



LOCAL GOVERNMENT ACT REVIEW ►► DELIVERING FOR THE COMMUNITY

Consultation report – complaints management

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Introduction

Local governments deal with many complaints each year due to their very nature of being the first point of contact for the public. Complaints are an important way for the management of an organisation to be accountable to the public. If not handled well, complaints can lead to a significant breakdown in trust and can spill over into other areas of the local government's operations.

Complaints management refers to systems and processes for receiving and resolving complaints. The Australian and New Zealand standards define a complaint as an:

“Expression of dissatisfaction made to or about an organisation related to its products, services, staff or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required.”

There are currently no legislative requirements for local governments in Western Australia to have a complaint handling process. With the volume of complex services provided by local government and difficult decisions that local governments must make, it is not surprising that the local government sector receive scores of complaints.

To guide discussions on whether there are opportunities to create efficient complaint handling processes for the sector, the department released a discussion paper. This paper provides an overview of the feedback received during the consultation period.

How we consulted

Following the release of discussion papers in September 2018, over 100 workshops, forums and meetings were held with community, local governments and stakeholders. This consultation included 28 community workshops across Western Australia and ‘pop-up’ stalls in shopping centres and community halls.

To ensure all Western Australians had an opportunity to have their say, multiple workshops were held in all Western Australia's regions.

The workshops provided an opportunity for attendees to discuss topics that were of interest to them. All attendees were also encouraged to provide a submission.

Individual council members, local government staff, peak bodies, community organisations, councils and community were invited to have their say by completing online surveys or providing a written submission.

The objective of the consultation was to seek the views of as many interested people as possible, rather than scientifically sampling the population. As a consequence, responses are from people with a keen interest in local government, either because of their working relationship or because of their experiences with local government (often their own).

Responses received

Overview

A total of 3,151 responses to the review were received. This was made up of surveys to each of the 11 discussion papers released, written submissions and informal 'post card' responses collected during workshops.

For every topic residents/ratepayers provided the largest number of responses.

The gender balance amongst survey responses was reasonably representative (55% male, 45% female), but the sample was skewed heavily towards older age groups. Around 75% of respondents were aged 46 years or over, with nearly half over 55. Less than 12% were aged 35 or under.

Breakdown of responses on complaints management

A total of 228 responses addressed the topic of complaints management, which included 162 survey responses and 66 written submissions.

The 228 responses were drawn from private individuals and residents/ratepayers groups (83); local government councils and zones (53); council members (34); local government staff and chief executive officers (42); government agencies (3); peak bodies (3); Members of Parliament (2) and stakeholders from business and civil society (8).

What we heard

The following sections provide data on and outline key messages in the feedback received on the topic of complaints management.

It was evident that a number of local governments in the state already have complaint management policies in place that are working effectively.

A common theme in many submissions was how unresolved complaints should be addressed. Some submissions called for a new independent oversight body, while others acknowledged the role of CEOs, the Ombudsman and the Standards Panel in managing complaints that are escalated.

An area of concern raised by all key stakeholders during consultation was vexatious complaints and how they are managed by local governments. WALGA's commentary on complaints management focused on dealing with vexatious complainants, suggesting:

"That a statutory provision be developed, permitting a local government to:

- a) Enable Local Government discretion to refuse to further respond to a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious or is not made in good faith, or has been determined to have been previously properly investigated and concluded, similar to the terms of section 18 of the *Parliamentary Commissioner Act 1971*.

- b) Provide for a complainant, who receives a Local Government discretion to refuse to deal with that complainant, to refer the Local Government's decision for third party review.
- c) Enable Local Government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including:
 - abuse of process;
 - harassing or intimidating an individual, Elected Member or an employee of the Local Government in relation to the complaint;
 - unreasonably interfering with the operations of the local government in relation to the complaint."

Local Government Professionals also called for a provision that allows local governments to declare a member of the public and their complaints vexatious. Their proposal would prevent a person declared as vexatious to speak at council or electors' meetings and allow local governments to file but not respond to correspondence from an individual deemed vexatious. Their submission also noted that the Standards Panel was recently afforded the power to decide that a complaint is vexatious.

It is essential to acknowledge that while an individual's conduct may be inappropriate, there may still be valid grounds for their complaint, and it should not be dismissed until its substance has been properly investigated.

Complaints management policies and procedures

A legislative requirement for complaints management may encourage local governments to adopt and actively work on better complaints management. The Australian/New Zealand guidelines for complaints management recommends that organisations should implement a complaints management system.

Workshops

There was support from many workshop participants for the Act to require local governments to have policies and procedures for complaints management. Furthermore, there was general support from local governments and the community alike for guidelines to be provided for recommended processes for dealing with complaints.

