

Local Government Elections Review 2019

LGA Submission

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Introduction

The Local Government Association of South Australia (LGA) thanks the Electoral Commission of South Australia (ECSA) for the invitation to prepare a submission on the 2018 local government elections.

The 2018 local government elections raised a range of administrative and technical difficulties for councils and the LGA, which this submission suggests can be remedied prior to the 2022 local government elections via legislative change, administrative process improvement, or greater collaboration.

In the preparation of this submission, the LGA consulted with councils and this submission is based on the council feedback received, as well as the LGA Secretariat's own election experiences.

The State Government's 2019 Local Government Reform Program includes a broad ranging review of the *Local Government Act 1999* and the *Local Government (Elections) Act 1999* and the LGA intends to raise further issues regarding local government elections through that review process.

Key Issues

Revisiting the 2014 Elections review and the Local Government (Elections) Amendment Bill 2017

Local government stakeholders participated in a lengthy review of the *Local Government (Elections) Act 1999* following the 2014 local government elections, which resulted in the drafting of the Local Government (Elections) Amendment Bill 2017 (Bill). The Bill failed to complete its passage through Parliament prior to the 2018 State Election. The proposed Bill primarily provided for technical changes to simplify processes and remove unnecessary administrative burden on ECSA, councils and the LGA. A number of election frustrations that would be remedied by the Bill were again felt during the 2018 local government elections, so the LGA and majority of responding councils support the reintroduction of the Bill.

The LGA supports the Bill's proposed amendment to section 19A(2) of the *Local Government (Elections) Act 1999*. That section currently requires the LGA to publish a candidate's profile within 14 days of close of nominations. The LGA relies on transfer of the relevant data by ECSA and was severely hindered in its ability to meet the 14 day deadline due to delays in receiving data from ECSA. The Bill proposes to place a deadline on ECSA to provide the candidate profiles to the LGA, prior to the LGA's deadline to publish the profiles. This will ensure that LGAs ability to comply with the publishing deadline is not impacted by delays in data transfer from ECSA.

Councils strongly support the Bill's proposal to enable the supply of a digital copy of the voters roll to all candidates. Currently the *Local Government (Elections) Act 1999* only allows for the supply of a printed copy, but some candidates who have connections to political parties are able to gain access to the electronic roll for the House of Representatives. The ability for some candidates to access a digital copy of the voters roll is perceived as an advantage over those candidates who are not connected to political parties. The LGA's policy position has always supported a level playing field for all candidates. The provision of a digital copy of the voters roll also provides practical benefit to candidates with its improved accessibility and useability over a printed version.

Advertising and Marketing

Despite attempts by both parties, the LGA and ECSA were unable to reach an appropriate agreement regarding responsibility for, and consistency across, promotional campaigns and advertising for the 2018 local government elections. This resulted in a continued divergence of promotional campaigns, similar to the 2014 elections, which detracted from the effectiveness of elections advertising and resulted in additional expenditure on creative development and production. In early preparation for the 2022 local government elections, the LGA asks that ECSA commit to a single creative concept to be used exclusively by both organisations in all advertising and branding for the local government election. This commitment should be made no later than 18 months prior to the 2022 local government elections to ensure early preparation of campaign and advertising material.

Some councils also reported duplication of effort with ECSA, such as both councils and ECSA writing to business owners. The LGA recommends that ECSA consult with the LGA and councils to identify and reduce areas of duplication and to concentrate our combined efforts on processes and actions that provide the most value to electors/ratepayers.

Cost of Elections

In accordance with sections 13 and 13A of the *Local Government (Elections) Act 1999*, ECSA's costs of carrying out official duties and arranging advertising for local government elections is recoverable from councils. The costs of a local government election presents a significant financial impact for councils and ratepayers. The 2018 local government elections saw a 25 percent increase in costs without significant change in the process to account for the increase. The LGA recommends ECSA reviews its costs and services to ensure value for money and to give due consideration to the impact on ratepayers. During consultation councils raised various suggestions for ECSA to consider in its review including:

- ECSA to consider entering an agreed service standard with councils;
- amending the legislative requirement for the vote count to be conducted on a weekend, which requires the payment of penalty rates to ECSA staff for conducting the count; and
- identifying opportunities throughout the elections processes to introduce online services (discussed further below) that will reduce administrative and postal-costs associated with the elections.

