



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**

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Phase 1: Consultation Paper

8 November 2017

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# 1. Relationships between council and administration

## Introductory questions

- 1) Would you like your submission to remain anonymous?  
No
- 2) Postcode:  
6056
- 3) Who are you submitting on behalf of?  
Yourself
- 4) Local government name:
- 5) Organisation name
- 6) Are you a:  
Other

## Defining the roles of council and administration: Guidance questions

- 7) How should a council's role be defined? What should the definition include?  
To provide and maintain local infrastructure to support residential and commercial properties.  
To enforce by-laws, in particular those relating to community safety.
- 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?  
Give individual more authority over administration staff in relation to information. Particularly in relation to reports prepared by officers recommending or not recommending applications or decisions.

## **Improving relationships between council and administration: Guidance question**

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

The CEO is responsible for the culture of any organisation. It is clear from my reading of minutes (City of Swan), and my dealings with Administration there is an unhealthy culture. CEO's must be suitably qualified and with proven leadership skills. Being aggressive is not a leadership skill.

## 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?

Ability to understand financial reports.

An analytical mind

Objectivity

Willingness to to listen to all opinions

Community minded

Courage to question reports from "experts"

Common sense.

- 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)?

WALG

- 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?

Local Government revenue.

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

All Councillors should be trained/retrained at the beginning of each term.

## 2.3 Mandatory training

### **Mandatory training: Guidance questions**

- 19) Should elected member training be mandatory?  
Yes
- 20) Why or why not?  
Because they are part time positions.
- 21) Should candidates be required to undertake some preliminary training to better understand the role of an elected member?  
Yes
- 22) Should this be Compulsory?  
Yes
- 23) Should prior learning or service be recognised in place of completing training for elected members?  
No
- 24) If yes, how would this work?
- 25) What period should apply for elected members to complete essential training after their election?  
3 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?

I do not know what training is available but training relevant to any committees they are appointed to, or special interests they have should be compulsory for Councillors.

### Training: Guidance question

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

Training should be ongoing.

## 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.

The simple response is why should there be a difference.

Which option do you prefer for codes of conduct and why? I do not support any model which gives local governments the ability to modify.

31) How should a code of conduct be enforced?

An oversight committee which includes representatives from Ratepayer groups.

### 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?

No

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?

No

36) Is three months adequate?

No

### **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?

Yes

- 41) Please explain.

The target of a complaint could be, if vindictive and a bully by nature, make the complainants life "hell".

#### **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?

Because some of that knowledge could be used to some ones advantage or disadvantage.

- 44) Should this restriction apply to former employees?

Yes

- 45) Please explain?

Unless they are subject to a "Privacy" agreement no such ban should be imposed.

#### **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?

The target of a complaint could be, if vindictive and a bully by nature, make the complainants life "hell".

### 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?  
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?

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?

I see no reason not to.

#### **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?

That would depend on the complain in hand.

How many meetings should the Panel be able to order the elected member not attend? As long as it takes to resolve the complain/issue.

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

No

64) Why

That would be rewarding the accused.

#### **Compensation to the local government: Guidance questions**

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

No

66) Why or why not?

Ratepayers already contribute to Local Government and one could argue ratepayers contribute too much already, for what they get back.

67) What should the maximum amount be?

ZERO

### Complaint administrative fee: Guidance questions

68) Do you support this option?

Yes

69) Why or why not?

It may deter frivolous complains.

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?

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?

Yes

76) Why or why not?

That should be a function of Government

### **Cost recovery to local government: Guidance questions**

77) Do you support the cost of the panel proceedings being paid by a member found to be in breach?

Yes

78) Why or why not?

Appropriate penalty.

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

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

Yes

80) Why or why not?

Ratepayers have a right to know what goes on in Council. It is very difficult to source information from Council.

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

81) Do you support this option?

Yes

82) Why or why not?

Absolutely yes. Shaming is a good deterrent.

## **3.6 Elected member interests**

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

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

Yes

84) Why or why not?

Some not for profit organisations do very good work in the community, and some don't. These organisations must have the opportunity to present a case before decisions are taken.

- 85) Would your response be the same if the elected member was an office holder in the organisation?

No

### **Improving the behaviour of elected members: Guidance question**

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

Relating to the previous question: Presumably that office holder would have already had some input any way.

## 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?
- Recruitment at all levels should be carried out by qualified professionals (agencies) with a short list presented to council. That agency should brief councillors on the pros and cons of each shortlisted candidate and should sit in on all subsequent interviews.
- 89) How could the recruitment and selection of local government CEOs be improved?
- By having ALL applications submitted to an Professional Appointments agency who will provide a shortlist to Council.
- 90) Should the Public Sector Commission be involved in CEO recruitment and selection?
- Yes
- 91) If so, how?
- The PSC could be the final step before an appointment is made. Not for approval, but for information purposes.
- 92) Should other experts be involved in CEO recruitment and selection?
- Yes
- 93) If so, who and how?
- Professional recruitment agencies should handle the process from submission of applications through to shortlisting.
- 94) What competencies, attributes and qualifications should a CEO have?
- Proven leadership skills.

