

## **Local Government Act 1995 Review**

### Phase 1: Consultation Paper

#### **Defining the roles of council and administration: Guidance questions**

- 1) How should a council's role be defined? What should the definition include?
  - The council role is to provide amenities to the community according to the Act. Amenities include the collection of rubbish. Local Parks and public space are to come under the jurisdiction of Parks and Wildlife. Maintenance on roads is to come under the jurisdiction of Main Roads.
  - It is to represent the interests of ratepayers when assisting State Planning on any new developments or changes within current zonings.
- 2) How should the role of the CEO and administration be defined?
  - Ensure the decisions of State government authorities are delivered effectively and efficiently.
  - Manage the daily operations of the council.
  - Be responsible for the employment, supervision, and management of staff.
  - Ensure accurate records and documentation are properly kept according to State Records requirements.
  - Ensure financial records are kept in accordance with statutory requirements and is audited by Treasury on a yearly basis.
- 3) What other comments would you like to make on the roles of council and administration?
  - We don't need a Mayor, it is a wasteful extra position that gives little to no value to the community when the activities of a Mayor could easily be undertaken by either/or the CEO and State Government departments.
- 4) Are there any areas where the separation of powers is particularly unclear? How do you propose that these are improved?
  - Get rid of the Mayor position. It adds no value now. Our society has evolved since the twelfth century and it is simply an extra cost.

## Improving relationships between council and administration: Guidance question

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

- Having a CEO and a Mayor creates issues when two egos seek the power and control. Power and Control issues create significant negative results within the community.
- Councils have become Power and Control entities and have grown to such an extent that they have become out of control over the years in their endeavour to place themselves in business dealings without the consent of its ratepayers, without the expertise required, often with conflicts of interests and poorly representing the needs of the communities.
- The CEO needs to be held accountable for administering the finances with cost reduction as a focus not what business they can get into and simply look at ways to have the ratepayers pay more for their folly.
- Councils have grown to such an extent that they are in many cases duplicating what is already in place with State Government Departments. In doing so the taxpayer is paying double for the infrastructure, which is inefficient.
- Reduce and contain the ineffective functions of the councils, stop the duplication of infrastructures.
- As ratepayers we are fed up with the duplication. For instance
  - If you have a query about roads – oh that's not our problem – go to Main Roads
  - If you have a query about rates – oh that's not our problem – go to Landgate
  - If you have a problem with zoning – oh that's not our problem – go to State Planning
  - If you have a problem with weed control – oh that's not our problem – go to Agricultural Department
  - State Government deals with health issues and we have numerous NFP's locally – so now the councils have taken this on board as well. Why?

So why do we constantly deal with the run-a-round when we already have State Government departments performing their roles most adequately?

## 2.1 Competencies required to be an elected member

- 6) What competencies (skills and knowledge) do you think an elected member requires to perform their role?
- Based on the criteria for an elected member the position requires a Training Needs Analysis (TNA).
  - The TNA will define what competencies are required for the role.
- 7) Do these vary between local governments? If so, in what way?
- Possibly – regional and rural may have different criteria to urban. Again, TNA's need to be undertaken.

### Funding training: Guidance questions

- 8) Who should pay for the costs of training (course fees, travel, other costs)?
- The Elected Member. Any other position for work requires predetermined skill sets as Mandatory and/or Desirable. Electors receive payment for their work and should be no different from any other paid employment.
- 9) 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? Should contribution to such a fund be based on local government revenue or some other measure?
- If Elected Members are an ideal candidate given their experience that they may bring to the position and they do not hold the Degree, Diploma or Certificate of Competency required for the position then they may be given time and support during the role to achieve such a requirement within a given timeframe – BUT the cost is to the Elected Member and may become tax deductible for them as it is a requirement of the role.

### Mandatory training: Guidance questions

- 10) Should elected member training be mandatory? Why or why not?
- Absolutely! Elected Members represent the ratepayers and need to have a comprehensive understanding of the duties they are to perform, the legal ramifications of the role and to be better prepared to undertake the challenges they will face. It is not just important for the ratepayers but for their own benefit as well.

