

LOCAL GOVERNMENT LEGISLATION AMENDMENT BILL 2019

Second Reading

Resumed from an earlier stage of the sitting.

MR K.M. O'DONNELL (Kalgoorlie) [3.00 pm]: Greetings, Mr Speaker. I will finish shortly. I wish to talk about the greater accountability of local governments, which I agree with. When I was going through local council elections, accountability and transparency were main topics for electors.

Mr D.A. Templeman: How long did you serve as a councillor?

Mr K.M. O'DONNELL: It was before I was elected here, so I think it was two and a half or three very good years. I would love to have got on earlier. Many years ago, our council held its meetings during the day, so that prevented many people from being councillors.

Now that that information will be required to be published on the local government website, a map of the district and ward boundaries will help people ascertain which council district they live within. Many years ago, Kalgoorlie–Boulder voted according to ward boundaries. I am no fan of wards. There is no guarantee that quality applicants will apply if the area from which councillors come is restricted. I prefer a broad cross-section of the community.

Dr A.D. Buti: Will you take an interjection, member?

Mr K.M. O'DONNELL: Yes; the plane is not going yet!

Dr A.D. Buti: You say that you are not in favour of wards, but do you think it restricts the talent? Is that what you are saying?

Mr K.M. O'DONNELL: No. I base my comment on what happened in Kalgoorlie–Boulder when it had wards. There were hardly any people in some wards and then there were a shedload in the central Kalgoorlie ward. My comment was restricted —

Dr A.D. Buti: You don't have to live in your ward. You've got to live in the council area, not the ward area.

Mr K.M. O'DONNELL: Yes, but it is under-representation; I am not a fan of wards.

Dr A.D. Buti: It's a valid argument. But the other argument that you can make about councils that have no wards is that you need a lot of money or you need to run on a ticket in order to fund your campaign, and that's what I don't particularly like. That's just a personal view.

Mr K.M. O'DONNELL: That is not a problem in Kalgoorlie–Boulder, because we do not need to do a lot of fundraising.

Local laws made by the local government will also be included on the website. That is very good. Years ago when a police officer arrived at a new police station, the first thing they were given was a folder of station orders so they knew what the station was doing and striving to achieve.

The annual budget will be on the website. That is a good move. If people have access to the budget, they will be able to find out where money is being spent. Next on the list is fees and charges. How many times do people whinge, complain, moan and groan about fees and charges? It will be there in black and white on the local government website.

On plans for the future, I think that sometimes councils sit on their backsides and do not plan for the future. The Mayor of the City of Perth said that a lot of changes had to be made. It will be great for the City of Kalgoorlie–Boulder to have this information on the local government website going forward. It will clearly show anybody new to the city what plans the council has. The minutes of council or committee meetings will also be published on the website. Some people love reading minutes so they can find out exactly what is going on. I think that is very good. Notice papers and agendas will be on the website.

The last thing I wish to say is that I agree that local governments should be encouraged to livestream their meetings. When I was on the City of Kalgoorlie–Boulder, meetings were only recorded through microphones. Then it was mooted that meetings would be videoed, but that idea was put aside. They then decided to videotape meetings and play them later, not stream them live. Hopefully, down the track council meetings will be livestreamed if it is not too cost prohibitive.

Mr J.E. McGrath: It would be required viewing, wouldn't it, in Kalgoorlie—watching the local council?

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Mr K.M. O'DONNELL: Yes, we have some very good characters. I do not know who would get the most ratings. Those council meetings would put on a good show. As I say, most councils meet on Monday nights, so it would be a good idea to do that across the state.

Mr J.E. McGrath: It'd probably beat *Dancing with the Stars!*

Mr K.M. O'DONNELL: In conclusion, I support the Local Government Legislation Amendment Bill 2019 and look forward to its implementation.

MR R.S. LOVE (Moore) [3.06 pm]: I would like to make a contribution to the second reading debate of the Local Government Legislation Amendment Bill 2019. The bill is not contentious and the Nationals WA generally support the measures contained in it. However, I would like to tease out a few matters and perhaps get some change in thinking, because the Nationals are not sure that it supports the bill in its totality. Obviously, the bill contains measures that will remove some red tape. Streamlining the appointment of authorised persons is welcomed by local governments. Nobody can deny that, but some matters will require more attention.

The Nationals have a long history of supporting local government. In fact, the objectives of our party include the devolution of power wherever practicable from the commonwealth to the state and from the state to local government. Therefore, support of local government is enshrined in our Constitution and our DNA. During the last term of government, the Nationals steadfastly opposed a belligerent attempt by the then Premier to force amalgamations and unwanted reforms on local governments throughout regional WA. Along with that, we have always sought to enhance the capacity of local governments to meet the demands that are placed upon them.

In 2008, with the introduction of royalties for regions, the country local government fund, a statutory fund under that scheme, was formed. It is still there, despite the best efforts of the McGowan government to denigrate the royalties for regions program, including the country local government fund, through measures such as the introduction of its kangaroo court-type of inquiry that was the Special Inquiry into Government Programs and Projects, which, as we know, was set up with the express purpose of scoring cheap political points against the National and Liberal Parties and which has also been used to justify the effective dismantling and gutting of the royalties for regions program throughout this state. That was an absolutely disgraceful attempt by the Labor Party to use that mechanism to its own purposes so it could spend that money where it wanted to—in the city. We know that is what that was all about, and everybody in rural Western Australia knows that is what the Labor Party has been about since it has been in office. Despite those efforts on the government's part, the country local government fund in that iteration under the Nationals remains a high point of support for local government from state government anywhere at any time in Australia.

One of the streams under the country local government fund is local government capacity building. Under that program, training was offered for regional councils. That training was remarkably similar to the modules in the current proposals. I am looking at the 2016–17 budget, which provided money for that training. I am looking also at a joint press release from the Western Australian Local Government Association and the Department of Local Government, Sport and Cultural Industries about the courses that were offered and supported for regional local governments at that time. The courses included, but were not limited to, understanding financial reports and budgets; serving on council; and meeting procedures and debating. That program, which was supported through royalties for regions, was rolled out for local governments throughout the state. Contrast that with the current situation, in which the government is proposing to mandate training but has given no indication of how that will be funded. We understand, as Nationals and as people who represent regional areas, that there is a need to equip councillors with the skills required to carry out their roles properly. That is why we supported the development of that training program, along with the then Minister for Local Government, and rolled that out throughout the state.

We have now come to the view, reluctantly, that there is a need for some mandatory training for local government councillors. That is particularly in light of the situation that developed in the Shire of Dowerin and the subsequent inquiry by the Corruption and Crime Commission into that local government. Some of the matters that arose in that area serve as lessons, if you like, into what can go wrong in local government, and also give some instruction about how those matters can be rectified.

I now want to read from a governance bulletin dated December 2016 from the director general of the then Department of Local Government and Communities. It states, in part —

The CCC identified a lack of internal policies and procedures to prevent fraud, exacerbated by a lack of understanding among elected council members as to the extent of their role in overseeing the administrative aspects of the Shire's operations.

We have seen examples of where governance and understanding in local governments has fallen down, and that needs to be rectified. It states also —

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The CCC's report identified the misinterpretation of regulation 9 of the *Local Government (Rules of Conduct) Regulations 2007* ... as a source of confusion for the council in relation to their roles. This provision restricts council members from undertaking a task that 'contributes to the administration' of a local government.

It goes on to quote a witness to the CCC examination —

"The issue of operational, the separation of roles in the Act, is quite often used as shields by CEOs. "Butt out, that's now operational," so some elected members, particularly those who haven't been to training or haven't any widespread knowledge of local government, they may have concerns, but don't know how to go about dealing with it.

"In my view where the issue of concern relates to the governance of the Shire, elected members have a legitimate right to be involved and ask questions."

A key responsibility within the strategic direction of councils is to approve the annual budget. Of course, this is another area in which operational matters tend to overlap with the role of councillors. Councillors need to understand that this is a key time for them to be involved in overseeing the health of their local government and helping to plan the development of their local government. That goes along with the fact that local government is tasked with both the development of policies and oversight of the carriage of those policies. Again, it is hard for councillors to make those policies without having an understanding of the operations of the council and the appropriate way for it to operate. In order to do that, councillors need to have good information. That implies that they need to have at least a working knowledge of what is happening in their organisation and what is required, and what is best practice throughout the industry. That goes against the grain of some of the current practices of CEOs around the state, who rule councillors out of having an understanding of the operational matters in the shire or local government.

This bulletin goes on to outline a number of lessons learnt. The last lesson listed is —

Most vitally, do we have an appropriate awareness of our responsibilities as council members under the Act and its regulations? Have we sought opportunities for education and training to improve our understanding of our roles in ensuring good governance?

