



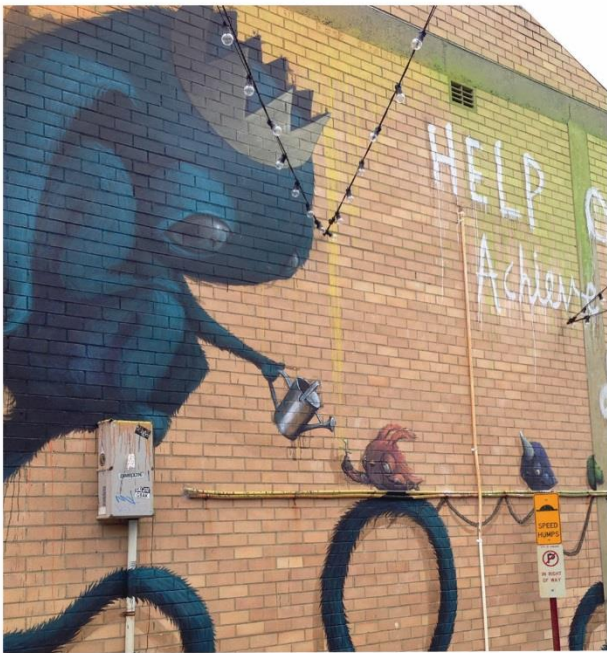
CITY OF VINCENT



DISCUSSION PAPER

RAISING THE BAR

New transparency reforms for
WA Local Government



Presented by the City of Vincent » April 2016

Executive Summary

This discussion paper is presented by the City of Vincent to stimulate discussion and feedback within local government on a range of measures designed to improve transparency and accountability within the Western Australian sector.

At the heart of this paper is the critical contention that making information freely and easily accessible to residents, ratepayers and customers gives them greater power to contribute to decision making and to hold local government accountable for the good governance of its district. It is a core foundation of the democratic process.

Currently, there is a lack of consistency in the quality and completeness of public reporting across local government, and ratepayers can experience difficulty in obtaining basic information without committing significant time and resources. This paper recommends a number of reforms to legislation, policy and practice affecting local government, many of which would greatly enhance public reporting and accountability.

One such reform is the recommendation that the Auditor General be given oversight of Local Government financial reporting and audits. In doing so, ratepayers across Western Australia can be provided with a clear snapshot of the financial health of their local government councils – a process currently undertaken in other States. This has twice been recommended by the Public Accounts Committee over a ten year period, and yet to date no legislation has been introduced to deliver this improvement. The State Government has now indicated that a framework is being prepared, which the City of Vincent welcomes.

The local government sector does not need to wait for legislative reform. A number of measures recommended in this discussion paper can be implemented by local governments immediately. The City of Vincent is doing this, with many of these recommendations already introduced or in the advanced stages of implementation. The sector should not fear these reforms. Instead, it should embrace greater transparency and accountability to build public confidence in the local government sector – and become a leader in raising the bar across all tiers of government.

Why Do We Need Transparency Reform?

This discussion paper contends that clear and unambiguous rules which facilitate transparency will best counteract any public perceptions of impropriety, improper conduct and dishonesty and build confidence in the local government sector decision making processes.

There are a number of areas in which the current *Local Government Act 1995* (“Local Government Act”) and its regulations do not facilitate the highest standards of transparency in local government decision making. This can be particularly evident when Councils do not demonstrate or show any interest in improving the public's access to information. It is for this reason that this discussion paper proposes that minimum benchmarks and standards be set for all local governments.

The issues facing the sector include:

- A lack of consistency in the quality and completeness of reporting standards across local government, particularly in relation to financial management;
- Difficulty for ratepayers in obtaining information without committing significant time and resources;

- A lack of understanding by elected local government members regarding their current obligations under the *Local Government Act 1995* nor the benefits of greater transparency to ratepayers;
- A lack of willingness or preparedness to embrace new ideas and standards among some senior ranks of staff and Council Members due to staleness and stagnation; and
- A lack of clarity in the *Local Government Act 1995* prescribing some critical responsibilities e.g. the process surrounding the appointment of a CEO.

Transparency is also important in ensuring that decision making by a Council is beyond reproach – that there can be no perception of undue influence on decision making. Council Members should always seek to make decisions that are impartial, objective, and free from bias and in the public interest of their local community.

It should be noted this discussion paper does not consider the majority of issues canvassed as part of the *Department of Local Government and Communities Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Disciplinary Framework* (the ‘DLGC Review’) or reforms canvassed as part of its Summary of Proposals paper.¹

The DLGC Review examines in detail the current disciplinary framework to deal with minor breaches of the *Local Government Act 1995*, which is generally recognised as not meeting a clear and defined timeline or efficiently dealing with the effects of the Council Member conduct in local government. The DLGC Review also considers the rules governing the acceptance of gifts, the consideration of a new definition of nominal gifts and confusion relating to hospitality, where a Council Member or Mayor attends an event on behalf of Council. This discussion paper is strongly supportive of the DLGC Review but given its detailed examination of issues within this arena, does not believe it warrants replication here.

As one of the United Kingdom’s most recent reforms – the *Local Government Transparency Code 2015*^{2*} states:

"This Code is issued to meet the Government’s desire to place more power into citizens’ hands to increase democratic accountability and make it easier for local people to contribute to the local decision making process and help shape public services. Transparency is the foundation of local accountability and the key that gives people the tools and information they need to enable them to play a bigger role in society".

RESISTANCE TO IMPROVING ACCOUNTABILITY AND PUBLIC REPORTING

Many Western Australian local government leaders, including Mayors and Chief Executive Officers, have publicly argued against increasing transparency and accountability in the local government sector, whether voluntarily or via legislative provisions. The Western Australian Local Government Association (WALGA) has defended the current regulations, arguing that “there are systems and processes to ensure that transparency and best practice occur throughout local government.” (2015)³

¹ Department of Local Government and Communities (November 2015). *Summary of Proposals and Issues for Comment. Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Disciplinary Framework*. Published by the Government of Western Australia.

² Department for Communities and Local Government (February, 2015) *Local Government Transparency Code*. Pg 4. Available at: <https://www.gov.uk/government/publications/local-government-transparency-code-2015>. Accessed at 10th January 2016.

³ Sparvell, Ray (2015) “Vincent Mayor John Carey slams City of Perth for voting down governance reforms”. Available: www.watoday.com.au. (Access January 7th 2016)

The primary arguments against further reforms can be summarised as follows:

- The current provisions are adequate under the *Local Government Act 1995*;
- Public reporting online is not necessary as information can be obtained by existing mechanisms (in person by attending the office of the Chief Executive Officer, reading public minutes or Freedom of Information requests);
- There are currently no issues of corruption, misconduct or governance problems in my individual local government – and accordingly transparency reform is not needed;
- Any public debate or discussion on this matter simply provides fuel for those wanting to attack the local government sector; and
- Making transparency changes will not influence or improve the behaviour of any person who deliberately acts deceitfully or corruptly.

