



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: Noel Mason

1. Relationships between council and administration

Introductory questions

- 1) Would you like your submission to remain anonymous?
No
- 2) Postcode:
6365
- 3) Who are you submitting on behalf of?
Yourself
- 4) Local government name:
- 5) Organisation name
- 6) Are you a:
Local government employee

Defining the roles of council and administration: Guidance questions

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

No issue with current roles and definitions - whatever additions proposed to role should help with definition and clarity. Do have concerns with the degree to which Councillors remain in the decision/policy/strategy framework. Nothing like a bit of politics to shift the demands of Councillors toward direct and manage or play politics with people's careers and livelihoods. Having overstepped those boundaries, would like to see a forced local process where (with assistance of Dept or independent person) there can be an orderly, non judgmental, educational and if necessary severely counselled return to a role within boundaries of both CEO and Councillors. Processes that immediately end with Departmental inquiry, CCC or Public Sector Commission responses be defined in such a way that the criminal offences are clearly stated when breached. On recent form with the City of Perth - we acknowledge how difficult that can be.
- 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?

Being elected does not place you above challenge - but the law has become too complicated for the wisest of Councillors. Attempts to write law and regulation to cover ALL possible probabilities of bad behaviour bring a multitude of layers that make things unworkable. Act should only focus on events/activities/behaviours that deserve challenge and let the rest go thru to the keeper, I'm sure the Council as a collective, peer pressure or public pressure will measure the members value/performance at the next election. Examples - Pecuniary interest, gifts, breaches of Code of Conduct become way more difficult for the "ordinary" person to understand and effectively impossible to apply.

Improving relationships between council and administration: Guidance question

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

I don't believe external agencies making the appointments will result in better outcomes in the Council/CEO relationship. First impressions/understandings matter - and it is not just a one way street. Many CEO's size up Councillors in interview - to gauge whether they can work with them. If external parties undertook most of that work - the relationships may be lost before beginning.

Not all Councillors understand what they are looking for in a CEO appointment and in the CEO's ongoing performance - assistance helps, but external party may be no help in sorting out the relationship issues if the early processes were mismanaged.

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?

Should competencies and skills be scaled to the size of the local government when consideration of these requirements? My view is that such an approach would be helpful.

- 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)?

If the desire is to lift the standard of Councillors skills and capabilities - then the State should pay what it needs to do that. The training "industry" sets the price - which is restrictive for many persons to have serious attempts to become more quali

- 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?

Number of Councillors needing training - setting an annual fee. In that way the Councillors may feel an obligation to spend it!

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

Set minimum standards; have prior learning options and refresher options.

Signing off on or having completed training and learning - should then result in immediate suspension from acting as Councillor if subsequently

found not to have followed something that was part of the learning. e.g If having done pecuniary interest training - any subsequent fail to declare should result in immediate suspension until matter investigated and resolved.

2.3 Mandatory training

Mandatory training: Guidance questions

- 19) Should elected member training be mandatory?

Yes

- 20) Why or why not?

My logic tells me there will always be a percentage of Councillors who will benefit from training and same for those who will eventually stuff up.

- 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?

Set higher standards with Prior learning - e.g if a Company Director or Board member - OK - everything else still must meet standard. Then some persons would see it appropriate to undertake this training - raising the bar yet again.

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

A block of the most important 4 units - 12 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?

Attendance at WALGA Conference - 1/3 of CPD points.

Attendance and completion 1-2 of WLAGA or Dept units of study 1/3 CPD points.

Attendance at regional zone and other meetings 1/3 CPD points.

CPD be calculated over the term of appointment 4 years, 2 years or lesser terms - so that you have to do some of above each 4 year term.

Training: Guidance question

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

Have to break the marketplace manipulation on cost. Average \$500 day for participants is too high, especially if newer Councillors want to do 5-10 days a year to give them a good grounding and catch up.

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.

Standards after- all are built around principles - the principles should apply to all persons. Allowing variance LG's in terms of how much rigidity would be applied relating to a principle - would create trouble in application.

Which option do you prefer for codes of conduct and why? No enforceable Code at Law - that the Code be a Guide to Councillors and staff. Model Code would be sufficient.

Regulations and LG Act should clearly describe what will be enforceable in terms of breaches of behaviour. No that Town Planning matters are generally with DAPS the opportunity to get really political over re-zoning (where potential for misbehavior is highest) has been removed.

