



Tasmanian Council of Social Service Inc.

Review of Tasmania's Local Government Legislation Framework - *Reform Directions Paper*

30 September 2019



INTEGRITY
COMPASSION
INFLUENCE

About TasCOSS

TasCOSS is the peak body for the community services sector in Tasmania. Our membership includes individuals and organisations active in the provision of community services to low-income Tasmanians living in vulnerable and disadvantaged circumstances. TasCOSS represents the interests of our members and their clients to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

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Introduction

Thank you for the opportunity to make a submission in relation to Phase Two of the Review of Tasmania's Local Government Legislation Framework, the *Reform Directions Paper*.

TasCOSS advocates on behalf of low-income Tasmanians who often live in vulnerable and disadvantaged circumstances. Our submissions and advocacy are strongly informed by the expertise of our members and the lived experiences of the Tasmanians we represent, who live across every council area in Tasmania.

Our members are actively engaged in the community sector and many deliver essential services to people experiencing disadvantage and vulnerability with a high need for support and essential services in their local community. In delivering this support, they are engaged with local government on a daily basis as community members, social enterprises, not-for-profit or charitable organisations, land-owners and service providers.

This submission restates TasCOSS' aim for a local government framework that increases community engagement and participation; minimises red tape and administrative burdens; and improves the efficiency and effectiveness of council services.

It is clear from our engagement with members that the community sector believes local government plays a key role in our community. Local government is responsible for delivering a level of administration and range of services that underpin the social, economic, political and cultural systems that support our communities. As such, local government is a key player in addressing disadvantage by making decisions and taking actions that help to remove or reduce the barriers to inclusion and providing opportunities that increase participation and encourage greater community engagement.

Phase One Submission

In our initial submission, TasCOSS expressed that a contemporary Local Government Act should include a commitment to reducing social disadvantage and provide a framework for local government to deliver:

- high-quality services for all in the community;
- land at an affordable cost to all people; and
- broad public participation with genuine consultation.

The focus of our submission was on three broad principles that TasCOSS believes will help achieve this - improved governance and community engagement; minimising red tape and administrative burden; and improving overall services and delivery.

To support these principles, our submission to Phase One made the following recommendations:

Governance and Community Engagement

1. Enshrine principles of good governance to support councils to make decisions and to act in the best interests of the community.

2. Ensure that all residents, organisations and businesses have a full and equal say in decision-making processes of local government by adopting best-practice early engagement, consultation, assessment, monitoring, evaluation and review processes.
3. Focus on broadening and deepening democratic participation by residents living in disadvantaged and vulnerable circumstances.
4. Incorporate building staff capacity for engagement, to ensure effective consultation is undertaken by skilful and knowledgeable staff who have good lines of communication with and the support of their councils and of elected representatives.

Minimising Red Tape and Administrative Burden

5. Ensure a rates exemption for organisations providing charitable services is retained in the Act and a consistent interpretation of this exemption is applied across all councils to provide clarity for organisations undertaking charitable purposes.
6. Maintain existing legislative provisions for councils to publish plans, strategies and policies on its websites.
7. Provide mechanisms for councils to develop, in conjunction with their communities, public access to information requested that is not commercially-sensitive or private information of individuals in the community or employees.
8. Ensure public information is accessible and clearly identifiable on council websites.

Improving Overall Services and Delivery

9. Recognise reducing social disadvantage as a core objective in local government and support service delivery focused on social, economic, environmental and cultural needs.
10. Develop and promote a range of affordable housing options; affordable and accessible transport; access to employment; community service organisations; and good health and well-being.
11. Encourage the activities of community service organisations and assist them to meet the needs of Tasmanians experiencing disadvantage by ensuring that community service organisations are supported in their activities and facilitating the provision of space for community service organisation premises and services.
12. Support collaborative thinking and action, and ensure all levels of government are working effectively with each other and with relevant community service organisations, to help combat social disadvantage.

Phase Two – Reform Directions Paper Response

TasCOSS acknowledges the work done by the Review Project Team from the Local Government Division, to consider the submissions from Phase One, prepare a Directions Paper, hold workshops and seek input into the reform directions. Having considered the *Reform Directions Paper* and the major reform areas it discusses, TasCOSS provides the following response.

