



Department of
**Local Government, Sport
and Cultural Industries**



Fact sheet: Reforms to governance and committees

Local Government Amendment Bill 2024

Introduction

The Local Government Amendment Bill 2024 (the Bill) proposes to change the *Local Government Act 1995* (the Act) to provide for various reforms, including the establishment of a new Local Government Inspector (the Inspector) and monitors that can provide for early intervention and assist local governments in resolving dysfunction.

In addition to the [Inspector and monitor reforms](#), a range of other second tranche reforms are being introduced that focus on good governance and decision-making at council and committee meetings:

- Revising the roles and responsibilities for the council, council members and local government chief executive officers (CEOs) to clarify the separation of powers and duties within local governments.
- Improving rules for closing part of a council or committee meeting to the public, to ensure greater transparency and that these meetings are held openly wherever possible.
- Changing audit committees to have an improved focus as “audit, risk and improvement committees” that are independently chaired, with greater clarity on how council committees should operate.

Roles and responsibilities

The role of councils is to lead and represent their communities. Councils do so by engaging with their community, making decisions and setting the strategic direction of a local government. The administrative arm of the local government is responsible for implementing decisions and plans made by council.

The roles of the council, mayors or presidents, council members and the CEO have been further clarified in the second tranche of reforms. These changes ensure there is a clear distinction between the functions and responsibilities of a council and a CEO.

All council members are expected to:

- Represent the interests of electors, ratepayers and residents of the district as well as consider the interests of other persons who work in or visit the district.
- Participate in the decision-making process of the local government at council and committee.
- Facilitate communication with the community about the local government’s decisions.
- Facilitate and maintain good working relationships with other council members and the CEO.
- Observe the separation of roles of the council and CEO.
- Make decisions on merit, evidence and law, conscious of the capacity of the local government and with consideration of the local government’s finances and resources.
- Promote an organisational culture that respects employees.
- Maintain and develop the requisite skills to effectively perform their role.

As the leader of the local government council, mayors or presidents perform the following roles in addition to their council member role:

- Provide leadership and guidance to the council and its members, including guidance about their roles.
- Act as the principal spokesperson of the local government, including at ceremonial and civic functions, in a manner consistent with the resolutions of the council.
- Preside at meetings of the council, maintaining order at those meetings and ensuring that those meetings are conducted in a manner consistent with the Act.
- Promote and facilitate positive and constructive working relationships among council members.
- Liaise with the CEO regarding the local government's affairs and performance of its functions.

The CEO is responsible for the administration and operation of the local government, including:

- Causing council decisions to be implemented.
- Managing the provision of the services and facilities that the council has determined the local government will provide.
- Determining procedures and systems to implement the local government's policies and managing the local government's administration and operations.
- The employment, management, supervision and direction of other employees.
- Ensuring that records and documents of the local government are properly kept.
- Advising and procuring advice for the council in relation to the local government's affairs and performance of its functions.
- Ensuring that the council has the information and advice it needs to make informed and timely decisions.
- Keeping the minutes of council meetings.

The CEO liaises with the mayor or president on the local government's affairs and performance of its functions and may speak on behalf of the local government, with the mayor or president's agreement.

Role clarity is vital when different roles work to achieve the same objectives. When people understand their roles, better decisions can be made and implemented more effectively, resulting in improved use of ratepayer funds.

As a minor reform, local governments will now be required to advise the Department of Local Government, Sport and Cultural Industries (DLGSC) when vacancies on the council arise.

Roles of the council and local government staff



Meetings behind closed doors

By default, under the reforms, council and committee meetings must be open to the public. In certain circumstances, part of a meeting may be closed to deal with specific information where there is a clear public interest for that information to remain confidential.

The reforms provide a much stronger definition of the limited reasons to close a meeting.

Matters where a meeting must be closed include:

- a committee of the Parliament advising the local government to be confidential
- the recruitment or employment of the CEO or a senior employee, including termination or review of the CEO's performance.

Examples of the types of information to be considered that may provide a basis for closing part of a meeting include:

- Legal advice or other matters which legal professional privilege extend to.
- Information relating to the personal affairs of an individual.
- Information contained in a tender received by the local government where that information is the tendered price or the tendered methodology for calculating that price.
- Information contained in a tender where the information discloses any technology, technology, or any manufacturing, industrial or trade process, that the tenderer proposes to use in performing the contract and which is not public (and if made public would have an adverse effect on the tenderer's business interests).
- Information which would endanger the security of the local government property or operations, including cybersecurity matters.
- Information which could impair the effectiveness of an investigation or that deals with a contravention or possible contravention of the law.