Referral of a matter to the Dept could be made by public, staff, Council - and when a matter is under investigation - member be stood down forthwith without rights of appeal until matter determined. A range of referrals to CCC should be available under the Act - with varied penalties etc.

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

As a guide - no need to enforce - removing one mess.

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 has a base in something that Councillors already know and understand. Having some local autonomy on issues would be good for Councillors to recognise that some aspects are going to be looked at by others. Without this overall "threat" on investigation by others - behaviour won't change.

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

The Local government should have the authority to consider and deal with all - (local autonomy principles) but a decision of the Council or CEO could be permitted to "opt up" any questionable behaviour when it is felt that local action is not likely to result in a satisfactory outcome.

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?

System is complicated enough now - what's to say a local member couldn't influence local outcomes in their favour!

Councillors who intend to behave badly generally have a belief that they have a right to do what they do, if not they would conform. Their actions are rarely taken in ignorance, they are political and for effect - to impose influence. Establishing a local outcome based framework will just give them permission to walk through that too! Then what?

The threat of external investigation is the only limiter to behaviour - because an external party determining if the behaviour was acceptable - is both educational, more balanced (when rule of law etc applies) and has an outcome that is beyond the recalcitrant parties influence. The only real way to make them accountable for their actions.

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.

Fairness - release of the fact that a complaint has been made is an old trick in election campaigns. Breaches should be followed up even when a candidate is unsuccessful and if found to have used the tactic serious fines - e.g. equivalent to the sitting f

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?

Brings into question the legal term "improper use". If the information has an improper use - what happens if the information is released 12 months and 1 day - the use is still improper. If the thinking is that after 12 months the influence of such information reduces - maybe - but my guess is that improper is improper no matter the time-frame.

- 44) Should this restriction apply to former employees?

Yes

- 45) Please explain?

But argument above still applies

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?

Fairness - release of the fact that a complaint has been made is an old trick in election campaigns. Breaches should be followed up even when a

candidate is unsuccessful and if found to have used the tactic serious fines
- e.g. equivalent to the sitting f

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?

Don't like the idea - I understand the view that local determination of complaints may improve speed in the process and eliminate many complaints from reaching the Standards Panel (but 14 out of 59 doesn't suggest the system is broken) The question should

49) What powers should the Conduct Review Committee have?

Don't agree - not needed

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

ALL

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?

N/A

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

N/A

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

55) If not, what do you propose?

Resource the current system sufficiently to act/repond more speedily.

Review of elected member non-compliance: Guidance questions

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

Status quo - external check - keeps local processes under control

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?

Yes

60) Why or why not?

Within a permitted framework - or you may just encourage each party to trot out the same behaviour

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?

Electorate should know what the restriction is for - members need to know that consequences can occur

How many meetings should the Panel be able to order the elected member not attend?3-4

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

No

64) Why

Didn't sit

Compensation to the local government: Guidance questions

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

Yes

66) Why or why not?

Penalty is the deterrent

67) What should the maximum amount be?

\$5000 - on each complaint

Complaint administrative fee: Guidance questions

68) Do you support this option?

Yes

69) Why or why not?

Costs are the deterrent

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?

Refund the fee or part of the fee where complaint found to be genuine and relevant to the conduct of members.

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

\$100

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

Yes

76) Why or why not?

Refund part fee - where complaint finding minor breach - important aspect is that complaint comes with an obligation to find the \$100 - surely if the complaint is serious - that is not too hard.

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?

Don't agree with the idea

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?

Normal part of process - public must be aware of findings of complaints - this is a guaranteed way of recording such

Tabling decision report at Ordinary Council Meeting: Guidance question

81) Do you support this option?

Yes

82) Why or why not?

Again - learning material

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?

Maintain the same rules throughout - make it apply to all circumstances - reduces confusion and affirms fairness.

As a member - what decision is that important that you have to vote? If the Council (collective) was of a mind to be split on a subject matter

- 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?

I have concerns about the influence of members in the informal processes used to discuss topics - prior to any reports or decisions being taken at a Council level. The impartiality provisions should apply to all "non formal" processes - maybe a statement of "I may or may not have an interest or an impartiality interest in this matter that when formally required to vote on the matter may preclude me from partaking in the decision making process" - it alerts all present that the potential to influence exists in the conversation/workshop/forum or whatever other process is used to pre-load information about a subject matter.

