



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: Sabrina Klinger

1. Relationships between council and administration

Introductory questions

- 1) Would you like your submission to remain anonymous?
No
- 2) Postcode:
6007
- 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 is a governance body, not a management body. That segregation need to be clearly stipulated and understood by those who participate and/or want to participate in being a councillor/mayor/shire president.

The council governs the LG and ensures that the community's interests are met in the most efficient and effective manner. The council has the ultimate decision-making authority and, in general, is empowered to

- (1) set the LG's policy, objectives, strategy and overall direction,
- (2) adopt bylaws,
- (3) name members of the committees, and
- (4) hire, monitor, evaluate, and terminate the employment of the CEO.

The PSC has good resources that apply to boards and committees. Those principles/guides/publications should be used to better define what are the expectations of a council.

- 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?

Councils need to understand that they provide oversight and not management of the LG. The Act needs to be absolutely clear that this distinction is understood by councillors, CEO and admin staff. Training and performance management are adequate tools to ensure understanding and adherence.

Improving relationships between council and administration: Guidance question

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

All LG should be required to produce a strategic plan; medium and long term and implement performance measures to assess how the strategic goals are achieved.

The administration needs to be held to account that the council's objectives are carried out. The CEO is responsible for the achievement of set goals via a binding performance agreement.

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?

All as proposed in the consultation paper.

Moreover, elected members need to have the right attitude that their role is to better the community. They need to be mentored to manage self-interest.

- 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)?

Co-share agreements should be implemented. 50% is paid by the respective LG and the other half via a training fund yet to be established as proposed in the consultation paper.

- 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?

Contributions should be based on number of councillors.

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?
Elected members come from all sorts of life and the community expects that they perform well in their role and carry out their duties with care and diligence. So, they should be enabled to do so and training is the only way to set a ground level of skills and knowledge to serve the community you represent.
- 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?
6 months max with refresher every 4 years.

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?

Whatever delivers outcomes and value-for-money. Online plus exams would be best suited for busy people.

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.

The LG's Code of Conduct should use a model Code of Conduct as a baseline and can supplement with additional provisions, provided the existing model isn't contradicted.

Which option do you prefer for codes of conduct and why? Codes of Conduct are required.

LGs must adopt a model code, with certain clauses subject to modification.

Why?

The advantages of clear guidance, assurance of community in being entitled to expect prescribed behaviour by elected members and best-practice standards outweigh the disadvantage of decreased autonomy.

31) How should a code of conduct be enforced?

The Code is a legal document. Councils are responsible for managing inappropriate behaviour (low level matters that are not misconduct).

Matters of misconduct (defined in the Act) are referred to a conduct review panel or similar associated with the Department.

The Minister has powers to punish councillors who are found in having displayed gross misconduct.

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?

Ensuring that elected members adhere to prescribed Rules of Conduct is not a matter of what is easier for the LG or the councillor; it is about assurance of communities that they get the best from their LG and councillors. Regulations need to serve the expectations of the communities, not anyone else's. Members of the community need to have faith that recourse for their grievances is available and enforced. And they need to have an outside body to turn to.

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

As set out in the Consultation paper:

Misconduct is likely if it appears or is likely to appear

- be a detriment to the local government,
- result in council dysfunction, or
- impair public confidence in decision making.

Emphasis is given that the Rules of Conduct cover actual and perceived misconduct.

The focus should be the relationship of Council/councillor with the community, not relationships with the administration or staff.

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?

No

38) Why or why not?

Any outcomes-based framework attempts to achieve set outcomes/impacts by employing means that best fit the individual circumstances and/or environment. That said, outcomes-based frameworks are non-prescriptive to what are the means you employ to achieve these outcomes/impacts.

Expected conduct of an elected member is either met or not, there is no ambiguity in behaviour displayed. Therefore, clear rules are the only way to ensure communities receive the best from their elected members.

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

No

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.

What is the benefit of putting the details of a complaint into the public domain until it is resolved?

The only exemption is, that the public would suffer or it appears would suffer harm if not doing so.

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?

As a former councillor you were trusted to do the right thing by your community. It is a public service you take on. Only you cease to do so does not relieve you from your duty to serve your community. Also, there should not be any time-limit on improper use of information. If you have received information under privilege; that privilege will never cease to exist.

- 44) Should this restriction apply to former employees?

Yes

- 45) Please explain?

Same rule, privilege is privilege.

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?

What is the benefit of putting the details of a complaint into the public domain until it is resolved?