Caretaker

Section 91A(7) of the *Local Government (Elections) Act 1999* says "the caretaker policy of a council is to be taken to form part of each code of conduct required to be prepared and adopted in relation to council members and staff under the *Local Government Act 1999* or *City of Adelaide Act 1998*". There are two irregularities in this section that prevent effective operation and enforcement. Firstly, the language 'required to be prepared and adopted' does not reflect that codes of conduct for council members and staff have been prescribed by regulation since 2013, thus applying automatically without a requirement for council to prepare and adopt. Secondly, the Code of Conduct for Council Employees was significantly amended on 2 April 2018 to deal solely with gifts and benefits and no longer deals with general workplace behaviour or conduct of employees. A link to a breach of a caretaker policy, which would be the result of a behaviour or conduct of an employee, cannot be effectively enforced under a code of conduct that does not deal with such issues and the linkage should be removed.

Nominations

The LGA believes there are many opportunities for local government election processes to adopt greater reliance on digital technology to streamline processes, reduce administrative burden and modernise election processes. The LGA recommends ECSA introduces an online facility to enable candidates to submit their full nomination electronically. This would reduce administrative double handling of nominations by councils and ECSA, and reduce the risk of error in converting paper-based nominations to electronic files for the purposes of publishing candidate information. An online nomination could also reduce the occurrence of incomplete nominations, as the form could prevent submission until completion of all mandatory fields and also only accept image uploads of acceptable resolutions. Online nominations would also ease ECSA's administrative burden in preparing candidate profiles for data transfer to the LGA (keeping in mind reintroduction of the 2017 Bill would impose a deadline on ECSA to prepare and send these files).

Again in recognition of the increasingly modern and technological communities we live in, the submission of candidate statements should allow candidates to provide a website or social media link as part of their nomination. This will facilitate voters accessing more information about candidates and increase informed voting.

In relation to the current paper nomination forms, councils strongly support the consolidation of the three nomination forms into one form, to reduce candidate confusion and error, and reduce the administrative burden for both councils and ECSA.

In consolidating the nomination forms, the LGA also recommends ECSA clearly identify the information that will be used internally by ECSA only, and the information that will be published as part of the candidate statement. The LGA received numerous complaints from candidates who were unaware particular contact details would be published.

Candidate requirements – disclosures

The LGA's policy position has always supported a level playing field for all candidates for election, whether they are existing council members re-contesting the election or new candidates. The LGA's policy position also supports providing voters with adequate and accurate information to assist them in making informed voting decisions about their representatives. To this end, in the LGA's *delivering the LGA 2018 State Election Agenda: Local Government Reform Package* (provided to all parties and independent members prior to the 2018 State Government Election) the LGA proposes candidates should be required to disclose:

- Certain information consistent with information current elected members are required to publicly disclose on primary and ordinary returns, in particular membership of any political party or any body or association formed for political purposes.
- Whether or not the candidate for election resides in the area of the council for which he or she is standing. The LGA acknowledges a candidate's address may be suppressed for safety reasons, so the LGA supports the incorporation of a tick box to reveal whether or not the candidate resides in the area.

Candidate requirements – minimum standards

A number of councils have expressed interest in further exploring the introduction of minimum standards for prospective candidates prior to being eligible to nominate. This may include undertaking Australian Police and Department of Human Services checks applicable to local government, successfully completing a training component, or signing an enforceable agreement regarding acceptable conduct during the election campaign. The LGA recommends ECSA engage with the LGA and councils in further discussions regarding the merit and options with regarding to setting minimum standards for prospective candidates.

Social media guidance for candidates

The 2018 local government elections saw a significant increase in the use of social media as a campaign tool by candidates. The LGA received frequent queries from candidates regarding the proper use of social media, and also received numerous complaints about its improper use (for example, the failure to authorise social media posts). The LGA recommends ECSA develop guidance material to assist candidates to successfully navigate their social media campaigning.

