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08 MAR 2018

Department of Local
Government, Sport &
Cultural Industries

Local Government Review

Phase 1

Making information available online
Meeting public expectations for accountability
Meeting public expectations of ethics, standards
and performance
Building capacity through reducing red tape*

Phase 2

Increasing participation in local
government elections
Increasing community participation
Introducing an adaptive regulatory
framework
Improving financial management
Building capacity through reducing red
tape*
Other matters raised in phase 1
consultation

Submissions close March 9

WA has 137 local governments and the most in Australia.

Collectively, local governments in WA have an annual revenue of almost \$4 billion and manage assets worth in excess of \$40 billion. In 2015-16, Western Australian local governments levied more than \$2 billion in rates,

Comment is welcome on all aspects of the Act.

Your submission will be made public and published in full on the Department's website unless you ask for it to be confidential.

Q. Do you want the feedback in your survey to be kept confidential and not published in full on the Department's website:

Name:

Maura (Steve preferred) Howett

Address:

23 Frederick St. Midland 6056

(no address
to send to)!!

Signature:

Maura Howett

1. Relationships between council and administration

Separation of powers



- The diagram above sets out how the Department believes an effective relationship between a local government council and the administration should operate:
- Tension still arises within local governments due to a lack of understanding of the separation of powers between the council and the administration, or deliberate attempts to act outside this separation.

How should a council's role be defined and what should the definition include?

as working in the best interests of its ratepayers (logical) but what is the definition of a ratepayer? somebody who lives in the council area,

How should the role of the CEO and administration be defined?

only to give recommendations to council additional info when required
proper workings & council approval. As I have no reference - am only answering blindly.

Are there any areas where the separation of powers is particularly unclear? (Yes/No)

How do you propose that these are improved?

Allow councillors to establish admin committees to manage Hall, Reserves etc & report back to them before major things are done.

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

Midland Oval, been back & forth for over 48 yrs
Community wants an open green space in Midland & said
NO on many occasions eg special elections meets, media letters etc - to no avail. Council has spent £32 million requiring land etc without any reference to ratepayers - money could be spent redeveloping Youth Centre & giving us a Community Hall

2. Training

- Elected officials oversee multi-million dollar budgets but no qualifications are required to be a candidate. A 2016 Census of Western Australian Elected Members found approximately one in four elected members completing the survey had not completed year 12.
- WALGA provides training courses in topics including serving on council; meeting procedures and debating; effective community leadership; and land use planning but training is voluntary.

Questions:

What skills and knowledge does a council member require to perform their role?

Open minded, very good communication skills, thought process & civic minded - I never completed year 12 - nor any high school training!

Should candidates do training to better understand the role of a councillor? (Y/N)

Should training be compulsory? (Yes/No)

Why or why not? I'm not for anything compulsory, but in this case - can wipe away too big egos!

If yes, should training be compulsory for: (Tick your preference)

- all elected members, ☒
- all elected members, with exemptions given to those who complete a recognition of prior learning process, or
- only first-time elected members.

Who should pay for the costs of training (course fees, travel, other costs)?

Themselves & subsidies from pooled Council funds.

Should a training fund be established to reduce the financial impact for small local governments? (Yes/No)

Should contribution to such a fund be based on local government revenue or some other measure?

Maybe levy on big retail companies if applicable

Should prior learning or service be recognised in place of completing training for elected members? (Yes/No)

If yes, how would this work?

What period should apply for council members to complete essential training after their election?

6 mths

Should ongoing professional development be undertaken by elected members?
(Yes/No).

If so, what form should this take? no idea

Do you have any other suggestions or comments on training?

3.1 Code of conduct

- Under the current Act, all local governments are required to have a code of conduct and this includes prohibited gifts, notifiable gifts, and disclosure of interest.
- While codes of conduct are mandatory for local governments, they have limited enforceability. Non-compliance is to be dealt with by the local government as an internal disciplinary matter.

Questions:

Should standards of conduct/behaviour differ between local governments? *no*

Which process would work best (Tick your preference).

