

## **Local Government Act 1995 Review (Phase 1: Consultation Paper)**

<b>Guidance Questions</b>	<b>Responses</b>
<b>Defining the roles of council and administration</b>	
1. How should a council's role be defined? What should the definition include?	Current definitions are satisfactory
2. How should the role of the CEO and administration be defined?	Current definitions are satisfactory
3. What other comments would you like to make on the roles of council and administration?	No comment
4. Are there any areas where the separation of powers is particularly unclear? How do you propose that these are improved?	No N/A
<b>Improving relationships between council and administration</b>	
5. Do you have any other suggestions or comments on this topic?	No
<b>Elected member competencies</b>	
6. What competencies (skills and knowledge) do you think an elected member requires to perform their role?	Desired competencies covered in WALGA training modules of Diploma of Local Government (Elected Member) or the WALGA Elected Member Essentials of the Learning and Development Pathway
7. Do these vary between local governments? If so, in what way?	Yes – larger local governments have different requirements to smaller local governments – should not be 'one size fits all'

Guidance Questions	Responses
<b>Funding training</b>	
8. Who should pay for the costs of training (course fees, travel, other costs)?	Individual local governments
9. 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? Should contribution to such a fund be based on local government revenue or some other measure?	Funding should be available to all local governments, scaled with criteria such as location of local governments or regional criteria. Funding to be organised by WALGA, but only for the mandated training (if introduced). Additional training identified by an individual local government should be funded by the local government.
<b>Mandatory training</b>	
10. Should elected member training be mandatory? Why or why not?	No – benefit of training should be emphasised without making mandatory
11. Should candidates be required to undertake some preliminary training to better understand the role of an elected member?	No
12. Should prior learning or service be recognised in place of completing training for elected members? If yes, how would this work?	Yes – needs to correlate with desired competencies that are covered in WALGA training modules for elected members
13. What period should apply for elected members to complete essential training after their election?	Within six months, an individual local government should have completed an extensive induction program. Then annual training is determined on an “as needed” basis from administration to Council
<b>Continuing professional development</b>	
14. Should ongoing professional development be undertaken by elected members	Professional development should be encouraged by Council

<b>Guidance Questions</b>	<b>Responses</b>
15. If so, what form should this take?	Advice on relevant professional development training be provided and supported financially by Council to attend
<b>Training</b>	
16. Do you have any other suggestions or comments on training?	<ul style="list-style-type: none"> <li>• Recognition of prior learning</li> <li>• Standardise induction process across local governments and include meeting procedures and incorporate WALGA elected member training</li> </ul>
<b>Codes of conduct</b>	
17. Should standards of conduct/behaviour differ between local governments? Please explain.	Code of conduct should remain unique to individual local governments and not standardised, ie. based on individual Council's values
18. Which option do you prefer for codes of conduct and why?	Codes of conduct are required but the content is left to the local government's discretion
19. How should a code of conduct be enforced?	Non-compliance is to be dealt with by the local government as an internal disciplinary matter
<b>Streamlined rules of conduct</b>	
20. Do you support streamlined Rules of Conduct regulations? Why?	Yes – regulations should be clear and not onerous. Mediation is preferred first option before any sanctions and must commence asap after a breach is reported
21. If the rules were streamlined, which elements should be retained?	All of the general principles of the current regulations especially complaints confidentiality requirements as a matter of procedural fairness

<b>Guidance Questions</b>	<b>Responses</b>
22. Do you support a reduction in the time frame in which complaints can be made? Is three months adequate?	Yes – three months is adequate
<b>Revised disciplinary framework</b>	
23. Do you support an outcome-based framework for elected members? Why or why not?	Yes – less prescriptive and more outcome based
24. What specific behaviours should an outcomes based framework target?	Dysfunctional conduct and vexatious complaints
<b>Application of the Rules of Conduct</b>	
25. Should the rules of conduct that govern behaviour of elected members be extended to all candidates in council elections? Please explain.	Yes – to align the standard of behaviour during council elections of elected members and candidates
<b>Offence Provisions</b>	
26. Should the offence covering improper use of information be extended to former members of council for a period of twelve months? Why?	No comment
27. Should this restriction apply to former employees? Please explain.	No comment
<b>Confidentiality</b>	
28. Is it appropriate to require the existence and details of a complaint to remain confidential until the matter is resolved? Why?	Yes - complaints confidentiality requirements are a matter of procedural fairness

