

Gift disclosures

Having recently listened to the Senate Committee on Gifts and donations I am more convinced that every donation/gift must be declared in a transparent manner. A box seat at the football, a cask of wine, or even a wrist watch can all be interpreted as an inducement of some form.

Having worked in the public sector most of my life, it was forbidden to accept any gift because of the way it could be interpreted.

I strongly hold that all donations from political parties must not exceed \$500 too and they be declared in the proper format open to the public to see on a register.

While listening to the Senate Committee discussion about Donations to Political parties I learned that not all gifts and donations have been declared and are entered under a different category. I am of the opinion that this activity should be exposed and any elected member could be guided by the Public Sector Act if they are public servants. My understanding is that the LGA 1995 Act has been silent on this.

Private gifts and public gifts cannot be separated while serving as an elected member because of the risk to the integrity of the individual public servant.

RECOMMENDATIONS

1. All public servants and elected members could be required to act according to the Public Sector Act (WA).
2. Any gift over the value of \$500 for trips, box seats at all Sports events, alcohol or watches should be disclosed in the manner prescribed.
3. Penalties should be applied by way of re-education, fines or dismissal from office.
4. When a person has been found guilty of three (3) offences of non disclosure they should be removed from office.
5. No appeal.

Electronic disclosure

The current Act addresses the issue of disclosure well, the problem is with compliance. Technology is an enhancement but to advertise such items as, important developments, vacant employment positions on Facebook this is highly inappropriate.

Many people I have spoken to do not possess a computer, and if they did, not all are competent in the use of Facebook. Technology can be used to reduce the transparency and does not always improve communication.

What is required is a more open transparent disclosure. Example: City of Joondalup attachments which are included within the minutes do not open now but could before this date. We need more transparency and honesty. If an attachment is available it should be easy to open and navigate in order to read the full information.

Electronic disclosure has problems of its own.

1. Information can be quickly removed.
2. Storage of large documents.
3. Technological glitches with the infrastructure such as the NBN (many people have experienced loss of speed)
4. Unreliable hardware such as 'iphones' which can become disabled quickly with damaged updates.

We do not have a stable technological infrastructure because it is continuously updating or changing as most people will attest.

Recently the COJ claimed to have submitted notice to the local paper on Housing Opportunities but in fact the specific newspaper was not circulated in the area. Also a news article was quoted as evidence of compliance with the requirement of advertising but was actually provided by the community.

RECOMMENDATIONS

Improve all communications electronic or otherwise as there is a responsibility on Local Government to inform the community. To deny people the knowledge is disenfranchisement and people cannot exercise any opinion on the matter.

Behaviour and relationships

This is the area most in need of change. I strongly hold that the elected members would not normally have the skills to assess the best applicant for the position of CEO and they most certainly should not be involved in the Performance Management given that loyalties are so embedded with the privileges of being an elected member. I propose that the CEO completes a document to demonstrate meeting the Key Performance Indicators and attends a meeting with a committee external to the City at the level of the Premier to be assessed given the high income enjoyed currently. The committee could comprise of five people who have an academic background, industry experience, knowledge of LGA and have previous service. This pool of people can be drawn from retired judges, justice of the peace, and include one member of the community. (The community person might be the winner of a special lottery designed for the purpose). This would demonstrate engagement with the community but also create a financial pool for distribution to the poor). Any charity might be considered.

Any Standards Panel should not include any past or present employee of the City of Joondalup. I have noted that any elected member can be reported to the Standards Panel when they do not work harmoniously with the Council or the Mayor. That might be because there is a serious issue and it is enlightening to read past considerations of reports submitted to that structure.

All elected members need to have a graduate/certificate qualification in Local Government enabling them to comprehend the full implications and the responsibilities they carry. A course might be prepared for this by WALGA and then offered by the universities. Elected members are provided with time to complete this on line and paid for out of their allowances for training.

Often people are elected so that they can advance their own pet project and then leave. WALGA provides an excellent on line training for all councillors but I don't think that the Mayor or CEO gets time to update themselves. As part of their performance management they ought to be required to complete yearly updates and produce a document to show that this has been achieved. It is possible to undertake this online with a test at the end to demonstrate that the learning objectives have been achieved. In fact there is no job description form for the Mayoral role and perhaps that might also be considered.

RECOMMENDATIONS

1. Mandatory yearly update on required knowledge attitude and skills for all
2. Develop a Position Statement or JDF for all CEO's and the Mayors in WA.

Red tape reduction

Red tape has its role in our lives and most often is there to provide guidance and protection of the citizens. Reporting is a necessary function through the whole of the political administration as is accountability so perhaps provide a line in the new Act which allows for discretion which is subject to review and appeals by Third Party.

