



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: Suzanne Thompson

1. Relationships between council and administration

Introductory questions

- 1) Would you like your submission to remain anonymous?
No
- 2) Postcode:
6023
- 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?

Council should be the advocates for the residents and rate payers who voted them into office. They should be in continuous communication with their constituents, informing them of all Local Government matters and listening to their views and opinions. Through this communication and consultation they should be able ensure that an directives from State and Federal Government are enacted in the best possible way at a local level. Likewise they should review recommendations made by the City's Officers in the same way, consulting with the community and to ensure that the recommendations are in alignment with the will of the people.
- 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?

There needs to be a much clearer separation of Church and State. A Christian prayer has no place in our secular, multicultural politics and should not be said at the start of sessions or invoked in anyway. Equally political leanings should be kept out of Local Government much more effectively than it is. We do not need our Local Government to be infiltrated and funded, in the way it so patently is, by the Liberal Party, for example. It is unacceptable that our elected Mayor was so heavily funded and aided in every way by the Liberal Party and in particular, the office of Ian Goodenough. Much greater scrutiny on election funding is required.

Improving relationships between council and administration: Guidance question

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

I believe that the balance of power would be better restored if the administration were to provide clearer information and made a greater effort to understand the proposals put forward, via their reports. They should be there in an informational and neutral advisory role, only, not shaping policy and putting forward recommendations that only benefit special interest groups that they are associated with.

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?

They must be clear on who it is they are charged to serve and their duties as public servants.

- 14) Do these vary between local governments?

No

- 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)?

I believe that, depending upon the course, the State Government and/or rate payers should pay for these things, but in each case, the merit of the training must be justified and set against some KPIs.

- 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?

Some other measure, such as a review of the shortfall in skills set of a local government and KPIs to focus on areas that require improvement.

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?
Yes
- 20) Why or why not?
It seems that some elected members are still not clear on their roles and duties to the rate payers.
- 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?
A program should be in place so that new elected members should immediately begin training and a refresher course provided for those re-elected.

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 feel that KPIs should be provided and annual, if not bi-annual reviews provided.

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.

There needs to be much more consistency. Many other Councils across our State are far better than ours and best practice should be brought in. As should parity of pay etc.

Which option do you prefer for codes of conduct and why? The 'adopt a model' approach. The less autonomy the better for these Councils. We are a textbook example of why you cannot have Councils police themselves.

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

Breaches should be allowed to be reported to a higher authority, who will review and oversee that codes of conduct are being adequately followed. Annual reviews, including sample surveys to rate payers should be carried out.

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?

I do not believe that streamlined has to mean less rules, so much as made more uniform.

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

All of them, just become more consistent with a policy for enforcing them that is used across all Local Governments.

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?

Yes

38) Why or why not?

I think they need to prove that they are achieving positive outcomes for their community. Too many people do not know what their elected member does or even who they are. There is too much of an opportunity for them to be ineffective or self serving.

39) What specific behaviours should an outcomes based framework target?

Yes

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.

Innocent until proven guilty.

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?

Self evident

- 44) Should this restriction apply to former employees?

Yes

- 45) Please explain?

Self evident

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?

Innocent until proven guilty.

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?

It would help stop the 'police policing themselves' i.e. allow independent external reviewers to make judgements.

- 49) What powers should the Conduct Review Committee have?

They should have access to all FOI files, but they should only undertake initial review, to see if there is a case to refer to SAT.

- 50) In your opinion what matters should go directly to the Standards Panel?

Internal 'whistle blowing' issues and concerns brought by rate payers and members of the public.

- 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?

Not sure

- 53) How many members should there be on the Review Committee?

Not sure

- 54) Are the proposed actions for the Review Committee appropriate?

Yes

- 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?

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?

There may be times when this is an appropriate course of action, if corruption or bullying behaviour is cited.

How many meetings should the Panel be able to order the elected member not attend? Suspension until a matter is resolved.

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

No

- 64) Why

If found innocent of charges, have them restored.

Compensation to the local government: Guidance questions

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

Yes

- 66) Why or why not?

- 67) What should the maximum amount be?

Complaint administrative fee: Guidance questions

- 68) Do you support this option?

No

- 69) Why or why not?

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

Yes

- 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?

Because cost would deter people from making complaints.

- 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?
No
- 76) Why or why not?

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?
- 78) Why or why not?

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?

Tabling decision report at Ordinary Council Meeting: Guidance question

- 81) Do you support this option?
Yes
- 82) Why or why not?

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?

There is still a conflict of interest.

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

Yes

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?
Yes
- 88) Why?
- 89) How could the recruitment and selection of local government CEOs be improved?
- 90) Should the Public Sector Commission be involved in CEO recruitment and selection?
Yes
- 91) If so, how?
- 92) Should other experts be involved in CEO recruitment and selection?
- 93) If so, who and how?
- 94) What competencies, attributes and qualifications should a CEO have?

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?

Because they have a great deal of power and sway over the decisions made at local level.

- 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?

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

Set some KPIs each year and set his/ her performance against them.

- 101) How often should CEO performance be reviewed?

Annually

102) Which of the above options do you prefer?

Public Expectations. The CEO should be working in the interests of the Public and their view of his performance matters.

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?

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

108) Should there be any exceptions to this?

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?

Any criminal record. Also, proven lack of competency from previous CEO positions. For example, if gross misconduct was not identified by a CEO in his previous position and the Local Government were subsequently stood down for it following a Parliamentary Review, that individual should not be allowed to be a CEO again. They are clearly incompetent.

Strengthening local government administration: Guidance question

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

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?
In a corrupt system, outside scrutiny is needed.
- 115) Should the appointed person be able to direct the local government or would their role be restricted to advice and support?
- 116) Please explain.
- 117) Who should pay for the appointed person?
- 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.

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?

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?

No

129) If not, why?

It puts far too much discretion in the hands of those receiving the gifts. Allowing gifts, but asking for no votes in chamber for a term is a bad idea. People will still abuse the system, just play a longer game.

130) Is the threshold of \$500 appropriate?

No

131) If no, why?

There is no good reason why all gifts can't and shouldn't be declared.

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

Yes

133) Why or why not?

To avoid corruption or the perception thereof.

134) If yes, what gifts should be prohibited?

Gifts from those that stand to gain favour from Elected Members and Officers. All of these elected members and officers are adequately paid for their work. I see no good reason to allow gifts of any sort. People do not give these gifts for any other reason than to improve their position and benefit themselves. They are buying those they gift. Plain and simple. This is at the heart of what is wrong in the political world globally.

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?

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?

The City's Officers should not be receiving gifts, travel or junkets of any sort. It is ridiculous that is is allowed to occur.

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 5

Why?

Print media is dead. The Local Governments have to find a better way to communicate with rate payers electronically. In the meantime, letters should be sent. Ads in newspapers are failing to notify the public and Local Governments are abusing this.

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?

Yes

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. 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
Schedule of fees and charges	Both
Proposed local laws	Both
Gazetted Local laws (and other law that has been adopted by the district)	Both
Rates record	Both
Electoral roll	Both

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?

Yes

147) If so which items?

All items connected with DA, including plans.

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.

- 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 3: Policy requirement

154) Why?

The status quo is woefully inadequate and needs a full review.

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	Required
Elected member attendance rates at council meetings	Required
Elected member representation at external meetings/events	Required
Gender equity ratios for staff salaries	Required
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?

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,
No
- 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.