



Local Government Act 1995 Review

Agile • Smart • Inclusive – Local governments for the future

Phase 1: Consultation Paper

8 November 2017

Name: Steven Pollard

1. Relationships between council and administration

Introductory questions

1) Would you like your submission to remain anonymous?

No

2) Postcode:

6401

3) Who are you submitting on behalf of?

Yourself

- 4) Local government name:
- 5) Organisation name
- 6) Are you a:

Elected member

Defining the roles of council and administration: Guidance questions

7) How should a council's role be defined? What should the definition include?

Council are the strategic planners. Administration implement those decisions. Policy formulation guides the CEO and his staff. Delegation of Council authority is a method of achieving decision making where policy guidance allows some flexibility to the C

- 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?

What is financial "oversight"? Our Council had encountered some hesitancy from the CEO to allow Council to get to in-depth details of things like say payroll and creditors. Our Audit committee has struggled to get access to actual records. The nose in/fingers out principle is fiercely protected by administration. Given CCC Commissioner McKecknie's observations about Council responsibilities in cases like the Dowerin case, the Audit Committee should be able to access whatever they need to ensure the administration is in order.

Improving relationships between council and administration: Guidance question

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

All interaction with administration staff must currently be authorised by the CEO. CEOs seem reluctant to allow too much of that as it interferes with staff time management. Very difficult to assess CEO "Performance" vs. mere achievement.

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?

General knowledge of the LG Act and the various Regulations. General knowledge of the Planning and Development Act.

General knowledge of the LP Scheme and Strategy.

Knowledge of our own Local Laws and Policies.

Knowledge of SCP.

14) Do these vary between local governments?

Yes

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)?

Council

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?

Council to pay for Councillor training. Most LGAs receive Federal Funds (FAGS) and training can come from there.

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?

Yes

20) Why or why not?

There should be at least an induction into how the LG works once you are elected and what Acts/policy etc. is required to be considered in decision making.

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?

Yes

24) If yes, how would this work?

Councillor to demonstrate that RPL is indeed current by sitting a multiple choice type test which demonstrates their

Years of involvement = genuine knowledge.

25) What period should apply for elected members to complete essential training after their election?

1 month.

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?

Gap analysis then attendance at recognised courses.

Training: Guidance question

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.

Cant see why it should. If there is a need to codify conduct, it should apply uniformly across the sector.

Which option do you prefer for codes of conduct and why?

Very short written code with just the key principles included. If we have a 10 page document plus regulations to consider before doing anything, we can be paralysed by the fear of contravening some obscure requirement.

I understand that the relationships between Council, Councillors, CEO, his staff and the general public must be kept professional however I am not convinced that more requirements are conducive to good outcomes.

31) How should a code of conduct be enforced?

By President and or CEO

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?

I assume that streamlining will result in less frivolous complaints being made. We are all human and have different behavioural traits.

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

The 4 principles as already exist.

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?

You would hope that a behaviour can be modified so the outcome is the test.

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 reasonably common knowledge that a complaint has been made so that other affected parties can lend support or otherwise to the voracity of a claim. Bullying complaints for example that are kept confidential may expand if others know that someone has stepped up. I can see how this could be used to a persons disadvantage but I can also see that openness is useful.

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?

There should never be improper use of any information gained in a professional capacity by current or past Councillors. Difficult to police after 12 months though.

44) Should this restriction apply to former employees?

Yes

45) Please explain?

Same as for Councillors. Insider trading type situation should not be taken advantage of by employees, current or past.

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 reasonably common knowledge that a complaint has been made so that other affected parties can lend support or otherwise to the voracity of a claim. Bullying complaints for example that are kept confidential may expand if others know that someone has stepped up. I can see how this could be used to a persons disadvantage but I can also see that openness is useful.

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?

Advantage: Sort out relatively minor type matters quickly.

Disadvantage: Not many

49) What powers should the Conduct Review Committee have?

Whatever is needed to resolve a matter.

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

Serious matters only

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

People with local government experience

52) Who should select the members for the pool?

Department/Minister

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

3 to 5

- 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?

Dealing with matters at the local level initially then an escalation process where parties can escalate the matter if they feel natural justice has not occurred.

- 57) Are there any other options that could be considered? Probably.
- 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?

It should help resolve matters quicker and allow everyone to get back to the main game.

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?

If the Councillor is simply anti everything, they serve little purpose being at the meetings.

How many meetings should the Panel be able to order the elected member not attend?

Up to 3

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

Yes

64) Why

They are the elected representive even though they cannot participate at meetings.

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?

If Council is out of pocket due to engagement in the process, they should be compensated - not sure by who though?

67) What should the maximum amount be?

The cost of being involved

Complaint administrative fee: Guidance questions

68) Do you support this option?

Yes

69) Why or why not?

It should discourage minor nit picking complaints if a reasonable referral fee is involved

70) Do you believe that a complaint administrative fee would deter complainants from lodging a complaint?

Yes

71) Is this appropriate?