- 11) Should candidates be required to undertake some preliminary training to better understand the role of an elected member?
  - At least Induction Training – even a ½ day workshop to allow prospective Elected Members to be able to make informed decisions on the role.
- 12) Should prior learning or service be recognised in place of completing training for elected members? If yes, how would this work?
  - Yes. It would work just like any other RPL. Once the TNA has been conducted and a training package developed for the required Units of Competencies and knowledge required the candidate would need to supply evidence of their competencies for an RPL.
- 13) What period should apply for elected members to complete essential training after their election?
  - This determination would need to be evaluated after a comprehensive TNA. It would depend if the level of competency and knowledge be a Certificate, Diploma or Degree. Once defined then an appropriate timeline would need to be determined but realistically the Elected Member would hold this qualification prior to taking up the position. (Perhaps some similar qualification could be made available for politicians!)

### Continuing professional development: Guidance questions

- 14) Should ongoing professional development be undertaken by elected members?
  - Absolutely. On an Annual Basis just the same as any other profession – once again at their cost just like any other profession.
- 15) If so, what form should this take?
  - A Registered Training Organisation (RTO) would have to have approval for the delivery of the course and continuance of professional development. Usually these sessions are for one day per year and records of the professional development is held by the State or Federal governing authority.

### Training: Guidance question

- 16) Do you have any other suggestions or comments on training?
  - Would need to know more about the results of the TNA to offer more comments.

### 3 The behaviour of elected members

#### Codes of conduct: Guidance questions

- 17) Should standards of conduct/behaviour differ between local governments? Please explain.
- No. The standards need to be the same for transparency, definition and to allow for the equitable interactions and possible transfers between councils.
- 18) Which option do you prefer for codes of conduct and why?
- Codes of conduct are required. Local governments must adopt a model code, with certain clauses subject to modification
- 19) How should a code of conduct be enforced?
- Through audits, investigations, inspections and/or complaints. It should be set out in the Regulations.

#### Streamlined rules of conduct: Guidance questions

- 20) Do you support streamlined Rules of Conduct regulations? Why?
- No because it leaves the council with too much autonomy. They already act as if they are a law unto themselves and lacks transparency.
- 21) If the rules were streamlined, which elements should be retained?
- Don't agree with the streamlining ... see above.
- 22) Do you support a reduction in the time frame in which complaints can be made? Is three months adequate?
- No reduction in time frame, three months is not adequate.

#### Revised disciplinary framework: Guidance questions

- 23) Do you support an outcome-based framework for elected members? Why or why not?
- The outcomes-based framework allows for greater authenticity of investigations into any breach and therefore the possibility of a breach being dealt with in a covert manner is diminished.
- 24) What specific behaviours should an outcomes based framework target?
- Bias, conflicts of interests, fraud, dishonesty, abuse of power, bullying, etc.

## **Application of the Rules of Conduct: Guidance question**

- 25) Should the rules of conduct that govern behaviour of elected members be extended to all candidates in council elections? Please explain.
- Yes all need to be treated equally.

## **Offence Provisions: Guidance questions**

- 26) Should the offence covering improper use of information be extended to former members of council for a period of twelve months? Why?
- Yes. It is no different to the improper use of insider trading. To use information acquired when in a position of trust on a later release does not dissolve the need for trust.
- 27) Should this restriction apply to former employees? Please explain.
- Yes as the abuse of trust is akin to insider trading.

## **Confidentiality: Guidance question**

- 28) Is it appropriate to require the existence and details of a complaint to remain confidential until the matter is resolved? Why?
- The details of any complaint needs to remain confidential and the details held on record, even after the complaint is resolved. Without such record keeping possible trends of information may not be established which may be detrimental to the effective management of the organisation.