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?

Having been through the process of recruitment recently - interviewed by 4 Councils - there was not in any way a consistency in the process. Some practices (items) bordered on illegal and certainly would be considered outside of the guidelines that any competent person knowledgeable in HR practices should expect to find in the appointment process. Some of this was driven by desperation to attract suitable candidates - some by Councillors not being familiar with appropriate practice or legal requirements in terms of fairness, equity or equal opportunity. In one case the Council was supported by the 3rd independent consultant (industry specialist) who in my view demonstrated bias towards their "preferred" candidate - over and above other significantly qualified candidates.

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

Maybe a process that requires the Shire to submit an outcome statement (e.g like a Compliance Audit Return) that is viewed by a panel of industry body specialists - Dept LG, WALGA and LG Professionals who can ensure that the outcome was created by fair and consistent processes and that the most suitable candidate was found for the position. Mayors or Presidents should have to fill in the Return after the appointment process.

If a framework for the process was created detailing all the required aspects - then support from independent persons suitably qualified to run the process is more likely - as the Councillors wouldn't want to be responsible for a process that required a degree of responsibility.

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

Yes

91) If so, how?

But only as an available 3rd party support - make them cheaper than specialists and let the market decide

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

Yes

93) If so, who and how?

3rd party support

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

Doesn't matter - contemporary HR would suggest that "what does the Councils strategic plan call for in a CEO" is more important. Certainly CEO's need adequate financial exposure to be able to manage the size of the LG that they are applying for - but outside of that - if the Council is aware of the attributes it needs in a CEO - then that is all that matters.

This clearly is an issue that should be scaled in LG - metro, large, regional, small and then remote LG's all have individual characteristics that help determine the nature/character and experience required in a CEO. Let that be the guide - leave it to the Council as now exists - just support more to eliminate the variances - and lodge a degree of accountability in the system.

4.2 Acting Chief Executive Officers

Acting CEOs: Guidance questions

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

No

96) Why or why not?

Most LG's have a practice suitable to their needs - why disturb that? It is unlikely that they will tolerate not having a CEO for long!

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

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)?

Council

4.3 Performance review of local government Chief Executive Officers

Performance review of local government CEOs: Guidance questions

- 99) Who should be involved in CEO performance reviews?

Council

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

Clearly there are multiple criteria that a CEO can be expected to perform against - not all are possibly aligned - but most would form a reasonable expectation of a LG's performance. Staffing, finances, strategic achievement, Council relations, community relations, special project outcomes.

I present the CEO's performance criteria in a table of actions currently underway each two months. One month - Performance specific targets, next month more in tune with strategic plans - between the two - the evidence of what is happening is under constant view of the Councillors. Any arguments that Councillors have in relation to performance can be raised consistently - against the strategic plan or the performance report. As is an expectation of the CEO with staff - performance is a day by day proposition and so should the CEO be able to be questioned as such by Council.

In addition - a Committee of the President and the Deputy President meet with the CEO 6 monthly to have more in depth discussions about specific items of performance. Seems to work OK - no dramas so far - because the

Councillors know they can complain/react/discuss performance at any time.

Only in this way do you align performance against output required - anything else is political - but when raised against output issues - then the politics is clearly seen for what it is. No-one will object to performance when all you are undertaking is their plan.

101) How often should CEO performance be reviewed?

As per above - formally every 6 months in private discussions - with President and Deputy President

With Council every reporting month - both in terms of the strategic actions and the CEO's targets for the year.

102) Which of the above options do you prefer?

Let the LG decide what is appropriate for them at the time. provide flexibility that they can refer to 3rd parties for assistance or do it in house. CEO's are not beyond the understanding that dealing with performance as openly and comprehensively in a re

103) Why?

Yes

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

As above - constant reporting performance

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?

Life of the contract if under 2 years! If there is a political demand to remove the CEO - and a balance of power has resulted in such, half the life of a

normal term of an elected Councillor would make them realise that this is not an option if they want to get things done in the first 12-24 months.

If the Council terminates because of performance at next review - let the CEO automatically be able to take the Council to the Arbitration Commission on the basis of unfair dismissal. It is very easy for a Council to appoint an independent 3rd party to assist in the performance assessment of the CEO - and the report can be weighted to what the majority on Council want to do. So if the report finds CEO has to improve - then 12 months is a reasonable expectation - in which time the 2 years would be up and then they can terminate.