All of these arguments fail one critical test; they do not recognise or acknowledge that for local government to consistently improve its performance, the sector should be readily prepared to better inform its community of its decision making and financial management. If we aspire as leaders of local government to do better, to perform better, to inform better, then we must be prepared to openly embrace debate and propose changes which improve governance both within our organisations and for the wider sector.

Further, we must acknowledge significant advances in technology and the way in which our residents consume and receive information. By way of example, the Local Government Act still requires a Public Notice to be published in the West Australian newspaper and placed on relevant notice boards within a library and council building. Whilst prescribed by the Local Government Act, this method is grossly outdated and does not take into consideration falling newspaper readership and the public's ever-increasing ability and preference to receive Council updates via online mediums such as websites, social media and e-newsletters.

These arguments also fail to acknowledge that the WA local government sector is not subject to the same public scrutiny or media attention applied to State and Federal Governments, unless there is focus on a particular offence or crisis, such as a Corruption and Crime Commission investigation or Department of Local Government and Communities inquiry. Local governments, unlike State Government and its agencies, are not subject to:

- Rigorous and ongoing public scrutiny via a resourced, organised and full time Opposition;
- Public Estimates Committee process, which ensures public and open scrutiny of all expenditure decisions relating to every portfolio; and
- *The Financial Management Act 2006* and *Auditor General Act 2006* (and findings tabled in parliament)⁴, which ensure the Auditor General has oversight of all financial reporting and audits of State agencies.

It should also be noted that many of the arguments referred to in this section were relied upon to argue against the City of Vincent's transparency reform motion at the WALGA Annual General Meeting held on 5 August 2015. This motion sought support for the following:

⁴ Public Accounts Committee, Report No 12. *Improving Local Government Accountability*. Pg vii. Published by the Parliament of Western Australia, Perth. November 2015.

“That the Western Australian Local Government Association:

1. *Advocates for reforms to the Local Government Act and related Regulations to enhance governance, transparency, accountability and consistency in Local Government, particularly in relation to:*
 - a) *Recording of Council Member contact with Developers;*
 - b) *Prohibition of donations from developers to Local Government election candidates;*
 - c) *Reporting and publicising of gifts and hospitality to Council Members and Local Government employees;*
 - d) *Reporting and publicising of travel undertaken by Council Members and Local Government employees;*
 - e) *Appointment and review of performance of the Chief Executive Officer and prescribed contract renewal procedures;*
 - f) *Any other areas which lead to improved governance and transparency.*

2. *Develops the suite of reforms referred to in 1 above in consultation with members by no later than 3 months before the February 2017 State Election for consideration by all political parties in Western Australia.”*

The motion was defeated by a large majority – 172 to 46 votes - despite simply seeking to advocate for a range of transparency and accountability reforms and to develop a package of reforms for the sector.⁵

CURRENT STATE REFORMS

The Hon. Tony Simpson MLA, Minister for Local Government has flagged new transparency improvements for the sector, which are welcomed. However, these proposed improvements should not be viewed as completing the reform picture. Rather, they should be treated as the catalyst for more comprehensive transparency and governance changes, many of which require only simple reporting changes for all local governments.

The current range of reforms can be summarised as follows:

- The public benchmarking of local governments across Western Australia in regards to financial management and governance via a public website, to be established by the Department of Local Government and Communities by no later than July 2016.
- Expanding the role of the Auditor General to include the local government sector. It is not clear the extent of this expansion and how far reaching the legislation will be. However, the Department did confirm late last year that it has “commenced preliminary discussions with the Auditor General and the local regarding the proposed changes in its presentation to the latest review of local government accountability by the Public Accounts Committee”.⁶
- Support for mandatory training of all Councillors.⁷ However, this change appears unlikely, given the strong opposition by the WALGA Leadership and State Executive.

⁵ Sparvell, Ray (2015) “Vincent Mayor John Carey slams City of Perth for voting down governance reforms”. Available: www.watoday.com.au. (Access January 7th 2016)

⁶ Public Accounts Committee, Report No 12. *Improving Local Government Accountability*. Pg vii. Published by the Parliament of Western Australia, Perth. November 2015. Pg 20. Reference to Mrs Jennifer Mathew, Director General, Department of Local Government, Transcript of Evidence, 19th August 2015.

⁷ Emery, Kate (21st January 2016) *Councillor training row brews*. Published by The West Australian. Available at <https://au.news.yahoo.com/thewest>. (Accessed 24th January 2016)

In addition, there has been the recent introduction of an online gifts and contributions to travel register for all local governments, with Council Members required to report within ten days to the CEO. The change was added as an adjunct to transparency reforms in the *City of Perth Act 2016*, which have now been enacted.

INTERSTATE AND INTERNATIONAL TRANSPARENCY REFORM

At both an interstate and international level, there has been a move toward greater transparency, including the need for stronger public reporting of information by local governments. In part, this recognises that local governments have adopted more financial responsibilities and obligations, with current laws and regulations not providing due oversight on performance of these new areas of policy delivery.

Notable reforms that have occurred in recent years include:

South Australia - 2015

The Local Government (Accountability and Governance) Amendment Bill 2015 was introduced in response to recommendations made by the SA State Ombudsman to achieve a more consistent reporting framework for local councils and to address confusion for Councillors interpreting the *South Australian Local Government Act*.⁸

In particular, there are proposed changes to the governance arrangements around conflict of interests for Councillors, to provide for greater certainty on how such issues should be managed. However, the amendments also create a new online public register which includes information on:

- the Council Member's income sources or employer;
- the name of any political party, body or association formed for political purposes or any trade or professional organisation of which the Councillor is a member; and
- any gifts received by the Council Member that are required to be included on a register.

This discussion paper will further consider these governance changes as a starting point to better manage conflicts of interest in the Western Australian local government sector.

Victoria 2014 and 2015

The Local Government Amendment (Performance Reporting and Accountability) Act 2014 and regulations established a new mandatory approach to public reporting for all local governments from 1 July 2014.⁹

As a result of this legislation, all 76 local governments in Victoria are required to publicly report on a range of performance indicators, from asset renewal rates through to provision and delivery of services to the community.

This information is then reported via the *Know Your Council* website, which allows ratepayers to examine any local government's performance, as well as provide comparative analysis between councils. Ratepayers may access information and compare Councils on 66 performance indicators including rates revenue, expenditure, missed bin collections, roads, food safety, recreational facilities and libraries.

⁸ Local Government (Accountability and Governance Amendment Bill) 2015. Available at <https://www.legislation.sa.gov.au> (Accessed 24th January 2016)

⁹ Department of Environment, Land, Water and Planning (22nd April 2014) *New era of transparency for local government*. Available at <http://www.dtpli.vic.gov.au/local-government/news-and-events/new-era-of-transparency-for-local-government> Accessed at 11th January 2016.

City of Melbourne

In addition to state-wide reporting across the Victorian sector, the City of Melbourne has become a leader in local government transparency, making a number of significant changes in public reporting and transparency in decision making well beyond current legislative requirements.