Those situations that have developed in the past demonstrate that there is a need for some mandatory training. The Nationals are not disputing that need. However, I would ask the Minister for Local Government, and the Treasurer, who is not in the chamber at this time, to consider what happened in the past when the government, through the country local government fund, offered to support councils to receive that training. I believe that would also be appropriate given the cost that will be involved in getting everybody up to speed in a short time. We know that in more remote areas, it may be difficult to get people together, and there will be travel costs in getting staff to deliver the training. There has been talk about online training. My understanding is that councillors will not only have to attend training but also be expected to demonstrate competence and knowledge; in other words, they will have to pass some sort of test before they are allowed to get on with their role.

I thank the minister for the briefing. The briefing was earlier this week, so we have not had a lot of time to consider this situation. The people who gave the briefing indicated that the South Australian training regime and modules are being assessed as a suitable model to go forward. I got in touch with the Local Government Association of South Australia to see what the situation is in that state. The South Australian Local Government Act 1999 requires councils to have a training and development policy for their members. That is similar to what is proposed in this bill. The four modules of the training program that councillors are required to complete when they come into that role are introduction to local government; legal responsibilities; council and committee meetings; and financial management and reporting.

Interestingly, it was pointed out to me at the briefing that councillors will be required to repeat their training each electoral cycle—that is, every four years in the life of a councillor.

Mr A. Krsticevic: Every eight years.

Mr R.S. LOVE: Within eight years. I have been told every five to eight years. Thanks; the member has had his go. Council members will be required to complete their training again in totality each electoral cycle. I raised that as being unnecessary and somewhat repetitious. In fact, I think it is quite insulting to councillors to expect them to run through that again and be told what local government is and relearn those basic concepts, I have to say at great expense to the council and the ratepayers.

I asked the people in South Australia what the situation was there. In South Australia they are not required to repeat those modules. It is recommended that they repeat their second and fourth modules—that is, the module concerning legal responsibilities and the module pertaining to the financial management of the local government. They are not required to go through the whole system of modules again. I suggest that the minister have a look at

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that. I raised it with him, and he did not agree with me, but I think it is unnecessary, and it would be far better if that money was spent in the continual development of those councillors.

What is missing in this whole training exercise, in my view, is making sure that councillors have a very good understanding of the responsibilities under the Planning and Development Act, and other relevant planning considerations, because the other great area of influence that local governments have, even if they are not sitting on substantial planning decisions because of the presence of a development assessment panel, is that they are still responsible for the formation of policies, schemes and strategies that guide planning in their area, and will guide the decisions of those development assessment panels. It would be far better if an emphasis was placed on that rather than making people repeat the same modules that they have already learned, notwithstanding that in South Australia a need is seen for a refresher to catch up on changes that might have occurred in financial management or legal responsibilities in the intervening period. As we know, there are changes to local government acts and the framework in which local government is required to operate. I call upon the minister to re-examine that matter so that not all five modules need to be repeated in every electoral cycle, and also to ensure that consideration is given to financially supporting local governments, especially those that are further out.

The modules in South Australia are delivered through the local government association, but other organisations, mainly legal firms, also deliver some of the training. In-house training, at the centre in Adelaide, for the full schedule of modules for an individual councillor costs \$4 000 plus goods and services tax, and that is for two full days of instruction. For each section of modules that are done separately for half days or whatever, the charge is \$750 a day. There are some situations in which they travel out to local governments or to hubs to provide the instruction, and that is again delivered at a price.

[Member's time extended.]

Mr R.S. LOVE: This training is delivered at a price that anticipates that other councils may come into that regional hub to undertake the training, so if there is a group of councils, obviously the cost comes down but, interestingly, the total cost of delivery goes up. The local government association will make more money for the day, but more councils will be trained. The expenses that are outlined here range from \$4 000 for two full days in-house up to \$8 000 when there are a number of participating councils. Those figures do not include out-of-pocket expenses such as travel and accommodation if councillors are travelling out of the local area. That is the price range, though it is perhaps not what some of the other registered training organisations may deliver. Here, as in South Australia, we will see the relevant association, the Western Australian Local Government Association in this case, as one of the RTOs—that is for certain—and then others may or may not come in on the training as the opportunity is developed.

I want to briefly discuss the introduction of the mandatory code of conduct, which, overall, is a good thing in a number of ways. It will be instructive to councillors about the acceptable way for them to behave. I must say that I have been appalled by some of the behaviour that has been exhibited within my own electorate between council members in some circumstances. It is often fuelled by overactivity at midnight on keyboards, but it is not always limited to that. The in-house shenanigans include such things as members withdrawing themselves from council rooms so that meetings collapse. All these types of things need to be put into the code of conduct and ruled out. People need to know that that is appalling behaviour, and that they should not be involved in it.

I am perturbed that the code of conduct will apply to candidates in elections but will only be enforceable as a breach if a candidate is actually elected. That, to me, seems very unfair on a person who gets elected. They may have been relatively mild during the campaign, and may have been assailed by all sorts of nasty invective from others and perhaps responded once. They are then up on a breach, and the others escape scot-free. Again looking at South Australia, because I asked the people there about those things, they have an electoral commission and an act that is read in conjunction with their Local Government Act, the Local Government (Elections) Act. That is quite a weighty document containing provisions and sanctions for all candidates. I urge the minister to look at that scenario as part of the wider review going on in local government to see that there is fairness for all candidates. I do not think it is fair just to pick on the one who happens to get elected.

I also have some concerns about the situation in which, in the event of an adverse finding, the standards panel can order that the local government councillor pays the cost of the sitting of the panel. I am not opposed to that idea, but I would like some wording wrapped around when that might be the case. If it became par for the course, that would be another reason for people to reconsider their decision to stand for council. I understand the minimum cost is \$1 200 or \$1 400 for that panel to meet. We do not want to discourage people from running for council thinking that they will be out of pocket every time someone complains about them. They might have done something wrong, and it might have been quite minor, but there will be a severe financial penalty along with an embarrassing sanction that everyone will know about. People are human; they make decisions about why they might enter local government for good reasons, in the main, but they also weigh up what the potential costs might be for themselves. If there are too many of those types of things, that would be a detriment to getting people to stand for local government.

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I want to raise the issue of gifts. It has been claimed that the changes to the gift provisions will make them transparent, and gifts will be known about. However, I have to point out that gifts were transparent before. As we know, a requirement to declare gifts was passed, strangely enough, when the City of Perth Bill 2015 was passed in the term of the last government, in quite a strange way. I remember the discussion. We were talking about the City of Perth. The Minister for Local Government was then the shadow minister, and he was opposed to the City of Perth Bill.

Mr D.A. Templeman: No, that's not right.

Mr R.S. LOVE: You certainly were not supporting it.

Mr D.A. Templeman: We voted for it, mate. I am sorry, we voted for it.

Mr R.S. LOVE: The next thing I knew there were amendments, and this is where the gift register came in. This is when the contentious gift register came in that caused so much trouble for people.

Mr D.A. Templeman: We voted for the City of Perth Bill. I am sorry, you are wrong.

Mr R.S. LOVE: You did.

Mr D.A. Templeman: Yes, but you just said I didn't.

Mr R.S. LOVE: You opposed it until these gift amendments were brought in.

Mr D.A. Templeman: Be correct in what you are saying, member, because you are not telling the truth.

Mr R.S. LOVE: I am telling the truth.

Mr D.A. Templeman: No—you said we didn't vote for the City of Perth Bill.

Mr R.S. LOVE: You were over here and you were not making positive noises.

Mr D.A. Templeman: They were amendments.

Mr R.S. LOVE: The next thing, these provisions came in and we had positive noises and you voted for the City of Perth Bill.

Mr D.A. Templeman: But we voted for the City of Perth Bill. Why did you say that we didn't vote for the City of Perth Bill?

Mr R.S. LOVE: I did not; I said that you were opposed. You were making opposing sounds over there.

Mr D.A. Templeman: No, we weren't opposing the City of Perth Bill.

Mr R.S. LOVE: I did not say that you voted against it; I said that you were opposed to it.

Then these gift provisions came in. The gift provisions, which caused so much angst for local governments, were the creation of the minister's deal with the then Minister for Local Government. It is good that it has been cleaned up. However, I would just like to point out that it is not new to have a gift register; it has been in the act since 2016, when that bill went through the house. These provisions were not anticipated when the bill was put forward. They did not seem to fit very well within the legislation, and suddenly they appeared. That was quite strange. That was a very poor piece of legislation. It caused all sorts of problems for people, because people were expected to declare any gift they received just because they happened to be councillors. I know the sorts of problems it caused and I am glad that they have been fixed. It is not the case that there was no gift register previously; there certainly was. There was some level of transparency, but the problem was that it was a bit too transparent. If a councillor's mother gave them more than \$300, I think they had to declare it, which was a little bit beyond the pale.

Mr A. Krsticevic: Mother-in-law!

Mr R.S. LOVE: Okay, mother-in-law. Maybe de facto mother-in-law; I am not too sure about that.

I know that there were such provisions previously and I am glad that they have been cleaned up to some extent. That is very good.