The reforms clarify that:

- A decision to close part of a meeting must be made in an open part of a meeting.
- The local government is to record the reason for closing part of a meeting, including the type of information that is to be considered.
- The minutes must include a description of how the local government has sought to maximise the degree of information available to the public about the matter being considered.

The Bill also contains a new section to define irrelevant reasons for closing part of a meeting.

These include:

- the information to be considered would cause embarrassment to the local government, council, or any individual
- the matter is controversial
- making the information public would result in criticism.

The new Inspector will be able to review a decision to close part of a meeting to the public.

From 1 January 2025, all local governments will be required to audio record parts of a meeting that are closed to the public. Additionally, as proposed in the Bill's reforms, the Inspector will be able to order that the local government release the audio recording to the public if the Inspector determines that the meeting was not closed in accordance with the Act or regulations.

Audit, risk and improvement committees

Audit committees will be revised as audit, risk and improvement committees (ARICs). ARICs must have an independent presiding member to ensure a level of neutrality and impartial oversight in chairing these meetings. An independent presiding member must be a person who is not a council

member of a local government or an employee of the local government. If a deputy presiding member is appointed, they must also be independent.

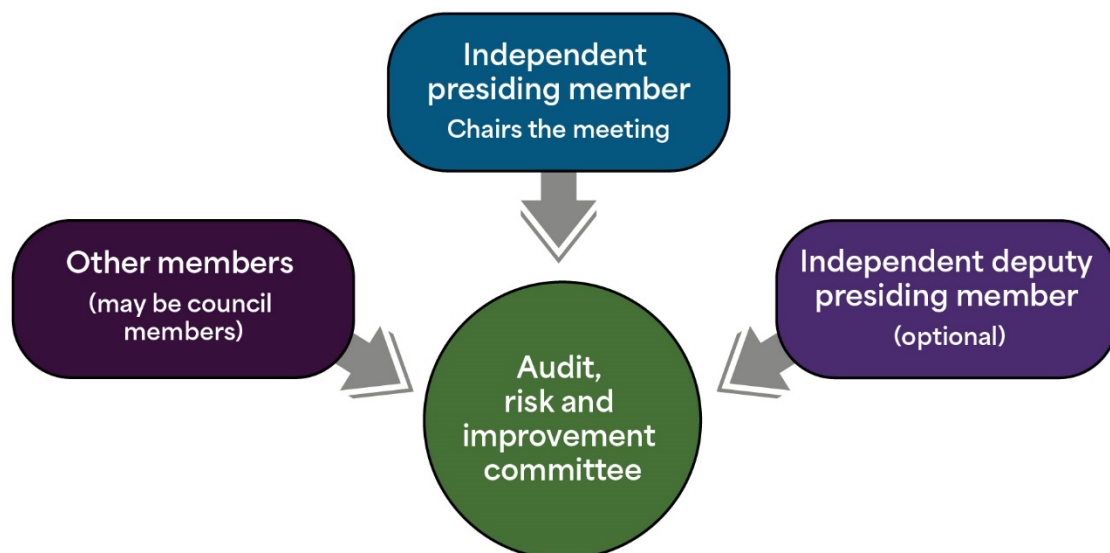
The introduction of an independent presiding member provides an opportunity for increased community confidence in a local government's financial and risk management. Local government operations may also benefit through appointing an independent chair with risk and financial management expertise that may otherwise be unavailable.

This reform reflects modern governance practices in State Government authorities and agencies as well as private corporations.

In relation to the current Act, an audit committee is required to be established comprising 3 or more persons appointed by absolute majority by a local government. Most of the members must be council members. The CEO or a local government employee cannot be a member.

Audit, risk and improvement committee model

The new audit, risk and improvement committee will comprise the following roles, with a total of 3 or more members.



Under the proposed amendments in the Bill, an ARIC now requires an independent presiding member. A local government can choose to appoint an independent deputy presiding member to chair the meeting if the independent presiding member is unable to do so.

If a local government chooses not to nominate a deputy presiding member, the council will need to appoint an independent proxy to chair the meeting should the need arise.

Smaller local governments may also now choose to share an ARIC to reduce the burden on their resources.