Whilst some are specific to a capital city authority, many are still relevant to local governments in Western Australia. Some of these include:

- Creation of an online register for conflict of interest declarations;
- Audio recordings of Council and committee meetings made available online;
- Expanded opportunity for public questions;
- Public disclosure of City of Melbourne's lease register;
- A new planning protocol which requires a planning officer to attend a meeting between a Council Member and developer;
- A public register disclosing major services contracts above one million dollars; and
- Disclosure of Senior Officer remuneration arrangements in annual reports.

United Kingdom 2014

In 2014, the United Kingdom Government introduced the new *Local Government Transparency Code 2015*¹⁰, which enables ratepayers to access information via a central website, covering a wide range of policy delivery, including:

- Expenditure – for example, all spending transactions over £500, all Government procurement card spending and contracts valued over £5,000;
- Use of assets – ensuring that ratepayers can scrutinise how well their local authority manages its assets; and
- Decision making – how decisions are taken and who is taking them, including how much senior staff are paid.

The Code was introduced by Government to establish consistent and coherent reporting across all local authorities in the United Kingdom and also to encourage them to go beyond this, by actively providing all relevant information.

¹⁰ Department for Communities and Local Government (February, 2015) *Local Government Transparency Code*. Available at: <https://www.gov.uk/government/publications/local-government-transparency-code-2015>. Accessed at 10th January 2016.

RECOMMENDED REFORMS TO THE WA LOCAL GOVERNMENT SECTOR

Recommendation 1: Greater Oversight and Consistency in Financial Reporting

There have been two significant reviews of financial accountability and reporting in WA local governments in the past decade – both undertaken by the State Parliament’s Public Accounts Committee – Report No 4, September 2006 and Report No 12, November 2015.

This section will seek to summarise critical findings from both reviews, which have already recommended significant and comprehensive transparency reform for the WA local government sector. It is strongly recommended that all WA Council members take time to read both reports in detail.

The original Public Accounts Committee Report No 4 examined:

- the current accountability mechanisms for local government in Western Australia, including finance, probity and performance;
- the capacity of the Department of Local Government and Communities and the Department of Regional Development to examine local government finance, probity and performance issues; and
- whether the State Auditor General should have a role in local government audit processes.¹¹

While the inquiry did find that the local government sector is subject to a number of accountability mechanisms, it found one notable exception: that it did not face the same rigour as State Government and its agencies. This was best summarised in the report at the time, stating:

“The key difference lies in the fact that minimum requirements for local government audits focuses largely on straight financial checks, whereas state government agency audits involve efficiency, effectiveness and probity measures, the results of which are tabled in parliament.¹²”

The inquiry made a number of critical findings, including:

- The current scope for assurance audits in the local government sector is effectively a “bare minimum framework” with a largely financial focus;¹³
- The Department of Local Government and Communities published very little data at a state-wide level and, apart from local government annual reports, ratepayers would find it difficult to assess council performance;¹⁴ and
- The sector was not adequately benchmarked to assist local governments and ratepayers in identifying areas of concern.

¹¹ Public Accounts Committee (September 2006) Local Government Accountability in Western Australia. Pg vii. Report No. 4 in the 37th Parliament. Pg Published by the Legislative Assembly, Parliament of Western Australia.

¹² Public Accounts Committee (September 2006) Local Government Accountability in Western Australia. Pg xiv. Report No. 4 in the 37th Parliament. Pg Published by the Legislative Assembly, Parliament of Western Australia.

¹³ Public Accounts Committee (September 2006) Local Government Accountability in Western Australia. Pg xvii. Report No. 4 in the 37th Parliament. Pg Published by the Legislative Assembly, Parliament of Western Australia.

¹⁴ Public Accounts Committee (September 2006) Local Government Accountability in Western Australia. Pg xix. Report No. 4 in the 37th Parliament. Pg Published by the Legislative Assembly, Parliament of Western Australia.

In response to these findings, a number of recommendations sought to address financial reporting and benchmarking across the sector, by recommending that the Auditor General oversee the audit of local governments in Western Australia¹⁵, by strongly arguing that:

“The Auditor General should ensure there is an annual comprehensive comparative report of each Local Government in Western Australian to facilitate transparency and provide an accurate assessment of individual local governments.”¹⁶

Since this critical recommendation, no substantial work has been undertaken to deliver on this reform, despite the recommendation being made in 2006.

This has been all but confirmed by the second review undertaken by the Public Accounts Committee (Report No 12). The findings of this second review are best summarised by the Committee Chairman’s own introduction to the report, which paints an image of a sector far from best practice. This includes:

- “A notable inconsistency in the level of detail and general quality of financial audit reports prepared for local government. The issue was highlighted in 2006, but does not appear to have been the focus of any meaningful corrective action over the nine years.”
- “A Compliance Audit Return process that is ultimately undermined by the fact that responses from individual local governments are not subject to the verification or independent scrutiny.”
- “A lack of rigour and a seemingly inconsistent approach by the Department in its monitoring of and follow up of local governments regarding compliance with statutory requirements.”
- “A lack of transparency across the sector around the findings of financial audits”; and
- “A lack of transparency on the non-compliance among local governments with regards to key statutory requirements of the *Local Government Act 1995* and associated regulations.”¹⁷

These findings are a disappointing reflection on the quality and completeness of financial reporting across the sector. In particular, it is of notable concern that a large number of local governments did not meet basic financial compliance requirements, as outlined in Finding 19 of the report, including:

- 59 local governments over the last three years did not provide their annual audited financial report within the prescribed timeframe under the *Local Government (Audit) Financial Regulation 1996 (WA)*;
- In 2013/14, 45 local government audit management reports included comments around issues of non-compliance with the *Local Government Act 1995*; and
- At the time of the Public Accounts Review in November 2015, four local governments had not submitted independent audit reports for the 2013/14 period.¹⁸

¹⁵ Public Accounts Committee (September 2006) *Local Government Accountability in Western Australia*. Pg 68. Report No. 4 in the 37th Parliament. Pg Published by the Legislative Assembly, Parliament of Western Australia.

¹⁶ Public Accounts Committee (September 2006) *Local Government Accountability in Western Australia*. Pg 69. Report No. 4 in the 37th Parliament. Pg Published by the Legislative Assembly, Parliament of Western Australia.

¹⁷ Public Accounts Committee, Report No 12. *Improving Local Government Accountability*. Pg iii, executive summary. Published by the Parliament of Western Australia, Perth. November 2015.

¹⁸ Public Accounts Committee, Report No 12. *Improving Local Government Accountability*. Finding 19, page xi. Published by the Parliament of Western Australia, Perth. November 2015.

These most recent findings have only become public as a result of the formal inquiry by the Public Accounts Committee. Currently, Western Australia does not have an annual public reporting mechanism for the sector, as the Department of Local Government and Communities does not publish this type of information.