## **Sector conduct review committees: Guidance questions**

- 29) What do you see as the benefits and disadvantages of this model?
- The advantage is that there would be a level of screening of complaints, which may in turn also be a disadvantage if screened inappropriately.
- 30) What powers should the Conduct Review Committee have?
- Limited to the actions suggested.
- 31) In your opinion what matters should go directly to the Standards Panel?
- If there has been more than one complaint made for the same incident, person or nature of complaint.
  - Any complaint not considered as minor.

- 32) Who should be able to be a member of a panel: elected members, people with local government experience, independent stakeholders?
- An independent stakeholder, a Justice of the Peace and persons with local government experience (but not to sit on the panel if from the same local government of the complaint they are sitting for).
- 33) Who should select the members for the pool?
- The Auditor General's delegate. The Director General of the Department may show bias without being aware of it.
- 34) How many members should there be on the Review Committee?
- Three
- 35) Are the proposed actions for the Review Committee appropriate? If not, what do you propose?
- Yes appropriate and adequate.

### **Review of elected member non-compliance: Guidance questions**

- 36) Which of the options for dealing with complaints do you prefer? Why?
- Option 2 as it provides a more authentic, fairer and impartial option
- 37) Are there any other options that could be considered?
- An independent Board of non-executive Directors to meet on a regular basis to review complaints.
- 38) Who should be able to request a review of a decision: the person the subject of the complaint, the complainant or both?
- Both

### **Mediation: Guidance question**

- 39) Do you support the inclusion of mediation as a sanction for the Panel? Why or why not?
- Yes. Mediation often allows a better understanding of reasons from all parties and a resolution may be enacted from this.

## Prohibition from attending council meetings: Guidance questions

- 40) Do you support the Panel being able to prohibit elected members from attending council meetings? Why or why not?
- Yes, it sends a clear message.
- 41) How many meetings should the Panel be able to order the elected member not attend?
- It would depend on the nature of the breach
- 42) Should the elected member be eligible for sitting fees and allowances in these circumstances?
- No.

## Compensation to the local government: Guidance questions

- 43) Do you support the Panel being able to award financial compensation to the local government? Why or why not?
- Yes. If the breach has incurred a financial loss it isn't fair for the ratepayers to meet the cost.
- 44) What should the maximum amount be?
- In line with other States, \$10,000 maximum is reasonable.

## Complaint administrative fee: Guidance questions

- 45) Do you support this option? Why or why not?
- Agree to a minor extent. While scenarios have been suggested in the reading it is biased in the view from the Government's perspective. If someone is making a complaint they have most likely already been aggrieved and may have suffered financial loss. Why would you exacerbate this?
- 46) Do you believe that a complaint administrative fee would deter complainants from lodging a complaint? Is this appropriate?
- Yes but it isn't appropriate given the complainant has already felt debased. Also deterring complaints then hides issues that are happening throughout the system.



47) Would a complaint administrative fee be appropriate for a sector conduct review committee model? Why or why not?

- No.

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

- \$20, there are many, many struggling families and seniors that shouldn't have to burden the cost of someone else's wrongdoing.

49) Should the administrative fee be refunded with a finding of minor breach or should it be retained by the Department to offset costs? Why or why not?

- The costs should be carried by the person who has breached and the administrative fee refunded to the complainant.

### **Cost recovery to local government: Guidance questions**

50) Do you support the cost of the panel proceedings being paid by a member found to be in breach? Why or why not?

- Yes. It is not the responsibility of ratepayers to cover unacceptable behavior of members.

### **Publication of complaints in the annual report: Guidance question**

51) Do you support the tabling of the decision report at the Ordinary Council Meeting? Why or why not?

- Yes. Learning outcomes need to be shared in order for continuous improvements.

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

52) Do you support this option? Why or why not?

- Yes transparency needs to be increased.

### **Elected member interests: Guidance questions**

53) Should not-for-profit organisation members participate in council decisions affecting that organisation? Why or why not?

- Yes. They should be fully aware of the effect council decisions would be on the organisation and therefore advocate as the case may be..

