

Shire of Wandering Council Submission – Phase 1 Local Government Act Review

Amended as per Council Resolution 10.1.2 15 February 2018



Section	Guidance Questions	Shires Response
1.	<p>Meeting Community expectations of standards and performance</p> <p>Relationships between Council and Administration</p> <ol style="list-style-type: none"> 1) How Should Councils role be defined? What should definition include? 2) How should the role of the CEO and Administration be defined? 3) What other comments would you like to make on the roles and of Council and administration? 4) Are there any areas where the separation of powers is particularly unclear? How do you propose that these are improved? <p>Improving relationships between council and administration</p> <ol style="list-style-type: none"> 5) Do you have any other suggestions or comments on this topic? 	<p>The Shire of Wandering Council would like their submission to reflect that it believes the Council should be given more autonomy and governance over the day to day operations of the Shire. The review must support must support Council to have the ultimate responsibility for leadership and strategy. The CEO role then carries out the direction of the Council. This must be maintained in the Review.</p>
2.	<p>Training</p> <ol style="list-style-type: none"> 6) What competencies (Skills and Knowledge) do you think an elected member requires to perform their role? 7) Do these vary between local governments? If so, in what way? 8) Who should pay for the costs of training (course fees, travel, other costs)? 9) If Councils are required to pay for training, should a training fund be established to reduce the impact for small and regional local governments? Should contribution to such a fund be based on local government revenue or some other measure? 10) Should elected member training be mandatory? 11) Should candidates be required to undertake some preliminary training to better understand the role of the elected member? 12) Should prior learning or service be recognised in place of completing training for elected members? If yes how will this work 13) What period should apply for elected members to complete essential training after their election? 14) Should ongoing professional development be undertaken by elected members? 15) If so what form should this take 	<p>The Shire of Wandering doesn't support Mandatory Training, however should it become mandatory the following should apply:</p> <ul style="list-style-type: none"> • Cost need to be kept low so that Councils can afford it, whether there is a fund or not. • Training needs to be accessible to the regions, enough impost on Councillors time now; regional Councillors will be challenged to be in Perth for training. • Practical and meet local needs eg <ul style="list-style-type: none"> - Understanding local government - Serving on Council - Understanding financial reports and budgets - Conflicts of interest - Meeting procedures and debating • Don't agree with preliminary training.

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3.	<p>16) Do you have any other suggestions or comments.</p> <p>Behaviour of elected members</p> <p>Codes of Conduct</p> <p>17) Should standards of conduct/behaviour differ between local governments?</p> <p>18) Which option do you prefer for codes of conduct and why?</p> <p>19) How should a code of conduct be enforced?</p> <p>Streamlined rules of conduct</p> <p>20) Do you support streamlined Rules of Conduct Regulations? Why?</p> <p>21) If the rules were streamlined, which elements should be retained?</p> <p>22) Do you support a reduction in timeframe in which complaints can be made? Is three Months adequate?</p> <p>Revised disciplinary framework</p> <p>23) Do you support an outcome based disciplinary framework for elected members?</p> <p>24) What specific behaviours should an outcomes based framework target?</p> <p>Application of the Rules of Conduct</p> <p>25) Should the rules of conduct that govern behaviour of elected members be extended in council elections?</p> <p>Offence provisions</p> <p>26) Should the offence covering improper use of information be extended to former members of council for a period of 12 months?</p> <p>27) Should this restriction apply to former employees?</p> <p>Confidentiality</p> <p>28) Is it appropriate to require the existence and details of a complaint to remain confidential until the matter is resolved?</p> <p>Sector Conduct Review Committees</p> <p>29) What do you see as the benefits and disadvantages of this model?</p> <p>30) What powers should the Conduct Review Committee have?</p> <p>31) In your opinion what matters should go directly to the Standards Panel?</p> <p>32) Who should be able to be a member of the panel: elected members, people with</p>	<p>The Wandering Council position is that matters need to not drag on, they need to be dealt with efficiently and effectively.</p> <ul style="list-style-type: none"> • Rules of conduct that govern behaviour should be extended to all candidates in Council elections • The offence covering improper use of information should be extended to former members of Council and employees for 12 months • The Standards Panel should be independent, appointed by the department and should have the power to dismiss vexatious and frivolous complaints. • Matters should remain confidential until a ruling is made. • In principle support for an individual elected member to be ‘stood down’ from their role when they are under investigations, been charged by the Standards panel or when their continued presence prevents Council from properly discharging its functions or affects the Councils reputation. <p><i>The above appoint point is only applicable if the matter has been considered to have merit and is being dealt with at the Standards Panel. There must be reasonable cause evident.</i></p>