Council committees

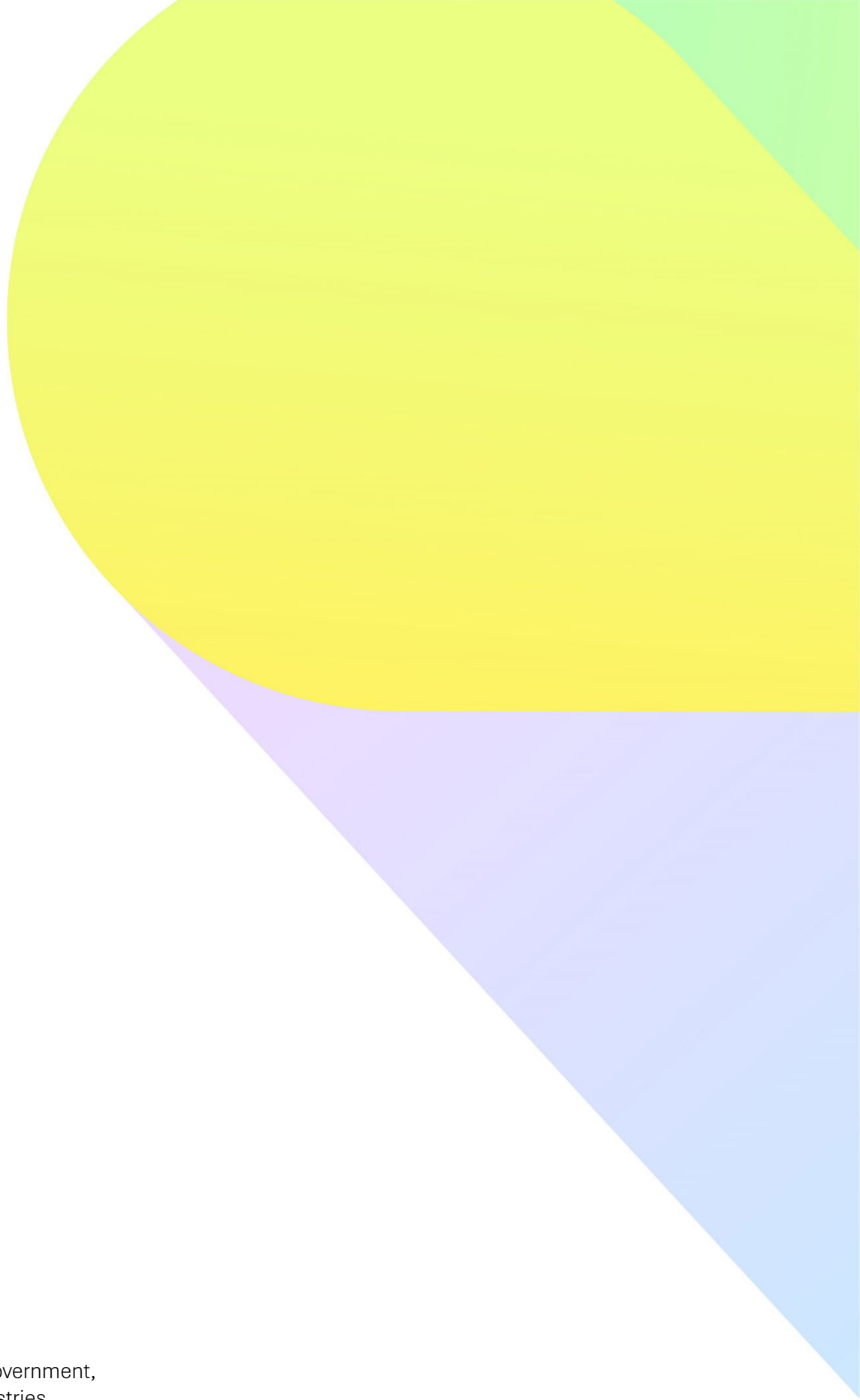
The Bill includes changes to allow for greater transparency and clarity on how council committees operate.

Council can now establish committees that have either an advisory or decision-making function and are generally open to the public.

The appointment process for the presiding member and deputy presiding member has also been simplified. Councils will appoint these roles, instead of the committee electing those roles by secret ballot.

Local governments are still able to establish informal working groups, which are not committees, to engage with their community or develop ongoing networks.

Questions? Get in touch with DLGSC via email to actreview@dlgsc.wa.gov.au



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