



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: Mario D'Alonzo

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

No

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

### **Training: Guidance question**

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

Being a representative of the Community at Council should be open to as many people as possible.

In many respects, a Councillor is like a member of a jury, and jurors are not required to undertake any special training.

A Councillor takes technical advice from the administration and staff, and makes a value judgement at Council meetings as to the correct way to go, and how to vote on a particular matter.

A Councillor should be just like a person off the street, like a jury member is, to make these judgements.

The issue of training can be easily solved by Council staff preparing a printed handbook for new Councillors, that is given to them once they are elected.

I am also concerned that any "Training" will be structured so as to push Councillors to exercise their voting discretion in particular ways.

### 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?
- 30) Please explain.

Which option do you prefer for codes of conduct and why? No particular opinion on this matter.

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

#### 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?
- 33) Why?
- 34) If the rules were streamlined, which elements should be retained?
- 35) Do you support a reduction in the time frame in which complaints can be made?
- 36) Is three months adequate?

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

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

38) Why or why not?

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

### 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?
- 41) Please explain.

#### **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?
- 43) Why?
- 44) Should this restriction apply to former employees?
- 45) Please explain?

#### **Confidentiality: Guidance question**

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

### 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?
- 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?

### 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?
- 60) Why or why not?

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

- 61) Do you support the Panel being able to prohibit elected members from attending council meetings?
- 62) Why or why not?

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?
- 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?
- 66) Why or why not?
- 67) What should the maximum amount be?

### **Complaint administrative fee: Guidance questions**

- 68) Do you support this option?
- 69) Why or why not?
  
- 70) Do you believe that a complaint administrative fee would deter complainants from lodging a complaint?
- 71) Is this appropriate?
- 72) Would a complaint administrative fee be appropriate for a sector conduct review committee model?
- 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?
- 78) Why or why not?

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

- 79) Do you support the tabling of the decision report at the Ordinary Council Meeting?
- 80) Why or why not?

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

- 81) Do you support this option?
- 82) Why or why not?

## **3.6 Elected member interests**

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

- 83) Should not-for-profit organisation members participate in council decisions affecting that organisation?
- 84) Why or why not?
  
- 85) Would your response be the same if the elected member was an office holder in the organisation?

### **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?
- 88) Why?
- 89) How could the recruitment and selection of local government CEOs be improved?
- 90) Should the Public Sector Commission be involved in CEO recruitment and selection?
- 91) If so, how?
- 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?

### 4.2 Acting Chief Executive Officers

#### **Acting CEOs: Guidance questions**

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

- 96) Why or why not?
- 97) If so, who should appoint the CEO when there is a short term temporary vacancy (covering sick or annual leave for example)?
- 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)?

#### 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?
- 100) What should the criteria be for reviewing a CEO's performance?
- 101) How often should CEO performance be reviewed?
- 102) Which of the above options do you prefer?
- 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?
- 106) What length should such a cooling off period be?
- 107) For what period before an election should there be a restriction on a council from extending a CEO contract?
- 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?
- 110) Should certain offences or other criteria exclude a person from being employed in a local government?
- 111) If so, what?

##### **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?
- 114) Why?
- 115) Should the appointed person be able to direct the local government or would their role be restricted to advice and support?
- 116) Please explain.
- 117) Who should pay for the appointed person?
- 118) Why?

### **Powers of appointed person: Guidance question**

- 119) What powers should an appointed person have?

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

- 120) Do you think the proposed approach would improve the provision of good governance in Western Australia?
- 121) Please explain.

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

**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?

### **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?

No

129) If not, why?

I disagree strongly with the proposition that "There is nothing wrong inherently wrong with accepting gifts when they are offered".

130) Is the threshold of \$500 appropriate?

No

131) If no, why?

For elected Councillors, and Council staff, the acceptance of gifts (outside of a normal election campaign donation)

is self evidently corruption, except for small gifts from family members or close friends.

The real question here is "Why should elected Councillors and Council Staff be receiving gifts at all ?"

I received a couple of \$20 bottles of wine the other day, from friends on my birthday.

Who are these people giving Councillors \$500 at a time, and for what purpose ?

How on earth does this contribute to good government ?

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

Yes

133) Why or why not?

All gifts should be prohibited, exempt gifts from family members, and donations associated with election campaigns. If family members are allowed to give large gifts, then there is capacity for corruption of Councillors

and Council Officers, through payments being made through family members or close friends. So gifts of larger than \$50, from family or close friends, should be declared.

134) If yes, what gifts should be prohibited?

ALL gifts should be prohibited to elected Councillors and Council staff, except gifts from family and close friends, and contributions as part of a normal election campaign.

Any gifts from a family member or close friend should be declared, if a gift of more than \$50 value is given in one year.

### **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?

Any gift from a a close friend, or family, under \$50 in one year, should be defined as accepted in a "personal capacity".

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.

If gifts are given, over \$50 for one year, from close friends or family members, then there is capacity for the corruption

of elected Councillors and Council staff, indirectly through payments through family and close friends.

So any gift over \$50 from a family member or close friend, should be declared.

### **Gifts: Guidance question**

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

Councillors vote on many issues, and also vote on the acceptance and approval of various Policies and Regulations while they are Councillors. It is very difficult to work out how a given Policy may be directly or indirectly

benefit a particular person, when the Policy is a general one. I don't know how any normal person could find the link between the vote on a Policy, and a particular person giving gifts to a particular Councillor. It is difficult enough, and time consuming enough, as a normal resident, just trying to read and study the normal monthly Council Meeting Agenda. How can a normal person, act like a Private Detective ?

So the safest procedure is for elected Councillors (and the staff drafting these Policies and Regulations) is to not receive gifts at all (except for the cases indicated above).

## 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? Information that is only available through the web is a problem:

Some people don't have computers, and don't use them.

People may find that they have trouble with their internet service, at a given time,

and then access to on-line documents becomes difficult when there is a deadline.

Being able to access information on-line often invokes having suitable software,

and software changes all the time, so people who are not computer savvy may have difficulty accessing information on-line sometimes.

Even people with computers, and the appropriate updated software, may have times when their computer or printer fails, etc.

Many people find that when they need to study or write on something that requires

a lot of thought (like myself) find that they can think more clearly studying a printed document,

and writing things out on paper.

Actually, people do still actually read newspapers and books !

- 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?

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. 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?

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?

Whatever is the current practice regarding what is required to be notified etc should not change.

Items that need to be notified and published in print form, should still be the same.

The only change to be made, is that these notices and publications should also be required

to be made on-line, in addition to the current requirements.

## 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?

All the additional reporting requirements seem like a good thing, in terms of good practice.

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	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

<b>Proposal</b>	<b>Should this be made available: No, optional, required?</b>
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?

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?
- 163) Is it necessary for some employees to be designated as senior employees?
- 164) If so, what criteria should define which employees are senior employees?

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

- 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?
- 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?

As stated above, a lot of what is dismissed as "Red Tape" is the supplying of information to Councils,

so they can make proper, informed, decisions.

I am concerned about any reduction in so called "Red Tape" which can lead to people in the Community, who may be negatively affected by a potential Council decision, not be able to have a say in that Council decision.

That is, what some describe as "Red Tape" is often the democratic process in action.

Many things described as "Red tape" are actually things that save lives, and prevent future problems.

## 11.1 Risks and benefits of borrowing

### **Regional subsidiaries: Guidance questions**

- 175) Which option do you prefer?
- 176) Should regional subsidiaries be allowed to borrow money other than from the member councils?
- 177) Why or why not?
  
- 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.