

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND
FINANCE**

LOCAL GOVERNMENT ACT 1995

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
ON FRIDAY, 3 OCTOBER 2003**

SESSION 2

Members

**Hon Barry House (Chairman
Hon Ed Dermer (Deputy Chairman)
Hon Murray Criddle
Hon John Fischer
Hon Dee Margetts
Hon Ken Travers
Hon Sue Ellery**

ROBARTSON, MR CLIVE
President, Western Australian Local Government Association,
examined:

BURGES, MS RICKY
Chief Executive Officer,
Western Australian Local Government Association,
examined:

WITTBER, MR BRUCE
Policy Manager Governance, Western Australian Local Government Association,
examined:

The CHAIRMAN: On behalf of the committee, I welcome you to the meeting. You will have all signed a document entitled "Information for Witnesses". Have you read and understood that document?

The Witnesses: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones, which are not there for amplification but for Hansard's recording. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing.

Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Would you like to make an opening statement to the committee?

Ms Burges: The association thanks the committee for the opportunity to put forward a submission. Briefly, in relation to the matters being discussed, the association is of the view that the Local Government Act 1995, which we are calling the Act, properly allows for a legally constituted local government to appoint its chief executive officer. The association believes that the processes followed by local governments in Western Australia in recruiting and selecting their CEOs are sufficiently rigorous and consistent with human resource contemporary practices. Although that does not allow for human error and failure, we still believe that the Act is sufficient and that the practices that are being undertaken are appropriate.

The CHAIRMAN: Thank you, Ricky. I will ask a series of questions on behalf of the committee, some of which you have already alluded to, and then individual members may also ask questions. What is the Western Australian Local Government Association's position on the practice of local governments headhunting their CEOs rather than advertising the position widely?

Ms Burges: The association's position is that individual local governments should retain the autonomy to make those decisions themselves. There is such a diverse range of geographic locations for local governments - metropolitan, rural, regional and remote areas - that they require

absolute flexibility in being able to attract suitable candidates. One size does not fit all for local government and we believe that they should retain that flexibility and be able to do that.

Mr Wittber: Although the position is advertised, it does not necessarily preclude headhunting or encouragement to apply for positions. If the inference in the question is that local government either advertise or headhunt, they are not mutually exclusive.

The CHAIRMAN: When the Local Government Act 1995 was introduced and enacted, what was the reason for abandoning the minimum qualification requirements for local government CEOs existing under the Local Government Act 1960?

Mr Wittber: The broad philosophy, as I recall from the discussions that stretch back probably 10 years before the new Act, was that there was an increasing requirement under the 1960 Act to seek ministerial approval for appointments. It was generally considered that a number of the CEOs or the clerks of the council - as they were then called - who were being appointed, were being brought in from areas external to the local government industry. It was seen as unnecessary to continue to regulate the process. It was also a unique situation in which a clerk of a council had certain qualifications but was not necessarily competent to do the job in that sense. More and more councils required local governments to seek a higher level of education for appointments. At the end of the day, the municipal clerk certificate - I hold one of those - does not mean anything in the context of current best practice in recruiting chief executive officers and principal officers of local governments.

[11.20 am]

The CHAIRMAN: The committee understands that the Western Australian Local Government Association provides a recruitment and selection service for local governments. Could you please outline how this service operates?

Ms Burges: It is a service that is available if requested, so obviously it is not mandatory. It is the same type of service that many of the other recruitment agencies offer to businesses, including local governments. It provides for a range of things from simply taking over the administrative processes, which might be just the advertising, accepting applications and short-listing, through to being involved intimately in every aspect of the recruitment process, supporting a council through that process of recruitment.