The WA situation also pales in comparison to the current accountability framework of local government in Victoria, in which the Auditor General provides an analysis of the financial results of 79 local councils, 11 regional library corporations and 13 associated entities, and most importantly their financial sustainability risks. Under this public oversight, the Auditor General's report informs "Parliament about significant issues identified during our audits" and critically, "complements the assurance provided through individual audit opinions included in the entities annual report."¹⁹

In addition, the Auditor General provides a clear assessment on whether processes and practices contributing to financial risks have been identified. For example, in the Local Government 2013-2014 Audits report, the Auditor General found that:

"...61 per cent of our previous year audit findings relating to high and medium risk internal control deficiencies are yet to be rectified. That these control deficiencies should remain remedied is a very poor reflection on both the management and governance of these councils."²⁰

This is critical on two fronts – it provides clear accountability to both ratepayers and the wider public on current financial reporting but also establishes whether genuine reform is being undertaken. While these particular findings may be of concern to Victorian ratepayers, with little progress made to rectify these financial deficiencies, the fact that it is reported on an annual basis at least provides the opportunity for scrutiny and public pressure to resolve these issues.

Secondly, the singular reliance on self-assessment by the Department of Local Government and Communities to ensure local government compliance with the *Local Government Act 1995* is a significant failing. Under the requirements of Part 7 of the *Local Government Act 1995*, all local governments must submit a Compliance Audit Return, indicating if their authority has met both financial and non-financial statutory requirements as required under Regulation 13 of the *Local Government (Audit) Regulation 1996*.²¹

As the latest Public Accounts Committee Report details, this process can be clearly undermined "by the fact that response from individual local governments are not subject to verification or independent scrutiny".²² Accordingly, it relies not only on the integrity of each local government to undertake this work, but also assumes there is the necessary capacity and an internal reporting mechanism to assure accurate information is provided. Neither can be assumed for the entire local government sector. Accordingly, a strong and well-resourced process for independent oversight is common sense.

Recommendation:

The State Government legislate to give the Auditor General authority and responsibility for overseeing the financial and compliance auditing of all local governments in Western Australia, including:

¹⁹ Victorian Auditor General (February 2015) *Local Government Audit Results of the 2013-2014 Audits*. Page: ix. Published by the Victorian Government Printer.

²⁰ Victorian Auditor General (February 2015) *Local Government Audit Results of the 2013-2014 Audits*. Page: viii. Published by the Victorian Government Printer.

²¹ Local Government Act (1995) (WA). Available at https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_551_homepage.html

²² Public Accounts Committee, Report No 12. *Improving Local Government Accountability*. Page iii, Executive Summary. Published by the Parliament of Western Australia, Perth. November 2015.

- Establishment of a standardised reporting scheme for all local government audits;
- Responsibility for an annual public report on audit reports for local government across the sector, similar to the approach which is in place for state agencies;
- Performance auditing of local governments with oversight of a range of delivery areas, similar to the approach in place for public sector agencies;
- The authority to audit Compliance Audit Returns submitted by local governments under Part 7 of the *Local Government Act 1995* to ensure independent assessment and review of all local governments' compliance obligations;
- The authority to audit CEO review reports into the appropriateness and effectiveness of certain systems and procedures, as required by Regulation 17 of the *Local Government (Audit) Regulations 1996*; and
- Establishment of a sector wide report on the outcomes of the Compliance Audit Return process, outlining each local government's performance in meeting their obligations under the *Local Government Act 1995*.

Recommendation 2: Easier Ratepayer Access to Information and Public Online Reporting

Section 9.54 of the *Local Government Act 1995* prescribes that any person can attend a local government during office hours and free of charge, inspect, subject to section 5.95, information in relation to 23 different areas of the local authority, including:

- Any code of conduct;
- Register of complaints;
- Register of financial interests;
- Annual Report and Budget;
- Any schedule of fees and charges; and
- Any rates record.²³

Under the *Local Government Act 1995*, a person's rights to inspect this information does not extend to include information which is not current at the time or which, in the CEO's opinion, would divert a substantial amount of local government resources away from other operations and duties (Section 5.95).

While the *Local Government Act 1995* requires that physical copies of this information be made available (Section 5.96), there is no requirement for this information to be easily accessible online or for the availability of this information to be advertised to the local community. In this regard, the discussion paper contends that the *Local Government Act 1995* is outdated and has not kept pace with changes in technology and ratepayer demand for online resources.

As local governments are now required to have established online gift and travel registers, the location of these registers via the authority's website can be difficult to find or residents may simply not be aware that they exist.

Accordingly, it is recommended there be consistency across the sector to ensure that ratepayers, regardless of where they live, can obtain accountability and governance information with ease. There is also the need to increase awareness, with an opportunity for the Department of Local Government and WALGA to promote the introduction of a Governance and Accountability portal system at a State level.

²³ Local Government Act (1995) (WA). Available at https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_551_homepage.html

Recommendation:

Each local government be required to establish a Governance and Accountability portal, directly linked from the homepage of their website, to host all required public registers, governance structures and complaint mechanisms for both local and state authorities.

Recommendation 3: Public Reporting of Travel Undertaken by Councillor Members and Staff

Currently, there is no requirement for public and centralised reporting of travel undertaken by Councillor Members. Rather the recent changes only stipulate a register of contributions to Council Member travel. There is also a lack of consistency across the sector – with some local governments requiring Council approval before staff or Council Member travel may occur. Similarly, there is no requirement for Council Members to provide public reports on trips undertaken. It should be noted that State Members of Parliament are required to publicly table their travel reports.²⁴

Currently, if a ratepayer or journalist is interested in these matters, they may be required to either research previous Council minutes or, alternatively, apply for information through a Freedom of Information request. Such a requirement is resource and time intensive and does not provide ease of access to basic expenditure information.

It can also be argued there is less scrutiny and attention given to local government travel and allowances, in comparison to State and Federal level, where Members of Parliament are required to table travel reports in parliament.

A central, online travel register which is updated on a regular basis will provide all ratepayers with a simple and accessible point for obtaining this information.

Recommendation:

That each Local Government be required to establish a public online travel register, updated on a monthly basis, which requires the following information:

- Name of relevant Council Member or staff member;**
- Date and duration of travel;**
- Cost of the travel;**
- Travel locations; and**
- Travel Purpose.**

Expenditure relating to travel for staff and Council Members must be considered in advance and publicly approved at a Council level.

The requirement for a report to be tabled at a Council meeting once travel has been undertaken by a staff or Council Member no later than one month after the trip has been taken.

24

Recommendation 4: Disclosure of Councillor Allowances and Expenses

The *Local Government Act 1995* (Sections 5.98 and 5.99)²⁵ and the *Local Government (Administration) Regulations* set the framework and minimum and maximum limits for Council Member and Mayoral meeting fees, allowances and reimbursements.

These currently include for metropolitan Councils:

- 34: Minimum (\$600) and maximum Mayoral Allowance fees (\$60,000);
- 33A: Maximum additional allowance for Mayors (prescribed as percentage of 25%);
- 34A: Maximum permitted telecommunications expense allowance of \$2,400; and
- 34AA: Maximum Informational technology allowance of \$1,000.

It should be noted that the City of Melbourne provides regular online disclosure for Council Members' expense claims without difficulty or resource intensity for the organisation and this paper contends this could be easily replicated within the local government sector in Western Australia.