1. Codes of conduct are required but the content is left to the local government's discretion.
2. Codes of conduct are required, but the content of a code is partially prescribed in regulations, but is otherwise at the local government's discretion.
- ☒ 3. Codes of conduct are required but the content of a code is prepared by a local government and approved by the Minister.
- ☒ 4. Codes of conduct are required but Local governments must adopt a model code, with certain clauses subject to modification.
5. Codes of conduct are required but the codes will only cover the matters which local governments have a discretion to decide. All other matters are to be addressed in Act and Regulations.

Which option do you prefer for codes of conduct and why (option 1 or option 2)

Option 1 proposes that the Rules of Conduct are streamlined and more emphasis is placed on conduct that is likely to:

- be a detriment to the local government,
- result in council dysfunction, or
- impair public confidence in decision making.

This option proposes to minimise the rules that constitute a minor breach and which are dealt with externally. It is intended that those which are removed will be captured under the local government's Code of Conduct and will be dealt with internally. This reinforces the principle of autonomy.

Option 2: an outcome-based framework for elected members?

In a practical sense, the current Rules of Conduct regulations would be repealed and the Act would be amended to set out that an elected member is to refrain from:

- impairing the integrity of the local government;
- impairing the operational performance of the local government;
- impairing the reputation of the local government; and
- any other matters as set out in regulations.

How should a code of conduct be enforced?

Depends on how bad the breach is.

3.1 Reforms to the Local Government Standards Panel

The Local Government Standards Panel¹ currently reviews alleged breaches of the Rules of Conduct Regulations

Why is it unfair? (According to feedback from those who have gone through the system):

1. They only accept as fact the charge from CEO
2. Your response is ignored and pulled apart legally
3. They use your response against you
4. They refuse mediation and publish against you even when SAT reviews lodged
5. No mediation means full SAT hearing and they know it 6. They win you lose!

The Standards Panel cannot currently order that mediation is undertaken. Mediation is that it could address underlying issues and lack of understanding between elected members or between an elected member and another person. This is likely to lead to improved ongoing relationships and reduce the likelihood of the breach recurring. ✓

☐ Do you support the inclusion of mediation as a sanction for the Panel?

- What other comments to you have?

Standards Panel must have ordinary ratepayers on it perhaps they do? I don't know → must be ratepayers from the council involved though.

3.2 Regulation of elected member conduct

Do you support streamlined Rules of Conduct regulations? (Yes/No)

Do you support a reduction in the time frame in which complaints can be made? (Currently two years from the date of the incident). (Yes/No).

Is three months adequate? (Yes/No)

1 yr

3.3 Other matters recommended in the 2015-16 review

Should candidates in council elections be bound by the rules of conduct? (Yes/No)

Should the improper use of information provisions apply to former council members for 12 months? (Yes/No) *don't understand*

Should this restriction apply to former employees? (Yes/No)

Should the existence and details of a complaint remain confidential until the matter is resolved? (Yes/No)

3.6 Elected member interests

Should not-for-profit organisation members participate in council decisions affecting that organisation? *no*

Would your response be the same if the elected member was an office holder in the organisation? *yes*

4 Local Government Administration

Recruitment and selection of local government Chief Executive Officers:

- A council's autonomy in selecting a CEO is a fundamental element of the current Act. Reforms to the way CEOs are selected may be seen as a restriction on the autonomy of local governments. *wonderful idea, but is it so!*
- In addition, it can be argued that local government CEO positions are unique and elected members, who must work closely with their CEO, are best

positioned to select a candidate. This does not, however, address any lack of skills or experience in the elected members who are undertaking the selection process.

Would councils benefit from assistance with CEO recruitment and selection? (Y/N)

Why would they benefit? By outsiders asking right questions & not being intimidated by big qualifications etc.

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

no reference to compare.

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

If so, how? No - be a blind recruitment/external recruiter

Should other experts be involved in CEO recruitment and selection? maybe - people skills & or psychologist.

What competencies, attributes and qualifications should a CEO have? financial, good communication ability & understand both sides

Should the process of appointing an acting CEO be covered in legislation? why.
have no idea

Who should be involved in CEO performance reviews? Ratepayers & councillors

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

Happy & contented ratepayers both business & households & to listen!

How often should CEO performance be reviewed?

2 years.

Chief of Council

Which of the options below for performance reviews do you prefer?