Governance and Community Engagement

TasCOSS supports the reform directions designed to strengthen governance in local government and improve community engagement.

Enshrining the principles of good governance in legislation will support councils to make decisions in the best interests of the community and provide confidence in decision making to the community.

While some people in the community are disengaged from local government because of lack of interest, others experience barriers to participation through social, economic or physical disadvantage. A deeper democratic engagement at the local government level, especially in terms of disadvantaged groups, should ensure that all residents, organisations and businesses have a full and equal say in decision-making.

TasCOSS supports the following community engagement reform directions that address the key principles of timely, inclusive, transparent, flexible, meaningful and responsive approaches to engagement. These reforms respond to the concerns raised by our members that the community doesn't feel like their voices are heard, or their contributions are valued. The local community wants the methods used to engage with them to be more easily accessible, so they can be involved in the decisions that affect them.

GOVERNANCE AND COMMUNITY ENGAGEMENT	TasCOSS RESPONSE	COMMENT
17. All councils will develop and adopt a community engagement strategy	✓	TasCOSS proposes this reform is strengthened with penalties for councils that fail to comply, or that do not genuinely commit to the Community Engagement Strategy process.
18. Removing prescriptive consultation requirements	✓	TasCOSS supports, conditional upon approval in the Community Engagement Strategy.
19. Remove requirements for public meetings and elector polls	✓	TasCOSS supports, conditional upon the Community Engagement Strategy providing for alternative methods for electors to request polls in certain circumstances.
20. Legislate the eight good governance principles	✓	This supports TasCOSS Recommendation 1.
21. Set high-level financial management principles in council service delivery	✓	This supports TasCOSS Recommendation 1.
22. Establish core capability requirements for elected members	✓	This supports TasCOSS Recommendations 1 & 4.
23. Require councils to publicly report the core capability training annually	✓	This supports TasCOSS Recommendation 4.
24. Establish principles for all council staff that set minimum standards of behaviour	✓	This supports TasCOSS Recommendations 1 & 4.

25. Prescribe minimum standards for general manager positions	✓	This supports TasCOSS Recommendations 4.
26. Include principles on complaints management in legislation	✓	This supports TasCOSS Recommendations 1 & 4.

KEY: ✓ = Supports this reform.
 ✗ = Does not support proposed reform.
 ~ = No preference or no comment.

Minimising Red Tape and Administrative Burden

Tasmania's 29 councils have diverse needs, challenges, opportunities and expectations of their residents. Councils make decisions on the services they deliver and programs they provide based on their strategic priorities and revenue-raising capacity.

Our members that have commercial dealings with councils want councils to be accountable to their communities with appropriate mechanisms in place to measure performance and ensure transparency. This includes good record-keeping, access to information and access to councillors. Our members indicated councils should make available any information that is not protected by confidentiality or privacy, in particular - financial reports; meeting minutes; decisions; budgets; strategic plans/policies/procedures; and community consultation documentation.

MINIMISING RED TAPE AND ADMINISTRATIVE BURDEN	TASCOSS RESPONSE	COMMENT
27. Ensure council rating policies consider taxation principles	✓	TasCOSS supports councils consulting with the community on council budgets and financial planning when developing rates and charges policies, in accordance with the Community Engagement Strategy. In applying taxation principles to rating policies, TasCOSS seeks assurance that the rates exemptions for charitable purposes continues to be available and applied consistently across all municipalities. TasCOSS notes our Recommendation 5 has not been specifically addressed in the <i>Reform Directions Paper</i> .
28. Introduce more flexibility to transition from one rating approach to another	~	TasCOSS requires further information to better understand the impacts this would have for ratepayers.
29. Establish an independent rates oversight mechanism	✓	TasCOSS supports independent oversight of proposals seeking significant rates increases.
30. Set principles or guidelines for setting fees and charges	✓	TasCOSS supports greater consistency in the approach to setting fees and charges, in particular, applying cost-recovery principles.