Recommendation:

Each Local Government must establish an online Councillor Allowances and Reimbursements register which:

- Outlines all allowances provided to the Mayor and Councillors, including attendance fees, phone and IT allowances, clothing allowances and other reimbursements permitted; and**
- Detail on a quarterly basis specific expense reimbursement claims made by each Council Member and Mayor, for each permitted category.**

Recommendation 5: Public Reporting of Disclosure of Conflicts of Interest

The *Local Government Act 1995* provides a significant framework for the management and disclosure of potential conflicts of interests and relationships with closely associated persons. These rules are critical to ensuring that decisions are made without fear of bias, undue influence or interference.

Division 6 – Disclosure of Financial interests provides significant detail in defining:

- Financial Interest;
- Proximity Interest;
- Indirect Financial Interest;
- Closely Associated Persons; and
- Interests that do not need disclosure.²⁶

In accordance with the *Local Government Act 1995*, before a matter is given consideration at the meeting:

²⁵ Local Government Act (1995) (WA). Available at https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_551_homepage.html

²⁶ Local Government Act (1995) (WA). Available at https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_551_homepage.html

- A Council Member must give advanced written notice of the nature of the interest or at the meeting before the matter is immediately discussed (s. 5.65 (1));
- The Presiding Officer must bring notice to the declaration and its content immediately at the meeting before the matter is discussed (s. 5.66); and
- A Council Member who discloses interests under s. 5.55 may not participate or be present in the meeting, unless allowed to do so under particular circumstances, including if the matter is trivial or insignificant or is common to a significant number of ratepayers. (Sections 5.69 A and 5.68).

While these declarations are made publicly at a Council meeting and recorded in the minutes, there is no obligation for the local government to maintain an ongoing centralised online record by which a member of the public may easily obtain this information. Rather, to obtain this information, a ratepayer must invest significant time and effort to review Council minutes. This discussion paper proposes that as this information is already collated at each Council meeting, this information should be made more accessible through a collated public online register, updated after each Council meeting, as undertaken by the City of Melbourne.

As an extension of this, the Department of Local Government and Communities – in its *Review of Local Government (Rules of Conduct) Regulations 2007* has suggested the creation of a new public register where Council Members may opt to register “enduring interests that may be perceived as affecting their impartiality.”²⁷ These enduring interests could include a range of matters, including family relationships, membership of organisations, board membership or election commitments.

The *Queensland Local Government Regulations 2012*²⁸ goes well beyond the Western Australian local government requirements, by requiring the Chief Executive Officer to not only maintain a register of the financial and non-financial interest of each Council Member, but also:

- Senior executive employees; and
- A person related to each Council Member, who is either the primary partner or a person substantially dependent upon the Council Member, Chief Executive Officer or senior executive employee.

The Register of Councillor Interests must be made available both at the local government’s public office and online, with any change in interests to be publicly available in no later than five business days from the change.

For CEOs, senior executive staff and persons who are related to a Council Member, Chief Executive Officer or senior executive employee, this information is not open to inspection except by Councillors, the CEO and other persons permitted by specific law. This is to provide some reasonable level of privacy to non-elected officials.

Recommendation:

Local governments are required to establish and regularly maintain a public online register of all financial and impartiality interests disclosed by Council Members and relevant staff, including the following information:

- Council Member / staff member name;**
- Meeting date;**

²⁷ Department of Local Government and Communities (November 2015). *Summary of Proposals and Issues for Comment. Review of the Local Government (Rules of Conduct) Regulations 2007 and Minor Breach Disciplinary Framework.* Page 12/ Published by the Government of Western Australia

²⁸ Local Government Regulation 2012. Current as at 19th March 2016. Government of Queensland. Available at <https://www.legislation.qld.gov.au/legisln/current/l/localgovr12.pdf>. Accessed at 1st April 2016.

- Agenda item and title;**
- Type of interest; and**
- Nature of interest.**

The public online register is required to include the opportunity for Council Members and staff members to declare enduring interests that may be perceived as affecting their impartiality.

Recommendation 6: Leasing Arrangements

The issuing of new leasing arrangements for local government land and buildings and extension of existing leases can be a controversial issue for any local government. The demand for reserves and facilities is growing in our metropolitan area; with the number of external organisations growing in size (e.g. sporting and recreational clubs) and greater numbers of people living within the metropolitan area as a result of infill and increased density.

While the approval and extension of leases does require Council approval, and the decision is made within the public arena and subject to scrutiny, there is again no readily available or easy accessible source for ratepayers or stakeholders to access regarding a local government's total leasing and rental arrangements.

Such information can be important. It can help inform ratepayers over a particular leasing proposal or arrangements due to be determined by a Council, by providing a comparative analysis of all existing leases in the local government area and the cost to each relevant lessee.

The City of Melbourne does require the publication of an annual lease register, made available online, which provides details of occupancy and rental arrangements for external organisations accessing local government owned buildings and land.²⁹

Recommendation:

Local government be required to produce an annual online register of leases and licences detailing the occupancy and rental arrangements for external organisations which have a lease or licence to use local government owned or managed land and/or buildings, including the following information:

- Name of lessee/occupier;**
- Location and venue;**
- Start and end date of lease or licence, with extension options;**
- Revenue received each year and cost incurred by local government; and**
- Purpose allowed.**

Recommendation 7: Improving Transparency and Accountability for Council Meetings

Currently there is no legal requirement for local governments to create an audio recording of their meetings or to provide a second account of meetings in addition to published minutes.

*The Local Government Act 1995, Section 5.22*³⁰ requires that:

²⁹ City of Melbourne (March 2016). Property Lease Register. Available at <http://www.melbourne.vic.gov.au/about-council/governance-transparency/council-information/registers-inspection/Pages/Property-lease-register.aspx> Accessed 1st April 2016.

³⁰ Local Government Act (1995) (WA). Available at https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_551_homepage.html

- 1) The presiding officer must ensure minutes are to be kept of the Council meeting;
- 2) The minutes of the meeting should be considered for confirmation at the next meeting of Council; and
- 3) The presiding officer must sign the minutes and certify the confirmation.

While many WA local governments do provide audio recordings of Council meetings, there are still those who opt not to, including two major metropolitan councils. This is clear cause for concern, as there is no verbatim, detailed and independent record of proceedings which have been undertaken. In the interests of public accountability, it is recommended that all local governments be required to record meetings, and that the recordings be accessible to ratepayers and journalists.

Recommendation:

That the *Local Government Act 1995* be amended to require all local governments create an audio recording of Council meetings and for those audio recordings to be made available to any ratepayer at the local government's office or online via their website.

Recommendation 8: Creating a Genuine Opportunity for Ratepayers to Have Their Say

There is significant diversity in the local government sector regarding the governance of public question time, despite the setting of minimum standards in the *Local Government Act 1995* and regulations. This is in part due to different Standing Orders Local Laws being adopted by each local government.