Option 1: Local governments to engage the services of the Public Sector Commission (PSC) to provide support and guidance to council during the selection of a CEO

Option 2: Councils to involve third-parties in CEO selection ✓

Option 3: Local governments to adopt a CEO recruitment standard ✓

A CEO recruitment standard could be developed in consultation with the sector (WALGA) and adopted through amendments to the Act,

Option 4: Status Quo

Is there an alternative model that could be considered? If so, please describe.

Extension or termination of the Chief Executive Officer contract immediately before or following an election: should there be a 'cooling off' period following an election before a council can terminate the CEO? *yes.*

What length should such a cooling off period be? *6mths*

How long before an election should there be a restriction on a council extending a CEO contract? *3 mths*

Do you have any other suggestions or comments on this topic? *No more —*

*leadership development program. instigated by
whoever high ranking council employee without
overall approval.*

*Local Government Dept Public servants to sit
in on Council meetings — heavy burden — perhaps a
set time — 1yr.*

4.1 Public expectations of staff performance

There's no uniform requirements that local governments must advertise positions other than the CEO or senior employee. Officers are not required to complete a probationary period or be an Australian citizen or permanent resident.

Unless specified by an individual local government recruitment process, applicants are not required to provide evidence of a criminal record check, working with children check, health clearance or information regarding outstanding or completed disciplinary processes.

This gives local governments freedom to manage their operations more efficiently, but relies heavily on the diligence of CEOs.

1) Is greater oversight required over local government selection and recruitment of staff? *yes*

2) Should certain offences or other criteria exclude a person from being employed in a local government? If so, what? *Fraud - going off*

half cocked on schemes without notifying councillors

5. Supporting local governments in challenging times

- The State Government is limited in its ability to intervene in local government affairs. It can't intervene in lawful decisions made by a local government, even when these lawful decisions are inconsistent with broader community views.

what is a lawful decision under their watch?

- Under the current Act, there are limited options for the State Government to implement remedial actions to ensure the good governance of a local government.

- Governance programs that can be implemented are voluntary. Remedial actions currently take the form of direct interventions. Suspending a council and installing a commissioner is an option of last resort

What powers should be given under the act for the State Government to intervene and at what point?

3rd party approval/maybe tribunal of ratepayers, councillors & State Government.

- Under the proposed approach, if a local government fails to comply with the Act or regulations, or other factors considered relevant, a remedial notice may be issued to the local government. 9.
- The remedial notice would be backed by the Act with legislative power as a written statutory direction that would require, by law, that the notified recipient undertake works or activities detailed in the notice.
- If the matter is not resolved satisfactorily, the revised approach presents options for scaled, proportional responses. One option that has been identified previously is appointing a person to assist the local government to implement strategies to resolve the matter.

Remedial intervention - who should the appointed person be?

Departmental employee
Local government officer
External party ✓

What should the appointed person's role be?

Direct the local government ✓
Restricted to advice and support.

Who should pay for the appointed person? L.G. reserves.

What powers should an appointed person have?

To be debated.
See what other states & countries do.

What issues need to be considered in appointing a person?

up standing, righteous & fair, & can see both sides.

7. Gifts

Gifts and contributions to travel are regulated under the Act and three sets of Regulations. Each regulation has a different framework for declaring gifts and contributions, which has led to confusion in the sector. The current approach to gifts is overly complex and requires reform.

Key elements of the proposed approach

The current framework sets three different categories for gifts with different thresholds:

- \$50 for a notifiable gift;
- \$200 for a disclosable gift; and
- \$300 for a prohibited gift.

Notifiable and prohibited gifts apply in situations where there is likely to be a perceived conflict of interest – where the donor has matters which require council decisions.

Replacing notifiable and prohibited gifts with a single category

Under the proposed approach, there would no longer be such a thing as a “prohibited” gift. Instead, the appropriateness of the acceptance of the gift will be a matter for the recipient.

All gifts could be accepted regardless of the amount, but that acceptance of gifts over the threshold (\$500) would disqualify the recipient of such a gift (being an elected member) from voting on matters relating to the donor. This deals with any perception of bias in decision-making.

BUT the Minister for Local Government would have the discretion to approve voting by elected members on such matters and on application from the local government where this is considered to be in the public interest.