31. Provide for a more autonomous and less prescriptive budget process	✓	TasCOSS supports as allowing councils more flexibility should create efficiencies.
32. Clarify significant business activities	✓	TasCOSS agrees significant business activities competing with the private market need to be operating on fair terms and not enjoy benefits not available to private enterprise.
33. Require electronic recording of council meetings to be made publicly available	✓	This supports TasCOSS Recommendations 6, 7 & 8.
34. Simplify what is a conflict of interest	✓	This supports TasCOSS Recommendation 8 and provides for clear, easy-to-read and understand guidelines to assist councillors in determining when it is appropriate to declare a conflict of interest.
35. Enhance the integrity of council decisions made when exercising statutory powers	✓	This supports TasCOSS Recommendation 1 and the principles of good governance by requiring councils to manage perceived conflicts of interest.

Improving Overall Services and Delivery

A significant focus of TasCOSS' submission to Phase One was the important role local government has in planning and delivering services, in particular, with regard to supporting residents experiencing disadvantage.

An important feature of the current Act is section 20, that sets out the broad functions of councils to:

- *provide for the health, safety and welfare of the community;*
- *represent and promote the interests of the community;*
- *provide for the peace, order and good government of the area.*

TasCOSS notes with disappointment the *Reform Directions Paper* makes no reference to these functions and proposes no actions in relation to the following issues that sit firmly under the broad functions of councils:

- affordable housing
- good health and wellbeing
- accessible transport
- creating employment opportunities
- building community infrastructure
- providing for basic community services.

TasCOSS further notes there is no reference to charitable organisations, community service organisations or the community sector, which is also concerning given the significant role they perform in helping Tasmanians experiencing disadvantage to secure the resources, opportunities and capabilities they need to learn, work, and engage socially, economically, politically and culturally.

Tasmania has the highest proportion of people in Australia living in the most disadvantaged areas, with 37.2 per cent of our population living in relative disadvantage¹. Disadvantage is measured by indicators including low incomes, low levels of education, low levels of engagement with the work force, over-crowded dwellings and long-term health conditions or disability.

Local government can help to reduce disadvantage by working in partnership with community service organisations not only in service delivery, but in the policy planning process. Community service organisations have the potential to serve a unique function as a bridge between our community planners and some of the most marginalised individuals, families and communities across the state.

Reducing social disadvantage should be a core objective of local government. As the closest level of government to the community, councils have a vital role in identifying community needs and making sure those needs are met.

Local government should acknowledge and value the role of the community sector and charitable organisations and ensure they are aided and supported in their activities. A contemporary local government framework would encourage and support councils to work together with community, industry and all tiers of government help to reduce disadvantage by supporting service delivery and the community service organisations that provide those services.

Other Reform Directions

TasCOSS' submission to Phase One did not specifically address the remaining proposed reforms, however, the following comment is provided by taking into consideration their impacts on disadvantaged Tasmanians and community service organisations working to support them.

REFORM	TASCOSS RESPONSE	COMMENT
1. Principles-based legislation	✓	Agrees that a legislative framework should support the principles of good governance, community engagement and financial management.
2. Accessible, easy-to-read legislation	✓	
3. A new Act for electoral provisions	✓	Supports greater consistency in election processes.
4. Consolidating related local government legislation	✓	Supports minimising red tape and administrative burden.
5. Reform eligibility for the General Manager's Roll	✓	Agrees with Criteria 1, but notes that some non-citizens are entitled to vote (British subjects prior to 1984). Therefore, TasCOSS recommends that