Section 5.2.4 of the *Local Government Act 1995*³¹ only prescribes the following:

- time must allocated for questions from members of the public;
- questions are to be responded to at every Council meeting; and
- the procedures and the minimum to be done in accordance with regulations.

The *Local Government (Administration) Regulations 1996* provide further minimum standards (Sections 5, 6 and 7) which in summary require:

- A minimum time allocated for asking of and responding to questions raised by members of the public is 15 minutes;
- Responsibility for the procedures dealing with questions arising from the gallery rests with the Presiding Officer; and
- Each member of the public who wishes to ask a question is given a fair and equal opportunity to do so – and receives a response at that time.

Some local governments strictly adhere to these minimum conditions outlined in the *Local Government Act and Regulations*, which can heavily restrict ratepayer participation. In these scenarios, questions must be tabled in advance, and read out by the CEO and answered accordingly. There is no opportunity for general comment or feedback on any matter.

Other local governments have much more liberal regulations – enabling not only public questions but also more general statements from ratepayers on matters directly related to the Council agenda or on broader policy issues facing the community and local government. More importantly, no notice is required. This is the case at the City of Vincent.

³¹ Local Government Act (1995) (WA). Available at https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_551_homepage.html

This discussion paper suggests that the *Local Government (Administration) Regulations 1996* should be amended to enable all ratepayers of any local government to make public statements at a Council Meeting. This is healthy for local democracy and encourages greater participation by ratepayers directly in the Council meeting process.

While there may be concern that such a framework could be abused or may result in lengthy Public Question Time, some restrictions could be applied to allow this to be managed in a timely way.

Recommendation:

That the *Local Government (Administration) Regulations 1996* be amended to provide more consistent and minimum standards for question time and statements from the public across all local governments to enable greater participation, including:

- **Specifically allowing the making of a public question and/or a general statement in relation to an agenda item or broader Council matter;**
- **Allowing a member of the public to directly ask the question without being required to submit the question in advance; and**
- **Setting a prescribed time limit of three minutes for any question or statement to be made by a member of the public at a Council meeting but limits such statements or questions to one ratepayer per meeting to enable a timely management of meetings.**

Recommendation 9: Mandatory Training of Council Members

Currently, there is no provision within the *Local Government Act 1995* to require mandatory training or induction programs for Council Members in Western Australia.

The WA Local Government Minister has flagged the desire to introduce mandatory training to the sector as part of a raft of reforms to improve accountability in sector.³²

This has been opposed by WALGA, which does not believe mandatory training can necessarily garner the best results.³³ However, the organisation does wish to incentivise training for Council Members. WALGA has also noted no such mandatory training provisions exist for other elected members in State or Federal Governments.

However, this is out of step with approaches taken by other states, where both the South Australian and Victorian Governments have legislated to make training or induction programs compulsory.

The South Australian Government amended the *Local Government Act 1999 (SA)* to require all members of local councils to undergo mandatory training, as well as strengthening the Oath of Office. In contrast to WALGA, these changes were supported by the Local Government Association in South Australia, with President David O'Loughlin noting that:

“...communities have high expectations about the performance and conduct of their council members, so councillors need to have a clear understanding of the roles they play in representing their communities. While the requirement for training is not intended to be

³² Emery, Kate (21st January 2016) *Councillor training row brews*. Published by The West Australian. Available at <https://au.news.yahoo.com/thewest>. (Accessed 24th January 2016)

³³ Emery, Kate (21st January 2016) *Councillor training row brews*. Published by The West Australian. Available at <https://au.news.yahoo.com/thewest>. (Accessed 24th January 2016)

onerous, it will cover key aspects related to the roles of councillors such as strategic planning, financial and asset management planning and setting budgets and rates....³⁴

Regulation 8AA of the *Local Government (General) Regulations 2013* prescribes that training must be undertaken in compliance with requirements as contained in the Local Government Association training standards.³⁵

According to these standards, South Australian Council Members are obligated to undertake a series of modules of learning, in four key areas:

- Introduction to Local Government – the role and functions of local government;
- Legal responsibilities – legal obligations and responsibilities under the *South Australian Local Government Act*;
- Council and Committee Meetings – meeting procedures and processes to guide Council decision making; and
- Financial Management and Reporting – understanding Council’s responsibilities for financial and asset management.³⁶

This training can be delivered via face to face, online, webinar or a combination, and can be delivered in a seven and half hour training period. The Chief Executive Officer of a local government must be satisfied a training provider has the expertise to deliver this module training, and a record is kept of what training has been undertaken by each Council Member.³⁷

This discussion paper contends that the WA local government sector should have nothing to fear from mandatory training or mandatory refresher courses for Mayors and Council Members. As demonstrated in South Australia, the training does not have to be onerous but rather provides an opportunity for new Council Members to gain a better understanding of their roles and responsibilities.

It is apparent, as demonstrated by the recent travel investigation at the City of Perth, that there is a risk current Mayors and Council Members may not be fully aware of their obligations and responsibilities under the *Local Government Act and Regulations*. Mandatory training will provide greater opportunities to increase awareness among Council Members and identify the benefits of further voluntary training.

Recommendation:

That the *Local Government Act 1995* is amended to require mandatory induction training for new and re-elected Council Members, with new regulations established to require:

- **Each local government to have a training policy for new and existing Mayors and Council Members, to be reviewed every four years;**
- **Training must cover four basic modules of learning, including:**
 - **Introduction to Local Government – the role and functions of local government;**
 - **Legal responsibilities – legal obligations and responsibilities under the *Local Government Act 1995*;**

³⁴ Government of South Australia (7th August 2014) *Mandatory training for Council members*. Available at: <http://www.lga.sa.gov.au/page.aspx?c=46152>. Accessed 1st March 2016.

³⁵ Local Government Association of South Australia (12th November 2014). LGA Training Standards for Council Members. Page 2. Available at: <http://lgasa.accelerate.com.au/>. Accessed 20th March 2016.

³⁶ Local Government Association of South Australia (12th November 2014). LGA Training Standards for Council Members. Page 2. Available at: <http://lgasa.accelerate.com.au/>. Accessed 20th March 2016.

³⁷ Local Government Association of South Australia (12th November 2014). LGA Training Standards for Council Members. Page 2. Available at: <http://lgasa.accelerate.com.au/>. Accessed 20th March 2016.

- Council Meetings – meeting procedures to guide Council decision making; and
 - Financial Management and Reporting – understanding Council Members responsibilities for financial and asset management.
- If training is not undertaken with the Western Australian Local Government Association, it must be approved by the Department of Local Government and Communities; and
 - A six month prescribed time frame in which Council Members must undertake mandatory training.

Recommendation 10: Greater transparency within Senior Executive in Local Government

While most local governments list their executive structures with relevant director titles and contact details on their websites, obtaining further information relating to position responsibilities, salaries and additional benefits is far more difficult for a ratepayer to access.

State and Federal Governments are regularly scrutinised over their senior executive employees via both Estimates Committees and Questions on Notice in parliament. This is for good reason – to be held accountable for the salary growth and the size of the public sector.