54) 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

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

- No

## 4.1 Recruitment and selection of local government Chief Executive Officers

### Recruitment and selection of local government CEOs: Guidance questions

56) Would councils benefit from assistance with CEO recruitment and selection? Why?

- **Absolutely!** At the moment it appears to be nothing more than 'jobs for the boys' selection process and the poor performance as noted by the public reactions reflects the inadequacies of current CEOs. The current process reeks of nepotism and if accountable, transparent processes are to be reached then this current methodology needs to change.

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

- First a standard needs to be identified and documented
- Secondly a background fact sheet (or even a video) explaining the requirements of a CEO for local government will give possible seekers of employment insight into what would be required of them.
- A solid background check akin to that given for the defence force with secret security clearance.

58) Should the Public Sector Commission be involved in CEO recruitment and selection? If so, how?

- As local councils operate under the auspices of a government body the Public Sector Commission needs to be involved in the same way as for all other government positions.

59) Should other experts be involved in CEO recruitment and selection? If so, who and how?

- Yes. Recruitment Agencies may become involved should the net of advertisement not find suitable applicants, however using only one Agency may also attract nepotism (has been known to happen). Nonetheless an external independent body from an Agency needs to be on the selection panel.

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

- A CEO needs to show the same attributes, competencies and qualifications for Senior Executive Service Band 1-4.
- **NOTE:** Detailed information on the skills and behaviours expected for Level 9 and Class 1-4 SES positions is contained in the [Individual Leadership Development Profiles](#). as listed below but the point noted in red is currently poorly achieved. The emphasis currently appears to be on involving the council in business related developments, taking away and over-riding small businesses and being entrenched in partnering with developers.
  - What this is effectively doing is **increasing rates** to allow the CEO to have more monies to increase business and further development. It **DOES NOT** show constraint in cost effectiveness with physical and financial resources. Also poor in reducing red tape!
  - Additionally when a requirement is tied to the salary of the CEO to increase revenue then this gives clear freedom that flies against the face of being constrained and does nothing to assist or resolve our economic deficiencies.
  - The CEO should not be setting up the council to be in competition with or over-riding small businesses in order to increase its appetite for becoming a mega conglomerate over and above our State Government.
  - Rather it needs to work more closely with State Government departments in a cohesive environment rather than what we currently see happening where development and planning is poorly reflected in our roads, tourist and heritage, environmental considerations, health and education.
  - At the rate the CEOs pull money from ratepayers to feed this ego centric behaviour our State Government will be the third tier of governance, not the second tier.

## List of selection criteria

Criterion	Description
<i>Shapes and manages strategy</i>	Inspires a sense of purpose and direction Focuses strategically Harnesses information and opportunities Shows judgement, intelligence and common sense
<i>Criterion - Achieves results</i>	Builds organisational skill and responsiveness Marshals professional expertise Steers and implements change and deals with uncertainty Delivers intended results <b>Manages financial and physical resources in a constrained environment</b>
<i>Criterion - Builds productive relationships</i>	Nurtures internal and external relationships Facilitates cooperation and partnerships Values individual differences and diversity Guides, coaches and develops people
<i>Criterion - Exemplifies personal integrity and self-awareness</i>	Demonstrates public service professionalism and probity Engages with risk and shows personal courage Commits to action Displays resilience Demonstrates self awareness and a commitment to personal development
<i>Criterion - Communicates &amp; influences effectively</i>	Communicates clearly Listens, understands and adapts to audience Negotiates persuasively

- The Salaries must NOT be tied into how successful the CEO is at increasing revenue, rather it should be tied into how effective the CEO is at cost reduction and effectiveness.