Guidance Questions	Responses
<b>Sector conduct review committees</b>	
29. What do you see as the benefits and disadvantages of this model?	Proposed conduct review committee just adds another layer of bureaucracy.
30. What powers should the Conduct Review Committee have?	Nil
31. In your opinion what matters should go directly to the Standards Panel?	No change from existing practice except timelines
32. Who should be able to be a member of a panel: elected members, people with local government experience, independent stakeholders?	If an elected member is part of panel, their appointment should cease when elected members term ends
33. Who should select the members for the pool?	No comment
34. How many members should there be on the Review Committee?	No comment
35. Are the proposed actions for the Review Committee appropriate? If not, what do you propose?	No comment
<b>Review of elected member non-compliance</b>	
36. Which of the options for dealing with complaints do you prefer? Why?	Status quo – retain standards panel
37. Are there any other options that could be considered?	No comment
38. Who should be able to request a review of a decision: the person the subject of the complaint, the complainant or both?	Both

<b>Guidance Questions</b>	<b>Responses</b>
<b>Mediation</b>	
39. Do you support the inclusion of mediation as a sanction for the Panel? Why or why not?	Yes – strongly support. Mediation is the preferred first option before any sanctions but must commence as soon as possible after a breach is reported. Timeframe for Standards Panel investigations needs to be shorter, as it impacts an elected member who is the subject of a complaint
<b>Prohibition from attending council meetings</b>	
40. Do you support the Panel being able to prohibit elected members from attending council meetings? Why or why not?	No as it is not democratic: purpose of elected members is to represent their community
41. How many meetings should the Panel be able to order the elected member not attend?	Nil
42. Should the elected member be eligible for sitting fees and allowances in these circumstances?	Yes
<b>Compensation to the local government</b>	
43. Do you support the Panel being able to award financial compensation to the local government? Why or why not?	Yes – if a breach is confirmed, then elected member should pay costs
44. What should the maximum amount be?	No comment
<b>Complaint administrative fee</b>	
45. Do you support this option? Why or why not?	No – will add another bureaucratic step in process

<b>Guidance Questions</b>	<b>Responses</b>
46. Do you believe that a complaint administrative fee would deter complainants from lodging a complaint? Is this appropriate?	No – as in No.45 above
47. Would a complaint administrative fee be appropriate for a sector conduct review committee model? Why or why not?	No – as in Nos. 45 & 46 above
48. What would be an appropriate fee for lodging a complaint?	No comment
49. Should the administrative fee be refunded with a finding of minor breach or should it be retained by the Department to offset costs? Why or why not?	No comment
<b>Cost recovery to local government</b>	
50. Do you support the cost of the panel proceedings being paid by a member found to be in breach? Why or why not?	Yes – if a breach is confirmed, then elected member should pay costs or cost should be borne by State Government (as regulatory body)
<b>Publication of complaints in the annual report</b>	
51. Do you support the tabling of the decision report at the Ordinary Council Meeting? Why or why not?	Yes – at next available Ordinary Council meeting after outcome determined but not to be published in annual report
<b>Tabling decision report at Ordinary Council Meeting</b>	
52. Do you support this option? Why or why not?	Yes – transparency to the community and to minimise stress for elected member concerned
<b>Elected member interests</b>	

