

# REVIEW OF THE LOCAL GOVERNMENT ACT 1995

Shire of Cranbrook

## Response to Department of Local Government, Sport and Cultural Industries Consultation Paper

### 1. TRAINING

Mandatory / Voluntary / Professional Development

- Council does not support the notion of mandated training for Elected Members.
- Training should remain voluntary, particularly in regional areas where opportunities are often restricted by travel factors (distance / cost) and seasonal farming commitments.
- Training needs should be predicated on Elected Member skill sets.
- Subsidised training opportunities (eg Royalties for Regions funding) should be made available where possible to reduce the financial impost on smaller regional local authorities.
- Training opportunities in larger regional centres should continue to be made available.
- Prospective candidates in Local Government elections should be required to attend a briefing session before nominating to become an Elected Member.
- There should be funding available for capacity building programmes to support the development and retention of local government officers – particularly in regional WA.

### 2. BEHAVIOUR OF ELECTED MEMBERS

Code of Conduct

- Council supports an Elected Member being stood down from their role when they are either under investigation, have been charged with an offence, or when their continued presence brings the Council into disrepute.
- Council also supports the view that it is appropriate for an Elected Member to stand down from any decision making role when contesting a State or Federal election.
- Any disruptive behaviour by an Elected Member can be (and should be) adequately addressed in-house and does not require legislative oversight.

### 3. STANDARDS PANEL

Rules of Conduct

- Council supports the current minor breach system and is not in favour of the establishment of a sector-based Conduct Review Committee (Option 2)

- Option 2 creates another layer of governance and creates further compliance requirements, particularly if the matter is ultimately referred to the Standards Panel for deliberation.
- The Standards Panel should be able to dismiss vexatious and frivolous complaints.
- The creation of suitable conduct legislation to govern the behaviour of Elected Members is desirable.
- Council does not support the imposition of a financial penalty for minor breaches, but does support the Standards Panel suspending the member from attending council meetings for a discretionary period.

#### **4. LOCAL GOVERNMENT ADMINISTRATION**

##### Recruitment and selection of CEO / Performance Reviews of CEO / Electors' Meetings

- The process to be used in the recruitment and selection of the CEO should be determined by the local authority.
- Where Elected Members do not have the either capacity, appropriate skills or experience required, it is appropriate for a third party to be involved in the process – which may, or may not, involve the Public Sector Commission. Such involvement should be entirely at the discretion of the Council of the local government.
- The appointment of an acting CEO should not be legislated, but enshrined in Council policy.
- The process for conducting CEO performance reviews should be determined by Council – and largely governed by existing competencies and experience.
- Third party involvement in the annual performance review of the CEO should be at the discretion of the Council. This may, or may not, include the Public Sector Commission taking on a guidance and support role.
- The CEO should also have the discretion to request third party involvement in the annual review process if deemed appropriate.
- Council does not support the need for an annual Electors' Meeting.

#### **5. SUPPORTING LOCAL GOVERNMENTS IN CHALLENGING TIMES**

##### Remedial intervention

- As a general rule, intervention by the Department is appropriate where there is clear evidence that a particular local government is failing to meet its compliance and / or reporting obligations.
- The establishment of a formal remedial action process is supported by Council.
- 'At risk' councils should be provided with funding incentives to encourage the appointment of temporary support staff and the development, where possible, of realistic and workable succession plans.

## **6. TRANSFERABILITY OF EMPLOYEES**

- The ability for local and State government employees to transfer leave entitlements between agencies, departments and local authorities is supported.
- The transferability of leave entitlements may be an inducement in terms of the future attraction and retention of staff.

## **7. GIFTS**

- Council is of the view that there should be one section for declaring gifts.
- Delete declarations for Travel.
- Gifts received in a genuine personal capacity should not have to be declared.
- Gift provisions should only apply to Elected Members and CEOs. All other staff should fall under the Codes of Conduct from the CEO to staff.
- Gifts should only be declared if above \$500.
- There should be no category of either notifiable or prohibited gifts.
- Council strongly agrees that the existing gift provisions should be replaced with rules that are simple, fair, and consistent, and related to an officer or Elected Member's role in local government. There should not be disparities between the State and Local Government sectors in the application and interpretation of the provisions.

## **8. ACCESS TO INFORMATION**

Public notices / Information available for public inspection / Expanding information provided to the public

- Council supports the amendment of Sections 1.7 and 1.8 of the Local Government Act to remove the statutory requirements for state-wide and local public notice to be given by way of a notice in a newspaper and instead, for public notices to be provided by electronic disclosure on local government websites.
- As a general rule, electronic disclosure should also be embraced for public disclosure requirements under the Act including the safe keeping of registers on a variety of subjects and making certain documents available for public inspection.
- It may be appropriate to provide for a phasing in period for electronic disclosure so that print notices are also provided for a transitional period.
- The current requirement to make available for public inspection information relating to contracts of employment for the Chief Executive Officer and other senior local government employees is not supported by Council. This section of the Act requires amendment.
- Council supports the amendment of Regulation 11 to require information presented in a Council or Committee agenda to also be included in the minutes to that meeting. This requirement accords with recognised best practise.

## 9. REDUCING RED TAPE

### Senior employees / Related party disclosures – AASB124 / Disposal of Property

- Council is of the view that Senior Employees should remain a designated category and CEOs should be required to inform council of any proposal to employ or dismiss a senior employee.
- Whilst Council recognises that this requirement may be viewed by some as a restriction of the powers of a CEO, it is intended to provide a workplace safeguard for senior employees who find themselves at odds with a new or existing CEO for whatever reason.
- The designation of employees as Senior Employees should be determined by the local government in accordance with section 5.37 (1) of the Act and enshrined in Council policy. Those employees designated as Senior Employees should report directly to the CEO.
- Council is strongly of the view that Regulation 4 of the *Local Government (Financial Management) Regulations* should be amended to provide an exemption from the application of AASB124 'Related Party Transactions' of the Australian Accounting Standards.
- Council supports the view that Regulation 30(3) should be amended to delete any financial threshold limitation on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services that are commonly applied in a trade-in activity.
- There needs to be legislative recognition in some form, of the differences between councils based on capacity and resourcing. It is unreasonable to expose a small regional council to the same compliance and reporting regime that would apply to a larger metropolitan city council, where resourcing is less constrained. Smaller regional councils often struggle to employ staff, let alone attract staff with recognised skill sets.

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