Mr Robartson: The association of course would, and does, strongly support the position that we would like to see, of course, the best people filling senior positions in local government. I believe that the processes that are in place enable that to take place. We would not see the setting of mandatory qualifications; we would in fact oppose that because we strongly believe that local governments need to have the ability to appoint people they believe to be the best for the position they are offering and, as such, need to set up, and are capable of setting up, adequate committees to address that issue, which we believe should be determined by the council through its proper council process, so that it can carry out a transparent process to elect a chief executive officer or other senior positions as the policies of the council may dictate. That would be our strong view - that is, that councils should be in a position to be able to do that of their own right.

The CHAIRMAN: According to question (d), the Chief Executive Officer of the Shire of Broomehill has stated in his submission to the committee that -

I believe that a well developed 'Employing your CEO' Guide, similar to the [WALGA] Purchasing and Tender Guide, would go a long way to avoiding conflicts such as the current one at Joondalup.

Has WALGA given any thought to preparing such a guide for local governments?

Ms Burges: Yes, we do at the moment have a number of, I suppose, recommended strategies and processes. That particular reference to a guide for a best-practice way of employing a CEO has not been developed, but it could well be developed. It is not at the moment on the agenda.

The CHAIRMAN: What is the position of WALGA with respect to the provisions of the Local Government Act 1995 relating to making documentation held by local governments, particularly those concerning the employment of CEOs, available to (a) individual councillors and (b) the public? Is it appropriate that the CEO should have the final say on what is public or private under section 5.95 of the Local Government Act 1995?

Ms Burges: I will start with a response, and perhaps my colleagues will join me. I hope I have the gist of the question right. My view, and the association's view, is that the people who should have the ability to access information relating to a recruitment process and undertake activities on behalf of that process are only those people involved in the panel doing the recruitment. Therefore, I do not believe that individuals outside of that process should be involved in seeking additional information or seeking out copies of documents until that process has been completed. So, if the question is along the lines of should people outside the panel be involved in seeking reference checking and doing things like that, the association would not support it. It is not the position that the State Government and public sector take, and we think that that is best practice, and we would support that.

The CHAIRMAN: I think the question is a little broader in terms of making documentation available to individual councillors and the public, not just specifically in relation to the selection of a CEO.

Hon KEN TRAVERS: Section 5.95 specifically relates to the CEO's contract and what should or should not be made public from that contract.

The CHAIRMAN: Do you have any comment?

Ms Burges: Sure. Sorry, I was just reflecting for a moment. I think the association's view on that is that a transparent process is the most appropriate way to go once a decision has been made. I suppose the distinction I was making was prior to an appointment being made and afterwards. Once an appointment has been made, I think that documentation that has been used in that process should be made available to the employing organisation. I think we would stop at the community, but in terms of the organisation that has made that appointment, that information should be made available.

Mr Wittber: Picking up Mr Travers' point, are you referring to any documentation, or are you referring specifically to human resource selection process documentation?

The CHAIRMAN: The question was general, but particularly related to the employment of CEOs because this is our case study situation.

Mr Wittber: I would support what my CEO has sort of said in that regard. Common practice within the local government environment is that each council will make its own determination of what access individual councillors will have to the material that is provided. For instance, when I have been employed within the local government sector, all of the councillors have had my application. There have been occasions when only the selection panel has had the application. I suppose it comes down to this question of trust in the process. I would agree that there is no valid reason for the community to then access that information, as was said, in much the same way as occurs in the public sector.

Hon KEN TRAVERS: I am particularly interested in your views on what should or should not be made available from a CEO's contract. Should it be agreed to by the council, or should that be something that can be delegated? Secondly, once that has been signed by everybody, what parts of that contract should be public?

[11.30 am]

Ms Burges: To the general public?

Hon KEN TRAVERS: Yes.