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	<p>local government experience, independent stakeholders?</p> <p>33) Who should select the members for the pool?</p> <p>34) How many members should there be on the Review Committee?</p> <p>Review of elected member compliance</p> <p>35) Are the proposed actions for the Review Committee Appropriate? If not, what do you propose?</p> <p>36) Which of the options for dealing with complaints do you prefer? Why?</p> <p>37) Are there any other options that can be considered?</p> <p>38) Who should be able to request a review of a decision: the person the subject of the complaint, the complainant or both?</p> <p>Mediation</p> <p>39) Do you support the inclusion of mediation as a sanction for the Panel?</p> <p>Prohibition from attending meetings</p> <p>40) Do you support the Panel being able to prohibit elected members from attending Council Meetings?</p> <p>41) How many meetings should the Panel be able to order the elected member to not attend?</p> <p>42) Should the elected member be eligible for sitting fees and allowances in these circumstances?</p> <p>Compensation to the local government</p> <p>43) Do you support the Panel being able to award Financial compensation to the local government?</p> <p>44) What should the maximum be?</p> <p>Complaint administrative fee</p> <p>45) Do you support this option?</p> <p>46) Do you believe that a complaint administrative fee would deter complainants from lodging a complaint? Is this appropriate?</p> <p>47) Would a complainant administrative fee be appropriate for a sector to conduct review committee model? Why or Why not?</p> <p>48) What would be an appropriate fee for lodging a complaint?</p> <p>49) Should the administrative fee be refunded with a finding of minor breach or should it</p>	<ul style="list-style-type: none"> • <i>Both parties should be able to request a review of the complaint.</i> • <i>The Shire supports the inclusion of mediation a sanction for the panel.</i> • <i>Elected Members should be eligible for sitting fees and allowances until a formal ruling is made. Should the member be considered guilty then fees can be repaid.</i> • <i>The Council supports the Panel being able to award the financial compensation to the local government</i> • <i>Council supports Elected Members who are not-for-profit organisation members to participate in Council meetings and vote after declaration if they are not an office bearer.</i> • <i>Should the member be an Office Bearer then they can remain in the room and discuss the item but not vote.</i>
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	<p>be retained by the Department to offset costs?</p> <p>Cost recovery to local government</p> <p>50) Do you support the cost of panel proceedings being paid by a member found to be in breach?</p> <p>Publications of reports in the annual report</p> <p>51) Do you support the tabling of the decision report at the Ordinary Council Meeting?</p> <p>Elected member interests</p> <p>52) Do you support this option? Why or Why not?</p> <p>Elected member interests</p> <p>53) Should not-for-profit organisation members participate in Council decisions affecting the organisation?</p> <p>54) Would your response be the same if the member was an office holder in the organisation?</p> <p>Improving the behaviour of elected members</p> <p>55) Do you have any further suggestions on this topic?</p>	
<p>4.</p>	<p>Local government administration</p> <p>Recruitment and selection of local government CEOs</p> <p>56) Would councils benefit from assistance with CEO recruitment and selection?</p> <p>57) How could recruitment and selection of local government CEOs be improved?</p> <p>58) Should the Public Sector Commission be involved in CEO recruitment and selection? If so how?</p> <p>59) Should other experts be involved in CEO recruitment and selection? If so who and how?</p> <p>60) What competencies, attributes and qualifications should a CEO have?</p> <p>Acting CEOs</p> <p>61) Should the process of appointing an acting CEO be covered by Legislation?</p> <p>62) If so, who should appoint the CEO when there is a short term temporary vacancy (covering sick or annual leave for example)?</p> <p>63) Who should appoint the CEO if there will be a vacancy for an extended period (for example, while a recruitment process is undertaken)?</p> <p>Performance review of local government CEOs</p>	<ul style="list-style-type: none"> • There should be uniform requirements that local governments must advertise positions other than the CEO or Senior employees (even if they are just advertised locally and electronically) • Officers should be required to complete a probationary period • Applicants should provide a criminal check, working with children check and health clearance. • Yes Acting CEOs should be covered by legislation, Councils responsibility to appoint and essentially they have same responsibilities and accountabilities as the CEO. • Perhaps have delegation for 5- 10 day emergency period, beyond that only Council can appoint.



