



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**

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Phase 1: Consultation Paper

8 November 2017

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# 1. Relationships between council and administration

## Introductory questions

- 1) Would you like your submission to remain anonymous?  
No
- 2) Postcode:  
6167
- 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?  
The Council (elected) should make policy decisions the admin should carry them out. I am concerned on who overlooks the CEO
- 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?  
Councillors should be allowed to speak openly on all Council matters rather than just the CEO and Mayor

## Improving relationships between council and administration: Guidance question

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

Make it more open. I hear of Councillors not being able to get information from CEO

## 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?  
None. They should just use common sense and listen to officers advice
- 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)?  
The Councillors them selves. 30000 plus is plenty
- 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?  
No
- 18) Should contribution to such a fund be based on local government revenue or some other measure?  
no
- Do you have any other suggestions or comments on this topic?  
no

### 2.3 Mandatory training

#### Mandatory training: Guidance questions

- 19) Should elected member training be mandatory?  
No
- 20) Why or why not?  
common sense is the most important thing

21) Should candidates be required to undertake some preliminary training to better understand the role of an elected member?

No

22) Should this be Compulsory?

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?

no

## 2.4 Continuing professional development

### Continuing professional development: Guidance questions

26) Should ongoing professional development be undertaken by elected members?

No

27) If so, what form should this take?

### Training: Guidance question

28) Do you have any other suggestions or comments on training?

no

## 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.  
Same State same rules  
Which option do you prefer for codes of conduct and why? none just common sense
- 31) How should a code of conduct be enforced?  
By the ministry not the council

### 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?  
Should be clear and the same for all councils
- 34) If the rules were streamlined, which elements should be retained?  
impairing the integrity of the local government;  
impairing the operational performance of the local government;  
impairing the reputation of the local government;  
misuse of information,  
disclosure of interest, and  
securing personal advantage or disadvantage
- 35) Do you support a reduction in the time frame in which complaints can be made?  
Yes
- 36) Is three months adequate?

Yes

### Revised disciplinary framework: Guidance questions

37) Do you support an outcome-based framework for elected members?

Yes

38) Why or why not?

makes it more clear

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?

No

- 41) Please explain.

It should be out in the open. Unless there is a very good reason

#### **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?

because its confidential and could have commercial value

- 44) Should this restriction apply to former employees?

Yes

- 45) Please explain?

because its confidential and could have commercial value

#### **Confidentiality: Guidance question**

- 46) Is it appropriate to require the existence and details of a complaint to remain confidential until the matter is resolved?

No

- 47) Why?

It should be out in the open. Unless there is a very good reason

### 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 speed things up



- 49) What powers should the Conduct Review Committee have?  
to suspend Councillors
- 50) In your opinion what matters should go directly to the Standards Panel?  
All
- 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?  
Department of local government
- 53) How many members should there be on the Review Committee?  
3
- 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?  
Not sure
- 57) Are there any other options that could be considered?  
not sure
- 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?

Adversarial type of boards are best avoided

### **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?  
open punishment  
How many meetings should the Panel be able to order the elected member not attend?One month
- 63) Should the elected member be eligible for sitting fees and allowances in these circumstances?  
No
- 64) Why  
not doing the work

### **Compensation to the local government: Guidance questions**

- 65) Do you support the Panel being able to award financial compensation to the local government?  
No
- 66) Why or why not?  
not about money
- 67) What should the maximum amount be?  
0

### **Complaint administrative fee: Guidance questions**

- 68) Do you support this option?  
No
- 69) Why or why not?  
a deterrent for complaints
- 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?  
stops it being used

74) What would be an appropriate fee for lodging a complaint?

0

75) Should the administrative fee be refunded with a finding of minor breach or should it be retained by the Department to offset costs?

Yes

76) Why or why not?  
do not believe in costs

### **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?

No

78) Why or why not?  
same as above

### **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?  
transparency

### **Tabling decision report at Ordinary Council Meeting: Guidance question**

81) Do you support this option?

