

LATE ITEM M20/5742 - COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)

Ward : All
 Category : Operational
 Subject Index : Audits – Compliance
 Customer Index : Department of Local Government
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Item M19/5666 - Compliance Audit Return 2018 - Ordinary Meeting of Council 19 March 2019
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Corrine Newman
 Governance Coordinator

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input checked="" type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- All Western Australian Local Authorities are required to undertake a Compliance Audit Return (the Return) and submit their findings to the Department of Local Government, Sport and Cultural Industries (the Department) by 31 March each year.
- This year's Compliance Audit Return contain 104 questions, with 102 questions receiving a positive response
- 98% compliance was achieved.
- The 2019 Compliance Audit Return was considered at the Financial Management, Audit, Risk and Compliance Committee meeting held 9 March 2020.
- It is recommended that the Compliance Audit Return 2019 be adopted.

BACKGROUND

A Compliance Audit Return was conducted covering the period 1 January 2019 to 31 December 2019. The completed Compliance Audit Return forms part of the Attachments to the Agenda [5742 Compliance Audit Return 2019](#).

It is a requirement that the Compliance Audit Return is presented to the Council for adoption. A copy of the Council report and a certified copy of the return are required to be endorsed by the Mayor and Chief Executive Officer and submitted to the Department of Local Government, Sport and Cultural Industries by 31 March 2020.

DETAIL

The 2018 return had 95 questions and there were 104 questions on the 2019 return. Being an election year there were two questions on elections, three additional questions on disclosure of interests, two additional questions on tenders and two questions removed relating to finance.

The Compliance Audit Return only assesses compliance against the *Local Government Act 1995* and associated Regulations. The responses of Officers to the 104 audit questions have been audited by the Process Improvement Auditor who has included his comment in this report. This year's audit has in the opinion of Officers provided 98% compliance. The City has taken this additional audit examination approach for some years. During the audit examination some minor potential improvements in the City's current practices was identified and will be actioned in 2020.

The 2018 Compliance Audit Return continues in a reduced format with the Department only testing those areas considered to be high risk in this Return. The questions relate to:

- The Local Government Act 1995;*
- The Local Government (Administration) Regulations 1996;*
- The Local Government (Function and General) Regulations 1996; and*
- The Local Government (Audit) Regulations 1996.*

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Regulation 14 of the *Local Government (Audit) Regulations 1996* requires each local government's Audit Committee to review the Return and report the results of that review to the Council.

The areas that the return relates to and the changes from previous year is below

Section number	Area of legislation	Number of questions	Additional questions to previous year
1	Commercial Enterprises by Local Government	5	
2	Delegation of Power/Duty	13	
3	Disclosure of Interest	19	3
4	Disposal of Property	2	
5	Elections	2	2
6	Finance	14	-2
7	Integrated Planning and Reporting	7	
8	Local Government Employees	5	
9	Official Conduct	6	
10	Optional Questions	4	
11	Tenders for Providing Goods and Services	27	2

The *Local Government (Audit) Amendment Regulations 2013* extends the current role of local government Audit Committees to encompass a review of areas such as risk management, internal control and legislative compliance.

The transfer of responsibilities to local government Audit Committees enables local governments to manage legislative compliance within their own timeframes, with increased transparency and involvement from Elected Members

The Return has been compiled with continued substantial rigour beyond that experienced in most Local Governments. Officers have been required to demonstrate compliance and provide detail of their work to ensure the work procedures of the City assist to meet obligations of the Act and Regulations.

It is pleasing to note that there is an ongoing increase in Officer knowledge of compliance matters and where possible, systems have been amended to assist with compliance requirements.

The Return containing the questions and responses is provided as an attachment. This document is provided by the Department of Local Government, Sport and Cultural Industries in an on-line environment to allow local governments to update the Return with their responses and when completed, print for certification by the Mayor and Chief Executive Officer.

The City's Compliance Calendar was introduced in 2008 and this is a major improvement to assist management of all compliance matters and is considered to be best practice in the local government industry. The Calendar is updated monthly which enables a management response should a matter require attention.

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)**The Process Improvement Auditor's comments**

The Compliance Audit Return for 2019 has 104 questions, and answers to all questions were checked for correctness.

