



Government of **Western Australia**
Department of **Local Government and Communities**

Local Government Operational Guidelines

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Clarity in Council Motions

1. Introduction

At times various councils have experienced problems because they have passed resolutions that do not contain sufficient information, are ambiguous or nondirectional. Often, in such cases the members of council, having debated the issue during a meeting, have developed an understanding of what they expect a resolution to achieve but then do not ensure that such intention is reflected in the wording of the resolution.

Badly worded resolutions are often difficult to interpret. Ambiguity will often mean individual members of council may have a different concept of what is intended from the staff that have to implement the decision.

Such resolutions can lead to later complications for a variety of reasons including –

- a) a staff report on the work they have done in response to the resolution and it produces a different result to what the elected members were expecting; or
- b) after a period of time some elected members start asking what the staff have done about the resolution that was passed at a particular meeting. Staff may have failed to action the matter because it is so unclear as to what was required or no time was set for its completion.

This guideline has been prepared to assist and remind elected members of the need for clarity and purpose in resolutions. Adherence to the clarity criteria set out in the guideline when drafting resolutions will minimize the likelihood of later frustrations when outcomes expected from a resolution do not eventuate.

2. The Clarity Criteria

It is essential that resolutions passed by council are absolutely clear as to the expected outcome, how it is to be achieved, by when, by whom and at what cost.

Each resolution needs to be phrased in the positive and stand alone. A resolution must be clear as to its intent so that a person can understand what has been decided without recourse to information contained in a supporting report or document. If a time frame or budget allocation is an essential element of the action required, these must be in the resolution.

It is better to have a resolution that may seem to contain excessive detail rather than one that does not contain sufficient information.

It must be remembered when framing resolutions that the only document kept for legal and historic purposes as evidence of council decisions is the minutes of meetings. Therefore, the resolutions in such minutes will be the defining statements.

It is intended that most staff recommendations be converted to decisions of council, so such recommendations to a committee and/or council meeting must be prepared with the same principles of a properly defined outcome.

Problems within resolutions often emerge when recommendations from staff or a committee are subject to amendment during a council meeting. A difficult meeting environment may lead to mistakes being made in terms of clarity in an amended motion and the extent to which the ultimate motion addresses all issues involved.

To address this, each time a recommendation is being drafted or council is considering a new or amended motion the following check list should be worked through to ensure clarity within the motion.

All recommendations and motions should be clear as to –

- a) what positive action is to be taken;
- b) who is to do it;
- c) how it is to be done;
- d) when it is to be done;
- e) any spatial limits;
- f) the outcome required;
- g) the budget requirements or implications (in terms of the amount and source of funds); and
- h) the legislation under which the action can be taken.

Of course, in many cases not all of these 8 criteria will be required but it is important that each motion is tested against them.

Positive action means phrasing the resolution in a positive way. Do not use negative terminology such as “not accepted” or “not rejected”. The type of problems this can cause is demonstrated in Example 1.

As noted above, problems are most likely to occur when motions are amended. It may be beneficial for the person presiding to call on the elected members and staff to review the wording of an amended motion and also check it against the above criteria to make sure it passes the clarity test before putting it to the final vote. Taking the time to get it right may save later confusion or embarrassment. In drafting a motion it is often advisable to have someone play “devil’s advocate” and try and misinterpret the intention. Unfortunately, you will often find that is too easy to do.

3. Testing Resolutions Against the Clarity Criteria

The following examples demonstrate how poorly worded resolutions can cause problems and how the suggested version can be tested against the clarity criteria.

Example 1

This example demonstrates why resolutions need to be phrased in the positive. Recently, at a local government the staff put forward a recommendation similar to the following:

“That the planning development application for lot 3 Brown Street, Smithville not be supported.”

The recommendation was moved at the Council meeting and vigorous debate followed. When the Presiding Person called for a vote the motion was defeated.

As the motion stated that the application not be supported, the applicant claimed that its defeat meant that his application was approved. After a great deal of expensive legal advice the council had to reconsider the application and passed a new resolution that was phrased to specifically refuse the application. The staff recommendation could be either:

“That the planning development application for lot 3 Brown Street, Smithville be approved.” or

“That the planning development application for lot 3 Brown Street, Smithville not be approved.”

In both cases it is very clear what Council is voting to do.

Example 2

The following is an example of a resolution, passed by a council which at first reading seems to be clear as to what is required:

“Assess whether a community consultation program should be undertaken regarding the provision of recreation programs for adults.”