Yes

- 82) Why or why not?  
transparency

### 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?  
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?

no

## 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?  
CEO seem to appoint staff from Councils they have previously worked for. This is unfair on applicants not known to them
- 89) How could the recruitment and selection of local government CEOs be improved?  
yes
- 90) Should the Public Sector Commission be involved in CEO recruitment and selection?  
Yes
- 91) If so, how?  
By drawing up short lists
- 92) Should other experts be involved in CEO recruitment and selection?  
Yes
- 93) If so, who and how?  
not sure
- 94) What competencies, attributes and qualifications should a CEO have?  
a whole range

### 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?  
makes it clear
- 97) If so, who should appoint the CEO when there is a short term temporary vacancy (covering sick or annual leave for example)?  
The Council with advice from the CEO
- 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)?  
The Council with advice from the CEO

### 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?  
The Council
- 100) What should the criteria be for reviewing a CEO's performance?  
All areas
- 101) How often should CEO performance be reviewed?  
Once a year
- 102) Which of the above options do you prefer?  
not sure
- 103) Why?  
No
- 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?

6 months

108) Should there be any exceptions to this?

no

## 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?

No

111) If so, what?

### Strengthening local government administration: Guidance question

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

Make the admin more accountable to the public

## 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?  
Fairness
- 115) Should the appointed person be able to direct the local government or would their role be restricted to advice and support?  
Direct the local government
- 116) Please explain.
- 117) Who should pay for the appointed person?  
The Council
- 118) Why?  
Their mess

### Powers of appointed person: Guidance question

- 119) What powers should an appointed person have?  
All powers

### Remedial action process: Guidance questions

- 120) Do you think the proposed approach would improve the provision of good governance in Western Australia?  
Yes
- 121) Please explain.  
not sure
- 122) What issues need to be considered in appointing a person?  
all issues



**Supporting local governments in challenging times:  
Guidance question**

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

no

## 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?

no

### **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?

no

## 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?

Yes

129) If not, why?

seems fair

130) Is the threshold of \$500 appropriate?

Yes

131) If no, why?

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

Yes

133) Why or why not?

developers

134) If yes, what gifts should be prohibited?

all

#### **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?

Do not see why gifts should be allowed at all

## 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 4  
Why?
- 141) Should the requirements for any notice in the Supplementary Information - Public Notices be changed?  
No
- 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?  
No
- 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<br>5.75 & 5.76          | <p>Primary and Annual returns – for Elected members</p> <p>Includes – sources of income</p> <p>Trusts</p> <p>Debts</p> <p>Property holdings.</p> <p>Interests and positions in corporations.</p> <p>Both</p> |
| Section<br>5.87                 | <p>Discretionary disclosures generally</p> <p>Both</p>   |
| Section<br>5.82                 | <p>Gifts (already required to be on the website)</p> <p>Both</p>   |
| Section<br>5.83                 | <p>Disclosure of travel contributions (already required to be on the website)</p> <p>Both</p>  |
| Elections<br>Regulations<br>30H | <p>Electoral gifts register</p> <p>Both</p>  |
| Section<br>5.98A                | <p>Allowance for deputy mayor or deputy president</p> <p>Both</p>  |
| Section<br>5.100                | <p>Payments for certain committee members</p> <p>Both</p>  |
| Functions<br>and<br>General     | <p>Tenders register</p> <p>Both</p>  |

Regulations  
17

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|  |  |
|--|--|
| Section 5.94 & Administration Regulations 29 | Register of delegations to committees, CEO and employees<br>Both                       |
|  | Minutes of council, committee and elector meetings<br>Both                             |
|  | Future plan for the district<br>Both   |
|  | Annual Budget<br>Both  |
|  | Notice papers and agendas of meetings<br>Both  |
|  | Reports tabled at a council or committee meeting<br>Both                               |
|  | Complaints register (concerning elected members)<br>Both                               |
|  | Contracts of employment of the CEO and other senior local government employees<br>Both |
|  | Schedule of fees and charges   |

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Both

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Proposed local laws

Both

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

Both

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Rates record

Both

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Electoral roll

Both

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**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?

No

147) If so which items?

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.

not sure

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 2: Additional reporting requirement

154) Why?

to increase transparency

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 | 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?

not sure

### Expanding the information available to the public: Guidance question

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

not sure

## **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.  
not sure!
  - 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,
- 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?

Option 2: Regional subsidiaries are permitted to borrow from Treasury Corporation

176) Should regional subsidiaries be allowed to borrow money other than from the member councils?

Option 2: Regional subsidiaries are permitted to borrow from Treasury Corporation

177) Why or why not?

tresaury

178) If a regional subsidiary is given the power to borrow directly, what provisions should be put in place to mitigate the risks?

no

### 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*?

no

### 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.

All councils should have wards. This stops small groups of voters being able to dominate the election of Councillors. All Mayors should be elected by popular vote. There should be term limits for both Mayors and Councillors