Mr Robartson: I think initially certainly the selection panel should sign off on what is agreed with the proposed CEO in terms of a contract and what is determined during an interview process, and that should of course then be referred to the council to make the final decision on the appointment. That would be the normal process, I believe - not the normal process but the process that is required to be followed - so that the council could make a decision on the appointment. What information should be provided to the community to some extent I believe should be determined by the council. The most important criteria, as I would see it, would be that the process is carried through correctly and is transparent. Some detail I am sure can be made available to the communities, but I think it should be in keeping with what would be expected in other areas of the community, such as the state and private sector, in terms of the employment of people at that level and the sort of information that should be provided to the community, keeping in mind that today some of our councils are extremely large. They are very large businesses, and the councillors are in effect directors of large companies. I believe the process that should be followed should be in keeping with what happens in both the public and private sector and the appointment of people at that level. Undoubtedly, some information I believe should be made available to the community in terms of perhaps the length of the contract, some indication of the salary packaging and what level that may expand to and what other provisions are made, but ultimately I think the council as elected by that community, to represent that community, should make the determination on what information is important and relevant to the community.

Hon KEN TRAVERS: Can I just clarify that? Going back to the first part, are you saying that a copy of the contract that is to be signed by the council and the CEO should be provided to all councillors when they make the decision to employ that person? They should have a copy of the contract that is to be signed in front of them.

Mr Robartson: I did not say that. My belief would be that the selection committee that the council has appointed to carry out that role certainly would need to have that information. I do not necessarily believe that it would be necessary or prudent to make that available to all of the council.

Hon KEN TRAVERS: When you say that information, are you saying a copy of the contract to the selection committee?

Ms Burges: Standard practice as it is applied in the public sector and in private industry is that once a selection panel has made the determination on the recommendation and an offer is made to an employee, it is generally the organisation not the selection panel that does the contractual arrangements. In my experience from my time in the State Government and the public sector and in other roles I have been in, the selection panel has not actually sighted the contract and determined the contractual obligations; it is usually the organisation that determines those arrangements, in line with whatever protocols or standard systems, cultural sort of norms, are in that organisation. My view would be, and our association would support that, that it is the council's role and responsibility to deal with the contractual obligations. However, I also add to that, that I think that under the Act, if I am right - I might not be - the public and anyone in fact can request details and that there is an obligation to provide that.

Mr Wittber: That is my understanding.

Hon KEN TRAVERS: There is an obligation to provide details in respect to three issues, but it is then left to the CEO to determine what is public and what is private in respect of the rest of the contract under the existing Act. That is an area I am particularly interested in. Section 5.95 states -

- (5) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in paragraph (t) -

Which is the CEO's contract -

of that section if -

- (a) the information relates to a matter other than the salary or the remuneration or benefits payable under the contract; and
- (b) in the CEO's opinion, the information should not be available for inspection by members of the public because of the private nature of the information.

Ms Burges: I would support that.

Hon KEN TRAVERS: The broad wording is fine, but if the interpretation was that everything in that contract, other than the salary, remuneration or benefits payable, performance indicators, and all of those things are private in nature, would you support that?

Ms Burges: You are saying performance indicators. Yes, I would. I believe that the business of an organisation is the business of the organisation, not the general public. So I think that those items that you have read out in terms of term and salary - those three matters - I think it is reasonable that that is provided to the community, but I do not think the general aspects of the contract should be.

Mr Wittber: When you talk about performance indicators, there are obviously two components to that. There are the personal performance indicators of the individual and there are the organisational performance indicators. It would seem reasonable that the organisational ones should not be intertwined with the personal ones, because they generally are available on a community basis through responding to the requirements of the principal activity plan etc. You just need to be careful when you use the words "performance indicators". I think we need to come back and delineate that the personal ones for the role and the position are reasonable to remain confidential but the organisational ones have a different role.

The CHAIRMAN: The last question on behalf of the committee is: do you regard the situation at the City of Joondalup as an extraordinary and isolated case, or do you believe that the same problems could arise in any local government in WA?