I want to talk very quickly about a couple of other matters. The provisions to do with the employment and review of the performance of the CEO are very welcome. Local governments will have a standardised process so that councillors will understand and participate much more fully in the employment and monitoring of the performance of CEOs. Basically, they will participate in their rightful role as councillors on the collective body that employs that key officer and, through that officer, they will expect the wishes, policies and plans of the council to be carried out. It is absolutely essential that every councillor gets involved in the selection process, understands who has been selected and understands the process to properly set performance goals and monitor the performance of the CEO as those goals progress. If that is not the case, councillors are not doing their job. It has become apparent to me that there are certain circumstances in which the CEO has a tremendous amount of influence. Councillors do not understand that they have oversight of that officer, that they do not carry out that role properly and that they defer to that person far too much. That is why it is good to bring some balance to the situation and make it quite clear

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that it is the council's role to monitor that person and to ensure that they do the job that they are being paid quite handsomely in some cases to do by the ratepayers of the local government area.

One concern that has been raised with me by members of my party is the situation in which a CEO who has been employed at a particular council has not had their contract renewed or has had some form of, shall we say, voluntary separation from their employment and then, at the next opportunity, has stood for the local government council. That has led to some real difficulties. We would like consideration to be given at some point to the insertion of a provision for a cooling-off period for very senior officers of that sort before they nominate for the council at which they were previously employed.

I support the words of the member for Perth when he spoke about the need to differentiate between very large and very small councils, especially regional councils, in terms of the disclosure requirements and some of the other regulatory changes that have been put in place at this time. We know that very small local governments do not have the spare capacity that larger organisations have to provide that type of detailed information on a continual basis. Perhaps some thought could be given to providing them with assistance in capacity building or to encouraging more mentoring or sponsoring from some of the other larger, more highly capable local governments throughout the state. The department should understand the differences in the capacity of those local governments and should expect a more appropriate level of disclosure from them than it would from some of the larger ones.

Overall, the Nationals will support the bill, but we will talk about some of the matters that I have raised during the consideration in detail stage and during the bill's consideration in the other place.

MRS A.K. HAYDEN (Darling Range) [3.36 pm]: I, too, rise today to join in commenting on some of the concerns that have been raised by members on this side of the chamber about the Local Government Legislation Amendment Bill 2019. I start by saying to the minister that I understand that finding a balance is always the hardest thing to do with amendments to local government legislation. We have to be careful that we do not end up with a *Yes Minister* situation. The amendments that are made in a local government reform process are always challenging.

Mr D.A. Templeman: I'm up to it.

Mrs A.K. HAYDEN: Good luck to the minister!

I understand that he has been doing consultation, but obviously getting to every local government councillor in Western Australia will be extremely difficult. I know that the avenue is through the Western Australian Local Government Association. I sent an email to all the local councillors in my electorate to let them know that if they had any concerns, they could send them to me. I got a few responses, but since I sent that email, I have got a copy of the amendment bill. Depending on the ability of each local government authority, the relationship between the administration and the councillors plays a big role in whether councillors are aware of what is going on. There are a lot of things that we need to get across to ensure that there has been proper consultation on the changes that we are making. I will raise some of these concerns during the consideration in detail stage if they are relevant, as I understand that there are two phases to the review. I look forward to looking at the next phase of the review when that legislation is introduced.

For eight years in my role as an upper house member, I worked with seven local governments. I am sure that all members in this place understand from their own experience that some local governments work really well, some are trying and some are failing. Sadly, the local governments that are failing make it difficult for the ones that are doing really well, as is the case in most areas of business or government. However, the area that I am really concerned about is when there is a gap between the administration and the council. There is a fine line. The CEO is responsible for reporting a councillor if they act inappropriately, while, at the same time, councillors are responsible for reviewing the CEO. I think we have a bit of a difficult situation. Either a council may be too scared to fight back against its CEO because, at the end of the day, it is able to report them or a CEO may not be prepared to put up their hand when they need to for fear of the ramifications that will unfold during their review or when their contract is due to be renewed. I think we need a separation there to protect not only the CEO, but maybe also the councillors. As I said at the beginning of my speech, there is a fine line to be drawn when finding a balance with amendments to the legislation. I have seen what occurs on both sides. We are all aware of what happened in the City of Kalamunda. Regardless of why and how it took place, no-one should have to go through being terminated on the spot, with councillors doing numbers and people being overturned only a week or two later. No-one should be put in that position. I also think the councillors were put in an awkward position. Those things need to be looked at. I do not think there is enough in this legislation —

Mr M. Hughes: It relates to the detail with respect to that particular series of events.

Mrs A.K. HAYDEN: A lot of events occurred.

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Mr M. Hughes: Procedures have to be followed.

Mrs A.K. HAYDEN: Absolutely, and that is what I am saying. We need to ensure that the procedures are clear-cut and there are no grey areas; it needs to be black and white. We are dealing with a CEO—someone who has a very responsible position and in most cases is paid very well.

Mr M. Hughes: You might want to reflect upon the appointment of general counsel, legal counsel, and the role and responsibilities that that person has, who they report to and the contribution that they made to the confusion with respect to the capacity of the elected members —

Mrs A.K. HAYDEN: I will allow the member for Kalamunda to speak about that. We may have differing opinions and we may have different information.

Mr M. Hughes: It was interesting that you raised it because I was not going to touch on it in my speech, but perhaps I will.

Mrs A.K. HAYDEN: It is clear-cut that when legislation goes through this place, we need to make sure that those situations are black and white. We are dealing with someone's employment and livelihood, and we are also dealing with councillors wanting to do the right thing. It needs to be black and white. I will go on to the training aspect at the moment.

Sadly, what I have also seen across some councils—some local governments are doing it exceptionally well, so I do not want to bring down all local governments—is some councillors bringing their personalities and own beliefs into the council. They dominate and can be quite nasty. We really need to look into that.

I believe that everyone in this place is professional. We all have a role to play. We come in here and we play our role. I can tell every member in this place that when I walk out that door, everyone is equal in this chamber and I will not treat them any differently on the street or outside this chamber, but in this chamber we have a role to play. We need to walk out of the chamber, wipe our feet, leave that behind us and move on. I have a great relationship with the member for Armadale. I was at the Armadale citizenship ceremony taking photos for Matt Keogh, the Labor member for Burt. We share things and we help each other when we are out in the community. When we come in here, we play our role and we do our job. I find that there are some instances in local government when councillors cannot do that, and that is when training is vitally important.

We also need to protect councillors from the bullying that goes on within councils. We have all seen what people post on Facebook. Some councillors are subjected to severe bullying. They do not go into council for that. Our general councillors who are elected to local government come from diverse backgrounds. Some have come on board because they were the president of the local football club for 20 years, they are passionate about the area and they want to improve sporting facilities, so they put their hand up to do that. Other people join because they are strong advocates for Landcare and they want to get out there and make sure that their council addresses the issues that matter to them. Each councillor comes onto the council with a completely different background. It is vitally important that we equip them with the ability to withstand media life. They are elected members so all of a sudden, they are thrown into an area that maybe they have not experienced. They also need to treat each other with respect and not go down the avenue that some are going and putting some councillors in a very bad position. We have a duty in this place to ensure that amending legislation that goes through this place protects people and strengthens the gaps out there.

The minister wants to make training compulsory. If training is compulsory, what happens if a councillor chooses not to do that training and simply does not turn up? Do they get a fail next to their name? What if they do the training and they do not pass because they were not adequate or they did not bother to turn up and sit in the chair? Is there a pass and fail status with training? If someone does not turn up to training, is there a status to pass or fail and if one does fail, what happens next? They are elected councillors. We cannot say, "You're sacked; sorry, see you later." I am curious to find out what happens next. If the training is compulsory, what happens next? What about the cost of training? If someone chooses not to turn up or if there is a pass or fail scenario and they have to do the training again, who pays for that training? That is a lot of money to put on to a council to train every councillor and if the councillors do not take it seriously and do not turn up to train, that is a waste of ratepayers' money. My fear is that every time the rates come out, will that be another excuse for the local government to increase the rates for the ratepayers because of the added training fee? I definitely do not want to see local government have another excuse to increase rates.

We also have the issue of long-term councillors—people who have been on council for a very long time who think they do not need training and that they know it all. As we all know, things change; technology changes and so does the community. How do we get the message across to those councillors that they may have been a councillor for 20 years but their ways are a little stale and they may need to freshen up a little? It is not just about new

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councillors coming in; it is also making sure that the ones who are there, the career councillors, are there for the long term and they are updating themselves and refreshing their knowledge, role and responsibilities.

Councillors now get paid more than they did previously. When we are talking about a mayor or president who could be on anything from \$90 000 to \$130 000 —

Mr J.E. McGrath: It could be more.

Mrs A.K. HAYDEN: — it is their responsibility to ensure that they are across their whole role and responsibilities and what they need to do to make sure they are operating within the act. If they are getting paid \$130 000 or more, as the member for South Perth said —

Mr J.E. McGrath: I was thinking of CEOs.