<b>Guidance Questions</b>	<b>Responses</b>
53. Should not-for-profit organisation members participate in council decisions affecting that organisation? Why or why not?	Yes provided declaration is made
54. Would your response be the same if the elected member was an office holder in the organisation?	Yes
<b>Improving the behaviour of elected members</b>	
55. Do you have any other suggestions or comments on this topic?	The term “sanction” should not be used when referring to mediation.
<b>Recruitment and selection of local government CEOs</b>	
56. Would councils benefit from assistance with CEO recruitment and selection? Why?	Yes but only for advice and guidance if requested by a local government
57. How could the recruitment and selection of local government CEOs be improved?	No comment
58. Should the Public Sector Commission be involved in CEO recruitment and selection? If so, how?	No
59. Should other experts be involved in CEO recruitment and selection? If so, who and how?	Council to retain autonomy. Executive recruitment agencies may be engaged to assist if determined by Council
60. What competencies, attributes and qualifications should a CEO have?	To be determined by Council and reflect its values and individual requirements.
<b>Acting CEOs</b>	

<b>Guidance Questions</b>	<b>Responses</b>
61. Should the process of appointing an acting CEO be covered in legislation? Why or why not?	No – acting CEO is Council's responsibility
62. If so, who should appoint the CEO when there is a short term temporary vacancy (covering sick or annual leave for example)?	Either CEO or Council, depending on the Council's policy
63. 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
<b>Performance review of local government CEOs</b>	
64. Who should be involved in CEO performance reviews?	CEO Performance Review Committee appointed by Council
65. What should the criteria be for reviewing a CEO's performance?	To be determined by each Council
66. How often should CEO performance be reviewed?	Ongoing
67. Which of the above options do you prefer? Why?	Option 2 – local governments to adopt a CEO performance policy
68. Is there an alternative model that could be considered?	No comment
<b>Termination or extension of CEO contract around an election</b>	
69. Would a 'cooling off' period before a council can terminate the CEO following an election assist strengthening productive relationships between council and administration?	Supported
70. What length should such a cooling off period be?	N/A

<b>Guidance Questions</b>	<b>Responses</b>
71. For what period before an election should there be a restriction on a council from extending a CEO contract? Should there be any exceptions to this?	Nil No
<b>Public expectations of staff performance</b>	
72. Is greater oversight required over local government selection and recruitment of staff?	No comment
73. Should certain offences or other criteria exclude a person from being employed in a local government? If so, what?	No comment
<b>Strengthening local government administration</b>	
74. Do you have any other suggestions or comments on this topic?	No comment
<b>Remedial intervention</b>	
75. Should the appointed person be a departmental employee, a local government officer or an external party? Why?	Departmental employee will give Department more power and impact individual local government autonomy
76. Should the appointed person be able to direct the local government or would their role be restricted to advice and support? Please explain.	Restrict to advise and support – see No.75 above
77. Who should pay for the appointed person? Why?	Department
<b>Powers of appointed person</b>	
78. What powers should an appointed person have?	No comment
<b>Remedial action process</b>	

<b>Guidance Questions</b>	<b>Responses</b>
79. Do you think the proposed approach would improve the provision of good governance in Western Australia? Please explain.	No comment
80. What issues need to be considered in appointing a person?	No comment
<b>Supporting local governments in challenging</b>	
81. Do you have any other suggestions or comments on this topic?	No comment
<b>Transferability of employees</b>	
82. 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?	No – administrative complexity
83. What would be the benefits if local and State government employees could move seamlessly via transfer and secondment?	No comment
<b>Making it easier to move between State and local government employment</b>	
84. Do you have any other suggestions or comments on this topic?	No comment
<b>A new framework for disclosing gifts</b>	
85. Is the new framework for disclosing gifts appropriate?	No
86. If not, why?	Process need to be simplified and easy to understand

<b>Guidance Questions</b>	<b>Responses</b>
87. Is the threshold of \$500 appropriate?	No
88. If no, why?	Too high - \$300 adequate
89. Should certain gifts – or gifts from particular classes or people – be prohibited? Why or why not?	Gifts of a personal capacity should be exempt
90. If yes, what gifts should be prohibited?	No comment
<b>Excluding gifts received in a personal capacity</b>	
91. Should gifts received in a personal capacity be exempt from disclosure?	Yes
92. If yes, how could 'personal capacity' be defined?	Gifts from relatives and friends
93. Should there be any other exemptions from the requirement to disclose a gift over the threshold?	No comment
94. If so, what should these be? Please justify your proposal.	N/A
<b>Gifts</b>	
95. Do you have any other suggestions or comments on this topic?	Networking opportunities to be paid by individual local governments rather than disclose as a gift
<b>Public notices</b>	
96. Which general option do you prefer for making local public notices available? Why?	Option 4 – print or electronic notices
97. Which general option do you prefer for State-wide public notices? Why?	Option 4 – print or electronic notices

