



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: Karen Chappel

1. Relationships between council and administration

Introductory questions

- 1) Would you like your submission to remain anonymous?
No
- 2) Postcode:
6623
- 3) Who are you submitting on behalf of?
Yourself
- 4) Local government name:
- 5) Organisation name
- 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?

the current description is somewhat open to interpretation. The term being "responsible for the performance of the local government's functions, which includes (although is not limited to):" can lead to Councillors and the community not understanding that the CEO is responsible for implementation and Councils role is only strategic and policy driven.
- 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 recruitment of Senior Staff needs to be defined as to who is responsible for recruitment. Many Local Governments have historically allowed the Council to participate in this level.

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?

Understanding of the Local Govt Act and regulations. Meeting Procedures knowledge is paramount, understanding finances is an absolute necessity and ethical decision making skills are required.

- 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)?

Local Governments

- 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?

Revenue based could work.

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

The current cost of training is a deterrent.

2.3 Mandatory training

Mandatory training: Guidance questions

- 19) Should elected member training be mandatory?

Yes

- 20) Why or why not?

The role of an Elected Member has to be treated as a privilege as you are making decisions that impact not only your Local Govt current financial position but in many cases for years to come. Elected members cannot make decisions with their heart on their sleeve, they must make informed, considered and ethical decisions. They must understand their role and its limitations, this comes from training.

- 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?

No

- 24) If yes, how would this work?

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

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?

say one unit or 4 hours OPD per year

Training: Guidance question

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

I would like to see the Public Sector Commission training on Ethical Decision Making be made compulsory

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.

Every Elected member should behave the same. (That is behave well)

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

A model code. This will encourage the same best practice behaviour across the sector.

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

Breaches be reported and there be a limit of 3 breaches before dismissal

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?

it will easier to understand and to prove a breach.

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

conflicts of interest, confidentiality , risks to reputation and integrity and interference in operations.

- 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?

Yes

38) Why or why not?

it will be more effective and immediate.

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.

not guilty until proven so.

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?

Many Council decisions are made well in advance of public knowledge and inside knowledge could easily be used to the advantage of an ex elected member.

- 44) Should this restriction apply to former employees?

Yes

- 45) Please explain?

for the same reason

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?

not guilty until proven so.

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?

This model should assist in the timely process of complaints.

- 49) What powers should the Conduct Review Committee have?

as listed above

- 50) In your opinion what matters should go directly to the Standards Panel?
a complaint lodged by the Department of Local Government

- 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?

Director General of DLGc

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

5

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

Yes

- 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?

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?

sometimes complaints are personality based and mediation could resolve the matter

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?

The disciplines have to have some impact on the elected member

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

2

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

No

- 64) Why
As a penalty

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?
that could rise to litigation beyond the initial complaint
- 67) What should the maximum amount be?

Complaint administrative fee: Guidance questions

- 68) Do you support this option?
Yes
- 69) Why or why not?
a fee may deter frivolous complaints
- 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?
Yes
- 73) Why or why not?
its the same principle as the standards panel process

- 74) What would be an appropriate fee for lodging a complaint?
\$400
- 75) Should the administrative fee be refunded with a finding of minor breach or should it be retained by the Department to offset costs?
No
- 76) Why or why not?

Fee for service

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 may deter poor behaviour

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?
Ratepayers need to know if one of their representatives is behaving poorly

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?

No

- 84) Why or why not?

There is still perceived benefit

- 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?
- Many Elected members are not qualified or skilled in this area. The recruitment of the wrong person has long standing and very damaging consequences.
- 89) How could the recruitment and selection of local government CEOs be improved?
- With a third party member on the selection Panel, such as a Public Sector Commission officer
- 90) Should the Public Sector Commission be involved in CEO recruitment and selection?
- Yes
- 91) If so, how?
- it will bring an unbiased and professional factor to the table
- 92) Should other experts be involved in CEO recruitment and selection?
- Yes
- 93) If so, who and how?
- if the Local Government so wishes
- 94) What competencies, attributes and qualifications should a CEO have?

The CEO should have at least a qualification that proves his/her ability to manage the organisation. Something like a CEO Graduate Certificate or the like.

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?

for transparency and guidance

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

the CEO

- 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)?

The 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?

All of Council and one external person

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

the criteria should be set in advance and it should be handled by an external person. in house has too many risks.

101) How often should CEO performance be reviewed?

six monthly to begin and then annually.

102) Which of the above options do you prefer?

Option one . It gives a fairer playing field to the CEO

103) Why?

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?

6 months

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

6 months

108) Should there be any exceptions to this?

no

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?

Stealing as a servant .

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?

Departmental employee

114) Why?

to ensure regulation and compliance is achieved in the remediation process.

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.

The Local Govt has to make its own decisions and one would hope with good advice and support they would achieve positive outcomes

117) Who should pay for the appointed person?

The Local Govt

118) Why?

Fee for service principles

Powers of appointed person: Guidance question

119) What powers should an appointed person have?

No powers, just support and advice

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.

Sometimes Local Governments just need strong guidance. The better practice review has been a valuable tool.

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

The dynamic or demographic of the Local Government

Supporting local governments in challenging times: Guidance question

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

Development of a CEO Graduate program so that the CEO has a skill set to begin with. Too many CEO in small regional Councils are first time CEOs with little experience in the broad role, they are generally experienced in silos and get into trouble easy.

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?

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?

134) If yes, what gifts should be prohibited?

From Developers and Planners, Mining Companies and anyone who will benefit from influencing an Elected member or Officer

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?

Family

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?

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?

Print can be expensive but may be justified at different times.

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.

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

No

144) Please provide details

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. In person 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				

	Both
Section 5.100	Payments for certain committee members Both
Functions and General Regulations 17	Tenders register Both
Section 5.94 & Administrative Regulations 29	Register of delegations to committees, CEO and employees Both
	Minutes of council, committee and elector meetings Both
	Future plan for the district Website only
	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) Neither

Contracts of employment of the CEO and other senior local government employees	Neither
Schedule of fees and charges	Both
Proposed local laws	Website only
Gazetted Local laws (and other law that has been adopted by the district)	Website only
Rates record	Website only
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?

No

147) If so which items?

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

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 1: Status Quo

154) Why?

The public currently have access if they wish

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	Optional
Diversity data on council membership and employees	Not 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	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?

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.

i

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?

No

161) Why or why not?

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?

Council has one employee and that is the CEO.

- 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?

Level of responsibility

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?

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?

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?

Relative value has decreased over that period of time

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 1: Status quo

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

Option 1: Status quo

177) Why or why not?

The bottom line is that the Council is responsible for the debt, it leaves Local Governments vulnerable to loans that are outside their capacity.

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.