However, when assessed against the clarity criteria the following is found:

- a) What positive action is to be taken?
Comment: The action does seem to be clear – it is about an assessment as to whether a program should be undertaken. It is important to note that it is not about the undertaking of the consultation program itself.
- b) Who is to do it?
Comment: It is unclear as to who is to do the project. It could be the local government’s staff or a consultant.
- c) How it is to be done?
Comment: It is unclear as to how the assessment should be undertaken.
- d) When it is to be done?
Comment: a time frame must be established to set a priority for the project. Otherwise it may never commence, or be delayed until the next financial year. Therefore, it is important for a date to be in the resolution for when a report is to be submitted to council.

- e) Spatial limits
Comment: Examination of the supporting papers revealed specific recreation areas were involved with a Federal Government timeline for improving recreation programs. Both these issues need to be covered in the resolution.
- f) Outcomes required
Comment: It is unclear as to what outcome is required – is it a report back to council or a report to another body?
- g) Budget implications
Comment: There are two budget aspects to this project that need to be clarified. The first is the cost of the assessment and the second the forecast cost of the consultation if it were to occur. Both need to be addressed in the resolution. An additional budget allocation can be the source of the funds if it is a project that was not specifically provided for in the budget. If funds need to be diverted from a cost centre this may need to be specifically addressed.
- h) The legislation under which the action can be taken
Comment: Is the assessment being undertaken under the local government’s general function power provided by the Local Government Act 1995, or some other legislation? Whilst this aspect needs to be considered it is not necessary in this instance to identify it in the resolution.

Based on these comments a more appropriate resolution could be as follows:

"A consultant is to be appointed by the CEO with the task of –

- assessing whether a community consultation program should be undertaken regarding recreation facilities for adults in the Watebup area in the period 2005-2006;
- ascertaining the cost of such a program; and
- preparing a report for submission to Council at the November 2005 meeting.

The cost of the consultancy is to be no more than \$10,000.

The 2004/5 budget be amended to transfer an amount of \$10,000 from the "Member's Expenses-Conferences" to "Community Development – Recreation Facilities, Watebup".

Voting; Absolute Majority required.

In this case, criteria C (ie "How it is to be done") does not need to be clearly defined because in appointing a consultant the CEO will be responsible for ensuring that the consultant knows how to undertake the task.

Example 3

A simple example of an unclear resolution is where the CEO wanted the local government to build a barbecue for his use at the house he rented off the local government. The recommendation put to Council and subsequently passed was:

"That the CEO be permitted to build a barbecue at lot 3 Smith Street."

When the account from the local builder for the construction of the barbecue was presented to Council for payment, one councillor argued that in fact the Council resolution provided that the CEO was permitted to build a barbecue but at his expense. It can be seen that with the passage of time since the matter was debated and passed and a possible turnover of elected members the ambiguity in this resolution could become a problem.

Example 4

Motions need to be drafted in the positive. For example, a Council received the following recommendation from its officers:

"That Council consider approving Cr Smith and the deputy CEO attending the National Improvement Conference in Sydney on 3 to 5 March 2006."

Council duly passed that recommendation with the same wording.

The motion was acted upon by the Councillor and the deputy CEO attending the conference. However, the motion was to "consider" the proposal whereas it was intended that Council approve the proposal. It can be argued that no approval was given for them attending the conference.

Therefore the motion should have read,

"That Council approve Cr Smith and the deputy CEO attending..."

An important message here is that staff recommendations need to be in the form that can be directly converted to a positive resolution.

Example 5

Another typical resolution that could be analysed is as follows –

“That the CEO’s annual performance appraisal is to be conducted.”

After debate this motion was amended to –

“That the CEO’s annual performance appraisal is to be conducted and for the Mayor/President to arrange for a committee to undertake the appraisal.”

The amendment does not make the resolution any clearer. Problems with this amended motion are –

- the *Local Government Act 1995* does not empower the Mayor/President to appoint a committee;
- no time is set whereby the appraisal has to be completed;
- there is no requirement for a report and recommendation to be prepared and submitted to council;
- it is not clear how it is to be done; and
- there is no provision for costs or budget considerations.

An appropriate resolution emerging from this situation would be:

“The CEO’s annual performance appraisal is to be conducted as follows –

- An occasional committee is established with membership of the President, deputy President and Cr Smith.
- The committee is to appoint an appropriate consultant to facilitate the process at a cost not exceeding \$3000.
- All elected members are to have an opportunity for input to the appraisal.
- A report on the appraisal is to be submitted to Council for consideration within two months.”

4. Final Comments

Many elected members and staff will have experienced the frustration of trying to determine what was meant by a resolution that council passed several months earlier. By raising the issue through this guideline and identifying the clarity criteria, individuals in meetings will have a greater awareness of the need to carefully consider the wording of council motions so that those required to implement the resolution will not be in any doubt as to the intent.

These guidelines are also available on the Department's website at www.dlgc.wa.gov.au



About the Guideline series

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Department officer knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

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