



LOCAL GOVERNMENTS FOR THE FUTURE >>>

INFORMATION SHEET

Standards of behaviour policy position

The consultation paper for phase one of the Western Australian Local Government Act Review addressed a number of key areas required for reform, including standards of behaviour for council members. The consultation process included a four month public submission period and workshops in 15 locations across the State.

This information sheet outlines what we heard during the consultation period about standards of behaviour from local governments and non-local governments including individuals, community sector organisations and peak bodies. It also outlines the new policy direction the Government intends to take based on this information.

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Why we consulted

Council members are expected to conduct themselves to a high standard. As representatives of their communities, community members expect that their council members will act ethically, diligently, honestly and with integrity. They are also expected to be open and accountable and treat others with respect and fairness.

In addition to not meeting community expectations, inappropriate conduct by council members can lead to council dysfunction, a loss of trust between council and administration, impairment of the local government's integrity and operational performance, and a consequent reduction in public confidence.

The *Local Government Act 1995* currently provides mechanisms to ensure that council members conduct themselves appropriately. This includes the requirement for local governments to have a Code of Conduct for council members and staff. *The Local Government (Rules of Conduct) Regulations 2007* also specify rules which are intended to prevent council members engaging in inappropriate behaviour such as securing personal advantage, misusing local government resources and improper behaviour with local government employees. The Local Government Standards Panel deals with breaches of these rules of conduct.

What we consulted on

The consultation paper put forward options to strengthen the provisions around council member behaviour. This included a review of the Code of Conduct for council members and staff, amendments to the Rules of Conduct Regulations and operation of the Standards Panel.

What we heard

We heard differing views on the means to improve council member behaviour. Local governments argued that an independent, State based ‘umpire’ needed to be maintained, including in areas to resolve conflict between council members.

One of the reasons for this was that close personal and professional associations within the sector meant that the use of peer-review or peer-mediation to resolve issues was not appropriate. The general view was that neighbouring councils were unable to impartially adjudicate on these matters.











There was also considerable frustration with the perceived operation of the Local Government Standards Panel. The Standards Panel must

be able to deal with complaints quickly and effectively to be able to have a positive influence on the behaviour of council members.

Many local governments strongly supported the need to have an independent, State Government body to adjudicate on behavioural issues at council. Some suggested that the assessment of complaints should be streamlined, while others proposed that multiple Standards Panels be formed to process their complaints more quickly.

Alternatively, some local government participants asserted that local governments should be required to adopt a grievance policy and procedures, with complainants being required to demonstrate that the steps in the procedure had been completed prior to the matter being considered by the Standards Panel.

Summary of feedback from local governments and non-local governments:

-  Need an independent, State-based “umpire”
-  Peer review to resolve issues is not appropriate
-  Frustration with perceived operation of the Standards Panel
-  Community concerns about behaviours not being managed effectively
-  Standards of behaviour should not vary between local governments
-  Local government desire for swift and punitive justice
-  Prefer prescriptive standards rather than outcomes based approach
-  Community concerns with council member behaviour
-  Concerns about reforms silencing council members who fight for ratepayers
-  More than 60% of community respondents are equally or more concerned with the behaviour and performance of the administration, particularly CEOs

Summary of feedback from peak bodies:

-  Streamline Rules of Conduct to make Standards Panel process more responsive
-  Confidentiality for all parties for entire process
-  Code of Conduct core requirements should be consistent between all local governments
-  Local governments should be able to self-impose additional standards suitable to their circumstances
-  Code enforced by CEO for employees, council for CEO, Standards Panel for council members
-  Amendments should consider findings of Department’s previous review of the Rules of Conduct Regulations

New direction

Throughout the consultation process, it was clear that there is strong support to continue with the independent umpire of the Standards Panel. However, it was also clear from feedback and the 2015 review of the Rules of Conduct Regulations, that process improvements and legislative amendments are required.

There are two elements to the reforms to improve the behaviour of council members:



Amendments to the Standards Panel



Introduction of a mandatory Code of Conduct

Standards Panel

Sanctions

The sanctions imposed by the Standards Panel will be expanded to include:



mediation between parties, and



ordering the council member to reimburse the cost of the panel proceedings for adverse findings

Timeframes



Complainants will have up to six months to lodge a complaint



This can be extended at the discretion of the Panel where it is in the public interest

Reporting requirements

To improve the transparency, accountability and overall outcomes of the minor breach system, local government reporting requirements will be increased to include:



publishing of council member censures on the council's website



tabling of decisions which result in a minor breach finding against a council member at the council's next Ordinary Council Meeting



publishing the number of allegations of breach, the number of findings of breach and the costs associated with the Standards Panel in the local government's annual report

All complaints to the Standards Panel to remain confidential until a finding has been made.

Mandatory Code of Conduct for council members

Amendments will be made to the Local Government Act to introduce a mandatory Code of Conduct that applies to all council members. The code will also be extended to apply to candidates.

The mandatory code will separate out matters that are to be considered through an internal resolution process from those which are referred to the Standards Panel.

The code will be developed with input from the local government sector and the Public Sector Commission. It will have the following format:

Part 1 – Principles



overarching principles that require council

members to serve the best interests of the people in the community and work together as a council.

Part 2 – Behaviour



general behaviour, responsibilities and relationships of a council

member. For example, the need to be respectful, establish and maintain respectful relations with other council members, and the process for dealing with administration staff.

This section will also outline the process for handling breaches, including the options available to a council following an investigation.

Part 3 – Misconduct



modelled on the current

provisions in the Rules of Conduct Regulations, these matters will be considered minor breaches, which will be referred to the Standards Panel to make a finding.

Code of Conduct for administration staff

Local governments will also be required to develop a Code of Conduct for administration staff. It is intended that regulations will outline the key principles and matters that need to be addressed in the code, as well as a dispute resolution process.

Vision for the future

The reforms will ensure that all council members are being held to the same standards of behaviour and conduct. The amendments to the minor breach framework will also increase transparency due to the increased reporting requirements.

These reforms will form the second tranche in meeting public expectations for ethics, standards and performance in local government.

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