## Acting CEOs: Guidance questions

- 61) Should the process of appointing an acting CEO be covered in legislation? Why or why not?
- Yes. To ensure there are clear guidelines, not nepotism, as to the process of following due diligence in the acting appointment and is the same procedure for all councils.
- 62) If so, who should appoint the CEO when there is a short term temporary vacancy (covering sick or annual leave for example)?
- WALGA
- 63) Who should appoint the CEO if there will be vacancy for an extended period (for example, while a recruitment process is to be undertaken)?
- WALGA

## Performance review of local government CEOs: Guidance questions

- 64) Who should be involved in CEO performance reviews?
- An external audit should be undertaken from the Auditor General's Department to review the CEO's performance to maintain transparency and ensure nepotism is not involved.
- 65) What should the criteria be for reviewing a CEO's performance?
- It must tie into the contract of employment, be shown to their efficiency of **minimising expenditure** (and definitely not tied to getting any bonuses of increased expenditure as all that does is place burdens on the ratepayers).
- 66) How often should CEO performance be reviewed?
- 1) It needs to be conducted twice yearly.
- 67) Which of the above options do you prefer? Why?
- A mixture of Options 1 and 3. Option 2 is too loose.
- 68) Is there an alternative model that could be considered?
- See above

## Termination or extension of CEO contract around an election: Guidance questions

- 69) Would a 'cooling off' period before a council can terminate the CEO following an election assist strengthening productive relationships between council and administration?
- It could have an adverse effect as well as a strengthening effect depending on the circumstances.
- 70) What length should such a cooling off period be?
- Maximum two weeks, if any at all.
- 71) For what period before an election should there be a restriction on a council from extending a CEO contract? Should there be any exceptions to this?
- If the CEO has met the requirements according to the most recent Performance Review then the contract may be extended for one month. If this has not been met then no extension awarded.

## Public expectations of staff performance: Guidance questions

- 72) Is greater oversight required over local government selection and recruitment of staff?
- Yes. As Local Government appears to be taking over State Government's importance then selection of recruitment need to be in line with the Public Sector Commissioner's Instruction No. 2.
- 73) Should certain offences or other criteria exclude a person from being employed in a local government? If so, what?
- Yes. Keep it the same for State Government.

## Strengthening local government administration: Guidance question

- 74) Do you have any other suggestions or comments on this topic?
- The way ratepayers have been treated it appears that the council makes a law unto themselves with the ratepayers as the cash cow to do whatever they want. Accountability, transparency, personal conduct and efficacy needs to be instilled and the business of the council to be brought in line with **a service** to the community **NOT** how much they can make from the community to play with developers and other non-council related businesses.

## Remedial intervention: Guidance questions

- 75) Should the appointed person be a departmental employee, a local government officer or an external party? Why?
- An external party appointed by the Minister because council have run amuck for so long now it needs to be external.
- 76) Should the appointed person be able to direct the local government or would their role be restricted to advice and support? Please explain.
- They need to have the power to direct otherwise they'd be ignored.
- 77) Who should pay for the appointed person? Why?
- It would need to come from the budget from WALGA

## Powers of appointed person: Guidance question

- 78) What powers should an appointed person have?
- To ensure the council follow their remediation process and if not for the Minister to suspend the council.

## Remedial action process: Guidance questions

- 79) Do you think the proposed approach would improve the provision of good governance in Western Australia? Please explain.
- Yes because at present there is poor governance and council are running amuck
- 80) What issues need to be considered in appointing a person?
- Knowledge of good governance, whatever the new law will be, exemplary prior service, auditing, legal and business background, with impartiality, and no conflict of interest.

## Supporting local governments in challenging times: Guidance question

- 81) Do you have any other suggestions or comments on this topic?
- This needed to be resolved years ago.

## **Transferability of employees: Guidance questions**

- 82) 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?
- Yes
- 83) What would be the benefits if local and State government employees could move seamlessly via transfer and secondment?
- An improved level of understanding between departments, sharing of expertise and ability for people to improve career prospects.

## **Making it easier to move between State and local government employment: Guidance question**

- 84) Do you have any other suggestions or comments on this topic?
- One day we may mature enough to move between other States as well and foster benefits across Australia!