A number of local governments recommended that councils should be able to determine their own complaints management policies. One local government went further, proposing that complaints management is not a matter that should be legislated for and should be left solely for local governments to address.

In contrast, some community members called for the state government to determine how complaints are handled and that the Act should set out standardised KPIs for complaints management.

Surveys and written submissions

Many members of the public were frustrated at what they perceived to be inaction from integrity agencies and a lack of independent oversight of and intervention in council and administrative decision making. Some of these submissions questioned the

process which the Corruption and Crime Commission and the Department of Local Government, Sport and Cultural Industries uses to investigate complaints and reiterated concerns with the impartiality of the Standards Panel.

Some members of the public were highly sceptical of internal complaint management processes and suggested that local government audit committees be informed of complaints.

Legislative requirement to adopt a complaints management framework

The survey asked whether legislative requirements should be introduced for local governments to have a complaints management framework. Eighty-eight per cent of residents, 72 per cent of council members and 55 per cent of staff were in support. Only 25 per cent of responses submitted on behalf of local government were in favour.

Some responses indicated that the lack of support from local governments may be due to concerns that the provisions may be overly prescriptive or, in the case of the City of Joondalup, they already have such policies in place and do not see the need for the change to legislation.

The discussion paper also canvassed the option of requiring local governments to adopt the Australian and New Zealand standard for complaints resolution. While there was general support for this, a small number of local governments were concerned about the resources required to meet the Australian and New Zealand standard for complaints resolution.

Complaints management policies

The community and sector recognised that complaints management policies and procedures need to be clear, efficient, and easily accessible for the public.

Additionally, there was widespread consensus about the importance of including an explicit definition of a complaint in legislation to allow for a consistent approach with handling complaints across all local governments.

Survey respondents were given the option of selecting the matters that they thought needed to be considered in complaints management policies and procedures. Responses were broadly consistent across all respondents.



Peak bodies and other stakeholders

The Property Council supported the introduction of a centralised model complaints handling approach. They also proposed that policies should be consistent across Western Australia and tailored for local circumstances only where necessary.

The Chamber of Minerals and Energy suggested that standardised reporting and timeframes for responding to complaints would improve transparency across the sector.

The Small Business Development Corporation called for dispute resolution to be incorporated into complaint management policies.

Customer service charter

A customer service charter is a policy document used to provide the principles and guidelines a local government may use for complaints management. A charter is a fit-for-purpose tool to identify complaints management policies and procedures.

Workshops

There was support from some community members and local government staff for the complaints management processes to be created in the form of a customer service charter.

It was raised that a customer service charter, if adopted, should be made available on a local government's website so that the public can understand how complaints are managed.

Surveys and written submissions

A customer service charter setting the framework for local government complaints management was supported by the majority of survey respondents (85 per cent of residents, 84 per cent of council members, 75 per cent of staff and 52 per cent of responses sent on behalf of local government).

Many local governments supported the concept in their written submissions including the Shires of Yilgarn, Brookton, Bridgetown-Greenbushes and the Cities of Canning and Greater Geraldton.

Peak bodies and other stakeholders

The submission from the Chamber of Minerals and Energy supported the introduction of a customer service charter, adding that having formal mechanisms in place for dealing with complaints may lead to a reduction in the number of matters being escalated to other bodies.

The concept was also supported by the Small Business Development Corporation, the Property Council of WA and the Commonwealth Department of Infrastructure, Regional Development and Cities.

Unresolved or unreasonable complaints

Clear policies and procedures to handle complaints should assist local governments, community members or businesses with adequate avenues to resolve their grievance. However, the nature of complaints means that not every issue will be satisfactorily resolved.

To ensure due process, the Act could require a local government to specify a process for the review of decisions and unresolved complaints. This review process would be carried out by a person who is independent from the original decision maker or service provider. An internal independent reviewer may take the form of a different staff member, a committee created by the local government, tabling of the decision for review by council or hiring an independent reviewer.

Many local governments have strategies in place for managing unreasonable conduct by a complainant fairly, ethically and reasonably. Both the Australian and New Zealand standards and the Ombudsman provide excellent guidance tools on key principles for dealing with unreasonable complainants.

Workshops

There was broad support from community members for there to be an independent mechanism to resolving complaints. A number of local government staff suggested this function was already being met through the services of the Ombudsman.

Participants at some workshops suggested that the Department of Local Government, Sport and Cultural Industries could take a more active role by providing assistance in resolving complaints to local governments or managing unresolved complaints that cannot be resolved by the local government to the complainant's satisfaction.

One suggestion from a local government was that training should be offered for mayors and presidents to appropriately manage vexatious complaints during public question time.