Standing orders in City of Joondalup are confusing. They need to write a simple document so everyone knows the rules.

It is not appropriate to declare any conflict of interest or proximity interest under a Councillors name or even the Mayor and CEO part without also declaring the number of the item on the agenda. How can the community make sense of the complex relationships between business interest and the agenda without being made explicitly aware of the nature of that relationship with the development to be discussed.

I remember being completely confused why when an item on the agenda about Reviewing the Places of Worship, Institutions and Clubs Policy when suddenly the conversation was about religion and the 'proliferation of churches' in the Joondalup area. Several councillors did declare an interest but it only came to light later that

previously approved Global Heart Churches were actually on land zoned Commercial and the Draft Local Planning Scheme no.3 was currently being commented on via community consultation. We discovered that in fact there had been 10 applications before Council so with some odd debates it was decided that classifications would be changed to allow this and not to put anything in place to prevent the increase of churches.

Many people on the Council are actually members of the church and disclosed but remained in the room participating in the debate and the voting.

RECOMMENDATIONS

1. All planning applications received to be entered into a database for the public to be aware of. Not all will be appropriate for comments but those that are could have a facility whereby the member of the public can submit without completing a survey monkey system.
2. City of Joondalup has recently declared it does not use a statistical package and this might explain the amazingly good Customer Feedback results and the highly supportive results for the community engagement projects.
3. State government to fund upgrades to the computer systems to allow improvement on all databases to include an online booking system for all community facilities.
4. Conflict of interest to be tagged to the agenda item so it is more transparent.
5. Stop or curtail the proliferation of the Global Heart Church because it is crossing the acceptable boundary of separation between church and state. (maybe this requires different legislation).

Regional subsidiaries

I strongly do not support Local Government changes to allow subsidiaries to borrow money because the risks are excessively high. They are already indebted and the interest to be repaid is an uncertain factor based on the value of the dollar and the Banking regulations. The point on the information flyer provided, states that the subsidiary may be vulnerable to subprime lending, since lenders know they can always recover the debt from ratepayer money is based on false logic. The economic downturn in Australia from multiple causes has increased the amount of part time work not full time, the unemployment rate in Joondalup especially Beldon is very high compared to the National rate. The City of Joondalup has recently entertained cost prohibitive developments to include a Performing Arts Centre which was halted at Council is still on the agenda however the whole costs of the development were never disclosed. The business case was confused however 100M for a regional facility in this area was too much of a burden and borrowing would have been necessary. The City borrowing ratio was already assessed as unsafe according to a document I had read.

Probity when managing limited financial resources such as funds from ratepayers is paramount to good governance. It is not appropriate to make a statement like, ‘they can always recover the money from the ratepayers’ as most of us are really struggling. The City can of course sell our houses to pay for the unpaid rates but at the end of the day, houses have gone down substantially in value so there might not be the value there in the end because the government will end up housing the poorest people at public expense.

I strongly support the principle of living within our means. We do not need to have our wants and desires met in terms of sports stadiums when there are many facilities within close distance. We did not want or need a Performing Arts Centre when in fact it was not what the artists asked for. It was students and our previous Mayor who followed a dream from a more prosperous past. In the current economic climate it is more appropriate to use Maslow’s hierarchy of needs as sufficient, safety, shelter, food. This issue is important because too many Mayors in other regions have been carried away with the lure of borrowing foreign capital without considering the important risks. I do not think that a Mayor ought to be granted this amount of power anywhere again.

Further on the financial issues around LGA, I note that CEO’s often earn a reward which only a Premier is actually worth given the level of accountability and responsibility. \$300,000 plus expenses and a car is too ostentatious and no CEO or Mayor anywhere in my opinion, is worth that amount. In fact many do not even have an academic qualification so possibly also might not have the business acumen to be making any decisions about borrowing money.

The schedule of remuneration needs to be reviewed to reflect real responsibilities and the real level of accountability within councils.

I wish to add two other areas/subject matters which in my opinion require a review but there is no fact sheet to cover them.

RECOMMENDATIONS

1. No facility to be provided for the development of subsidiaries to operate as private concern with any access to borrowing rights.
2. All councils to be accountable for the ratepayers funds and also how business is conducted in future.
3. All salaries to be commensurate with the level of responsibilities of the position across local government according to the size of the Local Government.

1. Local Government Act (Elections) Regulations 1997.

The recent elections highlighted some serious issues over the above legislation in as much that the Guidelines written for the Returning Officer was published with

conflicting information with a disclaimer that it needed to be read in conjunction with the LGA and also the above legislation.