Ms Burges: That is a very general question, in a sense, and quite broad because it depends on what one interprets as the issue at Joondalup. I think there are many complicating aspects to that. The experience of the association and members of the association has been that people that are working in such intense and demanding environments, political environments, have issues that come up that throw those people into situations, and they are all different. I mean, we have situations that occur all the time, and there are always different factors that sort of impact. My feeling, when I look at what has taken place at Joondalup, is that the democratically elected members of the local government there - the business of Joondalup as a business - operate very effectively and very efficiently.

[11.40 am]

They are a very large and effective organisation. The elected members understand their role and have been democratically elected. All the systems and processes and everything are there that will enable it to do what it is meant to do. We would not support tampering with that or changing that because we think they have the right to operate independently and as powerfully as they do. However, what I think you are talking about or what seems to be the issue here is the human factor. One cannot legislate for human failings or for the way people behave and act. The association's view on that is that we have to work at a different level; not legislate for that, but to try to change the behaviour and cultural aspects. Where we might have seen one failing, we would hate to think that the local government community needs to be legislated to deal with one issue.

The CHAIRMAN: Does the association have a view or can it make any observations about where problems might arise in terms of whether there is a directly elected mayor in that organisation or the mayor or the shire president comes from within the elected body itself?

Ms Burges: We do. I will check whether the president wants to take this opportunity to respond.

Mr Robartson: It is interesting. It is an issue that should perhaps be addressed. There are certainly a number of issues relating to whether the mayor is directly elected or elected by the council. It has certainly changed in the present Act from the previous Act. One might ask whether a mayor elected popularly is required to have both a deliberative vote and a casting vote. I think that certainly introduces some additional pressures on that role. I think it is an issue that needs to be addressed in the Act and I hope that in the future that will be looked at. Certainly the role of the CEO in this environment today is very demanding. I think the CEO has referred to that aspect. It is an extremely demanding one in a very large local government such as Joondalup. It takes a considerable amount of time. I believe it can be readily likened to a director general of a state department and yet also has the need to be liaising and working with a group of elected members and all the pressures that are associated with those sorts of roles, some of which can, of course, be of a political nature. It places an incredible demand, both in workload and emotionally, on a chief executive officer of a very large local government. I think those sorts of things need to be recognised both by government and local government - the local government involved - and also by the community.

The CHAIRMAN: Individual members now have some questions.

Hon KEN TRAVERS: My apologies for going back to this but I am still not clear on your view as to who should see the contract and agree to the contract before it is signed on behalf of the council. In terms of council members, who exactly should sign it?

Ms Burges: The council, in my view, should have determined before they get to offering the contract who has responsibility for that. My experience has been that very often that is delegated to a selection panel. If that is the case, they may have delegated authority to that panel and that is the group that sees the contract. In other cases, whole of council takes on that role. If that is the case, then whole of council should have access to whatever contractual arrangements are being offered. If it is being delegated, then it should go to the panel it has been delegated to. At the end of the day it should stay - I am not sure whether that is what you have been asking - within the organisation, not outside.

Hon KEN TRAVERS: If you are delegating, it should be very clear that you are delegating that authority to that group to take that action.

Ms Burges: Yes.

Hon KEN TRAVERS: All right. The next question is in respect of what is made public out of a contract. If you support the existing Act, my view from personal experience is that a CEO can prevent all information in a contract being provided to the public with the exception of the salary or remuneration or benefits payable under the contract and that the CEO has the right to determine what else is made public and that is his sole right with no other appeal to the council or anyone else. Is that a position with which the Western Australian Local Government Association agrees?

Ms Burges: Yes, it is. We support that.

Hon KEN TRAVERS: Should only those three things be guaranteed to the public?

Ms Burges: Indeed. We have a very strong view about the role of governance within a council and the role of management and operational issues. We clearly see that as an operational issue, not a governance issue. There is a separation and we would support that.

Hon KEN TRAVERS: All right. You have mentioned in your submission that you do not believe that local governments should be constrained by processes or requirements that are better suited to large-scale centralised state or federal government agencies. Your president recently made the comment that some councils are so constrained, and that is one of the issues. In some cases, councils are larger than many government agencies but some are the same size as some of the

smaller government agencies. Surely the processes for those larger ones should more closely mirror the processes for large government agencies in terms of their selection processes. Would you agree with that?