Mrs A.K. HAYDEN: Thank you. We are also paying for their training. I think there is a bit of a grey area around that training, and I would be interested to hear the minister's response to that.

Earlier, I touched on council members' behaviour. I will not go into that again in detail. I think that the modules and mechanisms around that need to be strengthened. We need to ensure that the intervention process is faster. Sometimes it can be so long, especially during an election. By the time the election has been and gone, that councillor may not have got back in and then they have got away with what they have done and the effect of what they have done has already had an impact on the people that they were working against. It has to be a lot faster so we can be reactive and shut that down before it escalates and gets worse. In the case of an election, if the councillor is not voted back in, they get away scot-free but the damage is already done. I believe that process needs to be strengthened.

Mr D.A. Templeman: We're dealing with the damage of the previous government. It happens quite often financially.

Mrs A.K. HAYDEN: We all deal with that when a new government is elected.

Dr D.J. Honey: It's like original sin; it's your problem now.

Mrs A.K. HAYDEN: That is right.

It is sad that we need to introduce a code of conduct. Do we have to tell people how to behave?

Sadly, it seems that we have to. I agree that a code of conduct that gives some regulations, rules and guidance is great, but we do not want to overregulate and over-govern. We need to make sure that councillors understand their principles, role and responsibilities. But, again, if there is a code of conduct and they breach that code of conduct, how will that be enforced? My question to the minister is: How do we enforce the rules when somebody does not abide by the code of conduct? Will we end up with the same process that we have for addressing councillor behaviour whereby it takes so long to nip it in the bud that it gets out of hand?

I will move onto the Local Government Standards Panel. Again, this issue moves into the same realm of what I just said before. A councillor can report to the standards panel knowing that they have breached the code of conduct. It costs between \$3 000 to \$5 000 each time the standards panel convenes. Perhaps if a person knows that when they are reported to the standards panel they have to pay that \$3 000 to \$5 000 cost, it might be a deterrent to ensure that people abide by the code of conduct. If a person goes before the panel and is reported and all they get is a slap on the wrist, that does not stop anyone from repeating the behaviour. If a person is reported and found guilty, the penalty needs to be stronger. We cannot tolerate bad behaviour. Just a simple slap on the wrist does not seem to be fixing the behaviour that currently goes on within local governments.

I am also concerned about the lodgement of bogus complaints that are not real but just made to cause havoc. We need to find a way to limit those or to flesh them out. Perhaps the complaints process needs a couple of "tick offs" before it is lodged with the panel. I know that the panel wastes a lot of time on the frivolous reports and complaints that it receives. That area needs to be tightened up and strengthened to save not only ratepayers' money, but also everyone's time.

[Member's time extended.]

Mrs A.K. HAYDEN: I believe we have got a little bit out of control with the "gift-nazi register". Some local governments have picked up and adopted these guidelines and made them stronger again within their own local government authority. I would rather see local governments mirror what the act outlines for the gift register and not implement another layer over the top of that. I will give an example. I simply dropped off a box of chocolates to the reception staff at one of the local government authorities to say thank you, because as everyone in this place knows, 90 per cent of the inquiries coming through the electorate door are local government issues. I am dealing with my local governments a lot. It was a simple: "Thank you for picking up the phone and putting me through to someone else. Put these in the lunch room." A box of chocolates is worth \$10 and everyone could have a chocolate

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as a small token of my appreciation. It is a way of building relationships. At the end of the day, we are human and everything we do is about relationships. When I rocked up with a \$10 box of chocolates, the officers came out to tell me, “If you leave them here, they will be going in the bin, or you can take them home. We have a ruling that we are not even allowed to accept a box of chocolates.” I think that is going a little too far—I really do.

Mr D.A. Templeman: Maybe it was the wrong brand of chocolates. Did you check the use-by date?

Mrs A.K. HAYDEN: It was Christmas time. They were all on sale. Maybe they just did not want them. Perhaps it was a bit like the bottle of wine that the member for Kalgoorlie got.

The gift register thing has got out of control and we have moved away from the practice of good old common courtesy and being nice to one another. One of the councillors was telling me that a long-term football president was going to be awarded for his contribution to the local football club. He was not able to accept the award because it was a gift. He was a councillor and it could be seen as a bribe—please! He has been in the community his entire life. He has contributed to that football club since he was a little fella, from putting on his boots to train at the club to being the president, and now he is not allowed to accept an award because he is a councillor for the community he is so passionate about. We have to remember that local government is about local people.

Mr J.E. McGrath: Will that be dealt with in this legislation? Will it be corrected?

Mrs A.K. HAYDEN: I hope so. But as long as the local government authority mirrors the gift register guidelines and does not add its own layer or rules over the top. This is what I fear is happening.

Mr D.A. Templeman: That is still a decision for local government. Remember, they are autonomous entities. If they choose to come up with a policy and a practice that does not contravene the Local Government Act, that is still within their realm because they are an autonomous entity. The member needs to be aware of that.

Mrs A.K. HAYDEN: Yes, I understand that but —

Mr D.A. Templeman: The last thing we want to become is so prescriptive. That is not what we want.

Mrs A.K. HAYDEN: Agreed, but at the same time, we are also giving a lot of power to an authority to overregulate and restrict their councillors from simply doing their job.

Mr D.A. Templeman: Well, that is a matter for the council.

Mrs A.K. HAYDEN: I put it on the record that I do not believe local governments should be restricting their councillors and staff in that manner to such a minimal gift register. I would be interested to hear the minister's opinion on that because it could go a long way across the other local government authorities.

I touched on the CEO appointment process and performance review at the very beginning and the need to have separation and protection for both sides. As I said, it can breed bullying and an unhealthy workplace if a CEO or a councillor is too frightened to speak up. I touched on that at the very beginning, but I am quite concerned about it and would like to see whether there is any way of protecting both sides.

Is there a need for local government councillors to register their memberships like we do as members of Parliament? I do not know whether that is in the bill; I did not see if, but, if it is, I stand corrected. As parliamentarians, we put down that we are a member of X, Y and Z. Do councillors need to do that; and, if so, does that then include political party membership?

Mr D.A. Templeman: It might only be at the point of a council consideration. If a councillor is a member of a bowling club and they are making a decision about a bowling club, obviously they would need to disclose. It is interesting to note that one particular media person on the radio has questioned me about how there should be a declaration of political party membership. My view is no, that is a democratic right of everybody but it should not influence essentially the decisions of a council.

Mrs A.K. HAYDEN: There you go! The minister has answered that one for me—thank you very much. I hope the microphone was on and we picked it up, but I am sure Hansard would have got the minister on that one.

I agree and I want to back up the comments made by the member for Vasse about a local government authority not competing against commercial operators within its shire and neighbouring shires. Commercial operators are paying rates to these local government authorities. The free-camping scenario is just one example. I am well aware of a shire that has turned its parking area around a park into powered sites. A website says that the key can be picked up from the hardware store across the road and a person can use it get access to the toilet and shower facilities and stay up to two or three nights. Meanwhile, just across the bridge is a caravan park that is struggling to get people through the door. I do not think that the role of local government is to compete with a caravan park by providing free overnight accommodation. Some caravan parks do not take the larger caravans or the recreational vehicles—that is the American term.

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If that is the case, the shire needs to talk to the caravan park operator and say, “Do you have some space?” or “We have space as the shire. Can you manage it; can you run it; can you look after it?” I really have an issue with it if the shire is competing and giving away free space when there is a caravan park 100 metres down the road. To me, the rules need to be strengthened about not competing against the commercial operators within a shire.

One I have seen recently is competition with local community groups. Is there any way for the minister to put out a notice, a regulation, or even make a ministerial statement to ask shires and local governments to work with their local community groups? I have some that are competing with their seniors group so when the seniors group has an event, the local community group puts on another seniors event. When someone puts on a community event, they will put on an event on the same day taking people away from the community event that is being held by the Lions Club or Returned and Services League of Australia. There is an RSL Anzac Day commemoration, and the shire has a different one on at the same time. Shires and local governments are meant to support their volunteers and community groups, not compete with them by holding events on the same day to detract from them.

Mr D.A. Templeman: I don't think I'd want the ministerial discretion on those matters. They are community matters and the community should resolve them if those issues occur. It is the community's responsibility, not the government's.

Mr J.E. McGrath: In South Perth, the RSL and the city hold one event.

Mrs A.K. HAYDEN: Yes, most do, but I can tell members that it is not all of them. I am saying it is very sad. This is my opportunity to get up and say that.

What is the role of local government? To me, it needs to make sure it goes back to basics and does what it is meant to be doing—that is, it needs to enhance and support the community. That is what it is meant to be doing, not competing with community groups, whether they be businesses or volunteer local community groups. That is my position on local government and where I think we, as leaders of the state, and the minister as the Minister for Local Government, can influence and make sure that local governments act in the best way for the ratepayers and residents within the community.

