



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?

Local Government

- 4) Local government name:

Kulin Shire

- 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?

Status quo should be maintained - reasonably clear now what are the expectations of the Council and the CEO.

- 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?

No

- 11) How do you propose that these are improved?

Improving relationships between council and administration: Guidance question

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

There is a marked respect of what the staff do - and how they commit to the community - so never any major troubles.

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?

As stated - but our view is that the Councillor should determine the degree and complexity of the training they require to fulfill the position - not that it be dictated in the Act.

- 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)?

Local Government

- 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?

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

2.3 Mandatory training

Mandatory training: Guidance questions

- 19) Should elected member training be mandatory?

No

- 20) Why or why not?

Not a solution - Councillors need to understand their deficits in capacity. Attendance at one or two meetings will show that - if they think they don't have to do anything - sending them along under mandatory training will only generate angst against the training

- 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?

No

- 23) Should prior learning or service be recognised in place of completing training for elected members?

Yes

- 24) If yes, how would this work?

hard to judge what would be sufficient prior competency

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

1-2 years if brought in

2.4 Continuing professional development

Continuing professional development: Guidance questions

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

No

27) If so, what form should this take?

Training: Guidance question

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

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.

State based model codes would be more effective - not too many Local Governments would be able to draft a code and make it effective.

Which option do you prefer for codes of conduct and why? Existing industry created option

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

Remove the regulatory aspects - and have the LG determine if Code has been breached. If ratepayers have opportunity to lodge complaints to external bodies - then that will keep the LG in check.

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?

Streamline down to as little as possible

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

Anything major - like a breach of trust with the rest of the Council, failure to disclose interest.

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?

To complicated

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 and equity

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?

No

- 43) Why?

Not normally applicable in a remote rural LG

- 44) Should this restriction apply to former employees?

No

- 45) Please explain?

Rarely would information carry that weight - to be improper

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 and equity

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?
Nil
- 49) What powers should the Conduct Review Committee have?
N/A
- 50) In your opinion what matters should go directly to the Standards Panel?
Serious matters
- 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?
Leave as is - again - this sounds like a large LG issue - deal with that and leave small LG's out of the requirements - save us all more compliance

Review of elected member non-compliance: Guidance questions

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

Refer to the Standards Panel if serious or the CCC if illegal - do the rest in house.

- 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?
N/A - Don't support the panel approach but do support mediation
Always good to find a way through via talking - more a small LG process.
The rest seems like you are trying to cater for large LG's - not us - why burden all LG's with this material.

Prohibition from attending council meetings: Guidance questions

- 61) Do you support the Panel being able to prohibit elected members from attending council meetings?
No
- 62) Why or why not?
N/A - Don't support the panel approach

How many meetings should the Panel be able to order the elected member not attend?N/A
- 63) Should the elected member be eligible for sitting fees and allowances in these circumstances?
- 64) Why

N/A

Compensation to the local government: Guidance questions

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

66) Why or why not?

N/A - Don't support the panel approach

67) What should the maximum amount be?

N/A - Don't support the panel approach

Complaint administrative fee: Guidance questions

68) Do you support this option?

No

69) Why or why not?

N/A - Don't support the panel approach

70) Do you believe that a complaint administrative fee would deter complainants from lodging a complaint?

No

71) Is this appropriate?

No

72) Would a complaint administrative fee be appropriate for a sector conduct review committee model?

No

73) Why or why not?

N/A - Don't support the panel approach

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

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

76) Why or why not?

N/A - Don't support the panel approach

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?

No

78) Why or why not?

N/A - Don't support the panel approach

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?

Good to see what residents are complaining about in one place. - Don't be surprised that if for all bar 16 LG's the report will say NIL

Tabling decision report at Ordinary Council Meeting: Guidance question

81) Do you support this option?

No

82) Why or why not?

N/A - Don't support the panel approach

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?

Never had that problem - in terms of decisions - when in doubt our members declare and respect the the right of the remaining Councillors to make the decision

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?

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?
- No
- 88) Why?
- 89) How could the recruitment and selection of local government CEOs be improved?
- Leave it to the LG Councillors - they are ultimately responsible for the appointment and performance
- 90) Should the Public Sector Commission be involved in CEO recruitment and selection?
- No
- 91) If so, how?
- 92) Should other experts be involved in CEO recruitment and selection?
- Yes
- 93) If so, who and how?
- If LG wants that - but doesn't guarantee a better process - and costs more
- 94) What competencies, attributes and qualifications should a CEO have?
- Whatever the majority of the LG thinks he/she should have -

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?

Leave it to the LG

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

- 98) Who should appoint the CEO if there will be vacancy for an extended period (for example, while a recruitment process is to be undertaken)?

4.3 Performance review of local government Chief Executive Officers

Performance review of local government CEOs: Guidance questions

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

LG Councillors - we do now regularly

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

What the LG and CEO determines will be the criteria in the first place

- 101) How often should CEO performance be reviewed?

6 months

- 102) Which of the above options do you prefer?

Status quo - leave it to the LG to determine how they want to proceed with CEO performance review

103) Why?

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

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

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

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

No

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

N/A - leave it alone - let a decision of the Council determine the fate of the CEO

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

N/A

108) Should there be any exceptions to this?

N/A

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?

Let the LG decide what policy should apply and what they will accept

Strengthening local government administration: Guidance question

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

Leave as many decisions to the Council to determine at a policy, strategic and operational advisory level - then most things run smoothly

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?

Departmental employee

114) Why?