<b>Guidance Questions</b>	<b>Responses</b>
98. With reference to the list of public notices, do you believe that the requirement for a particular notice should be changed? Please provide details.	Remove state wide publishing
99. For the State-wide notices in Attachment 3, are there alternative websites where any of this information could be made available?	No comment
<b>Information available for public inspection</b>	
100. Using the following table, advise how you think information should be made available:	

<b>Provision</b>	<b>Documents</b>	<b>In person only</b>	<b>Website only</b>	<b>Both</b>	<b>Neither</b>
Section 5.53	Annual Report			X	
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.	X			
Section 5.87	Discretionary disclosures generally			X	
Section 5.82	Gifts (already required to be on the website)			X	
Section 5.83	Disclosure of travel contributions (already required to be on the website)			X	

Elections Regulations 30H	Electoral gifts register			X	
Section 5.98A	Allowance for deputy mayor or deputy president			X	

Provision	Documents	In person only	Website only	Both	Neither
Section 5.100	Payments for certain committee members			X	
Functions and General Regulations 17	Tenders register			X	
Section 5.94 & Administration Regulations 29	Register of delegations to committees, CEO and employees			X	
	Minutes of council, committee and elector meetings			X	
	Future plan for the district			X	
	Annual Budget			X	
	Notice papers and agendas of meetings			X	
	Reports tabled at a council or committee meeting			X	
	Complaints register (concerning elected members)			X	
	Contracts of employment of the CEO and other senior local government employees				X
	Schedule of fees and charges			X	
	Proposed local laws			X	

	Gazetted Local laws (and other law that has been adopted by the district)			X	
	Rates record				X
	Electoral roll				X
Guidance Questions	Responses				
101. Should the additional information that is available to the public in other jurisdictions be available here? If so which items? How should they be made available: in person, website only or both?	No				
102. Is there additional information that you believe should be made publicly available? Please detail.	No				
103. For Local Governments: How often do you receive requests from members of the public to see this information? What resources do you estimate are involved in providing access in person (hours of staff time and hourly rate)?	Rarely – negligible impact on resources				
Access to information					
104. Do you have any other suggestions or comments on this topic?	Access must comply with <i>Privacy Act</i>				
Expanding the information provided to the public					
105. Which of these options do you prefer? Why?	Option 1: Status Quo – no increase in regulatory burden – sufficient transparency exists				
106. In the table below, please indicate whether you think the information should be made available, and if so, whether					

<b>Guidance Questions</b>	<b>Responses</b>
this should be required or at the discretion of the local government:	

<b>Proposal</b>	<b>Should this be made available: No, optional, required?</b>
Live streaming video of council meetings on local government website	No – too expensive
Diversity data on council membership and employees	Optional
Elected member attendance rates at council meetings	Yes
Elected member representation at external meetings/events	Optional
Gender equity ratios for staff salaries	No
Complaints made to the local government and actions taken	Optional
Performance reviews of CEO and senior employees	No
Website to provide information on differential rate categories	Yes – if applicable
District maps and ward boundaries	Yes
Adverse findings of the Standards Panel, State Administrative Tribunal or Corruption and Crime Commission.	Yes
Financial and non-financial benefits register	No

107. What other information do you think should be made available?	Nil
<b>Expanding the information available to the public</b>	
108. Do you have any other suggestions or comments on this topic?	No comment