## **A new framework for disclosing gifts: Guidance questions**

- 85) Is the new framework for disclosing gifts appropriate?
- 86) If not, why?
- 87) Is the threshold of \$500 appropriate?
- 88) If no, why?
- 89) Should certain gifts – or gifts from particular classes or people – be prohibited? Why or why not?
- 90) If yes, what gifts should be prohibited?

## **Excluding gifts received in a personal capacity: Guidance questions**

- 91) Should gifts received in a personal capacity be exempt from disclosure?
- 92) If yes, how could 'personal capacity' be defined?
- 93) Should there be any other exemptions from the requirement to disclose a gift over the threshold?
- 94) If so, what should these be? Please justify your proposal.



### Gifts: Guidance question

- 95) Do you have any other suggestions or comments on this topic?
- Answer to Q's 85-95) **Any gift no matter what value**, needs to be disclosed and then given to charity with documentation to show it has been given to charity.

### Public notices: Guidance questions

- 96) Which general option do you prefer for making local public notices available? Why?
- 97) Which general option do you prefer for State-wide public notices? Why?
- 98) With reference to the list of public notices, do you believe that the requirement for a particular notice should be changed? Please provide details.
- 99) For the State-wide notices in Attachment 3, are there alternative websites where any of this information could be made available?

### Information available for public inspection: Guidance questions

- 100) Using the following table, advise how you think information should be made available:
- Answer to Q's 96-100) Each council needs to operate a website pertaining to that council; they also need to issue electronic notices and allow online access to all public documents.
  - Ratepayers should have the option given to them of receiving notices electronically or through the post (many, many senior citizens do not have electronic media). Should the option of receiving information by mail be selected then the council is obliged to notify ratepayers using that method, otherwise ratepayers are notified electronically.
- 101) Should the additional information that is available to the public in other jurisdictions be available here? If so which items? How should they be made available: in person, website only or both?
- Yes as per previous answer

## Defining red tape: Guidance questions

- 108) 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.
- Briefly describe the red tape problem you have identified.
  - What is the impact of this problem? Please quantify if possible.
  - What solutions can you suggest to solve this red tape problem?
- 109) 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.
- Briefly describe the red tape problem you have identified.
  - What is the impact of this problem? Please quantify if possible.
  - What solutions can you suggest to solve this red tape problem?
- The Australian Government produced an excellent framework for Governance and the means to cut red tape. I urge this reform to follow it - <http://www.cuttingredtape.gov.au>

## Commentary

Thank you for the decision and action taken to review this Act. While it is long overdue it is refreshing to see it finally happening. From observations it needs more of an overhaul than this section by section approach due to the intent of the Law made so long ago no longer fitting in with our way of life. In a nutshell I would like to see the following recognised:

- Remove the position of Mayor. It may have been important decades or even centuries ago but in reality is nothing more than a token and an expenditure to the public that is unnecessary;
- The CEO to be responsible for the administration of the council AND of the Councilors.
- If the council is large then they also must have a CFO
- The Councilors to be part of a Board for the Council with an election between the councilors for Chairperson to report back to the CEO
- The CEO's performance to be based on cost efficiency and reduction NOT how best they can increase revenue

- Councils to deliver service to the constituents (ratepayers), waste collection, etc NOT ever to be involved in businesses, and partnerships with developers.
- Rates to be the same as that designated from Planning. i.e. if zoned Rural then rates are for Rural, if zoned Urban than rates are for Urban, etc
- Transition of employment become open between Local and State Governments
- Recognised training to be essential for Councilors (needs also to be for Ministers!)
- All Gifts to be documented and given to charities.
- Transparency of all records, documentation and decisions made available to the public.
- Eliminate this duplication of services between State and Local Governments – not only is it stupidity and wasteful of resources it means we are taxed again and again and also are left with confusion as to which organization we now need to go to (often left with the passing of the buck between Governments)
- Put more controls on Local Government who are rapidly becoming the second tier of Government instead of State Government
- I would also find it refreshing to see Local Governments working more closely with State Government departments.

Thank you