Ms Burges: I would say that they probably do; that most large organisations have no choice other than to put systems and processes in that allow them to do the many different tasks they have to do. The point I have made is that it should be their choice, not “one size fits all” because if we legislate and say that everyone must do it, it would create another compliance for local government that would swamp and drown them. It is a much better way to go by using best practice and to allow them to operate the way that they have been, which is by choosing to do it rather than legislating for it.

Mr Wittber: Chairman, my experience is that in many cases it would exceed what the state public service does; I speak having sat, as other people have, on selection panels and also having been interviewed in that sort of process. I would say that local government in a number of cases, particularly the larger ones, tend to do a lot more than perhaps occurs with some of the senior positions within the public service.

Hon KEN TRAVERS: The problem is that there is no minimum standard, is there? You may do it well -

Ms Burges: Can you explain what you mean by minimum standard? Are you talking about qualifications?

Hon KEN TRAVERS: For instance, one of the things I would put to you is that maybe a way of going is, rather than Parliament regulating how to do it, at the start of the selection process a council be required to very clearly identify the salary it intend to offer and what it believes the qualifications should be. That does not necessarily mean that applicants must have academic qualifications; they can be in a whole range of areas. If at the end of the process the council wishes to change that requirement, it needs to be very clear and transparent about why it changed from its original position. That is something that you would require and it would allow flexibility. I would also ask the question as to why you could not ask a body like the Salaries and Allowances Tribunal to provide that advice because it provides advice for government agencies that range from very small to very large organisations, and it can deal with issues such as hard-to-staff locations. It could say, “Yes, this would be the normal salary band for that size organisation - \$100 000 - but it is a difficult area to staff, so you could probably allow up to \$40 000 as a hard-to-staff allowance.”

The CHAIRMAN: Let us get a question.

Hon KEN TRAVERS: Well, I think there is a range of questions I have asked. Would they not be good processes; that is, to make it clear up front how local governments intend to proceed through the selection process, and if they vary that during that time they need to explain why they varied from the original position?

Ms Burges: I can pick up some of those things; I will try to remember them. First, we do not support minimum qualifications - we would certainly not do that. That is not a position that the association takes. We would say that is going back to the 1960s Act, and that is not where we want to be. We are trying to move forward. That would be one thing.

[11.50 am]

The second thing is that we would not support legislating for any of those things, because local government is independent. It is not State Government. It is independent of State Government. The members of local governments have been democratically elected and in many cases have developed better systems and processes than State Government. Our position is that we would continue to want to develop guidelines, recommendations and best practice. If there was an incident in which we could see that a member of a local government did not have that, then we

would work with that individual as opposed to trying to legislate and take away the flexibility and independence of local government. Councils must be left to determine these things for themselves.

Hon ED DERMER: Does the association believe it is good practice for individual councils to set their own minimum qualifications for a CEO before embarking on finding candidates for such a position?

Ms Burges: That requires a double-sided answer. It is not best practice that they set minimum qualifications, but it is best practice that they decide whether they want to do that or not. However, if that is their choice and they want to do that, then they should do it prior to setting off on a recruitment process.

Mr Wittber: Most councils will determine their selection criteria and a whole part of that process before they embark on it, which will include the sorts of skills, knowledge and experience that they are looking for in their successful applicant.

Hon ED DERMER: If I understand you correctly, you are saying that councils make their own decisions about whether they should set a priori minimum criteria for CEOs. What about other senior officer positions? Should councils as best practice set minimum criteria for those positions?