In closing, I am not 100 per cent sold on all these amendments. I have raised a couple of concerns that I know the minister will address and we will go through them in the consideration in detail stage.

DR D.J. HONEY (Cottesloe) [4.02 pm]: I was not going to speak on the Local Government Legislation Amendment Bill 2019, but I was inspired to speak today by the debate that has occurred in this chamber.

As an aside, I did deliberately leave the chamber when the member for Perth spoke on this because, based on my experience, the member for Perth has very little sensible contribution to make to debate in this chamber. It is not clever or insightful; it is just a shrill contribution. Quite frankly, it largely consists of offensive personal attacks that do not have any proper place in this chamber. Rather than attack people in this place who raise concerns about issues in their community, he should focus on proper planning in his role as parliamentary secretary and ensure that what is occurring does not destroy proper amenity in Perth suburbs. I have a few words of advice for the member for Perth. Very few people care about the debate that occurs in this chamber. A few keen folk like to look at *Hansard* but the great majority of the population has no idea of what occurs here. A cheer squad of people who are gaining financial benefit —

The ACTING SPEAKER (Mr R.S. Love): Member, we are debating a piece of legislation. Could you come back to that issue, please?

Dr D.J. HONEY: Yes, I am—in exactly the same way as the member for Perth, Mr Acting Speaker. I shall do that. A cheer squad of people making money out of the current policy does not make for broad support for a policy. People care about what they see in their communities. If we look at the City of Subiaco, for example, the mayor has stated that there will be 5 600 new dwellings as part of the city's plan. However, that number excludes the 2 900 new dwellings in the Subiaco East precinct, which will mean a total of 8 500 new dwellings in the City of Subiaco. The 8 500 new dwellings and the approximately 12 000 current dwellings will mean a 75 per cent increase in density. That will have an enormous impact on the amenity in the City of Subiaco. That is the sort of council decision that matters.

We heard today in question time some attempt at an attack on me; I am glad to have the love. The original target in Nedlands was 4 400 dwellings. As far as the city can work out, the target is now 7 500 dwellings. Given the City of Nedlands has only around 7 000 residences, that is a 100 per cent increase in density. That will have an enormous impact on the City of Nedlands.

It was interesting reading on page 10 in *The West Australian* today in article by Peter De Kruijff entitled “Tree target gets the chop.” It talks about the City of Stirling and the target of 18 per cent tree canopy cover by 2030. The figure is now 12.6 per cent.

Point of Order

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Dr A.D. BUTI: My point of order comes to relevance. The member is always a stickler for parliamentary procedure and rules. He is not even addressing the bill that is before the house. Trees wherever in the western suburbs are irrelevant to the bill that is before the house.

The ACTING SPEAKER (Mr R.S. Love): Thank you. Member, could you bring the discussion back to the legislation that we are debating? As far as I am aware, there is not an issue to do with planning in this legislation.

Debate Resumed

Dr D.J. HONEY: The reason I raise this issue is that it goes to the core of council activity and the core of concerns people have with planning activity and councils. I am illustrating some of those concerns, which were raised by the member for Perth. I understand I was gratuitously attacked by the member for Perth. Members have talked about a whole range of topics today. I do not believe that I am ranging any further from the topic and this is seminal to the role of council and why it is important that we get this correct.

The ACTING SPEAKER: Member, I will determine whether you are off topic, and I think you are off topic, so I will ask you to come back to the topic.

Dr D.J. HONEY: I will finish on this point. In those planning decisions, if the article is correct, we are going to see something like 37 000 hectares of forest lost in the metropolitan area.

Coming into my role as a member of this Parliament, I learnt a number of things. Becoming a member of Parliament is an interesting exercise. Some things are pleasant surprises and others are unpleasant surprises. One of the biggest surprises to me coming into my role and getting around in my community was the very considerable concerns that people have with the way that councils operate. The concerns that have been raised with me have not been about councillors or their behaviour; they have been about how council staff operate and how that affects the operation and decision of councils. In the changes made by the Local Government Legislation Amendment Bill, I can see a hyper-focus on councillors and councils being made more accountable for outcomes. But, in fact, what I have seen in councils is that they have less and less ability to control what is happening in their own areas. I will go through some of these issues in relation to the proposed changes. Most of the concerns relate to planning. Members would know, and I know, some of these decisions were effected by the previous government, but I do not own those decisions. I do know the outcomes. In my electorate, a very large percentage of proposed developments are over \$2 million. In fact, those decisions go straight to the joint development assessment panel and the council has no impact on that. For the decisions that the councils do have control over, the report goes from the planning department to the council.

The member for South Perth made an excellent contribution as usual and pointed out that councils can decide whether to support or oppose a decision. However, a great majority of planning decisions, especially contentious ones, invariably end up in the State Administrative Tribunal. What happens in the SAT? The report that goes to and is considered by SAT is the one that comes from the council planners. If elected councillors want to attend and have any input to a SAT hearing, they have to employ legal representation and get access to a planning report. It is council officers who have the greatest impact on SAT and not councillors. In fact, the role of councillors is substantially diminished. An example of this arose recently when one of my constituents approached me and told me that they had unanimous support to oppose a development and that the council planning office report took everything to the very limit. In fact, it went outside that because there are nominal limits to the extent to which planning approval can be extended, for example, to the dimension of buildings—the planning commission is not bound by that. Despite the fact that the councillors unanimously opposed the development, the report that went to SAT came from the planning officer who had originally recommended that the development go ahead. That development was supported by SAT. Councillors already have diminished responsibility, but they have full accountability. This bill will certainly minimise councillors' control and maximise their accountability for whatever a council does.

One thing I would like to see—these are prospective changes for the minister going forward—is more transparency and accountability for council staff. I would like to go through some of the detail of that, and in doing so I refer to the explanatory memorandum. I understand the motivation behind universal training. I imagine that that will be quite onerous for some councillors. When we had our very thorough briefing from the minister's staff, we were informed that there would be about 16 hours of training for councillors and potential councillors.

Mr A. Krsticevic: Forty hours.

Dr D.J. HONEY: We were told 16 hours at the briefing.

Mr A. Krsticevic: No, it is 40.

Dr D.J. HONEY: I am happy to go with 40 hours. That is a very large amount of training for people who are coming in and simply wanting to represent and do the right thing by their local communities. Can I say that that will act as a significant disincentive for a number of people. I am concerned that as there is more and more accountability and focus on councillors—as I have said, they have quite limited control over what happens in their council, outside of approving a budget in large part—we will either end up with people with an enormous sense

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of noblesse oblige and driven to represent their community or simply zealots who do not care about what they have to go through. If councillors go onto a council with a single burning issue, that will drive them. There is a real risk that as we make it harder and harder for people to be councillors, we will end up with unrepresentative councils. We may end up with the opposite of what is intended—with some well-meaning people; otherwise, we could end up with councils that are increasingly occupied by single issue candidates—by zealots if you like—who do not represent the broad community. We really need to be concerned about that. As I say, I appreciate the broader experience being required for councillors, but no issues have been raised with me in my electorate about what councillors have been doing, but I have had lots of concerns raised with me about what council officers are doing. I know the point about training has been made by other members, but the simple fact of the matter is that when I came into this house, I had some good training on what fork to use and when I should stand up and not stand up, and all those things. I did not have to go through onerous training in relation to being a member of this place. As with all members, we learn as we go along; yet, we are applying a much higher standard on people in much less well remunerated roles in local councils. As many members know, the work of serving on councils can be quite onerous.

There is a requirement being placed on elected members and chief executive officers in relation to gifts. I think that should be significantly extended. If we are requiring this of councillors, then council staff should be required to do it. I know that people who do lots of developments—that is their business—are extremely solicitous of their relationship with council planning staff. As I have already pointed out, a council planning officer has enormous power. We need to talk to councils about that because it is something that they are very frustrated with. I am aware that a number of people in planning attend corporate boxes at sporting events and other parties. As we will see later, an individual council may develop a policy in this area, but there is no reason that if we are creating transparency around councillors, we should also be creating transparency for other people who have more control over important planning matters. When we get down to it, the area in councils in which the greatest amount of money is involved is in planning decisions, and those who can make large amounts of money are those who benefit from planning decisions. There should be a transparent register of gifts for council staff as well as councillors.

A number of members have said that the recruitment and performance management of CEOs historically has not been very transparent, particularly for non-performing CEOs. Often the poor performance of a CEO is known to an individual council but not anyone else. Often incompetent CEOs—even those who have been involved in improper behaviour—are recycled and sent to another council or they go into the Department of Planning, Lands and Heritage and pop out later and take a senior role in another council. It looks as though this bill is taking a good step to improve transparency of CEO performance. In the examples that have been relayed to me, recipient councils have been extremely upset, firstly, because they find that it is difficult to get rid of an incompetent CEO who does not do their job properly or does it dishonestly; and, secondly, when they find that the same person caused exactly the same problem in one or two councils in the past. The bill is an important step in ensuring that there is a transparent process whereby a CEO who has been removed for non-performance or for worse behaviour at one council, cannot take a senior role in another council without that council being made aware of it.