Guidance Questions	Responses
<b>Defining red tape</b>	
109. 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.	Local Laws
a) Briefly describe the red tape problem you have identified.	Difficult to enforce local law and in drafting a local law (based on a model local law) some local governments end up with a local law that doesn't really suit its individual circumstances or achieve the outcome the local government is seeking.
b) What is the impact of this problem? Please quantify if possible.	Difficult to enforce, any straying in the drafting of a local law from the model is generally not accepted by JSCDL
c) What solutions can you suggest to solve this red tape problem?	Can be totally abolished and replaced by policy that is enforceable under the Act
110. 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.	Delegations
a) Briefly describe the red tape problem you have identified.	No standard set of delegations applicable to all local governments
b) What is the impact of this problem? Please quantify if possible	Local government delegations not consistent – lot of resource time
c) What solutions can you suggest to solve this red tape problem?	Provide a standard set of delegations applicable to all local governments. If it's not in the standard set, the local government cannot delegate it. However it should be at the

<b>Guidance Questions</b>	<b>Responses</b>
	individual local government discretion whether it seeks to delegate something from the standard set of delegations
<b>Special majority</b>	
111. Should the provisions for a special majority be removed? Why or why not?	Remove – limited use or requirement. Currently only applies to changing the method to elect a mayor or president.
<b>Senior employees</b>	
112. 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?	No – is operational process
113. Is it necessary for some employees to be designated as senior employees? If so, what criteria should define which employees are senior employees?	Yes – CEO and Executive appointments
<b>Exemption from accounting standard AASB124 - Related party disclosures</b>	
114. Are the existing related party disclosure provisions in the Act sufficient without the additional requirements introduced by AASB 124? Why or why not?	Yes – but recommend remove to reduce additional red tape
<b>Disposal of property</b>	
115. 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, if so how high?	Suggest a fixed percentage of amount based on annual revenue/expenditure not a specified amount, as one size doesn't fit all.
116. Should the threshold remain at \$75,000 but with separate exemptions for specific types of equipment, for example plant?	As in No.115

<b>Guidance Questions</b>	<b>Responses</b>
117. 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? If so, what should it be and why?	As in No.115
118. 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 comment
119. Is there an alternative model for managing the disposal of property? Please explain.	No
<b>Reducing red tape</b>	
120. Do you have any other suggestions or comments on this topic?	No
<b>Regional subsidiaries</b>	
121. Which option do you prefer?	No comment
122. Should regional subsidiaries be allowed to borrow money other than from the member councils?	No comment
123. Why or why not?	N/A
124. If a regional subsidiary is given the power to borrow directly, what provisions should be put in place to mitigate the risks?	No comment
<b>Regional subsidiaries</b>	

Guidance Questions	Responses
125. Do you have any other suggestions or comments on this topic, including on any other aspect of the <i>Local Government (Regional Subsidiaries) Regulations 2017</i> ?	No
<b>Local Government Act review</b>	
126. You are invited to make comment and put forward suggestions for change on other matters which have not been covered in this paper.	<ul style="list-style-type: none"> <li>• Remuneration: elected member's remuneration should not be determined by elected members: conflict of interest. State Administrative Tribunal should set an exact figure (not a range to choose from) depending on population and revenue</li> <li>• Representation: The current number range of EMs be retained, and any Council wishing to change the numbers of EMs will provide reasons for the change and submit to the Minister for approval.</li> <li>• Annual Returns: remove the option to answer "nil change" from the Act: will provide some currency and transparency in an Annual Return</li> <li>• Local Laws: if local laws are to remain a part of local government, then gazettal should be the final step, as that signals to the community that the local law has passed all scrutiny. Currently however the JSCDL only looks at the local law after gazettal</li> <li>• LGAB: membership should cease when councillor's term ends</li> <li>• Acting Through (s. 5.16(4)): the concept needs to be specifically defined somewhere in the Act, as at present there is only a broad description in the Delegations Guideline of the Department</li> </ul>

<b>Guidance Questions</b>	<b>Responses</b>
	<ul style="list-style-type: none"> <li>• Rating Exemptions - Charitable Purposes: Section 6.26(2)(g): Either:             <ul style="list-style-type: none"> <li>a) amend the charitable organisations section of the <i>Local Government Act 1995</i> to eliminate exemptions for commercial (non-charitable) business activities or charitable organisation;</li> <li>or</li> <li>b) establish a compensatory fund for local government, similar to the pensioner discount provision, if the State Government believes charitable organisations remain exempt from payment of local government rates</li> </ul> </li> </ul>