Ms Burges: Again, it would depend on what the position is. Some positions require it. If we are talking about engineers, planners and architects etc, those positions obviously require a minimum qualification, and that should be clearly stated. Prior to setting off on a recruitment process, all of those things should have been determined. We would be suggesting and recommending that right from the very beginning, if there is a vacancy they go back and look at whether it is a genuine vacancy. If it is a genuine vacancy, then they should redescribe it and make sure it is still doing the things they want it to do. Criteria should be set for that, and that should include minimum qualifications, if that is important to the council as an organisation. All of the things in the criteria should be determined beforehand and everybody should know about them. I would then carry it further - this is not what you have asked - but having done that, it is then the responsibility of the panel, or the agent of the panel, of the council to make sure that those things that have been asked for in the criteria are provided by the applicants and to determine that they are there.

Hon ED DERMER: Your answer relates to my next question. You advised us earlier that the association has a body available that local councils can choose at their discretion to assist them in their recruitment process. Is it the practice of your association's recruiting arm, if I can use that expression, to examine academic records from universities or in other ways to verify the validity of claims made in the resumé or applications put forward by candidates for positions?

Ms Burges: Yes. It is a responsibility that is taken on by the recruiting arm, which is called Workplace Solutions, to check that the references and qualifications that are provided are real and can be verified. It is our responsibility to do that.

Hon ED DERMER: Does the association recommend to local government authorities throughout the State that practice of verifying claims in applications for positions?

Ms Burges: Absolutely.

Hon MURRAY CRIDDLE: If I can take you to our terms of reference, this inquiry was set up at the request of the Minister for Local Government because he was of the view that he could not inquire into these matters. Given that an assessment process is being used at Joondalup at the current time on some of these issues, are you happy with the current arrangements that are in place under the Act to clarify the power and processes of a local government to appoint a chief executive officer; to allow for regulations which establish matters that must be considered in relation to each applicant for appointment; to permit individual councillors to verify the accuracy of any information provided during a selection process; and to provide for transparency in the terms, conditions and contracts of employment for chief executive officers? Are you comfortable with the

Act as it stands? Do you think local governments are able to handle these issues without the need for any changes to the legislation? I must say I am not a great believer in changes to legislation.

Ms Burges: Yes, we are. We do not believe there should be any changes. We believe that the Act as it stands allows for that to occur.

Hon JOHN FISCHER: I would like to revisit a topic that has been discussed. You oppose the setting of mandatory qualifications for local government CEOs across-the-board. I must add that I am not particularly in favour of implementing any more legislation. However, in terms of improving the legislation, I am interested in your view of the thread that would connect an organisation such as the City of Joondalup with the Shire of Sandstone. It seems to me to be putting the lot into the one basket, when the variations are absolutely immense. I would like to know your view on the rules and stipulations that may apply in some areas but not in others. Sure, the duty of care on a group of councillors in a small country shire is the same as in a large council, but the responsibility, and the pressure, for want of a better word, is far less than it would be in the city of Joondalup. Can some bottom line be drawn across local government organisations to allow councillors to know that they are operating with information that is correct?

Ms Burges: I am not sure that I understand the question.

Hon JOHN FISCHER: You seem to me to be against the setting of mandatory qualifications across the board. However, the variation between councils is very great. Do you think at some stage there should be minimum qualifications; for example, in the City of Joondalup?

Ms Burges: No.

Hon JOHN FISCHER: You are totally against that?

Ms Burges: If you are talking about qualifications, absolutely. As I expressed before, back in the 1960s we used to demand that, and we found that the people who were getting jobs were those who had qualifications and perhaps little else. That is really not what organisations are looking for these days. Many times experience outweighs qualifications. I think that is the case in councils and organisations generally. In another life I am President of the Australian Institute of Management, so I have experience there as well.

[12 noon]

That experience used to be called required previous learning - RPL. It has been demonstrated on many occasions that people with previous experience have as much or perhaps more skill than people holding qualifications. If we legislate for that, we will put organisations in a straightjacket, which is not where we want to take them. We need to promote rather than legislate for best practice and the right way to do things.