In terms of greater accountability to the community, I think that a gift register for councillors and councils is appropriate. However, publishing those details on a local website is not, because that may encourage a flurry of internet trolls. It is appropriate that it is available; it is appropriate that everyone discloses their interests at meetings and that councillors and the minister, or others, are made aware of allegations of improper conflict of interest.

With regard to publishing it on a website, I guess, minister, that we will have to see how that goes. I can tell the minister that when I was campaigning, I had a balcony lecture from one of my constituents, who told me that I was corrupt because I would not do this job for free, and that if I had any integrity —

[Member's time extended.]

Mr D.A. Templeman: Did you say a balcony lecture?

Dr D.J. HONEY: Yes—he shouted at me from the balcony. I can tell the minister that I thanked him for his input and politely walked away. There are people who seem to take very extreme views towards councillors. I have the greatest respect for people who take on councillor roles. There is an old saying that the less they pay you, the more they expect. That is no more true than for people who take on councillor roles.

Mr J.E. McGrath: Just quickly on the subject you raised about the register being online, we have a register in here, but ours does not go online; ours is kept in the Clerk's office.

Mr D.R. Michael: Member, technically you get it online via the tabled papers.

Dr D.J. HONEY: It is not readily online, member. As members know, there are some people who do not seem to sleep and like to find things in the middle of the night that they can rail against, and I think that could be quite upsetting. I agree entirely with the excellent contribution from the member for Darling Range. The sharing of small gifts, such as having meals or drinks together, is critically important in human relationships. It is important that

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people can do that, but clearly if it is excessive or done for the purpose of affecting a relationship, it should be disclosed and revealed when it is improper.

One part of the bill that concerns me—unfortunately, the minister has stepped out of the chamber—is the removal of the category “senior employee”. I have said that councillors now have less ability to have impact on or control over what their council is doing. One of the things that makes their job harder is limiting access to the senior officers in the council. Currently, the mayor, for example, can approach the senior managers within the council, such as the planning manager. I assume that once this bill passes, the mayor and the councillors will be able to approach only the CEO of the council. That will make the CEO the sole source of information in councils. That concerns me. I can tell members, as someone who was a senior manager, that I was able to do my job only because I was able to access and have interaction with the people below my direct reports. That was how I validated the information I received. I would say that every good manager would do that. They would speak to others to try to validate the information they receive. Sometimes by mistake, or otherwise, people do not give us the right information. I am concerned that the mayor and the councillors will lose that ability. I am happy to be corrected if I am wrong, but that is what I understand the impact of that change will be. I think that will make it harder for councillors and mayors to do their job. I would appreciate some clarification on that. It will hinder, rather than aid, the work of councillors if there is only one person on the administrative side of councils to whom councillors can go. I appreciate that people have different experiences with the interaction between councillors and staff, but nevertheless I think it is important that there is some validation outside of the CEO.

I have covered proposed section 5.87B, “CEOs to disclose gifts”. That should include more than just the CEO. I cannot see why we should single out councillors. If we want to require the disclosure of gifts, it should apply to all the staff of the council. I reinforce that it should apply particularly to planning staff, who have an enormous influence in planning matters, yet it appears that they will not be subject to the current disclosure agreements. I understand, minister, that there are more changes to come. If that is the case, that should be considered in those other changes. Otherwise, I have no more comments to make on the bill. Thank you.

DR A.D. BUTI (Armadale) [4.25 pm]: I rise to contribute to the debate on the Local Government Legislation Amendment Bill 2019. I want to pick up on the comment by the member for Cottesloe that the gift register should not be restricted to councillors but should also cover the paid officials or employees of councils. I imagine that might be covered under their employment contract in any case.

Mr D.A. Templeman: CEOs are covered.

Dr A.D. BUTI: Yes. I am talking about the other employees. I imagine that might be covered under their individual contracts, or even under the general duty of fiduciary or duty of loyalty that they owe to their employer. I am not sure that we want local government to get into the minutiae of employment contracts between councils and their paid staff members. That is just a comment that I want to make in respect of that matter.

This bill seeks to improve the standard of councillors and hopefully improve the transparency and accountability of council processes. Councillors work at the coalface. As we know, all politics is local. There can be nothing more local than being a councillor. Councillors have to make incredibly important decisions. It is important that a regime is put in place that seeks to ensure there is appropriate transparency and accountability and that the standard and quality of councillors is sufficient to enable them to make those incredibly important decisions.

Some speakers have talked about the contrast with state Parliament and maybe also the federal Parliament. The member for Cottesloe said that when he came into this place, all he was trained in was how to hold a fork and a knife. I am not sure what training he received —

Dr D.J. Honey: That’s not all I said.

Dr A.D. BUTI: I did not receive that training when I came here. Maybe we are a bit more civilised in Armadale—we know how to hold a fork and a knife, so I did not need that training! I was elected in a by-election, so it may have been a bit different. I am not sure about the member for Darling Range, but I had about a day and a half with the Clerk and the Assistant Clerk on procedures and so forth. The member for Darling Range is an old hand at this, because she was in the other place, so it may have been a bit different for her. I received quite a bit of input when I was first elected to this place. There are opportunities to engage in professional development. I know that the Clerks have sought to interest members in that over the years, though I am not sure how successfully. In my time in this place, I have been on at least two or three professional development courses that have been held here, probably prior to the member for Darling Range arriving.

Mr P. Papalia: You’re very well developed!

Dr A.D. BUTI: Hear, hear! Most people who come to this place have some experience that will stand them in good stead to know what is expected of them. That also applies to councillors, to a degree, because councillors are often elected on a very small number of votes, so there is a greater possibility that they will not have sufficient

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qualifications, expertise or capacity to fulfil their role as a councillor. That can also happen at Parliament, but there is probably less of a chance that it is going to happen at Parliament due to the election process and the greater scrutiny and accountability in the Western Australian Parliament and even the federal Parliament.

I think it is important that we have this universal training. The universal training—the mandatory training—is not onerous, but it is some form of minimum requirement that all councillors should comply with. None of the councillors I have spoken to have complained about it. They have said that they think it is a good thing. A code of conduct is important. We all have a written or unwritten code of conduct. In this place, in the chamber, we adhere to the standing orders. In cabinet we have to abide by our party code. In some respects a local council is a cabinet. It makes decisions for the council like our cabinet makes decisions for the state. The cabinet has a code of conduct.

Mr A. Krsticevic: You don't know that from experience.

Dr A.D. BUTI: Nor does the member, and he has been here longer than I, so do not worry about it, mate. Do not worry; okay? You do not know either. Anyway, you never know what might happen, do you?

The fact is that that is a ministerial code of conduct. There should be a code of conduct for councillors. I am not sure whether in all councils a councillor is unable to criticise a decision made by the council. However, it is not unlike cabinet solidarity. Once cabinet has made a decision, we have to abide by it. If we do not want to abide by it, we should resign. I know we had a difference in the last government when the Liberal Party allowed National Party members of cabinet to criticise a decision of cabinet. It was a very unique situation under the Westminster system of government, but that was the case.

Mr J.E. McGrath: I don't think we allowed them; I think it just happened.

Dr A.D. BUTI: Whatever. The fact is that generally a cabinet member must abide by the cabinet's decision. Members might recall when the Hawke government was elected. Within the first year a Labor minister, Stewart West, did not agree with the uranium policy of the Hawke government and he resigned as a cabinet minister. I can understand the need for a code and that councillors must abide by the decision of the council. However, there should be some avenue for councillors to be able to criticise the decisions of council. I understand how tricky that can be, but it is important that we have a code of conduct.

The standard of the recruitment of CEOs is an incredibly important provision in this legislation. The CEO holds the most important position in the council machinery. Of course, the democratically elected people are the councillors, and the mayor is very important in that respect. However, in the machinery of the council, the CEO is the most important official. While I am talking about CEOs, I pay my gratitude to the outstanding service of Ray Tame, who is the current chief executive officer of the City of Armadale. His contract comes to an end in the next two to three months. He has provided outstanding service to the City of Armadale. Even though he has had to endure some personal family tragedy, he has been an outstanding CEO. On behalf of the people who live in the City of Armadale, I would like to place on record my great respect for his service.

Mr D.A. Templeman: Hear, hear! Very much so!

Dr A.D. BUTI: Of course the minister would have come across him and he would know what a fine individual and person of outstanding capacity he is. He will be sorely missed.