The only exemption is, that the public would suffer or it appears would suffer harm if not doing so.

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?

Looks good to me. A streamlined process assures confidence that proper process is followed and also gives an avenue of recourse if not. Cannot see a disadvantage.

49) What powers should the Conduct Review Committee have?

See attached flow chart 'Conduct Review Process'

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

See attached flow chart 'Conduct Review Process'

51) Who should be able to be a member of a panel: elected members, people with local government experience, independent stakeholders?

Elected Members

52) Who should select the members for the pool?

Addendum to above question:

There should be difference in panel membership

Conduct Review Panel ->Peers from other LG

Standards Panel -> Regulator

Membership should be merit based open application process carried out by an independent body, e.g. Public Sector Commission.

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

3

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

No

55) If not, what do you propose?

See attached process chart 'Appeals Process'

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?

Talking things over and finding a solution by the parties involved will almost always achieve an outcome all parties are committed to.

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?

The 'Yes' above is a qualified assessment. However, the passage of time and the lack of timeliness between misconduct and Panel review process may of concern.

The complaints being assessed by a panel and the misconduct are usually not around the same time. What should be achieved by excluding an EM from council meeting now?

It would be better to exclude elected members from council meetings as part of the LG Code of Conduct sanction if a complaint is filed and such sanction is warranted under that Code of Conduct.

How many meetings should the Panel be able to order the elected member not attend? See attached process chart 'Conduct Review Process'

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

No

64) Why

See attached process chart 'Conduct Review Process' and 'Appeals Process'

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?

The answer to the question above is qualified. If it can be established that there is a clear financial impact to the LG, compensation is warranted.

67) What should the maximum amount be?

I support the suggested \$10,000.

Complaint administrative fee: Guidance questions

68) Do you support this option?

Yes

69) Why or why not?

The answer to the question above is qualified. This should be dealt with in a two way fashion.

Firstly, a breach is found, no admin fee.

Secondly, no breach is found and the complaint is found to be frivolous/vexatious/similar, charging an admin fee is warranted as a deterrent.

No breach is found and the complaint is not found to be vexatious/frivolous/similar, no admin fee is charged to ensure that the community has confidence that there is an avenue to lodge grievances.

The onus of proof that a complaint is considered vexatious/frivolous/similar lies with panel.

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?

Yes

73) Why or why not?

The answer to the question above is qualified. This should be dealt with in a two way fashion.

Firstly, a breach is found, no admin fee.

Secondly, no breach is found and the complaint is found to be frivolous/vexatious/similar, charging an admin fee is warranted as a deterrent.

No breach is found and the complaint is not found to be vexatious/frivolous/similar, no admin fee is charged to ensure that the community has confidence that there is an avenue to lodge grievances.

The onus of proof that a complaint is considered vexatious/frivolous/similar lies with panel.

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

Similar to other fees charged for applications that require a similar time to be assessed.

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?

The answer to the question above is qualified. This should be dealt with in a two way fashion.

Firstly, a breach is found, no admin fee.

Secondly, no breach is found and the complaint is found to be frivolous/vexatious/similar, charging an admin fee is warranted as a deterrent.

No breach is found and the complaint is not found to be vexatious/frivolous/similar, no admin fee is charged to ensure that the community has confidence that there is an avenue to lodge grievances.

The onus of proof that a complaint is considered vexatious/frivolous/similar lies with panel.

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?

Yes

78) Why or why not?

This would act as a deterrent and commensurate with “fine” mentality we have in Australia.

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?

This process will assure the community that transparency, accountability and ethical behaviour is enforced.

Tabling decision report at Ordinary Council Meeting: Guidance question

81) Do you support this option?

Yes

82) Why or why not?

This process will assure the community that transparency, accountability and ethical behaviour is enforced.

3.6 Elected member interests

Elected member interests: Guidance questions

83) Should not-for-profit organisation members participate in council decisions affecting that organisation?

Yes

84) Why or why not?

They need to declare a conflict of interest and it is up to the council to decide whether they can vote on the matter.

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?

Councils have access to all resources available for recruiting a CEO as any other employer, e.g. specialist recruiters. Councillors need to have the skills and knowledge to utilise resources and decide on avenues (as in how to advertise, what should be the selection criteria, etc.) they consider to be fit for purpose. It cannot be valid to think that hand-holding when it comes to complex and complicated tasks be a suitable option, this applies to the selection of a suitable CEO in particular.

89) How could the recruitment and selection of local government CEOs be improved?

