

Review of the WA Local Government Act

14 August 2018

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After a turbulent couple of years, the Local Government Minister announced a review of the *Local Government Act 1995* (WA) (**the Act**) last year. The goal of the review will be to modernise the Act to improve local government service delivery, as well as increase transparency and accountability to the Western Australian community.

As a result, a two phase legislative review was adopted in order to provide further flexibility for the prioritisation of certain focus areas. Phase one dealt with modernising local government in order to provide better accountability and transparency, while phase two is intended to focus on service delivery for communities. Phase one reforms have already begun with a draft bill amending the Act currently underway, while the phase two review is scheduled for completion in 2018.

Key points from phase one review

- Administrative efficiencies will be achieved through removal of the special majority, designated senior employee and evidence requirements, and expanding the CEO's powers to appoint authorised persons
- New CEO recruitment and performance policies will be adopted
- Local governments will be required to make more information available on their websites for public review, while having to consider confidentiality and non-disclosure requirements
- Annual reporting and code of conduct reporting requirements will be increased
- The Standards Panel will be amended to include expanded sanctions, lodgement periods and reimbursement provisions
- CEOs and council members will be prohibited from accepting certain types of gifts. Any gifts over a \$300 cumulative value must be declared, disclosed and published on the online gift register within 10 days of receipt
- All council members and new candidates will be required to comply with a mandatory code of conduct

New Government Policy Direction - phase one

Key elements of the new phase one policy direction are likely to be reflected in the new draft bill to amend the Act. The new policy direction for phase two has not been released but a similar approach is anticipated.

These phase one key elements are important to stakeholders because they increase the accountability and transparency of local government. This will grant the public greater access to information through:

- The adoption of policies, standards and procedures for CEO recruitment, job advertising, candidate selection, role requirements, performance review, dismissal and due diligence
- The implementation of a new mandatory code of conduct that applies to all council members and candidates
- The online publication of "declarable gifts" received by CEOs and council members within 10 days of receipt, and code of conduct breaches, such as adverse findings of the Standards Panel, Corruption & Crime Commission and State Administrative Tribunal

Equally, these key elements are important to local government because they increase administrative duties and reporting and compliance obligations, particularly for:

- CEO recruitment, performance management and replacement
- Gifts “perceived or in actual conflict of interest” or “an attempt to influence” council members or CEOs in the exercise of their duty and gifts over \$300 in cumulative value over a twelve month period
- CEO and council member attendance at events and associated event payment
- Online publications
- Increased annual reporting requirements, such as diversity data, council member attendance at meetings, fees and allowances paid to each councillor and the total CEO benefits package
- Standards Panel complaints and sanctions, council member censures, minor breaches, allegations of breach and associated costs

We will continue to monitor the progress on both phases and will provide an update on the draft bill and once an announcement has been made for phase two. For more information or discussion, please contact HopgoodGanim Lawyers’ [Planning](#) team.

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