FindingsNon Compliances

Disclosure of Interest Section

Section 5.75(1) of the Local Government Act 1995 requires a relevant person (a council member or an employee with delegated authority) to lodge with the CEO a primary return within three months of the start day.

Section 5.76 (1) of the Local Government Act 1995 requires a relevant person to lodge with the CEO an annual return by 31 August of that year.

Two non compliances were noted in this Section. One relates to a non filing of a Primary Return by a designated employee breaching Section 5.75(1) due to an oversight by the Corporate Administration Team. A Primary Return was not sent to the designated employee therefore, no such return was completed.

The other relates to a non filing of an annual return by an Elected Member due to personal circumstances breaching Section 5.76(1) and this case was reported to Corruption and Crime Commission as required by the legislation. After considering the circumstances the CCC advised no further action would be undertaken.

Improvement Actions

The Governance Team will review the reporting and monitoring processes and conduct quarterly checking to ensure full compliance.

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)Opportunity for Improvement

Integrated Planning and Reporting Section

Regulation 19DA of the Local Government (Administration) Regulations 1996 states the following:

19DA. Corporate business plans, requirements for (Act s. 5.56)

- (1) *A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*
- (2) *A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.*
- (3) *A corporate business plan for a district is to —*
 - (a) *set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and*
 - (b) *govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and*
 - (c) *develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.*
- (4) *A local government is to review the current corporate business plan for its district every year.*

Improvement Actions

Whilst the Council 'ensures' the corporate business plan is still relevant as part of the review of the community annual report process, it is considered better practice if the corporate business plan is reviewed each year by Council as a separate item to ensure its appropriateness. It is also considered better practice if the annual review of the corporate business plan includes matters relating to asset management, workforce planning and long term financial planning as specified in 19 DA(3)(c) above.

The CEO has indicated that the City's corporate business plan is set at a high strategic level and the Executive Leadership Team continues to ensure its relevance. Nevertheless the CEO has agreed that the current process can be further enhanced and the corporate business plan including matters relating to asset management, workforce planning and long term financial planning will be reviewed by Council as part of the budgeting process every year going forward. The first review is scheduled to take place in late 2020.

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The Department of Local Government Compliance Audit Return 2019 was considered by the Financial Management, Audit, Risk and Compliance Committee meeting held 9 March 2020, where the following was resolved:

“That the Financial Management, Audit, Risk and Compliance Committee recommends to the Council that the Compliance Audit Return for the period 1 January 2019 to 31 December 2019 5738 Compliance Audit Return 2019 be adopted and following certification by Mayor Honourable G Gear and the Chief Executive Officer, be forwarded to the Department of Local Government, Sport and Cultural Industries.”

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

No external consultation has been carried out.

II. OTHER AGENCIES / CONSULTANTS

No external consultation with other agencies has been carried out.

STATUTORY AND LEGAL IMPLICATIONS

As per the requirements of the *Local Government Act 1995*, Section 7.13(1) (i) and *Local Government (Audit) Regulations 1996* (Regulations 13–15).

FINANCIAL IMPLICATIONS

There are no financial implications for the Council associated with this compliance audit.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The compliance audit will not impact on the strategies of the Council. There is no risk or environmental management implications in this report.

Risk Statement	Level of Risk	Risk Mitigation Strategy
The Compliance Audit Return is a statutory requirement and if the Return was not submitted, the Department of Local Government might take adverse action on the City.	Minor consequences which are possible, resulting in a Medium level of risk	Complete and submit the Return by the due date.

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

There are no specific policy implications, except where it can be determined that a matter may be subject to policy change where it does not currently comply with legislative requirements. There are no such instances identified in the return.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The completion and submission of the Return by the due date is a statutory requirement.

CONCLUSION

The City is compliant in 98% of the 104 questions that have been examined for their accurate statutory completion. The Compliance Audit Return was considered by the Financial Management, Audit, Risk and Compliance Committee meeting held 9 March 2020, where the Committee resolved to recommend to the Council that the Return be adopted.

COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION (5742) APPROVAL

That the Council endorses the Compliance Audit Return for the period 1 January 2019 to 31 December 2019 [5742 Compliance Audit Return 2019](#) and following certification by His Worship the Mayor and the Chief Executive Officer, the Return be forwarded to the Department of Local Government, Sport and Cultural Industries.