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

If annual reviews are established - between annual review and election. If not 6 months.

108) Should there be any exceptions to this?

Pay out the contract! Seriously, if the CEO was qualified and accepted into the position - and the previous Council was completing performance review and accepting the continued performance - then to want to end the employment anytime within 2 years of an

4.5 Public expectations of staff performance

Public expectations of staff performance: Guidance questions

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

No

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

No

111) If so, what?

There are already restrictions (bankruptcy, fraud etc.) I think that CEO's should tighten the processes more - good administration should extend to sound HR practices. Many of the acceptance letters to staff in being offered a job leave a lot to be desired in terms of coverage of the legal positions on a number of subject matters - that generally come back and bite you later.

Strengthening local government administration: Guidance question

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

Maybe auditor general processes - HR, appointment processes, payroll policy, HR policy, performance review and evidence of performance review, Council reporting processes, wider risk management processes could ALL be looked at as a matter of advice and education at audit - CEO then reports changes back through the Compliance Audit process annually. The Dept could then target perceived weaknesses across the industry on a semi regular basis.

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?

Suitably qualified and experienced external party would be best - I'm sure the industry is littered with them - their on ground deputy should be from the Department. Not all persons know the requirements or the procedures needed to bring things back on track - but certainly the Dept may.

I am of the view that the Depts Risk and Compliance team should have inspectors that can float through the industry and undertake non audit inspections on a week by week basis; of all the other processes in LG that a Council should be compiling and acting on. Purely again - support and assist, but if you are not looking; anything can happen. Happened previously the Dept has a team of inspectors - it creates a day to day "fear of compliance" and without that fear - many CEO's bring a air of non-compliance and poor practice into their approaches simply because of time pressures.

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.

Both - if they don't ultimately have the power to take control - then process undermined.

117) Who should pay for the appointed person?

If appointed - the local government

118) Why?

Because that can be their penalty - let them explain that to the ratepayers.

Fines for non compliance - would be a way to get the administration to put some importance on issues

Powers of appointed person: Guidance question

119) What powers should an appointed person have?

Power to dig into the practices and procedures from top to bottom - walk round the building and ask a few questions - won't be long before you get an impression of how the administration is travelling - check a few files, reports and then if not comfortable - check deeper to a Council level.

Remembering that Dowerin occurred even after the auditor had failed to pick up the fraud. Unless an appointed person can get sealed bank statements - no other action can confirm the financial position; so form a financial perspective - they must have that power.

At a Council level - unless you have the power to recommend to the Minister that a Council or members on a Council cannot be suspended or dismissed - then what power do you have. Ideally - support, education and assist - but the power must always be there.

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.

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?

Get someone out to the LG sooner than later to see what is going on.

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?

Increase the pool and connection between the two industries - not all State employees see themselves as being compatible to the types of LG jobs and visa versa - but described compatibility between the various levels in the Awards may help people see that there are similarities in the work undertaken.

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?

It would be easier to shift from one State to another in LG than it would be to change from State to LG in WA. Align the Award descriptions in term of the State levels.

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?

No

133) Why or why not?

134) If yes, what gifts should be prohibited?

Excluding gifts received in a personal capacity: Guidance questions

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

No

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

Open to manipulation of what's personal.

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?

Eliminate as much confusion as possible - if you receive - declare.

Seriously - I have worked in LG 20+ years and Federal Government for 10 years - never in all that time have I had someone come and offer any form of gift to the value of \$500 - so the declarations will be pretty light on the ground - and that is a good thing.

Of those that receive any form of gift above \$500 have to declare then not vote on any application from the donor - might catch a few members out initially - but I can bet that they won't go accepting gifts again - and that has the desired result.

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 4

Why? The general aim of the local government is to get the information to as many people as possible. Rarely would it be that a LG deliberately hides adverts. Today - cost is a driver for all press - electronic saves considerable cost.

Interaction with our residents comes in many ways - we are finding pointer ads on Facebook groups and Text messaging via Telstra are the best way to get to the majority quickly - so why wouldn't you do that too with a reference to the website. Makes sense - use whatever technology gets to the widest audience - if the LG's website is a minimum - then that should be the standard.

- 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.