Mr Robartson: In part, the reason we put a recruiting service into place was to assist local governments, particularly the smaller ones. Reference has been made to the Shire of Sandstone. WALGA can assist those smaller councils when they recruit a CEO. We can advise them along the way of the necessary qualifications, if that is important. However, in some ways, you answered your own question, Mr Fischer. There is a difference between Joondalup, Melville, Stirling and Sandstone, Cue and other areas. That is why flexibility is needed with regard to qualifications and what is required of a particular local government when the CEO carries out the roles required of him.

The CHAIRMAN: We would not want to advocate minimum qualifications for members of Parliament, would we!

Hon DEE MARGETTS: Ricky, you mentioned that WALGA had developed a number of recommended strategies and processes. If you have not already provided the committee with that information, could you provide the committee with what you think are the range of best practices with regard to employing a CEO? I refer to the frequent comments you made that the council

should be the deciding factor; that is, the elected members of the council are the employers of the CEO. What advice would you give a member of a selection panel who is given only a summary of information about a candidate, yet that person on the panel would like to verify and obtain further information but the recruiting agency directs the panel member not to do that? What should that councillor do? Just like a member of a board, a member of a selection panel can be given advice or orders from an organisation. The decision should be left to the selection panel. What advice could you give to a member of a selection panel about what should be done when the member is told he is not permitted to seek verification of the information that has been provided and that he cannot or should not access information to verify the applicant's claims?

Ms Burges: I thought I would have a cup of tea first. I have to just step back a bit and see whether I understand the member's question correctly. If I go back to, as I say, a model of corporate governance, and say that the council has the responsibility to govern, at the end of the day, the business of the council is to manage and operate the council. However, when that is suspended and it seeks a CEO, I must step back from that process. Many organisations and councils would appoint a panel and those panel members would seek information. I am not sure who has said he has been told he cannot access that information. Clearly, it is the responsibility of the member on that panel to make sure that he has been provided with the proper information and that it is accurate. The panel members should ask questions until they have got it right. If that scenario occurred in our association and we were not providing that information, there would be a problem and we would have some responsibility.

Hon DEE MARGETTS: I will clarify that. This morning we received evidence that members of the selection panel were told they were forbidden from making inquiries of their own to verify any aspects of the applications. We also heard evidence that members of the selection panel and the council were asked not to reveal the successful applicant until after that applicant had started work for the council. With regard to the verification, it may well be useful not to have everyone going off in different directions. What is your best advice to members of the panel who have been directed by an advisory body not to seek further information, and who believe that that is an inappropriate direction to have been given?

Ms Burges: First of all, I do not understand why they would be given that direction because the selection and recruitment panel has been asked to do job, and it has a responsibility to do that job. I do not understand why it would be told it could not either have access to the information or find out about that information. The advice I would give that group is that that is not a best-practice process. If they have any doubts about how to run a selection process, they should attend our corporate governance module or training and development course or they could contact our human resources unit so that they could access the HR manual of best practice to better understand it. I do not understand why they could not have access to that information.

Hon DEE MARGETTS: It might be a bit late in this case.

The CHAIRMAN: WALGA represents 140-odd councils across the vast breadth of Western Australia. Is the recruitment and employment of CEOs the major problem for WALGA? How does that difficulty rank in the association's priorities?

Ms Burges: It is not. I cannot tell the committee the number because I did not think to bring that along. The association acts on behalf of many councils by recruiting on their behalf and running that process. A reason we were encouraged to develop that business unit for local government is that we have not been impressed with some of the independent private agencies and the way they do business. I think they could certainly improve their game and could be better at what they are doing. I did not believe that local government was getting the best service, and we wanted to do that ourselves. I am not sure of the percentage, but it is perhaps one-third or more of CEO recruitments. By far, I would say that relationships between people are the biggest problem in local government - if there is a problem.

The CHAIRMAN: Do you mean the relationships between mayors, CEOs, staff and councillors?