Local Government qualifications

Community acceptance at previous Local Governments

## 4.2 Acting Chief Executive Officers

### Acting CEOs: Guidance questions

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

Yes

- 96) Why or why not?

Acting CEO's should be from the management level immediately below CEO and should be suitably qualified to be a CEO. That does not mean I support appointments of CEO from within the organisation.

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

The Mayor.

- 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)?

At a council meeting.

## 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?

Mayor and representatives from community and ratepayer groups/associations.



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

Community satisfaction with provision and maintenance of services and utilities.

Community engagement/consultation.

101) How often should CEO performance be reviewed?

Annually

102) Which of the above options do you prefer?

Option 3

103) Why?

No

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

#### 4.4 Extension or termination of the Chief Executive Officer contract immediately before or following an election

##### **Termination or extension of CEO contract around an election: Guidance questions**

105) Would a 'cooling off' period before a council can terminate the CEO following an election assist strengthening productive relationships between council and administration?

Yes

106) What length should such a cooling off period be?

6 months

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

6 months

108) Should there be any exceptions to this?

no

## 4.5 Public expectations of staff performance

### **Public expectations of staff performance: Guidance questions**

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

Yes

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

Yes

111) If so, what?

Criminal record

Assault of any kind

### **Strengthening local government administration: Guidance question**

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

No

## 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?  
Because that should be an arms length appointment.
- 115) Should the appointed person be able to direct the local government or would their role be restricted to advice and support?  
Direct the local government
- 116) Please explain.  
For this to be necessary says to me there is a sick culture, so appointing someone from within that culture is pointless.
- 117) Who should pay for the appointed person?  
That Local Government
- 118) Why?  
Because that is where the problem is.

### Powers of appointed person: Guidance question

- 119) What powers should an appointed person have?  
The roll of CEO in conjunction with the Mayor

### 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.

Because it removes the cancer and brings in a fresh and presumably a person of integrity.

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

Qualifications and history.

### **Supporting local governments in challenging times: Guidance question**

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

no

## 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?

The fact that both are paid from the same revenue base I think it logical and both levels could benefit.

### **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?

No

## 7. Gifts

### 7.1 Simplifying the gift provisions

#### **A new framework for disclosing gifts: Guidance questions**

128) Is the new framework for disclosing gifts appropriate?

Yes

129) If not, why?

130) Is the threshold of \$500 appropriate?

Yes

131) If no, why?

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

Yes

133) Why or why not?

Gifts from developers should be banned.

134) If yes, what gifts should be prohibited?

Anything and everything.

#### **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?

It's a grey line so should be banned.

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

No

138) If so, what should these be? Please justify your proposal.

### **Gifts: Guidance question**

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

## 8. Access to information

### 8.1 Public notices

#### Public notices: Guidance questions

- 140) Which general option do you prefer for making local public notices available?
- Option 6
- Why? Not every one reads the local paper and not everyone is computer literate or have access at home.
- 141) Should the requirements for any notice in the Supplementary Information - Public Notices be changed?
- Yes
- 142) Please list and explain the reasons for the proposed change.
- Maybe on a Departmental website set up for this purpose.
- 143) Could any of the notices in the Supplementary information be published on alternative websites?
- Yes
- 144) Please provide details
- Maybe on a Departmental website set up for this purpose.

### 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

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Schedule of fees and  
charges

Both

---

Proposed local laws

Both

---

Gazetted Local laws  
(and other law that has  
been adopted by the  
district)

Both

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Rates record

Both

---

Electoral roll

Both

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

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

No

147) If so which items?

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

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

no

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

### **Access to information: Guidance question**

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

## 9. Available information

### 9.1 Expanding the information provided to the public

#### Expanding the information provided to the public: Guidance questions

153) Which of these options do you prefer?

Option 2: Additional reporting requirement

154) Why?

There is not enough transparency so any step to remedy this I support.

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	Optional
Elected member attendance rates at council meetings	Required
Elected member representation at external meetings/events	Required
Gender equity ratios for staff salaries	Optional
Complaints made to the local government and actions taken	Required
Performance reviews of CEO and senior employees	Required
Website to provide information on differential rate categories	Required

Proposal	Should this be made available: No, optional, required?
District maps and ward boundaries	Required
Adverse findings of the Standards Panel, State Administrative Tribunal or Corruption and Crime Commission.	Required
Financial and non-financial benefits register	Required

156) What other information do you think should be made available?

Data supporting Annual Financial Reports should be made available online. The City of Swan Annual Financial Report is unwieldy and lacks detail. EG a figure is quoted for real estate purchased and sold, but no detail.

## Expanding the information available to the public: Guidance question

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

no

## **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?

The board of management "Council) should always have such authority.

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

Yes

164) If so, what criteria should define which employees are senior employees?

Their role and or length of service.

### **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?

## 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.