The role of a LG CEO can be seen as akin to a senior public servant in the State public sector. The Public Sector Commission has excellent material available that informs and advises about good CEO recruitment.

Councillors need to make themselves knowledgeable to use material that is out there and decide on the best CEO recruitment policy for their LG.

Also, specialist CEO recruiters are operating and their expertise can be called upon.

The main issue here is that councillors need to decide on the best policy for their LG and then employ best practice to follow through. Just picking some mate and hoping for the best is unprofessional and plainly wrong.

This attitude led to the wrong person to be selected as the CEO in the past. However, nepotism and self-interest will always be an issue. The best legislation will not eradicate human behaviour that is wrong.

90) Should the Public Sector Commission be involved in CEO recruitment and selection?

Yes

91) **If so, how?**

The answer to the question above is qualified.

If the councillors decide that the PSC would be a good option to help with a CEO appointment, then this avenue should be open. The PSC has made some bad executive appointments in the past as well and it comes down to the individual's performance to find the right candidate.

I support to have senior executive recruitment support via the PSC available to LG. Amending the PSC Act would be a good idea to make this possible.

However, the PSC can only be engaged in the CEO recruitment if the LG decides to do so. There must be a clear separation between State and local government. Communities will not accept that the State government gets involved in their decision making.

92) **Should other experts be involved in CEO recruitment and selection?**

Yes

93) **If so, who and how?**

I support the idea of expert recruiters for LG CEO positions and a vetted accreditation process. This will, of course, lead to an outcry that the public sector creates additional 'red tape' for recruiters to get accreditation. However, quality is paramount. I don't support the idea of involvement of people who have no ongoing professional expertise in CEO recruitment. Seniority in the public sector or any peak bodies does not equate to knowledge. An expert is someone who does the task on hand well, not someone who is recognised for their service or duration in their job.

I don't support creating more commissions/boards/panels. Quantity does not lead to better quality.

94) **What competencies, attributes and qualifications should a CEO have?**

A CEO is a person that can demonstrate that they can lead the managing of a LG effectively and efficiently to the benefit of the local community. They need to have the right persona to appreciate to work with the mayor and council to improve the local residents' life.

4.2 Acting Chief Executive Officers

Acting CEOs: Guidance questions

- 95) Should the process of appointing an acting CEO be covered in legislation?

No

- 96) Why or why not?

This is the LG's domain and autonomy. Accountability lies with council and they will be held to account when they get it wrong. However, it should be mandated that the LG has a policy that covers acting CEOs appointments.

- 97) If so, who should appoint the CEO when there is a short term temporary vacancy (covering sick or annual leave for example)?

The LG should decide on a policy how to deal with short-term vacancies, e.g. having a designated deputy.

- 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 LG should decide on a policy how to deal with extended vacancies.

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?

Mayor, councillors as part of their role in the performance and audit committee, peer from a neighbour council, approved third-party subject matter specialist.

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

Has the CEO performed their duties according to their contract and how has the community benefitted?

The main guideline for a CEO's performance is that

- they have provided services that are efficient to the community,
- they have provided services that are effective services to the community,
- that the community's needs and wants are met,
- that the community has received value-for-money, and
- the overall well-being of the community has been enhanced.

More than satisfactory performance in those 5 measures needs to be demonstrated in order to agree that the CEO has performed their contractual duties.

101) How often should CEO performance be reviewed?

Annually and when there is a special requirement, e.g. request by majority of councillors, request by CEO, request by majority of senior personnel, special organisational circumstances, as per petition by community.

102) Which of the above options do you prefer?

Combination, as in

- LG adopts CEO performance review policy based on a standard.
- Involvement of subject matter specialists and peers from other LG to improve fairness and quality.

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?

Yes

106) What length should such a cooling off period be?

The answer to the above question is qualified. There needs to be exemption when the newly elected council can demonstrate that any further employment of the existing CEO would cause detriment to the community that outweigh any benefits of administrative consistency.

I support 4 months.

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

- No out-of-term renewal should be allowed at any time.
- 6 months prior to election an existing CEO contract that has come up for renewal (5 years period) cannot be extended.

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?

Yes

111) If so, what?

Public Sector Commissioner's Instruction No.2 'Filling a Public Sector Vacancy' or similar should be introduced for LG and form part of the renewed Act.

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?

This should be a suitably qualified person with relevant expertise. Not too closely related to be perceived part of the problem but close enough related to be capable of benefitting the process quickly and efficiently.