Ms Burges: I refer to the relationships between the council and councillors and mayors and CEOs. I know that is so because recently I have done some research on press clippings that date over the past three or four years, and I am able to identify through them the main problems that affect local government. The main problems have involved relationships. My next step is to work out why.

[12.10 pm]

The CHAIRMAN: Would you like to venture a view - you may not - as to whether you think it is a factor in the Joondalup situation?

Ms Burges: We certainly know that relationships are a factor. There are stresses and strained relationships, so we know it is a factor. That has been fairly heavily reported. I guess the question is why is it so, what has caused the breakdown and what are the factors that have created the difficult relationships there? They could fall immediately into three or four headings. I can offer some comment on that, but it is not researched and not verified at the moment. I am happy to comment. I think corporate governance is one of the issues that are coming through; roles and responsibilities, working out where one role begins and another ends, so that it clearly marks where the boundary between the CEO and the mayor starts and ends; and probably the fact that each of us comes into a role, whatever it is, with a history, background and level of experience and maturity that differs from the next person. When there is not a match, tension and difficulty sometimes come out in the ways that we have seen lately.

Hon KEN TRAVERS: Where the Act requires the council to be satisfied with something, should it be delegated or should it be done by the council itself?

Mr Wittber: The Act clearly articulates what cannot be delegated. That is followed quite clearly. If the council is satisfied of X, Y, Z, and you refer back to the delegation section, you will find whether it can be delegated or not. That would be the way to achieve it. It is a bit hard to say in a generalised way that something can or cannot be delegated.

Hon KEN TRAVERS: If councils are entitled to set salaries and conditions without reference to any other body, it would therefore be possible - and you would not have a problem with it - for a council to set a salary of \$500 000 for a CEO for five years with annual reviews, so the CEO could be paid more than any other public servant in the State if the council believed that person was good enough.

Mr Robartson: Councils have that ability, but I do not believe it happens. I believe there is consultation.

Hon KEN TRAVERS: It could happen.

Mr Robartson: It can happen, but I believe generally - where I have been involved - information is sourced and taken from various agencies across the nation to determine the quantum, the criteria and where they fit with the private and public sectors and other areas.

Ms Burges: We certainly would have a problem because it would have a flow-on effect for the rest of the local government community. In a sense, we still would not agree to supporting legislation, but we would have a problem with it and we would certainly be endeavouring to influence that group. Again, I cannot imagine that anyone would do that - it could happen - but we would be working very hard to influence them.

Hon KEN TRAVERS: If it happened, there is no way you could stop it. You do not support any mechanism to stop it, do you?

Ms Burges: No.

Hon KEN TRAVERS: With regard to the process that led to the appointment of the CEO at Joondalup and the actions that have occurred since, based on your collective experience in local government, do you think it has been best practice and acceptable?

Ms Burges: It is a value judgment. I guess where I have been really disappointed has been that perhaps we have not been able to influence or to be more involved, or that someone has not at any early time - that is going right back to the very beginning - believed that it would have been helpful to have been able to provide advice at that point. In terms of best practice, I think that the City of Joondalup was let down by the people who were working for it externally. I do not think that it got the best advice, and I am sorry about that. Since then such complex and complicating factors have got involved that it has gone beyond making a statement about whether it is best practice or whether we support it. I think it is much more complicated than that. Those complex and complicated factors have created an individual situation, not a whole-of-local-government situation.

Hon KEN TRAVERS: Do any other witnesses have a comment based on their experience?

Mr Robartson: The fact that it has gone on for so long means, I guess, that one would have to say that best practice has not been followed. From my perspective in the role of the Western Australian Local Government Association, it is extremely disappointing that this has continued for so long and that it has happened.

The CHAIRMAN: Is there anything that the three of you would like to say in conclusion by way of summary?

Ms Burges: No, I do not think so.

The CHAIRMAN: Thank you very much. We appreciate your time.

Proceedings suspended from 12.17 to 12.22 pm