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	<p>64) Who should be involved in CEO performance reviews?</p> <p>65) What should the criteria be for reviewing a CEOs performance?</p> <p>66) How often should CEO performance be reviewed?</p> <p>67) Which of the above options do you prefer?</p> <p>68) Is there an alternative model that could be considered?</p> <p>Termination or extension of CEO contract around election</p> <p>69) Would a “cooling off “ period before a council can terminate the CEO following an election assist in strengthening productive relationships between council and administration?</p> <p>70) What length should such a cooling off be?</p> <p>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?</p> <p>Public expectations of staff performance</p> <p>72) Is greater oversight required over local government selection and recruitment of staff?</p> <p>73) Should certain offences or other criteria exclude a person from being employed in a local government? If so what?</p> <p>Strengthening local government Administration</p> <p>74) Do you have any other suggestions or comments on this topic?</p>	<ul style="list-style-type: none"> • CEO performance reviews should be conducted by full council or a committee of, as decided by the council. External support should be supported if requested by either party – councils should adopt a CEO performance review policy • Criteria should be established by council with CEO collaboratively, to meet the councils and local area’s needs. • Performance reviews should be carried out annually. • Yes there should be a cooling off period and 3 months should apply in this instance • 3 months prior to an election should be the timeframe for not extending a CEO’s contract.
<p>5.</p>	<p>Supporting local Governments in challenging times</p> <p>Remedial intervention</p> <p>75) Should the appointed person be a departmental employee, a local government officer or an external party? Why?</p> <p>76) Should the appointed person be able to direct the local government or would their role be restricted to advice and support?</p> <p>77) Who should pay for the appointed person?</p> <p>Powers of appointed person</p> <p>78) What powers should the appointed person have?</p> <p>Remedial action process</p>	<p>The Shire of Wandering Council does not support this initiative at all.</p>



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	<p>79) Do you think the proposed approach would improve the provision of good governance in Western Australia?</p> <p>80) What issues need to be considered when appointing a person?</p> <p>Supporting local Governments in challenging times</p> <p>81) Do you have any other suggestions or comments on this topic ?</p>	
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<p>6.</p>	<p>Making it easier to move between state and local government employment Transferability of employees 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? 83) What would be the benefits if local and State government employees could move seamlessly via transfer or secondment? Making it easier to move between State and local government employment 84) Do you have any other suggestions or comments on this topic?</p>	<ul style="list-style-type: none"> Local and State government employees should be able to carry over the recognition of service or leave if they move between state and local government as long as accrued dollars move with the employee.
<p>7.</p>	<p>Public confidence in local government A new framework for disclosing gifts 85) Is the new framework for disclosing gifts appropriate? 86) If not why? 87) Is the threshold of \$500 appropriate? 88) If not 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 91) Should gifts received in a personal capacity be exempt from disclosure? 92) If yes how “personal capacity” could 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? Gifts 95) Do you have any other suggestions or comments on this topic</p>	<ul style="list-style-type: none"> Single threshold of \$500.00 Family and personal nature gifts that are not in any way related to business should be exempt; if there is any level of relationship to the business then they must be disclosed. Gift disclosures only apply to elected members and CEO
<p>8.</p>	<p>Transparency Access to information – Public Notices 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?</p>	<p>Documents that should only be made available in person include</p> <ul style="list-style-type: none"> Primary and annual returns Complaints Register Contracts of CEO and senior employees Rates record Electoral roll