Surveys and written submissions

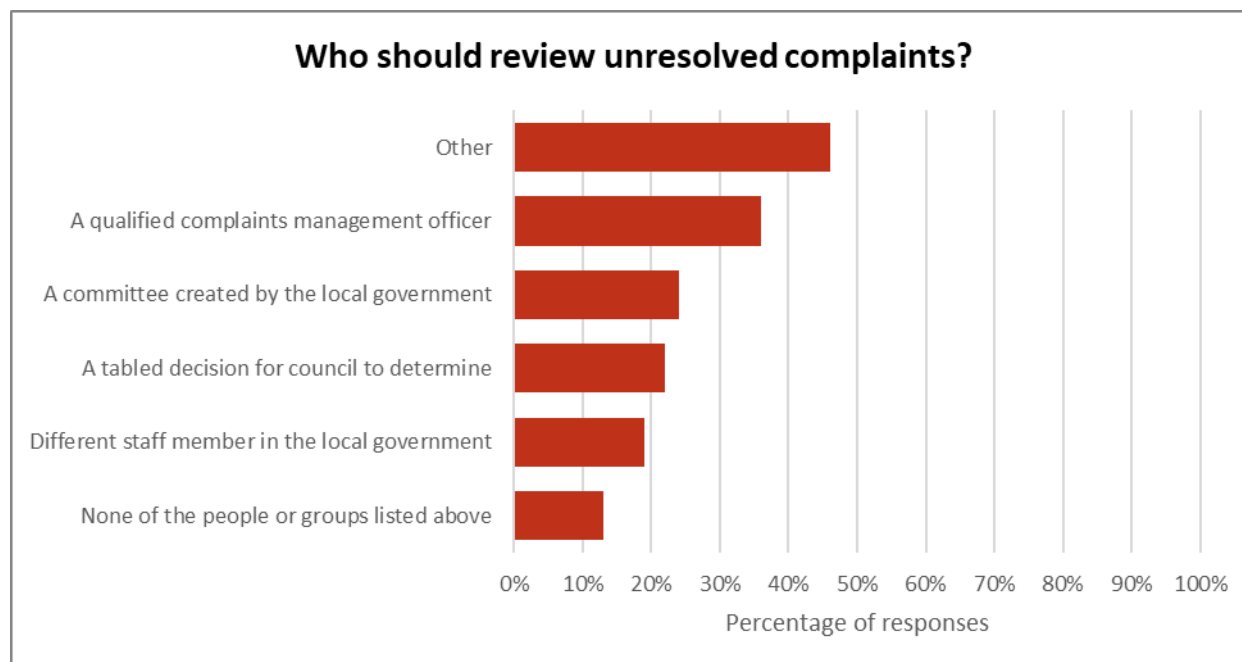
Responses on behalf of local government and local government staff often stated that the local government CEO should be responsible for reviewing unresolved complaints, while others suggesting using external independent parties and the Ombudsman.

Some ratepayers called for the Act to establish an Independent Commissioner to oversee local government, stating that the commissioner's functions could include reviewing unresolved complaints.

Hon Robin Chapple MLC suggested:

"I believe that there is a role for the Department to play in general complaints handling, however a dedicated oversight body would provide real teeth and serve to keep councils and their staff in line with both the law and community expectations."

Survey respondents were presented with options of people or bodies and asked who should be responsible for the review of unresolved complaints. There was little support for any of the options provided, with the majority of respondents selecting 'other' and suggesting an independent person outside the local government should have the responsibility.



While not canvassed in the consultation paper, many local governments highlighted the need for appropriate mechanisms to deal with frivolous and vexatious complaints. Some responses noted the importance for properly considering the substance of complaints, even if the local government considers the person making the complaint to be vexatious.

Peak bodies and other stakeholders

The Commonwealth Department of Infrastructure, Regional Development and Cities raised concerns about the additional costs having an independent review process would impose on local governments. They further illustrated that there is currently the opportunity to progress complaints to the state Ombudsman.

The Property Council's submission supported the introduction of an independent reviewer to handle complaints where possible considering local government resources. They suggested that local governments unable to afford the expenses of hiring an independent review could partner with other local governments or the costs could be met by the State Government.

The Property Council also noted that complaints should not be dismissed based on the complainant until their substance has been investigated.

Summary

An analysis of feedback received through the consultation workshops and submissions has identified the following key themes:

- There is general support for local governments to have complaints management policies and procedures (possibly in the form of a customer service charter) and for these to be made public on the official website.
- There may be an opportunity to introduce a dedicated oversight body that deals with unresolved complaints.
- Local governments are seeking support for dealing with vexatious and frivolous complaints.

Where to from here

Feedback and suggestions received during the consultation period will be used to inform the new Local Government Act.

Consideration will be given to balancing the legislated rules for complaints management including what could be streamlined between local governments, with what should be determined locally.