There should be no reason for local government to be prevented from similar healthy scrutiny, particularly given that there is a tendency for smaller local governments to become top heavy. Easily obtainable information regarding senior executive salaries will enable ratepayers to judge whether the organisational structures and associated costs are appropriate and in-line with market conditions.

Local governments in the United Kingdom are already required to publish online registers of salaries, as part of the new Transparency Code. They are required to detail the number of employees with salary packages of at least 50,000 pounds (approximately \$102,000 Australian dollars), as well as their titles, list of responsibilities and details of bonuses and in-kind benefits.³⁸

Similarly, South Australia has also introduced a Register of Salaries, as per section 105 of the *South Australian Local Government Act*, which requires a local government to keep a register with the following information:

- The position of the employee of the Council;
- The salary or salary scale applicable; and
- The details of any other allowances or benefits paid or payable.³⁹

Under the South Australia Act, any person may have the opportunity to inspect this register and, upon a payment of a fee, receive an extract.

This discussion paper contends that Western Australian local governments should provide similar information both via their Annual Reports and via an online register. This will make information easily and readily available and provide an indication of the changing nature of the organisation over time.

³⁸ Department for Communities and Local Government (February, 2015) *Local Government Transparency Code*. Pg 19-20. Available at: <https://www.gov.uk/government/publications/local-government-transparency-code-2015>. Accessed at 10th January 2016.

³⁹ South Australian Current Acts. Local Government Act 1999. Section 105. http://www.austlii.edu.au/au/legis/sa/consol_act/lga1999182/s105.html. Access at 10th January 2016.

Recommendation:

The *Local Government Act 1995* is amended to require each local government to establish an annual Register of Senior Salaries (CEO, Directors and Managers), with the following information:

- Title/position of the employee of the Council;
- The salary or salary scale applicable;
- Start and end date of the contract;
- The details of any other allowances or benefits paid or payable; and
- Primary function of each role.

This information should be both made public in the Annual Report of the organisation and updated at the same time as the release of the Annual Report to an online register.

Recommendation 11: Better Governance Regarding the Appointment of Chief Executive Officers

The recruitment of a Chief Executive Officer is critical for any local government - as the person primarily responsible for the delivery of the Council's policy agenda and as the only direct employment decision a Council can make.

As the Department of Local Government and Communities notes in its Operational Guidelines Number 10 "Appointing a CEO", there are three sections of the *Local Government Act 1995* that have direct application to the appointment of a CEO.⁴⁰

Section 5.36 of the *Local Government Act 1995* prescribes that a local government must employ a CEO, and that it must:

- a) believe that person is suitably qualified for the position; and
- b) is satisfied with provisions of the proposed contract.⁴¹

Section 5.39 creates provisions which rules how CEO contracts should be written, while Section 5.40 requires all employees, including the CEO, be appointed in accordance with the principles of merit and equity. These are all sound provisions.

There has been additional reform in this area, with amendments to Section 5.39 (7) which now ensure a CEO's salary is capped according to the size and classification of the local government and set by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.

In addition to these provisions, the *Local Government (Administration) Regulations*, prescribe the following for the appointment of a new CEO:

- 18A: Requires the CEO position to be advertised in a newspaper circulating across WA except in certain cases and stipulates what must be detailed in the advertisement;
- 18C: The Council must approve a process for the selection and appointment before the CEO is appointed;
- 18E: A candidate applying for the position of a CEO must not fabricate their qualifications or they will be subject to a penalty; and

⁴⁰ Department of Local Government and Communities (August 2012). Local Government Operational Guidelines No 10. Appointing a CEO. Pg 2. Published by the Government of Western Australia.

⁴¹ Local Government Act (1995) (WA). Page 148 and 149. Available at https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_551_homepage.html

- 18F: The remuneration and other benefits paid to a CEO must adhere to section 5.36 (4), which sets CEO salaries according to the tier of Council.⁴²

This discussion paper contends that the *Local Government Act 1995* and regulations are in conflict in terms of the specificity with which they outline the appointment of a new CEO. The *Local Government Act 1995* details exactly what must be contained in an advertisement for a CEO, but does not provide the same clarity or completeness for the appointment process itself – other than that it must be approved by Council.

This discussion paper contends greater clarity is required of the *Local Government Act 1995* and regulations as there are insufficient requirements, and the current rules do not set the highest standards of review. It is recognised this may also be due to a lack of awareness by Council Members, an area which could be addressed through mandatory training.

The introduction of new provisions which provide clearer guidance surrounding the appointment process and which set minimum benchmarks for participation and review by Council Members. It should be noted that the Department of Local Government and Communities does provide sound and much needed advice via the Local Government Operational Guidelines,⁴³ however, further improvements are needed.

As part of these new provisions, the following should be considered:

The requirement that the recruitment brief and advertisement must be approved by Council before commencement of advertising the CEO position.

Currently, there is no regulation requiring Council to formally consider what type of CEO they may be looking for – and as a consequence conflicting views may arise. It is critical that these alternative views and ideas are carefully considered, to ensure a consistent and coherent recruitment brief is established, setting a clear vision for the type of CEO required.

This will also provide stronger direction to the delegated recruitment committee and interview panel and potentially avoid future conflicts in the appointment process. It will ensure an agreed set of principles have been formally adopted by Council and provide the framework for the interview process and direction of questions.

A requirement for all Council Members to, at a formal meeting of Council, review and approve the proposed contract before an offer of employment is made to a CEO or the reappointment of an existing CEO. This responsibility cannot be delegated to the Mayor or a recruitment committee.

This proposal seeks to address the current scenario where Councillor Members may not view a CEO's contract, whether by delegating this to the Mayor or recruitment committee, or because they are not aware they have a legal right to view the contract.

Section 5.36 of the *Local Government Act 1995* clearly stipulates that a “person is not to be employed in the position of the CEO unless the Council is satisfied with the provisions of the proposed employment contract.”⁴⁴ In this respect, a Council Member cannot be reasonably satisfied with the provisions of the new CEO's employment contract if they have not been provided with a copy of the contract.

⁴²Western Australian Current Regulations. Local Government (Administration) Regulations 1996. Available at http://www.austlii.edu.au/au/legis/wa/consol_reg/lgr1996443/. Access 7th February 2016.

⁴³ Department of Local Government and Communities (August 2012). Local Government Operational Guidelines No 10. Appointing a CEO. Pg 2. Published by the Government of Western Australia.

⁴⁴ Local Government Act (1995) (WA). Page 149. Available at https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_551_homepage.html

The Local Government Department's Operational Guidelines also strongly recommend that:

"The Council should review and amend, where necessary, the existing terms and conditions of the CEO contract before proceeding to advertise the position"; and

"It is also recommended that Council obtain advice on the contract where alterations or amendments are proposed and there is any (even slight) doubt as the meaning of those alterations or amendments".⁴⁵

Despite the Department's recommendations, Council Members are approving the appointment of CEOs without sighting or reading the proposed contract. Some Council Members only receive a report, with contract excerpts. This is unacceptable – and poor governance.