There were many versions and gazettes on the internet, which confused the matter further.

I was concerned about the level of intimidation by the number of scrutineers allowed around the counting tables and milling around the observer area.

Some extracts from the Acts are shown below which I emailed to the Electoral Commission after our recent election.

Legislation:

Local Government (Elections) Regulations 1997

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[https://www.slp.wa.gov.au/pco/prod/filestore.nsf/FileURL/mrdoc_25799.htm/\\$FILE/Local%20Government%20\(Elections\)%20Regulations%201997%20-%20%5B03-a0-04%5D.html?OpenElement](https://www.slp.wa.gov.au/pco/prod/filestore.nsf/FileURL/mrdoc_25799.htm/$FILE/Local%20Government%20(Elections)%20Regulations%201997%20-%20%5B03-a0-04%5D.html?OpenElement)

I found another guide for scrutineers dated 2015 and at that time, they could apply to have a number of scrutineers! Regulation 72 was not implemented correctly.

See: Regulation: s. 4.71(J) reg. 69

FROM THE LEGISLATION IT READS.

Part 11 — Scrutineers

69. Appointment of scrutineers and declarations by them — s. 4.71(1)(j)

(1) A candidate in an election may, by written notice given to the RO or a presiding officer in duplicate (Form 18), appoint one or more scrutineers to attend during the election at any polling place specified in the notice.

To whom this concerns,

I was a witness at the recent election and have serious misgivings about the whole conduct of the count of the ballots.

There were far too many scrutineers, milling around in and out of the counting area, often on mobiles, updating someone. There were 6 for Albert Jacob, 4 for Rob Johnson, and all the rest who knows. The number was intimidating for the observer to see.

The rope dividing the counting area and the observer area was less than 6 metres in fact there was very little distance.

The people who conducted the counting went in with bags and mobile phones.

The box of the completed ballot papers was packaged up by an employee of the City of Joondalup.

I question the identity of the counters as we have no way of knowing whether they were employees of the City of Joondalup or simply members of the Global Heart Church, or the electoral commission because I saw no identity badges.

The only people wearing identity were in jackets with the word 'scrutineer' printed on them.

The count was very odd at the end of the day, and whilst I personally have no interest in the outcome, I was very concerned about the conduct of what is supposed to be run according to the legislation and the Guide Book dated July 2017.

Information from the legislation -

[Regulation 72 amended in Gazette 22 Dec 1998 p. 6871; 25 Jan 2001 p. 588.]

A statement from the manual for scrutineers just released July 2017 that was used this election!

The manual is a companion to the **Local Government Act 1995 (Act)** and its regulations but naturally does not replace them. You will need to use all three

72. Restrictions on scrutineers — s. 4.71(1)(j)

A scrutineer — (a) is **not to be in any polling place specified in his or her notice of appointment if another scrutineer appointed by the same candidate is also there except where one of them is only there to cast or deliver his or her vote;** and (b) is not to take any part in the conduct of the election; and (c) is to comply with the restrictions imposed by section 4.89 as to conduct in or near polling places; and (ca) is not to record — (i) the name of a person who presents himself or herself to an electoral officer at the polling place to obtain a ballot paper; or (ii) any other information provided by that person under regulation 61(2)(b); and (d) is to

comply with reasonable requests made by an electoral officer; and (e) in exercising the rights given by regulation 71(d), (da) and (e), is to comply with directions given by the RO.

[Regulation 72 amended in Gazette 22 Dec 1998 p. 6871; 25 Jan 2001 p. 588.]

The problem is that the old legislation states that the candidate can have as many scrutineers as he likes in the first section but one should read the restrictions too and nobody did. (Regulation 72)

The guide used by the Returning Officer was written in July 2017 by the Department of Local Government, Sports, and Cultural Industries and is not clear on the matter of number of scrutineers.