Is the new framework for disclosing gifts appropriate? *no*

Is the threshold of \$500 appropriate? If not, why? *no*

Should certain gifts – or gifts from particular classes or people – be prohibited? *yes*

If yes, what gifts should be prohibited? *all*

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

no

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

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

no

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

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

8. Access to information: Public Notices

The Act requires local governments to provide public notice to the community in a variety of circumstances. The Act specifies two forms of notice:

- (a) written notice in a newspaper circulating in the district ("local notice"); and
- (b) written notice in a newspaper circulating in the State ("state-wide notice").

Which option do you prefer:

- Electronic notice required – additional print optional
- ☒ • Print and electronic notices
- Print only

8.2 Information available for public inspection

Currently the only documents that are required to be placed upon a local government's website are the gifts register and contributions of travel register, and annual report following the amendments to the auditing provisions.

Currently information required to be made available

Annual Report	✓
Annual Budget	✓
Future plan for the district	✓
Minutes of council, committee and elector meetings	✓
Notice papers and agendas of meetings	✓
Reports tabled at a council or committee meeting	✓
Primary and Annual returns – for elected members	
Includes – Sources of income	
Trusts	
Debts	
Property holdings	
Interests and positions in corporations	
Discretionary disclosures generally	?
Gifts (already required to be on the website)	
Electoral gifts register	
Disclosure of travel contributions (already required to be on the website)	✓
Allowance for deputy mayor or deputy president	✓
Payments for certain committee members	✓
Codes of Conduct	✓
Complaints register (concerning elected members)	✓
Contracts of employment of the CEO and other senior local government employees	
Register of delegations to committees, CEO and employees	
Schedule of fees and charges	
Proposed local laws	✓
Gazetted local laws (and any other law that has been adopted by the district)	✓
Rates record	

Currently information required to be made available

Electoral roll

Tenders register ✓

Information required to be available in other States – should this be made publically in WA? ✓

Additional Information

Rates information generally ✓

District maps that contain ward boundaries

Adverse findings by the Standards Panel or State Administrative Tribunal against elected members ✓

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

required to be on the website)

Elections Regulations 30H	Electoral gifts register	✓
Section 5.98A	Allowance for deputy mayor or deputy president	✓
Section 5.100	Payments for certain committee members	✓
Functions and General Regulations 17	Tenders register	✓
Section 5.94 & Administration Regulations 29	Register of delegations to committees, CEO and employees	✓
	Minutes of council, committee and elector meetings	✓
	Future plan for the district	✓
	Annual Budget	✓
	Notice papers and agendas of meetings	✓
	Reports tabled at a council or committee meeting	✓
	Complaints register (concerning elected members)	✓
	Contracts of employment of the CEO and other senior local government employees	✓
	Schedule of fees and charges	

Proposed local laws ✓

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

Rates record

Electoral roll ✓

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.

Is there additional information that you believe should be made available?

Access to information: Do you have any other suggestions or comments on this topic?

9. Available information

Proposal	Should this be made available: No, optional, required?
Live streaming video of council meetings on local government website	✓
Diversity data on council membership and employees	
Elected member attendance rates at council meetings	✓
Elected member representation at external meetings/events	
Gender equity ratios for staff salaries	
Complaints made to the local government and actions taken	✓

Proposal

Should this be made available: No, optional, required?

Performance reviews of CEO and senior employees

✓

Website to provide information on differential rate categories

District maps and ward boundaries

Adverse findings of the Standards Panel, State Administrative Tribunal or Corruption and Crime Commission.

✓

Financial and non-financial benefits register

What other information do you think should be made available?

Is there anything else you would like to further comment on:

✓ All councils must video live council meets for all ratepayers to view.

✓ Compulsory voting must be considered in all elections — collective interest versus personal interests — perhaps would make would-be councillors work harder to get that vote!!

✓ Local Government act - see Section 5 - why is the State limited etc etc?

✓ Development assessment Panel is not liked by Councils nor ratepayers as the taking a lot of decisions - making away from council etc - seems to be populated by planners.

Therefore we all must really define councils' role in the community. Councillors must become more socially involved in their community & not be the scared rabbit as now.