While I am speaking about the City of Armadale, I should say that it has been served very, very well. The current mayor is Henry Zelones. He has a very interesting background. He is an outstanding mayor. He is an American who came to Perth with the United States Air Force back in the late 1960s, fell in love and, basically, stayed. He has been on the council for many, many years. I served with him on the Armadale Redevelopment Authority. He has the ability to absorb complex information, process it well and make a very fine decision. He is a very measured individual. Prior to him, the mayor was Linton Reynolds, who was also an outstanding mayor. We have been very lucky. Linton Reynolds was appointed by the previous government to be the commissioner for the City of Canning. Because he stood up for his ratepayers, who were opposed to council amalgamations, through the work of the current Leader of the Opposition his contract was not renewed. It came to a premature termination. It was appalling behaviour at that time by the Leader of the Opposition. Even the Premier has talked many times about the great capacity and ability of Linton Reynolds. The previous government appointed him as the commissioner for the City of Canning.

The council has been very well served. Prior to Linton Reynolds, we had Roger Stubbs, who was also a very capable mayor. We had Spike Fokkema. He now owns and runs a winery on Bussell Highway in the south west, in the electorate of the member for Vasse, who has just left the chamber. Prior to Roger Stubbs, we had Stan Pries and Ian Blackburn. They were mayors after the Shire of Armadale became the City of Armadale in 1979. Interestingly, Cyril Rushton, a former member of this house, was president of what was then the Shire of Armadale. He was a Liberal—

Point of Order

Dr D.J. HONEY: I am struggling to understand the relevance of this to the specific legislation that is before the house.

The ACTING SPEAKER (Mr R.S. Love): Member for Armadale, just remember what we are debating and keep to the point.

Debate Resumed

Dr A.D. BUTI: I am talking about the competency of members. I was just referring to an outstanding Liberal member of this place, and the member for Cottesloe does not want me to refer to that, which is a bit silly. Anyway, I will overcome his childish behaviour. Cyril Rushton was the president of the Shire of Armadale in 1964 and 1965, and a member of this place. He stood for the leadership of the Liberal Party when Sir Charles Court retired. Interestingly, he won an election—I am not quite sure which one it was—for the seat of Dale but then he lost it. There was a recount and then he won against Philip Vincent by 10 votes. He was subsequently replaced by Fred Tubby.

I do not support this legislation because I have concerns about the capabilities or the processes that have taken place in the City of Armadale. We have been incredibly well served by the mayors and the CEOs. In my time the CEO has been Ray Tame, and he has been the CEO for 20-odd years. The CEOs have all done a very good job. The minister in charge of this bill has imposed mandatory training, and that is very important. I will tell members why it is important. Training is important per se. The City of Armadale has functioned very well because there has been training. The city has been on the front foot in ensuring its council members receive appropriate training. I will not name other councils, but I know that some of my fellow members in neighbouring electorates cover certain areas in which the councils have not necessarily been as well run as the City of Armadale, and they have not served those members as well as I have been served by the City of Armadale. I am very lucky that my electorate takes in only the City of Armadale. I do not have any crossover of councils. The Darling Range electorate has six councils. It would be incredible having to deal with six councils. That is a lot of civic dinners.

This bill is much needed. We know the problems we have had with certain councils. We know what has happened in the past few years at the City of Perth, which is the council that should be held out as exemplary in its performance. This bill should have happened quite a while ago, but it did not. We now have it before the house, and even though some members opposite have raised some concerns, generally I think it is very well supported. I think most well-run councils already engage in training, have codes of conduct, ensure that they have a professional recruitment process for chief executive officers, have a best practice framework, have a registry of gifts—that is already part of the law, to a certain extent—and promote transparency. These are incredibly important issues, because councils, dealing at the local level, must be sure that their decisions are transparent and do not fall foul of conflict of interest problems. Councillors are prone to conflict of interest issues because they often deal with issues where they live, so it is important that we have a code of conduct and transparency, and that councillors who make important decisions are appropriately trained.

I will make a couple of minor points about the City of Armadale. Henry Zelones will be retiring at the October election. I have already placed on record in this place my gratitude for the service provided by Linton Reynolds, the previous mayor, and I would like to now place on record my admiration of and gratitude to Henry Zelones. I am sure the member for Darling Range would concur with me in that respect. In the past year the work that the council has done has been exemplary. The member for Darling Range joined me at the recent opening of the Armadale Fitness and Aquatic Centre, which, without doubt, is the best aquatic and fitness centre in Western Australia—maybe bar the one in Cockburn, but they must share that with a football club, so I think we are in front there. The renovated town hall in Armadale is looking absolutely fantastic. We have also seen the renovation of the Kelmscott Hall, which was very tired and needed renovation. I used to not look forward to going to the Kelmscott Hall for citizenship ceremonies on a winter's night, but now that it has been renovated—it should be open soon—I will not resist as much. The Armadale District Hall looks absolutely beautiful, and has managed to marry heritage with more modern facilities. I urge anyone who wants to come out to Armadale to do so; I can give them a tour, and they can come to the aquatic centre. The member for Darling Range was there, and it is a fantastic centre. Come to Armadale, and I will take you to a local coffee shop.

Mrs A.K. Hayden: We will give a bipartisan tour, and show that we can work together.

Dr A.D. BUTI: That is exactly right. The member for Cottesloe always talks about Struggle Street. I will be able to show him certain areas of Armadale, which I believe he has come to, but he did not let me know as the sitting member. It is a bit of protocol, or code of conduct. We have an unofficial code of conduct in this place that when a member is on official or semi-official matters in another member's electorate, they should let that member know that they are coming, just as a matter of courtesy. On that note, I commend this bill to the house. I think it is much overdue.

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MR M. HUGHES (Kalamunda) [4.44 pm]: I was getting very interested in the contribution of the member for Armadale and was hoping he would go on a bit longer, but evidently he is not going to. I do not know whether I am regarded as the nightwatchman—probably; I do not know how I would describe this position. I am very pleased to make a contribution to the debate on the Local Government Legislation Amendment Bill 2019, because, as we know, communities have long called for effective, transparent and responsive local governments, and this bill contributes to the realisation of those expectations. The legislation emanating from phase 2 of the consultation process will herald significant reform, but that is not to undercut the importance of the legislation currently before us. It is clear from the discussions we have had and the contributions members have made to the debate that it is agreed, across both sides of the house, that the culture and practices of local government need significant reform to make local government more sensitive, responsive and answerable to local communities. We have some local governments of significant size and significant resources, with the capacity to have very sophisticated administrations, and we also have, particularly in rural and remote areas of the state, smaller local authorities that struggle both in a financial sense and in terms of the expertise that they can bring to the administration of those local areas. That is perhaps a debate for another time.

There have been references to various reports from the Corruption and Crime Commission. I note that the member for Carine careened quite quickly through a number of those reports, but I would like to refer to them as well. Members will be aware that since the inception of the commission, it has invested substantial resources into addressing serious misconduct issues arising out of poor practice in the government sector. I believe that the reform of the legislation may assist in the process of closing some of those gaps and dealing with some of the corruption risks that arise from poor administration and, in some instances, maladministration in local government. It is noted that the commission has undertaken a number of investigations into local governments. I bring to mind, as the member for Carine mentioned, the investigations into the Shire of Dowerin in 2016 and the Shire of Exmouth in 2017. Those reports, in the opinion of the CCC, reflected some structural weaknesses in the sector and pointed to a broader need for a review of the Local Government Act. I am well aware, though, that those observations caused a bit of consternation in the Western Australian Local Government Association. I would not say that it became apoplectic in its defence of its members, but I recall that it regarded some of the CCC's comments as being unfair and inaccurate.

However, there is no doubt that the Corruption and Crime Commission exposed what it described as breathtaking ignorance of the role and responsibility of local government councillors, and challenged all local government authorities to assess and upgrade their resistance to corruption. Being a member of the Joint Standing Committee on the Corruption and Crime Commission, I have partial oversight of the CCC, and I am very cognisant of the reflective nature of that organisation in the way in which it would want to assist, and the way in which we can improve government practices generally. The Corruption and Crime Commission highlighted that serious misconduct and risks arise from a lack of understanding, and in some cases attempts to subvert the separation of powers between elected members of council and administrations in local government. The commission's report into serious misconduct in the Shire of Exmouth identified the risks that arise from lack of adequate oversight of local government CEOs, and particularly—a number of members have made reference to this—the confusion that exists about the extent to which elected members can make inquiries of, or indeed challenge, administrative staff.

The member for Darling Range made reference to a recent difficulty that has arisen at the City of Kalamunda because of an initial decision by the council to terminate the employment of the CEO and the difficulty under the act—the mayor made some representations to my office and I made those representations to the minister—for an elected representative to get strong advice from the Department of Local Government, Sport and Cultural Industries about what they can do in the circumstances they are faced with. As a result of not adequately minuting the reasons for the termination of the CEO's contract, the council was required to call another meeting to put the record straight. In between time, a strange set of circumstances arose—I will not go into too much detail—that involved the CEO making a delegation to the council in a public forum to indicate why that person should not be terminated.

Mrs A.K. Hayden: Will you take an interjection?

Mr M. HUGHES: The member raised the matter.

Mrs A.K. Hayden: No; it's a polite interjection. I was not saying whether it was right or wrong.