¹ ABS 2071.0 – Census of Population and Housing: Reflecting Australia Stories from the Census, 2016, Canberra, 25 September 2019

		eligibility to vote in federal and state elections be the criteria, not citizenship.
6. Reform voting to reflect 'one person, one vote' principle in any one municipality	✓	This supports TasCOSS Recommendation 2.
7. Simplify the election process for the positions of mayor and deputy mayor	✓	This supports TasCOSS Recommendation 3. TasCOSS supports simplifying the election process, but of the options presented, endorses the status quo. While we acknowledge there may be some confusion caused, options A, B, C & D diminish the ability for people to have full democratic participation.
8. Make alternative voting methods available	✓	This supports TasCOSS Recommendation 3.
9. Simplify the voting process to reduce informal voting rates	✓	This supports TasCOSS Recommendation 3.
10. Introduce caretaker provisions during an election	✓	This supports TasCOSS Recommendation 1.
11. Move administration of the General Manager's Roll to the TEC	✓	This supports TasCOSS Recommendation 1.
12. Introduce a pre-nomination training package	~	TasCOSS supports training and information being available to candidates, but does not agree that it should be a qualification for nominating as a candidate.
13. Introduce a candidate nomination fee	✗	Nomination fees are a barrier to low-income and financially disadvantaged Tasmanians participating in the democratic process. People experiencing financial hardship should not be excluded from fully participating in a democracy.
14. Require the disclosure of gifts and donations received during the electoral period	✓	TasCOSS supports transparent and timely disclosure of gifts and donations. We also propose an appropriate limit that is exempt from disclosure be considered, to ensure compliance is not overburdensome.
15. Align candidate eligibility requirements with State eligibility requirements	✓	
16. Remove the title of 'Alderman'	✓	TasCOSS agrees a contemporary Act should align language with community expectations and supports removing gender biases.

36. Strengthen the information gathering powers of the Director of Local Government	✓	Supports additional powers being provided to the Director of Local Government to seek information from councils.
37. Create a power for the Director of Local Government to address compliance issues	✓	Supports additional powers being provided to the Director of Local Government to address council non-compliance.
38. Establish a Monitor/Advisor role	✓	Supports additional powers being provided to review and monitor council performance.
39. Establish the power to appoint a Financial Controller	✓	Supports additional powers to manage financial risks.
40. Continue to conduct formal investigations by the Director of Local Government	✓	Supports additional powers to investigate legislative breaches.
41. Provide for the Minister to dismiss a council or individual councillor	✓	Supports additional powers for the Minister to intervene and dismiss a council or councillor.
42. Create offences for mismanagement and poor governance (maladministration)	✓	Supports sanctions for maladministration.
43. Simplify the complaints framework	✓	Supports simplicity and efficiency in complaints processes.
44. Introduce a local government performance reporting framework	✓	This supports TasCOSS Recommendations 6 & 8.
45. Require councils to publish a compliance statement in the Annual Report	✓	This supports TasCOSS Recommendations 6 & 8.
46. Remove prescription around Annual Report	✓	This supports TasCOSS Recommendations 6 & 8 while allowing for input through the Community Engagement Strategy.
47. Support efficient and high-quality council operations and shared service opportunities	✓	Supports the removal of barriers to further collaboration, shared services and resources across councils.
48. Introduce the option to create Regional Councils	~	TasCOSS requires further detail and information on the concept and benefits of 'regional councils' and how its creation is a more efficient and effective model than council amalgamations.
49. Create model by-laws for common issues, with streamlined administrative processes	✓	Supports streamlined administrative processes that encourage consistency and reduce the administrative burden on councils.
50. Strategic reviews of councils	~	
51. Voluntary amalgamation	✓	

Conclusion

TasCOSS is supportive of a vast majority of the reform areas outlined in the *Reform Directions Paper*.

TasCOSS' support centres on those reforms that broaden and deepen democratic participation by residents and create efficiencies that may lead to lower rates and levels of regulation.

TasCOSS was disappointed that reforms did not extend to improving the social services that local governments provide to disadvantaged people and the community, or express an intention to retain a rates exemption for organisations providing charitable services.

Tasmania has a high proportion of people living in disadvantage and the broad functions of councils set out in the Act include providing for the health, safety and welfare of the community. Reducing social disadvantage should be a core objective of local government and as the closest level of government to the community, councils have a vital role in identifying community needs and making sure those needs are met. This includes improved governance and community engagement, more efficient and effective administration and improved service delivery, particularly in relation to land use, housing, transport, employment, infrastructure, health and well-being and supporting community organisations that are taking the lead in providing those services.