Links at alternate websites is possible - e.g. Town planning matter comment period could be advertised via a number of websites - DAP Dept, LG

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

Yes

- 144) Please provide details

Links at alternate websites is possible - e.g. Town planning matter comment period could be advertised via a number of websites - DAP Dept, LG

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 Website only
	Minutes of council, committee and elector meetings Website only
	Future plan for the district Both
	Annual Budget Both
	Notice papers and agendas of meetings Website only

Reports tabled at a council or committee meeting
Website only
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
Website only
Gazetted Local laws (and other law that has been adopted by the district)
Website only
Rates record
Website only
Electoral roll
Website only

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

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

Yes

147) If so which items?

DAPs hearings

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.

No

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

Rarely

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

\$0

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 3: Policy requirement

154) Why?

Let the LG decide how much to make available - size and scale matter - and many will decide what is needed for their circumstance

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	Not Required
Diversity data on council membership and employees	Optional
Elected member attendance rates at council meetings	Required
Elected member representation at external meetings/events	Not Required
Gender equity ratios for staff salaries	Optional
Complaints made to the local government and actions taken	Optional
Performance reviews of CEO and senior employees	Optional

Proposal	Should this be made available: No, optional, required?
Website to provide information on differential rate categories	Optional
District maps and ward boundaries	Optional
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.

Audit Regulations - register of light items! How ridiculous - a register doesn't stop things from being wasted, unaccounted for stolen - but it will certainly create work for many people!

There needs to be a recognition that with every Act change, rule, regulation, procedure or process - stating such is just the beginning. The CEO (and staff) have to ensure that the matter meets the worthwhile test - and rigidity test and decide if the processes of establishing the requirements actually deliver any reasonable or valuable output or commodity. If it doesn't - then it is highly likely that non compliance with the process or procedure to capture the data in the first instance will not occur; so compliance will never be an outcome. Is this what adds value to LG? Ideally - if a rule is to be met - people see value in establishing the processes to make it happen - anything less is a burden on the LG and in my view - red tape created by others that has a cost to you - but delivers less than its value. In all those cases - don't do it, have the chance to opt out - and the Council decides to opt out - and takes the responsibility if anything goes wrong afterwards. See below - solutions!

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

Recognition that everything should be optional - and let the organisation determine suitable measures to meet accountability standards - in many cases the identified issues elsewhere never impact at a local level - but you have to maintain the records or meet the procedure to gain compliance - when a simple process may have got you to a point of good compliance.

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

Require every LG organisation to maintain a Compliance Register on a month by month basis - then report all non compliance to Council each meeting. In that way - if non compliance is the result of requirements seen as unnecessary at a local level - then the Council takes the responsibility for that. If the Council requires compliance - then resources and managerial oversight will occur to meet compliance.

True local processes - If my local government is required to but doesn't wants to advertise attendance at meetings - then they opt out on the Compliance register when it comes around to that particular requirement

once per year. At the end of the year - Audit Compliance reporting could include all those sections of the Act and Regs that you have opted out of.

Let the local processes decide what compliance and red tape should look like. Having to advertise over sized sheds and over height sheds in Kulin because the State R Codes say what the wall heights and area size in residential areas should be - is really red tape taking us to more cost and effort.

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.

R Codes in Country areas - if the Council has policy

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

Advertising, reporting to Council - no public comment - what a waste of time. In a country town - shed sizes adopted for Perth residential areas where the lots are never the old 1/4 acre - makes no sense at all.

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

Remove requirement of applying R Codes to country towns

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?

Sets a standard in most cases that should be there - in some instances more than a normal majority should be needed

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?

Again this should be scaled to suit the size of the LG. In a smaller LG - has no effect - other than to meet more requirements and create more red tape. many LG's only have CEO - and no senior employees. If CEO is responsible for staff - therefore why should Council have a say in the DCEO appointment, dismissal or performance management?? Could have been the CEO causing the problems.

Does that mean that the CEO can't successfully find a solution to appointing a deputy - that the Council don't trust that he/she can - if so - why is he/she the CEO?

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

No

- 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?

Yes

- 166) Why or why not?

Adds complexity to an already reported provision - not the first time the Accountants have run away with the baby and the bathwater!

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,

Yes

168) if so how high?

To the approx value of a road grader at 10 years life

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?

Yes

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?

No

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

Most property disposals are done as part of a tender or changeover situation - the public expect that - and most Councils oblige

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?

Not likely to be too many regional subsidiaries if limited to expecting the Councils involved to foot the bill on all projects or strategies

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.