



Legislative Roles of Mayors, Presidents, Councillors and CEOs

Local Government in Western Australia

Local Government is one of the three spheres of government in Australia. The others are the Federal Government and State Governments which are empowered by the Australian Constitution. Local Government is created and empowered by state legislation which in Western Australia is the *Local Government Act 1995*.

There are 141 Local Governments in Western Australia and each one is responsible for providing political representation and services to the residents, ratepayers and electors of their district.

Section 2.4 of the *Local Government Act 1995* designates whether a Local Government will be referred to as a City, Town or Shire.

A City, in the metropolitan area, must have more than 30 000 inhabitants more than half of whom live in an urban area. A district not in the metropolitan area may be called a city if it has more than 20 000 inhabitants more than half of whom live in an urban area.

A Town must have more than half of its inhabitants living in an urban area.

A Shire is any district that is not designated a city or a town.

Of the 141 Local Governments in Western Australia, 22 are Cities, 11 are Towns and 108 are Shires.

The Act

The *Local Government Act 1995* which came into operation on 1 July 1996 creates and empowers Local Government. The **Content** and **Intent** of the Act are set out under Section 1.3:

- (1) *This Act provides for a system of local government by –*
 - (a) *providing for the constitution of elected local governments in the State;*
 - (b) *describing the functions of local governments;*
 - (c) *providing for the conduct of elections and other polls; and*
 - (d) *providing a framework for the administration and financial management of local governments and for the scrutiny of their affairs.*

- (2) *This Act is intended to result in –*
 - (e) *better decision-making by local governments;*
 - (f) *greater community participation in the decisions and affairs of local governments;*
 - (g) *greater accountability of local governments to their communities; and*
 - (h) *more efficient and effective local government.*

- (3) *In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.*

The Council

The Council is the elected governing body that sets the direction and policies of the Local Government and consists of a Mayor or President and Councillors.

The **role of the Council** is defined by Section 2.7 of the *Local Government Act 1995*:

- (2) *The council –*
 - (a) *directs and controls the local government’s affairs; and*
 - (b) *is responsible for the performance of the local government’s functions*

- (3) *Without limiting subsection (1), the council is to –*
 - (a) *oversee the allocation of the local government’s finances and resources; and*
 - (b) *determine the local government’s policies.*

Each Council has either a Mayor or a President. Cities and Towns have Mayors and Shires have Presidents. Most Mayors and Presidents in WA are elected by the Council but some are directly elected by the electors of the district.

The **role of the Mayor or President** is defined by Section 2.8 of the *Local Government Act 1995*:

- (1) *The mayor or president –*
 - (a) *presides at meetings in accordance with this Act;*
 - (b) *provides leadership and guidance to the community in the district;*
 - (c) *carries out civic and ceremonial duties on behalf of the local government;*
 - (d) *speaks on behalf of the local government;*
 - (e) *performs such other functions as are given to the mayor or president by this Act or any other written law; and*
 - (f) *liaises with the CEO on the local government’s affairs and the performance of its functions.*

- (2) *Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.¹*

¹ Section 2.10 refers to the role of councilors and is detailed below

The **role of Councillors** is defined by Section 2.10 of the *Local Government Act*. This section applies to all members of Council including a Mayor or President who is not a Councillor and a Councillor who is also the Mayor or President.

A Councillor –

- (a) represents the interests of electors, ratepayers and residents of the district;*
- (b) provides leadership and guidance to the community in the district;*
- (c) facilitates communication between the community and the council;*
- (d) participates in the local government's decision-making processes at council and committee meetings; and*
- (e) performs such other functions as are given to a councillor by this Act or any other written law.*

The Council sets the direction and policies of the Local Government whereas the administration, managed by the Chief Executive Officer, must ensure Council decisions and policies are implemented.

Conduct of Councillors

The **conduct of Councillors** is governed by the *Local Government (Rules of Conduct) Regulations 2007*, which provides guiding principles to Council members and also details specific rules of conduct which must be adhered to. Breaches of the Rules of Conduct can result in sanctions.

Regulation 3 of the Rules of Conduct Regulations outlines general principles to guide the behaviour of council members:

- (1) *General principles to guide the behaviour of council members include that a person in his or her capacity as a council member should –*
 - (a) *act with reasonable care and diligence; and*
 - (b) *act with honesty and integrity; and*
 - (c) *act lawfully; and*
 - (d) *avoid damage to the reputation of the local government; and*
 - (e) *be open and accountable to the public; and*
 - (f) *base decisions on relevant and factually correct information; and*
 - (g) *treat others with respect and fairness; and*
 - (h) *not be impaired by mind affecting substances.*

- (2) *The general principles referred to in subregulation (1) are for guidance of council members but it is not a rule of conduct that the principles be observed.*

The *Local Government (Rules of Conduct) Regulations 2007* detail specific rules on the following matters, breaches of which can result in sanctions:

- Breach of a provision of a local law relating to conduct at council or committee meetings
- Improper disclosure of confidential information
- Securing personal advantage or disadvantaging others
- Misuse of Local Government resources
- Prohibition against involvement in administration
- Relations with Local Government employees
- Disclosures of interest; and,
- Non-disclosure of gifts or acceptance of prohibited gifts

Consult the regulations in full for details on the rules regulating the conduct of Council members pertaining to the matters listed above.

The Administration

Each Local Government has an administration that is responsible for implementing Council decisions and managing Local Government operations.

The Chief Executive Officer is employed by the Council to head the administration, manage day to day operations and ensure that Council decisions are implemented.

The **functions of the CEO** are defined by Section 5.41 of the *Local Government Act 1995*:

The CEO's functions are to –

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;*
- (b) ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) cause council decisions to be implemented;*
- (d) manage the day to day operations of the local government;*
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- (f) speak on behalf of the local government if the mayor or president agrees;*
- (g) be responsible for the employment, management, supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);*
- (h) ensure that records and documents of the local government are properly kept for the purposes of the Act and any other written law; and*
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

Further Information

Legislation – including the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007* – can be accessed from the State Law Publisher at www.slp.wa.gov.au.

For general information on Local Government in Western Australia consult the WALGA website at www.walga.asn.au or the Department of Local Government and Regional Development website at www.dlgrd.wa.gov.au.