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	<p>98) With reference to the list of public notices, do you believe that the requirement for a particular notice should be changes?</p> <p>99) For State-wide notices in Attachment 3, are there alternative websites where any of this information could be made available?</p> <p>Information available for public inspection</p> <p>100) Give feedback on table provided – how should information be made available?</p> <p>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?</p> <p>102) Is there specific information you believe should be made publically available</p> <p>103) For Local Governments – how often do you receive requests from members of the public to see information? What resources do you estimate are involved in providing access in person?</p> <p>104) Do you have any other suggestions or comments on this topic</p> <p>Expanding the information provided to the public</p> <p>105) Which of these options do you prefer and why?</p> <p>106) 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:</p> <p>107) What other information do you think should be made available?</p> <p>108) Do you have any other suggestions or comments on this topic?</p>	<p>Documents that should not be available include</p> <ul style="list-style-type: none"> • Performance reviews of CEO and employees. <p><i>The Shire of Wandering receives two to three requests per year for specific information in person, most is available readily, it would take 3-4 hours. (approximately \$150.00)</i></p>
<p>9.</p>	<p>Red tape reduction</p> <p>Defining red tape</p> <p>109) Which regulatory measures within the Act should be removed or amended to reduce the burden on local governments?</p> <p>110) Which regulatory measures within the Act should be removed or amended to reduce the burden on the community?</p> <p>111) Should the provisions for a special majority be removed? Why or Why not?</p>	<ul style="list-style-type: none"> • Smaller local governments are disproportionately/ negatively affected by the extensive compliance requirements of all of the governing Acts; this provides considerable impact on the community and lessens the rate dollar



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	<p>Senior Employees</p> <p>112) Is it appropriate that council have a role in the appointment, dismissal or performance management of any employees other than the CEO?</p> <p>113) Is it necessary for some employees to be designated as senior employees?</p> <p>Exemption from accounting standard AASB124</p> <p>Related Party Disclosures</p> <p>114) Are the existing related party disclosure provisions in the Act sufficient without the additional requirements introduced by AASB 124?</p> <p>Disposal of property</p> <p>115) 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, if so how high?</p> <p>116) Should the threshold remain at \$75,000 but with separate exemptions for specific types of equipment, for example plant?</p> <p>117) The general \$20,000 threshold was put in place in 1996 and has not been amended. Should the threshold be raised higher than \$20,000.00? If so, what should it be and why?</p> <p>118) Would raising the threshold create an unacceptable risk that the items would not be disposed of to achieve the best price for the local government?</p> <p>119) Is there an alternative model for managing the disposal of property?</p> <p>120) Do you have any other suggestions or comments on this topic</p>	<p>that can be distributed to community amenity and road maintenance and economic development.</p> <ul style="list-style-type: none"> • Council should be involved in the appointment, dismissal and performance of employees in general in an effort to prevent nepotism • Yes it is appropriate for some employees to be designated Senior employees. Smaller Councils particularly are heavily reliant on the skills and experience of these individuals and it may be necessary for Council to be involved in the decision making. • Council members and decision makers are already required to assess their financial, family or proximity interests, the provisions in the LG Act are sufficient to govern the sector. • Council does not support raising the \$20,000 general threshold.
10.	<p>Regional Subsidiaries</p> <p>121) Which option do you prefer</p> <p>122) Should regional subsidiaries be allowed to borrow money other than from the member councils</p> <p>123) Why or Why not?</p> <p>124) If the regional subsidiary is given the power to borrow directly, what provisions should be put in place to manage the risks?</p>	<ul style="list-style-type: none"> • Subsidiaries should be able to borrow – Treasury loans only and all member councils accept the risk formally • Enter into land transactions and undertake commercial activities