It is strongly recommended that a clear procedure be set for all local governments, which requires a specific meeting for Council Members to review the contract in detail. This will ensure the opportunity for thorough scrutiny in a group setting, to review all aspects and considerations, including the proposed termination notice period and termination payments.

The introduction of a caretaker period prior to a Council election, during which a decision to appoint, renew or extend a CEO's contract may not be made.

Given that up to fifty percent of Council Members may change at any bi-annual election, decisions regarding the Council's future direction and leadership should not be decided upon in the six month period prior to an election.

An existing CEO may seek to bring forward a contract extension to avoid such a scenario and to remove uncertainty. However, it is critical that a rigorous recruitment process occurs allowing for proper review and public scrutiny.

The requirement for all Councils to publicly advertise a Chief Executive Officer's position after three consecutive five year terms of employment.

True reform in local government needs the right leadership, at both an administration and Council level. It is an undeniable fact that the performance, attitude and behaviour of a CEO can dramatically affect an organisation's culture.

Currently, there is no limit to the number of five year contract terms a CEO may serve. While many in the local government sector would argue this provides significant stability, it may also have other unintended consequences.

It is not uncommon for Chief Executive Officers to remain at any one local government for more than a decade. Unfortunately local government can often be guilty of celebrating longevity of tenure rather than using performance and innovation as a measure of success. In the private sector it would very unusual for a CEO to remain in place for more than a decade, because change can often refresh an organisation and bring new ideas and methods of doing business.

Continuous leadership, whether in the form of a Mayor or CEO, can create a culture where Councillors and staff become set in their ways, complacent and blinded by convention. This discussion paper suggests that all Councils should re-advertise the position of CEO after three consecutive five year terms. This is not to say that a Council would be obligated to appoint a new CEO, however it would require the Council undertake a recruitment process where it can consider other possible candidates and new directions for their organisation.

⁴⁵ Department of Local Government and Communities (August 2012). Local Government Operational Guidelines No 10. Appointing a CEO. Pg 4. Published by the Government of Western Australia.

Recommendation:

The *Local Government (Administration) Regulations* and/or Section 5.36 of the *Local Government Act 1995* are amended to include the following requirements:

- **The Council must approve the recruitment brief and advertisement before commencement of advertising the CEO position;**
- **The Council must, at a formal meeting, review and approve the proposed employment contract before an offer of appointment to a CEO or re-appointment of an existing CEO.**

The *Local Government Act 1995* is amended to prohibit a Council from making any decision in respect to the appointment of a CEO or the renewal or extension of a CEO's contract of employment within the six months prior to the bi-annual Council election.

The *Local Government Act 1995* is amended to require all Councils to advertise the position of CEO following the completion of three consecutive five year terms by the same employee.

Recommendation 12: Greater Transparency and Accountability in Council Elections

This discussion paper does not seek to canvass previously well debated and often controversial electoral reforms – including a change from voluntary to compulsory voting and a shift from first past the post to preferential voting systems. Rather, this paper has focused on those aspects of local government elections which may be improved to ensure greater transparency in processes and accountability for ratepayers.

Ensuring greater accuracy of the electoral roll

The current *Local Government Act 1995* makes only one reference to maintaining accurate business roll, in that it states under Section 4.34:

“The CEO is to ensure that the information about electors that is recorded from enrolment eligibility claims is maintained in an up to date and accurate form”.⁴⁶

Without any further detail, the interpretation of this wording is very much open – and left to the individual discretion of each CEO. As a result, there is varied application across the sector, from stringent checking of the existing roll to only random testing and checks.

This is of significant concern, particularly given the volatility of business enrolments, which result from regular changes in leasing arrangements, property purchases and turnover of businesses in a two year period.

In addition, residential voters are subject to much greater scrutiny and review than business enrolments as they are subject to:

- The WA Electoral Commission administering the electoral role, as an independent authority from government and with the necessary resources and capacity;
- There is more regular checking of enrolments, as a result of both voters being subject to three yearly Federal election cycles and four yearly State election cycles; and

⁴⁶ Local Government Act (1995) (WA). Pg 99. Available at https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_551_homepage.html. Accessed at 10th January 2016.

- Residential voters under State and Federal electoral roles are deemed to have committed a criminal offence if providing false information on their enrolment details.

This discussion paper contends that minimum standards should be set, which require CEOs to undertake basic checks of business enrolments. While appreciating this will require an increase in resources, it is critical to ensuring fair and democratic local government. It is also important to note that only some local governments have particularly high business enrolments, with the City of Perth a stand out example.

Accordingly, it is suggested a minimum benchmark be set, which prescribes a certain number of business electors must be verified on an annual yearly basis.

Recommendation:

The *Local Government Act 1995* is amended to require the Chief Executive Officer or his delegated authority to verify the accuracy and eligibility of at least thirty percent of existing business enrolments within each financial year.

Recommendation 13: Greater Transparency in the Selection of Mayors

Currently, local governments have the power to choose the way in which the Mayor is elected, opting between a direct election by ratepayers or alternatively, via the sitting Council Members, every two years after a council election has been held.

Twenty four Mayors and one President are directly elected by their ratepayers for a four year term, with the majority of these metropolitan councils. The full list is contained below:

Direct Election by Ratepayers	
City of Albany	City of Mandurah
City of Bunbury	City of Melville
Town of Cambridge	Town of Mosman Park
City of Canning	Town of Narrogin
Shire of Carnarvon	City of Nedlands
Town of Claremont	City of Perth
City of Cockburn	Town of Port Hedland
Town of Cottesloe	City of South Perth
Town of East Fremantle	City of Subiaco
City of Fremantle	Town of Victoria Park
City of Greater Geraldton	City of Vincent
City of Joondalup	City of Wanneroo
City of Kalgoorlie-Boulder	

The remaining 115 Mayors and Presidents are not elected by ratepayers, but rather elected by their fellow Council Members. Accordingly, the term is only two years, in-line with the annual period of local council elections and potential changeover in Council Members.

The following Mayors of metropolitan councils are not elected by ratepayers:

Election via Council Members	
Town of Bassendean	Town of Peppermint Grove.
City of Bayswater	City of Gosnells
City of Swan	Shire of Kalamunda
City of Stirling	Shire of Mundaring

There is enduring discontent among members of the public with the lack of democracy and transparency associated with the outdated practice of a Mayor being elected by their peers. These processes deprive electors of a basic democratic right to vote for their civic leaders, instead leaving this essential decision, and often associated negotiations, in the hands of a select few. In short, it is simply not a transparent process.

This discussion paper recognises that politics will always occur in local government but the direct election of a Mayor may assist in curtailing the establishment of a factionalised culture. The election of Mayors by Council can create this culture – by actively encouraging Council Members to group behind a particular colleague for Mayor.

Mayors who are directly elected are ultimately not reliant on consistently seeking their colleagues favour for their ongoing support but are clearly accountable to ratepayers.

Recommendation:

Section 2.11 of the *Local Government Act 1995* is amended to only permit a local government to fill the position of Mayor or President through direction election by ratepayers.