Part 15 — Disputed returns

84.How invalidity complaints made — s. 4.81(2)68

85.Declarations that Court can make — s. 4.81(2)68

86.Notice and report of effect of Court’s decision — s. 4.81(2) and (4)69

87.Orders as to costs — s. 4.81(2)69

See:

[https://www.slp.wa.gov.au/pco/prod/filestore.nsf/FileURL/mrdoc_25799.htm/\\$FILE/Local%20Government%20\(Elections\)%20Regulations%201997%20-%20%5B03-a0-04%5D.html?OpenElement](https://www.slp.wa.gov.au/pco/prod/filestore.nsf/FileURL/mrdoc_25799.htm/$FILE/Local%20Government%20(Elections)%20Regulations%201997%20-%20%5B03-a0-04%5D.html?OpenElement)

reg. 70 and 72

Complaints about scrutineers Complaints about the behaviour of scrutineers are likely to come from the presiding officer who may be experiencing difficulties. They may also come from scrutineers of other candidates. If there are complaints, the offences more likely to be the subject of a complaint on polling day are that the scrutineer: • **remained in the polling place at a changeover of scrutineers at the same time as another scrutineer working for the same candidate;** • drew attention to themselves by speaking to electors as they entered the polling place (for instance, greeting voters); • was not wearing identification of his or her appointment as a scrutineer; • was not carrying his or her appointment of scrutineer Form 18; and • was not complying with the reasonable request of the presiding officer.

We live in a democracy, I would like reassurance that the Electoral Commission with its own staff conducted the whole of the election and not the staff at the City of Joondalup please. How can I find out this information please?

I was advised to submit a complaint to the Court of Disputed Returns when in fact was merely attempting to have the matter clarified.

Red tape had become crossed somewhere and it is confusing for any member of the community and even more intimidating to be advised to complain to a court.

The Electoral Commission might have just advised and perhaps even provided useful information as I am an ordinary member of the public with no law background, that I was not reading the legislation and regulations correctly.

In my opinion, there exists a major issue affecting the electorate in Joondalup is that the Global Heart Church has grown because the City of Joondalup has allowed development in a commercial zone and we now have 10 churches which espouse the value of prosperity Christianity in the same electorate. Each church member is required to tithe 10% of their income too which inevitably increases the strength of the organisation.

There is such a blurring of the Church and the State boundaries that nobody can be sure that the Mayor was elected by the people of Joondalup and not by the Church.

Recommendations

1. That a review of the LGA (Elections) Regulations is conducted to increase clarity and conformity with the current published but opposing concepts. One cannot have “as many scrutineers” and then state “only one to be there except to cast a vote”! This was interpreted by the Returning Officer as one scrutineer at a table at a time when in fact, as I read it, the regulations effectively allow for a scrutineer to relieve another for time out.
2. The Guide book for Returning Officers needs to be reviewed by someone who is aware of all the various legislation and regulations and rewrite it before the next election.
3. That in person, secret ballot system is conducted using a ballot box to be held in a local community centre and then the count be conducted by people employed by the Electoral Commission. I am suggesting a change from the current practice of postal votes to an in person voting system, because nobody knows about the handling procedures once the voting sheet is posted.
4. OR: Hold all processes of the handling of the postal voting system “in camera” so that any irregularities are recorded in the event of complaints in the future. This will inspire confidence that the process was ethical.
5. Consider preferential voting instead of first past the post.

Finally, in regards to the current problem about dealing with a Lord Mayor, who has been found to have breached on 44 occasions about not declaring gifts and donations, along with a blatant disregard for compliance with LGA has been agonisingly protracted. To me, if a person in a position of trust and authority decides to breach, there is no currently no deterrent or remedy against this behaviour. Ratepayers have been forced to watch and listen while this person continues to refuse to stand down and the case is now before the courts on appeal. Perhaps a list of penalties might be stated in the amended Act to cover the most serious conduct issues that are subsequently referred to the ACCC. This has been commented here separately from the section on conduct and behaviour because it goes to the heart of the inherent systematic dysfunction which has been occurring in many other Councils for some time, eg. Ipswich, Exmouth. A fresh reading of the McIntyre Report will highlight to the reader that it was reiterated that there are inherent problems with all Councils and will continue to occur. Why continually waste money – let’s get it right the first time. We in Joondalup have only implemented one of the recommendations from the McIntyre Report but there were many others we could review.

By way of a protection against any re-occurrence of similar behaviour in the future The Attorney General or someone of that level be officially empowered to be able to advise that the services of such a person are no longer required, without having to sack a whole council. Also write into the legislation that there is NO right of appeal, and there is always a possibility of a term in custody, or a financial penalty. I find that the whole situation was untenable and quite unbearable as regular reporting has also seriously impacted on the community with the consequent loss of trust in Council business.

RECOMMENDATIONS

1. Access the information within the McKell Report because it has already worked on a review of the Local Government Act recently
2. Access the information from the Harper Review in particular Sections 45 and 46.
3. Conduct a literature search to ensure that when drafting the new Local Government Act it will be considered ‘fit for purpose’ without requiring numerous amendments which would delay it through Parliament.

Thank you for allowing this opportunity to participate in this important initiative and for taking the responsibility for addressing the need for a review of the Local Government Act.

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