Mr M. HUGHES: No, I know the member was not. I am not saying that it is right or wrong. I think it is important that we put on the record that, notwithstanding that the council made a lawful decision at the time and was simply in the process of putting the minutes, or the record, right in between time, there followed a process that I believe had a somewhat doubtful outcome. But that is a matter for another debate.

That instance highlights the need for adequate training for elected members. If we go back through the reports provided by the Corruption and Crime Commission, we can go back as far as 2009—this is a bit of history—and the "Report into the Investigation into Allegations of Misconduct by Councillors or Employees of the City of Bayswater".

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It is quite clear that the CCC found that elected representatives within that jurisdiction did not have sufficient understanding of their legislative responsibilities or powers under the act to inquire into officers and elected members.

We all agree that for strong and competent local government, it is important that elected members undertake adequate training and commit to ongoing professional development and professional learning as part of their role to ensure the proper and appropriate exercise of their legislative responsibilities. I do not think we should cloud the issue about whether people need that training. Effectively, members of company boards and members of school councils, for example—I was a school principal—are required to understand their responsibilities, obligations and powers as members of that board or council. There is no question in my mind that this aspect of the legislation is important and underscores the fact that it is not just initial training that needs to be undertaken; the training needs to be ongoing, appropriate and timely. Members of councils who have been there for 20-odd years are amongst those who need a bit of reinforcement to clarify the assumptions that they make about their roles, responsibilities and powers.

There is a strong view in my community that changes to the Local Government Act should address the imbalance in the power of and the relationship between the administration of the local government authority and its elected members, and place greater control of local government in the hands of the elected members. I am probably going into the next phase of the review and the legislation that will come out of it, but we should not seek to increase the power of the administration over the power of the elected members to hold the administration to account.

To underscore some of my concerns about the status and standards of local government, it is a feature of the complaints made to the Ombudsman. The Ombudsman's annual report for 2017–18 notes that 1 715 complaints that were received about public authorities fell within the Ombudsman's jurisdiction. Of these, 361, or 21 per cent, were about local governments. The complaints were about development and planning decisions; enforcement; rating; environmental and public health; complaints management; and the conduct of an officer or the agency. It is a trend. In the period from 2011 to 2018, complaints to the Ombudsman about local government rose from 16.7 per cent to 21 per cent of the total number of complaints received. That is a significant number. More worrying are the statistics reported in the CCC's annual report. The CCC notes that the number of local government-related allegations of serious misconduct has continued to rise, from 550 in 2016–17 to 761 matters in 2017–18, and that the upward trend has seen local government-related allegations of serious misconduct more than double since 2015–16. They represent 15.1 per cent of all allegations assessed by the commission in the period referred to and represent almost one-third—in fact, 31.8 per cent—of public sector allegations. I will let that statistic stand without further comment. If we look at the misconduct matters that are brought before the commission, we can trace that back to governance issues. Good governance means that competent and properly engaged and insightful members of council make the administration accountable to the elected body, rather than allow the elected body to determine or dictate the terms of engagement between the administration and the council.

I have also been concerned in the time that I have been a member of this place —

Dr A.D. Buti: An outstanding member of this place!

Mr M. HUGHES: I do not know about that!

As a former councillor of the then Shire of Swan, some of the observations that I made in my 40s about delegated authority and its misuse are still current today. There is much misuse of local government delegated authority. It is a constant source of disquiet and discontent, particularly in long-established and older communities where infill developments following subdivisions and reduced lot sizes have occurred. The decisions are frequently inconsistent with other decisions made under the delegated authority provisions and with local government planning schemes and the policies associated with them. Such inconsistencies create community conflict, often pitting neighbour against neighbour, and provide no avenue for the community to voice concerns. I think councils need to be able to scrutinise the role of the CEO in delegated authority decisions when they are demonstrably in conflict with the local planning scheme. It is probably a bit of a hobbyhorse for me, but I think in general it is almost uniform practice that if an officer deems it necessary to seek comment from nearby owners on an application and they respond, an application will automatically become a matter for council determination, notwithstanding that an officer may recommend the approval of that application. It appears entirely up to an individual officer whether to refer the application in the first place. If the officer does not, this effectively seals off any right of any affected party to be heard.

We agree that the framework for the operation of local governments provided by the Local Government Act is in much need of reform. As we heard from the minister in his second reading speech, this bill aims to deliver on the principles of good governance, transparency and accountability. We have heard in a range of contributions to the

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debate how that will occur as we reflect upon the specific provisions of the bill before us. It is probably pointless for me to reiterate those.

Although I understand that the bill aims to improve transparency, accountability and efficiency of the minor breach system, one of the things that I am concerned about—I share this concern with a number of members—is the time period for complaints to be lodged with the standards panel being reduced from two years to six months. I have some concerns about the reduction from 24 months to six months and would welcome the minister, at an appropriate stage during the passage of this bill, outlining why he settled on a limit of six months.

[Member's time extended.]

Mr M. HUGHES: This bill is welcomed insofar as it is one more legislative step towards local government reform. Clearly, I am pleased to support the bill, but more needs to be done. I am concerned that local governments should become more representative of the communities that they serve.

The minister may recollect that I grieved to him following the 2017 local government elections. Prior to my grievance, the minister noted the increase in the number of candidates from diverse backgrounds and the number of women who were elected to local government as a result of those 2017 elections. All of that is very important. The greater representation of women and the greater diversity, which were two visible outcomes of the 2017 election, could lead only to an improvement in the representative nature of local government. Let us hope that this will continue. Despite these improvements, I suggest to the minister that the representative nature of local government is not in a good place. Voluntary voting, combined with the first-past-the-post arrangement, contributes to the unrepresentative nature of local government councils. Although the legislation does not deal with these issues, I believe that a resolution of this matter is at the heart of combatting the lack of faith that communities have in the competence of councils to adequately represent their interests.

In my grievance to the minister on this matter, I pointed out the continuing low voter turnout in my electorate of Kalamunda, despite the observable general improvement mentioned in his statement following those elections. I believe that the low level of voter turnout is compounded by the impact of the current first-past-the-post methodology on the outcomes of elections. I mentioned a number of specific results across each ward in the City of Kalamunda and made reference to a similar situation in the Shire of Mundaring. I did not refer to Gosnells at that time. In Kalamunda, 13 candidates contested two places in the north ward, with a voter turnout of 38.11 per cent. That is reasonable and respectable on a comparative basis with the low turnout rates elsewhere. The winning candidates received 17.5 per cent and 17.2 per cent of the valid votes counted. At that time, the member for Darling Range was a candidate in the election, but did not figure in the —

Mr D.R. Michael: She was unsuccessful in that election.

Mr M. HUGHES: She was unsuccessful. She initially had some difficulties filing an address within the local authority. I digress.

Together, those candidates received 2 316 votes out of a potential 6 710 of the total votes cast; that is, 34.56 per cent of the electorate voted for the two winning candidates, and 65.4 per cent preferred other candidates, including the member for Darling Range. Maybe the outcomes might have been a bit different in a preferential voting system. While all this was compliant with the existing Local Government Act, its provisions, combined with low voter engagement, give people less than what I would argue to be a reasonable representative voice in their council. It is much less than they deserve.

I have mentioned two of the local government councils in my electorate that have ward systems. The third local authority, Gosnells, has no wards. Interestingly, 31 candidates were vying for seven places. We do not need to do the arithmetic to know how limiting that is for the representative nature of that local authority. If anything, when we come around to the more fundamental and rigorous hallmark approach to the change of legislation, we need to get rid of single wards and return to a ward system. We are talking about government being close to people. What can be closer than a ward system? I believe that the present system tarnishes the legitimacy of local governments as being truly representative of the communities they seek to serve. As I said, it is somewhat ironic, given that many of the issues that constituents present to me involve actions or a lack of action by local government and complaints about the level and quality of consultation and engagement by local government with the electors on major issues of importance, both individually and collectively.

The measures contained in the bill before us, while welcome, obviously do not address this issue. I have a strong belief that at the very least we should return to a preferential voting system and end first-past-the-post methods of election as a way of improving the status of local government elections in the eyes of voters. Dare I go so far as to suggest the introduction of compulsory voting? Probably not. Even the introduction of electronic voting might help us in some way but maybe that is a bit pie in the sky; I have no idea. It is ironic that what is vaunted as the

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closest level of government to the people is almost universally regarded as being distant from the people it is elected to serve.

My constituents await, with anticipation, the delivery of fundamental changes to the Local Government Act in addition to the welcome provisions contained in this bill. We commend the minister for the work that his staff and the advisers have provided in the compilation of this bill. It goes some way towards improving the representative nature of local government. Unless we do the rest, it will not have much traction. The second phase of the review is of particular interest to my constituents. It looks at the participation of local government, the ward system and issues around a candidate's eligibility. In my view, this phase of the review process goes to the very heart of the credibility of local government, and it is important that the Western Australian Labor government gets this right.

Debate adjourned, on motion by **Mr D.R. Michael**.

House adjourned at 5.10 pm