Yes

72) Would a complaint administrative fee be appropriate for a sector conduct review committee model?

Yes

73) Why or why not?

Still costs people to be involved in the process - preparing defence, preparing complaint etc.

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

\$500

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?

We need to get away from the initial assessment process of what is minor, what is major. Stop wasting time and money with low level Conduct matters.

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?

The current system has many ways a complaint can be generated e.g. implying an officer is incompetent in their role in the execution of decisions of Council.

It seems that Compliance Officers in Council are often looking for a way to hang an elected member out to dry.

That is their very role as a Compliance or Complaints Officer anyway.

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?

Gives the public an indication of how we are all travelling.

Tabling decision report at Ordinary Council Meeting: Guidance question

81) Do you support this option?

Yes

82) Why or why not?

Same

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?

Ordinary Members vs. elected officers is to be differentiated. Simply being a member does not mean you can influence that organisation. Declaring the impartiality interest should be sufficient.

85) Would your response be the same if the elected member was an office holder in the organisation?

No

Improving the behaviour of elected members: Guidance question

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

Simplify the Code. I realise behaviour has been a problem over the years hence the Council code of conduct and Regulations but the more we have to comply with, the less engaged elected members can be.

The CEO should not be as precious about being queried on organisational performance.

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?

To appoint a CEO for 5 years at over \$1m cost based on an application process, short list, short interview and away you go is hardly a great system.

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

Perhaps a central pool of CEOs whose real skills have been independently assessed would help

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

Yes

91) If so, how?

He can vet those who are problematic, or high calibre, with a view to making a good appointment.

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

Yes

93) If so, who and how?

We do use WALGA and a few independent firms

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

All things to all people!

Clearly, organisational management, legislation knowledge, ability to problem solve, think strategically in an operational sense, finance awareness.

4.2 Acting Chief Executive Officers

Acting CEOs: Guidance questions

- 95) Should the process of appointing an acting CEO be covered in legislation?
- 96) Why or why not?

Should be a fairly straight process. The CEO appoints an acting for short periods eg his annual leave and Council appoints for extended periods e.g. accident, mental damage etc.

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

As above - the CEO unless the sickness is sudden (car crash/heart attack) in which case the Council.

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)? Council.

Council appoints the CEO so an acting for long periods should be up to Council.

If the CEO has catastrophic injuries that may take 12 months or more before the CEO can resume duties, that cannot be kept in limbo for too long.

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

 KPIs
- 101) How often should CEO performance be reviewed?

At least annually but ongoing/continually is not a bad option so that Council know how performance is going

102) Which of the above options do you prefer?

Option 1 or 3

103) Why?

Yes

104) Is there an alternative model that could be considered?Actual performance of KPIs rather than mere achievement is the key.

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 term of the CEO contract. I can't see why a new Council who is unhappy with the past perceived performance of the Local Government should terminate the CEO. It is the performance that is critical not the view of disgruntled ratepayers/Councillors. One

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

6 months maybe

108) Should there be any exceptions to this?

It depends on what the ceo contract term is.

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?

No

110) Should certain offences or other criteria exclude a person from being employed in a local government?

Yes

111) If so, what?

Criminal offences convictions

Strengthening local government administration: Guidance question

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

No

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?

Departmental employee

114) Why?

Best placed to provide solution to perceived or actual problem

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.

If a problem is real, it needs to be resolved.

117) Who should pay for the appointed person?

DLGSC

118) Why?

Who else would pay?

Powers of appointed person: Guidance question

119) What powers should an appointed person have?

Wide ranging

Remedial action process: Guidance questions

120) Do you think the proposed approach would improve the provision of good governance in Western Australia?

No

121) Please explain.

Local Governments make decisions in the best interests of the residents of their district. This may mean borrowing is "high" compared to an affordability ratio and considered manageable from the LG perspective but not from a departments ratio analysis pe

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

Independence/skill set

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?

Employees would be inclined to move across the government sector.

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?

As a Councillor, I disagree with the notion of portable/transferable leave and entitlements. Having worked in the private sector, transferability/portability was not the norm. Leave entitlements accrue due to service with that employer, not the industry.

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?

The whole gift receipt issue is very complex. If a bribe is a bribe, let's call it that and deal with it that way.

130) Is the threshold of \$500 appropriate?

No

131) If no, why?

Should be unlimited but certainly reportable. Some gifts may be related to the business of Local Government e.g.corporate box, trip to the Olympics and valued way in excess of \$500 in bigger Councils.

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

No

133) Why or why not?

If a gift is a bribe, deal with it that way.

134) If yes, what gifts should be prohibited?

Excluding gifts received in a personal capacity: Guidance questions

135) Should gifts received in a personal capacity be exempt from disclosure?

Yes

136) If yes, how could 'personal capacity' be defined?

Unrelated to the business of Council.

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?

If the intent is to ensure public officials act with integrity and independence, only serious (bribe/corruption) matters should be dealt with. Attending a charitable organisation function as a guest where the value of a meal and drinks exceeds \$50 and ha

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 7

Why?