Only if the Dept wants to buy in. Has to be resolved at a local level - or it will resurface in some other way in the organisation or the community. If remedial intervention is required - then let the Dept come and advise the LG on how best to resolve the problem.

115) Should the appointed person be able to direct the local government or would their role be restricted to advice and support?

Restricted to advice and support

116) Please explain.

LG Councillors ultimately responsible so let them deal with it - and the ballot box will have a bearing on them and their action if they fail to resolve issues

117) Who should pay for the appointed person?

N/A

118) Why?

Powers of appointed person: Guidance question

119) What powers should an appointed person have?

Remedial action process: Guidance questions

120) Do you think the proposed approach would improve the provision of good governance in Western Australia?

121) Please explain.

Maybe - but depends on the value of the Dept intervention

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

Supporting local governments in challenging times: Guidance question

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

6. Making it easier to move between State and local government employment

Transferability of employees: Guidance questions

124) Should local and State government employees be able to carry over the recognition of service and leave if they move between State and local government?

125)

126) What would be the benefits if local and State government employees could move seamlessly via transfer and secondment?

Our aim is to get the best person for the job from the candidates applying - merit based

Making it easier to move between State and local government employment: Guidance question

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

7. Gifts

7.1 Simplifying the gift provisions

A new framework for disclosing gifts: Guidance questions

128) Is the new framework for disclosing gifts appropriate?

Yes

129) If not, why?

Take it all away for small LGs - never been an issue in small LGs - not as though planning rezoning and all those corruptible trips to the Olympics are tossed around down our way. If you want to cut back on the red tape for Councillors then remove gifts - bigger LG's may be a different issue.

Let the Council opt for a gifts policy - and have some model codes to chose from

130) Is the threshold of \$500 appropriate?

No

131) If no, why?

N/A - don't think gifts is an issue

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

133) Why or why not?

N/A - don't think gifts is an issue

134) If yes, what gifts should be prohibited?

N/A - don't think gifts is an issue

Excluding gifts received in a personal capacity: Guidance questions

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

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

N/A - don't think gifts is an issue

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

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

N/A - don't think gifts is an issue

Gifts: Guidance question

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

N/A - don't think gifts is an issue

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? Let the LG decide what is appropriate consultation and advertising - they generally WANT to be as transparent as possible - so why have any requirements that add even more burden - just stick to the Annual reports etc.

141) Should the requirements for any notice in the Supplementary Information - Public Notices be changed?

142) Please list and explain the reasons for the proposed change.

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

144) Please provide details

8.2 Information available for public inspection

Information available for public inspection: Guidance questions

145) Using the following table, advise how you think information should be made available:

Provision	Documents	In person only	Website only	Both	Neither
Section 5.53	Annual Report Both Both				
Section 5.75 & 5.76	Primary and Annual returns – for Elected members Includes – sources of income Trusts Debts Property holdings. Interests and positions in corporations. Neither				
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)				
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 & Administrative Regulations 29	Register of delegations to committees, CEO and employees Neither
	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 Neither
	Complaints register (concerning elected members) Neither

Contracts of employment of the CEO and other senior local government employees	Neither
Schedule of fees and charges	Neither
Proposed local laws	Both
Gazetted Local laws (and other law that has been adopted by the district)	Neither
Rates record	Neither
Electoral roll	Neither

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

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

147) If so which items?

If matter is contained in other documents - like Local Laws in Minutes and Fees and Charges in Budget - then NO - not extra advertising

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.

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)?

Little

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 1: Status Quo

154) Why?

Possibly too much now

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

Proposal	Should this be made available: No, optional, required?
District maps and ward boundaries	Not Required
Adverse findings of the Standards Panel, State Administrative Tribunal or Corruption and Crime Commission.	Not Required
Financial and non-financial benefits register	Not Required

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

Expanding the information available to the public: Guidance question

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

Defining red tape: Guidance questions

158) Which regulatory measures within the Act should be removed or amended to reduce the burden on local governments? Please provide detailed analysis with your suggestions.

a) Briefly describe the red tape problem you have identified.

I

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

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

159) Which regulatory measures within the Act should be removed or amended to reduce the burden on the community? Please provide detailed analysis with your suggestions.

a) Briefly describe the red tape problem you have identified.

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

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

10.1 Potential red tape reductions

Special majority: Guidance question

160) Should the provisions for a special majority be removed?

161) Why or why not?

Senior employees: Guidance questions

- 162) Is it appropriate that council have a role in the appointment, dismissal or performance management of any employees other than the CEO? Why or why not?
- 163) Is it necessary for some employees to be designated as senior employees?
- 164) If so, what criteria should define which employees are senior employees?

Exemption from accounting standard AASB124 - Related party disclosures: Guidance questions

- 165) Are the existing related party disclosure provisions in the Act sufficient without the additional requirements introduced by AASB 124?
- 166) Why or why not?

Disposal of property: Guidance questions

- 167) The threshold for trade-ins was set originally to \$50,000 in 1996 and raised to \$75,000 in 2015. Should that threshold be raised higher,
- 168) if so how high?
- 169) Should the threshold remain at \$75,000 but with separate exemptions for specific types of equipment, for example plant?
- 170) The general \$20,000 threshold was put in place in 1996 and has not been amended. Should the threshold be raised higher than \$20,000?
- 171) If so, what should it be and why?

- 172) Would raising these thresholds create an unacceptable risk that the items would not be disposed of to achieve the best price for the local government?
- 173) Is there an alternative model for managing the disposal of property? Please explain.

Reducing red tape: Guidance question

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

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.