If the department can build up capability in its own workforce to have intervention specialists on hand, that would be good option. However, the fine line is to do right by the local community in NOT being perceived as usurping the LG and diminishing democratic processes.

115) Should the appointed person be able to direct the local government or would their role be restricted to advice and support?

Restricted to advice and support

116) Please explain.

The answer to the above question is qualified. This needs to be a staggered approach depending on the level of dysfunction.

For minor difficulties, advice and support and directing to submit a report after certain time by the LG to the regulator what was achieved is a good option.

LG are autonomous and are part of the local community. Any outside directive will not strengthen community trust in their existence and effectiveness.

For more serious dysfunctions, directive intervention and the appointment of specialists akin to 'voluntary administration' experts with decision making powers will be probably the only option to restore faith and overcome the causes of the experienced difficulties.

However, this should be a decision made by the Minister and with ministerial accountability and responsibility.

117) Who should pay for the appointed person?

Local government

118) Why?

It is the LG prime responsibility to do the right thing by the community. The community on the other hand is in charge in use the democratic process of council election to put the right people in place.

When things go downhill this responsibility bestowed on the local community needs to be borne by the local community.

Powers of appointed person: Guidance question

119) What powers should an appointed person have?

- Unrestricted access to all necessary information.
- Can ask/interview all LG personnel and council members without permission by CEO/mayor.
- Can seek outside advice and information.
- Can request undertakings to be carried out.

In more serious cases of intervention

- To make decisions and take over the management of the LG administration.

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.

What is the proposed approach? No information is provided.

Don't ask questions without providing detailed information what you are actually proposing.

122) What issues need to be considered in appointing a person?

See above – More information needed.

**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?

Explanation to above question:

The main reason here is the different source of funding; state employees are funded via taxes, LG employees via ratepayers. It would be unfair to burden one or the other with accrued entitlements from a total different funding source. No-one would consider this approach when people move from one private employer to another.

I don't support transfer arrangements with portability of entitlements but I support secondment arrangements. Having the opportunity for public servants – regardless where their home agency is – to gain knowledge and experience outside their current area of work is worthy to encourage. However, when it comes to employee entitlements this should be treated like short-term secondments in the state public sector, i.e. home agency accrues for employee entitlements and hosting agency pays. This would ensure that hosting agencies do not drag secondments for too long but eventually make a decision and employ that person

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?

See attached process chart 'Gifts'

130) Is the threshold of \$500 appropriate?

No

131) If no, why?

Councillors are well aware about their special position in the community. They accept the limitations that come with this freely and voluntarily. No gifts whatsoever are acceptable to be not disclosed under any circumstances except if the gift or contribution is already declared under Local Government (Elections) Regulations.

Councillors need to be and be perceived impartial and carry out their position without any fear or favour. Being subjected to an impression that they receive “gifts” will lessen that perception in the community.

The legislation needs to shift its focus from what is good and appropriate for council/councillors/administration to what is good and appropriate for the community these institutions serve.

LG suffer little relevance at the moment. The Act review should strengthen their relevance and everything possible needs to be undertaken to assure the community that council/councillors/administration do the right thing by the community.

Don't hide behind “red tape reduction” when institutions moral worth is at stake.

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

Yes

133) Why or why not?

How would you enforce excluding gifts?

All gifts need to be disclosed and it is up to the community to make an assessment there-upon.

More interesting, should gifts be prohibited where there exist or can be perceived to exist an inducement to achieve a certain outcome? It is not about the giver, it is about what the gift is for.

134) If yes, what gifts should be prohibited?

See above.

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.

See attached process chart 'Gifts'

Gifts: Guidance question

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

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?
- Fast, widely available, easy access, environmentally friendly. Print notices may be required under certain conditions (legal, access to electronic media) and issues accordingly.
- 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 5.75 & 5.76	Primary and Annual returns – for Elected members Includes – sources of income Trusts Debts Property holdings. Interests and positions in corporations. In person only				
Section 5.87	Discretionary disclosures generally In person only				
Section 5.82	Gifts (already required to be on the website) Website only				
Section 5.83	Disclosure of travel contributions (already required to be on the website) Website only				
Elections Regulations 30H	Electoral gifts register Website only				
Section 5.98A	Allowance for deputy mayor or deputy president				

Website only

Section 5.100
Payments for certain committee members
Website only

Functions and General Regulations 17
Tenders register
Website only

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)
Website only

Contracts of
employment of the CEO
and other senior local
government employees

Both

Schedule of fees and
charges

Both

Proposed local laws

Website only

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

Website only

Rates record

Website only

Electoral roll

Website only

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 that is available in other jurisdictions.

