deputy president				

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

Contracts of
employment of the CEO
and other senior local
government employees

Both

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

Both

Electoral roll

Both

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?

Optional

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

- 150) For Local Governments: How often do you receive requests from members of the public to see this information?
- 151) What resources do you estimate are involved in providing access in person (hours of staff time and hourly rate)?

Access to information: Guidance question

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

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?

Most transparent

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	Required
Elected member attendance rates at council meetings	Required
Elected member representation at external meetings/events	Required
Gender equity ratios for staff salaries	Not Required
Complaints made to the local government and actions taken	Required
Performance reviews of CEO and senior employees	Required
Website to provide information on differential rate categories	Required

Proposal	Should this be made available: No, optional, 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?

Expanding the information available to the public: Guidance question

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

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.

I

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

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

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.

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

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

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?

Another level of bureaucracy in an effort to appear democratic, but what if full complement of Crs. Is not present any way

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?

Senior employees in charge of departments such as Chief Financial Officer. People who are vital to the efficient running of the local government

- 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?

Those that are in a leadership role and crucial to the efficient and productive running of the Local Government.

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?

Yes

- 166) Why or why not?

See no reason to have two levels of accounting requirements

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?

This should be kept under review every few years

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?

Has to be realistic say \$50000

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?

No

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

Reducing red tape: Guidance question

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

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?

As above

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

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*?

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.

The Gidgegannup Progress Association is most concerned about the definitions and terms used in the setting of UV and GRV rates. Unfortunately over the last 10 years this has created a two tier rural rating. Given that rural communities do not enjoy a lot of the benefits of urban

areas and have to perform more tasks on their properties to concur with rural living (firebreaks, weed control, fire control on properties, vermin control, protection of water course and vegetation and a very long list) it seems inequitable that they should be required to have GRV rates imposed on them. Differences in rural living can be addressed through Differential rating under UV, such as conservation, rural residential, commercial, farmland. Unfortunately a situation has arisen that neighbours are paying vastly different rates. This is inequitable. Some of the larger rural holdings have, however, adopted GRV as this lessens their rate burden, as they have little infrastructure on their properties. This inequitable practice does not encourage the landowner to develop their properties with rural infrastructure, such as stables, hay sheds, fencing, machinery sheds and a significant list that goes on, costing many thousands of dollars.

The rural landowner whether on 5 acres, 50 acres or 500 acres has obligations that are required to be met, as above.

To return to an equitable basis the definition of Rural should be rural pursuits, not agriculture. Get rid of the necessity for ABNs and PICs. A business has to have a certain turnover and livestock before these are relevant. There are several small boutique orchards - olives, nuts, fruit in rural areas of the City of Swan that do not provide a livelihood as required, but do provide an income, do add to the rural fabric of the area and are an important part of rural life.

Might I suggest the definitions for UV are redefined, with consultation with the community and rural zoned land is rural rated.