We need the population to catch up with the 21st Century. Printing in newspapers or the State Government gazette is well and truly outdated

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.

Our website.

143) Could any of the notices in the Supplementary information be published on alternative websites?

Yes

144) Please provide details

Our website.

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	Annual Report				
5.53	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.				
	Both				
Section 5.87	Discretionary disclosures generally Both				
Section 5.82	Gifts (already required to be on the website)				
	Both				
Section 5.83	Disclosure of travel contributions (already required to be on the website)				
	Both				
Elections Regulations 30H	Electoral gifts register Both				
Section 5.98A	Allowance for deputy mayor or deputy president				

	Both
Section 5.100	Payments for certain committee members Both
Functions and General Regulations 17	Tenders register Both
Section 5.94 & Administrati on 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) Both

Contracts of employment of the CEO and other senior local government employees Both
Schedule of fees and charges Both
Proposed local laws Both
Gazetted Local laws (and other law that has been adopted by the district) Both
Rates record Both
Electoral roll Both

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?

Not sure

- 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.

Not sure

150) For Local Governments: How often do you receive requests from members of the public to see this information?

No idea as a Councillor

151) What resources do you estimate are involved in providing access in person (hours of staff time and hourly rate)?

As above

Access to information: Guidance question

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

Maximum information that is reasonably available should be made available

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 1: Status Quo

154) Why?

Already providing a lot of information that seems to be rarely accessed by the general population

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	Optional
Diversity data on council membership and employees	Required
Elected member attendance rates at council meetings	Optional
Elected member representation at external meetings/events	Optional
Gender equity ratios for staff salaries	Optional
Complaints made to the local government and actions taken	Required
Performance reviews of CEO and senior employees	Required

Proposal	Should this be made available: No, optional, required?
Website to provide information on differential rate categories	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?

Nil

Expanding the information available to the public: Guidance question

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

No

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.

AASB124 - includes not just the Councillor in their own right but any entity in which he/she has an interest. That information may not be readily available and a gross revenue number hardly reflects the profitability of the transaction.

Disposal includesl

b) What is the impact of this problem? Please quantify if possible.

Time and effort to find then report the transaction.

People think we are selling the property but we are only leasing it out.

c) What solutions can you suggest to solve this red tape problem?

Restrict the reporting to the very direct transactions.

Define disposal as not including leasing.

- 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.

Where do you start!

Gift provisions

Election provisions

Tenders vs. fair value expediency.

b) What is the impact of this problem? Please quantify if possible.

Problem with removing red tape is that often it simply results in more red tape trying to exempt certain actions.

c) What solutions can you suggest to solve this red tape problem?

Slowly work away at it.

10.1 Potential red tape reductions

Special majority: Guidance question

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

No

161) Why or why not?

Special majority usually involves a quite serious consideration and if half the Council is sick or away, amendments to recommendations can get up when they otherwise may not have.

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?

We simply rubber stamp the Senior employee that the CEO recommends without any involvement in the selection process. We should not simply be a rubber stamp.

The CEO employs the staff and is accountable to Council for that - full Stop.

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

No

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?

Yes

166) Why or why not?

They come from an Accounting Standard so that should be good enough

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,

Yes

168) if so how high?

Unlimited. If the Local Government has a \$300k boat/grader for whatever reason and it trades that, so what?

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

Yes

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?

Yes

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

Unlimited. Why are we restricting trade in values. Asset management plans have superseded this matter.

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.

Reducing red tape: Guidance question

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

Keep working on it

11.1 Risks and benefits of borrowing

Regional subsidiaries: Guidance questions

- 175) Which option do you prefer?
 - Option 3: Regional subsidiaries are permitted to borrow from financial institutions
- 176) Should regional subsidiaries be allowed to borrow money other than from the member councils?
 - Option 3: Regional subsidiaries are permitted to borrow from financial institutions
- 177) Why or why not?

They are meant to be fairly independent of the member Council so should be allowed to move forward with their business case as agreed to by the member Councils. Financial institutions unlikely to lend to entities with no assets.

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

Keep a level of agreement required from the member Councils so that the Regional CEO does not run off at a tangent doing his/her own thing.

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?

Keep a level of agreement required from the member Councils so that the Regional CEO does not run off at a tangent doing his/her own thing.

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.

Ran out of time. I think IPRF has been a good thing for Councils and 10 year plans handy. They should be excellent guides to how the LG is going to try and head towards if they are given the strength they deserve.

- 2.11 Appointment of Mayor/President to be by electorate, not Council.
- 3.12 Model local laws should be mandatory or scrap the notion of a model.
- 3.53 UCL should be actively managed by State.Commonwealth
- 5.27 Electors meetings no longer necessary, as access to council documents more available.
- 5.28 Special electors Meeting keep 10% or 100
- PSC to have greater involvement in LG

Rates exempt land to be far more restricted - not churches, NFPs etc.

Wards to be phased out in favour of district wide voting as once elected you do not represent your ward.