148) How should they be made available: in person, website only or both?

Required

149) Is there additional information that you believe should be made publicly available? Please detail.

1. Use of rates

LG should provide a chart showing a break-up how rates are used similar to the information the ATO gives out with the tax assessment, e.g. percentage for used for admin, maintenance of community assets, asset replacement, etc.

2. Organisation

LG website should have an up-to-date orga chart with all current positions. This will increase transparency what rates are used for employing staff to improve the wellbeing of the local community.

3. Compare and assess

The 'mycouncil' website is not featured well on LG websites. All LG should have a link here.

- 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?

I have experienced first-hand and witnessed personally that my LG is not very forthcoming when it comes to provide information and answers to residents and ratepayers about issues they raise. I had to get back many times and needed to engage the council to get information, I saw that the administration needed to be subjected to FOI applications to provide information.

CEOs and their senior management need to be aware that all LG matters are matters of the local community. The LG Act review need to address that mindset and educate but also provide recourse to the local community when individual LG are not living up to the expectation that they only exist to provide betterment for the community they serve.

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	Not Required
Elected member attendance rates at council meetings	Required
Elected member representation at external meetings/events	Required
Gender equity ratios for staff salaries	Not 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.

Development applications should be decided by the LG only without any interference of Development Application Panels and/or SAT. The current situation with having a multi-avenue approach based on the value/volume of the development and also as an appeal vehicle is causing negative impact and apprehension by the community.

The current legislative situation allows developers to by-pass community's expectation and wants how and what kind of development the community is expecting in their neighbourhood. The DAP/SAT process has not worked in favour of any community. Moreover, this process has created significant public backlash and community disengagement.

The notion that an 'independent' body may be better equipped to decide on developments within the community is bar any logic. It is essentially the community's decision what kind of development options should be made available.

Bad development decisions have been made by LG and by DAP/SAT – there is no substantiated outcome that shows one may be preferable over the other.

If developers are unhappy with the outcome of their development application they need to work with the community and find engagement.

Arbitrarily imposing unsupported decisions upon a community is neither in the letter nor the spirit of local government politics.

- b) **What is the impact of this problem? Please quantify if possible.**
Directly quantifiable impacts are the cost of maintaining DAP and SAT processes. Indirect cost are disengaged communities, bad planning outcomes, a disenfranchised public in regards to government decision making, reduced trust in democratic processes.
- c) **What solutions can you suggest to solve this red tape problem?**
Abolish DAP/SAT process for development and hand back decision making power to the LG.

10.1 Potential red tape reductions

Special majority: Guidance question

160) Should the provisions for a special majority be removed?

Yes

161) Why or why not?

The Act applies to all and everyone uniformly and equitably. What is the rationale to have a provision only applicable to some?

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?

Council employs CEO, CEO employs other senior management, they employ other staff. If the CEO is incompetent to employ senior management that is able to deliver outcomes that benefit the community, council should dismiss the CEO.

CEO is the leader of the administration. They need to have the opportunity but also the responsibility to lead without interference. Bad senior management and other staff performance is the responsibility of the CEO. This is how a CEO's performance management comes into play.

163) Is it necessary for some employees to be designated as senior employees?

Yes

164) If so, what criteria should define which employees are senior employees?

Yes.

They support the CEO in managing and leading the LG administration to the benefit of the local community. They are the personnel capable of providing high-level policy advice and undertake managerial duties.

The PSC has developed selection criteria useful for appointing senior employees. This body of work is good guidance of what are the expectations of senior employees and ultimately, what defines a senior employee.

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?

No

166) Why or why not?

Reference to AASB 124 requirements should be included in the Act. AASB have quasi-judicial status under Corporations Act and are followed by State governments. In order to achieve consistency they need to be part of the Act.

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?

The provision of threshold for trade-ins should be removed completely. It is about deciding what approach generates the best return and maximises

value-for-money. Trade-ins should be treated entirely on their commercial merits.

169) Should the threshold remain at \$75,000 but with separate exemptions for specific types of equipment, for example plant?

No

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?

No

171) If so, what should it be and why?

See above

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?

No

173) Is there an alternative model for managing the disposal of property? Please explain.

See above - commercial merit warrants the approach taken.

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?

See above, Treasury Cooperation only to not restrict access to funds but also reduce risk.

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.

I have sent further information about my view on Gifts, Conduct and Appeals Process to your email legislation@dlgsc.wa.gov.au and should be read in context to this submission.