Dealing with the death or withdrawal of a candidate

During the 2018 local government elections there were instances of candidates withdrawing their candidacy after the close of nominations, as well as the unfortunate death of a candidate during the campaign period. Currently, there are no mechanisms to effectively deal with the removal of a candidate from the election process following the close of nominations. This resulted in candidate statements on the LGA website for non-participating candidates and for some ballot papers to list non-participating candidates as an option to voters. It is understood that where an unaware voter voted for a non-participating candidate, that vote was given to the next candidate on the ballot paper, without a clear explanation with the ballot paper that this would occur. To ensure voting democracy is preserved by assisting voters to make meaningful voting decisions, the LGA asks ECSA to consider appropriate legislative and administrative mechanisms for dealing with the death or withdrawal of a candidate.

Supplementary Roll

The LGA recommends to ECSA that the legislative requirement for purging of the supplementary roll before 1 January of the year of a periodic election be removed. The monetary and administrative costs incurred by councils in purging the supplementary roll before every local government election is burdensome, and the advertising and other administrative actions associated with encouraging re-enrolment is resource intensive. Despite the intensive efforts of councils and increased marketing, enrolments on council supplementary rolls remained low and actually decreased from 2014 figures. Setting aside the City of Adelaide, councils saw an overall reduction in supplementary roll numbers of 29 percent from the 2014 local government elections.

In the event that ECSA wishes to retain purging of supplementary rolls, a number of councils have suggested that responsibility for preparing the entire voters roll be centralised with ECSA, which would elevate the status of enrolment and consolidate efforts to encourage enrolments across the state rather than by individual council's. Again, the LGA believes there is opportunity to reduce administrative burden, streamline processes and modernise enrolment processes by the introduction of an online enrolment service. While councils could facilitate online enrolment individually, there is merit in considering centralising the software and staff requirements with ECSA to reduce costs to ratepayers (with ECSA able to cost-recover the aggregated cost from councils).

Vote Counting

The outcome of the 2018 local government elections included an announcement by ECSA of a miscount of votes due to human error resulting in the wrong candidate being inducted to a council. The aftermath for the council and candidates involved is still being felt. While this was the first occurrence of an error of this nature, this does present an opportunity for ECSA, LGA and councils to reflect on the matter and identify ways to mitigate the risk of a similar event occurring in the future. The LGA recommends ECSA review count processes to reduce opportunity for human error and improve integrity. The adoption of an electronic voting platform is the ultimate solution, however the LGA acknowledges this isn't a feasible option in time for the 2022 local government elections (as discussed below).

The LGA has concerns regarding the legislative mechanism for determining the close of voting, with an understanding that ECSA receives postal votes after the voting deadline that cannot be counted. If a voter submits a valid postal vote prior to the close of voting, they should be entitled to expect their vote to be counted. In the absence of electronic voting which would make this issue moot, the LGA asks ECSA to consider changing the legislative mechanism so that there is increased likelihood of postal votes being counted. This could mean legislating the last date postal ballots can be posted (rather than the date they must arrive) and/or building in a buffer between the close of voting and the count to provide for late arriving post.

Electronic Voting

At the LGA's 2017 Ordinary General Meeting, members asked the LGA to investigate trialling electronic voting in local government elections. Following consultation with ECSA it was determined that a cost-effective and feasible model is not yet available that suits the specific needs of a local government election. In 2017, the Electoral Council of Australia and New Zealand (ECANZ) established a national electronic voting working group which has committed to creating a purpose-built internet voting system for federal, state, territory and local government elections. Development of the internet voting platform has faced added complexity with the rise of a number of cyber security risks to be carefully considered; as a result, the LGA has been advised by ECSA that an electronic voting system will not be available for at least another three to five years. While the LGA acknowledges the difficulties and delays experienced by the ECANZ, the LGA takes this submission opportunity to confirm its ongoing support for electronic voting at local government elections to be progressed as a priority.



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