



20 January 2020

Committee Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane Qld 4000

Email: egc@parliament.qld.gov.au

Dear Secretary

Subject: *Inquiry into the feasibility of introducing expenditure caps for Queensland local government elections*

OSCAR (Organisation of Sunshine Coast Association of Residents) is the peak body representing resident and community organisations on the Sunshine Coast. We are a non-partisan and not-for-profit incorporated association.

Please find our responses to the recently released *Issues Paper* from your Committee.

We would appreciate the opportunity to appear before the Committee at the Public Hearing to be held in February 2020. To expedite the Committee's procedures we are happy to be included in a combined community presentation to the Committee.

Alternatively, we would like to make a presentation in our own right.

OSCAR wishes the committee well in its deliberations.

Yours sincerely

A handwritten signature in black ink that reads "Melva E Hobson". The signature is written in a cursive, flowing style.

Melva Hobson PSM
President

Email mail@oscar.org.au (NB our preferred form of communication)

General comments

OSCAR supports the introduction of expenditure caps in principle.

We recognise, however, that this is a complex issue and we welcome the opportunity to be involved in this inquiry. As a peak group representing many electors through our member organisations we are keen to engage in this consultative process in the hope that specific recommendations can come out of this process, ones that are in accord with the interests of the broader community.

We also believe the growing reliance on private donors to finance campaign spending requirements has, and will continue to create, the potential for real or perceived influence on decision making in local government which is eroding public confidence in the integrity of the political process at the local level.

While the State Government's reform banning developer donations was very welcome and will have an impact on funds available to candidates in this and future Council elections, its effectiveness on its own, should not be overstated. We have no doubt that mechanisms will be found by certain groups to circumvent the spirit of these laws if not the letter of the law.

We hope this inquiry can occur in a non-partisan environment, one that reflects the fact (a positive in OSCAR's view) that most Queensland councils do not operate on party lines **and nor should they**. Recommendations that come out of this inquiry should not be influenced by the self-interest of political parties or their representatives in local government.

We believe the Issues Paper released by the Economics and Governance Committee (EGC) articulates well some of the key points which we strongly endorse. These include:

- Equity in elections is a fundamental principle of Australia's democratic system of government.
- It is also recognised that all voters should have a fair opportunity to participate in elections, including a fair and equal chance of nomination and election as a candidate.

We share the view that there is growing concerns about the lack of restrictions on electoral campaign funding and spending. We are also concerned about the trend of increasing campaign expenditure by political parties and other election participants.

While it may be argued that donations or electoral spending are recognised as a form of political participation and can be seen as an expression of 'democratic will' we are very concerned that increasingly only the wealthy or those supported by special interest groups are the only ones that benefit from this so called "expression of democratic will".

We note that the Issues Paper points out that

"The CCC, in its Operation Belcarra Report, highlighted the findings of various previous inquiries into local government, that 'even relatively modest amounts of funding can allow candidates to swamp their opponents in terms of media exposure and other promotional activities' "

"... the CCC concluded that prospective candidates can be deterred from running for council in the first instance, and even if they do contest, may be unable to properly compete with well-funded candidates. This can limit the diversity and quality of candidates who contest local government elections."

OSCAR finds the benefits of implementing caps on electoral expenditure caps which include reducing the costs of elections and waste minimization, enabling candidates with fewer financial resources to stand for election on a more equal footing and reducing the demand for campaign funds and the consequent scope for undue influence by donors to be **compelling reasons for** expenditure caps.

OSCAR also supports public funding of local government elections in order to be consistent with funding arrangements for State and Federal elections. Increasingly and even with the proposed caps on expenditure, contesting a local government election is for the well-off and out of the reach of the majority of residents, particularly for those supporting school-age children and young families.

The current system also disadvantages women who are not working or working limited hours owing to family or other responsibilities.

We reject the argument that expenditure caps limit the freedom of political communication. On the contrary, the growing costs associated with standing for election, which excludes many in the community “putting up their hand for election”, is a far greater cause of concern.

Local government is the tier of government closest to the community and most impactful on the amenity of citizens. We should be encouraging “grass-roots” campaigning in council elections characterised by attendance at community meetings, door-knocking, letterboxing and building a team of volunteers etc; none of this requires significant financial resources and should not be overwhelmed by extensive media campaigns and direct mail which are costly to fund. However, we recognise that extensive grass-roots campaigns for candidates with existing full-time employment may be difficult to manage from a time perspective.

We also reject the argument that because it may be difficult to set realistic caps due to the changing costs of electioneering techniques, inflation, and potential exploitation of administrative loopholes and that caps can be hard to enforce that expenditure caps should not be introduced. OSCAR has consistently argued against the opinion that reform cannot occur because it would be “too difficult to enforce”. If this view prevailed we would never achieve reform and we would need to question why we have legislation and regulation in relation to anything!

We agree that the success of any system of expenditure caps for Queensland local government elections will depend on the design and features of the model implemented, and the extent to which they effectively balance freedom of political communication with the need to ensure a fair process that is free from perceptions of undue influence, and which ensures standing for office is not restricted to those with personal wealth of access to funding from interest groups.

We believe this inquiry is a good starting point but there should be adequate opportunity for further consultation, particularly from the broader community as well as sectional interest groups.

Issues for consideration

1 What are the primary campaign expenses for candidates, groups of candidates, political parties and third party groups for local government elections?

The main costs are associated with advertising or electoral communications - eg corflutes, tear-drop brochures/flyers, postage and/or delivery costs, how to vote cards, magnetic vehicle signage and car wrapping, paid advertising in the traditional media (TV, radio and print), paid advertising on platforms such as Facebook, campaign websites (domain registration, website hosting and web development).

Another category of expenditure would include costs of research associated with the electoral campaign, for example surveys of voter intention or satisfaction, focus groups and data mining.

2 What types of expenses should be included in any expenditure cap, and what should be excluded?

Include:

Advertising or electoral communications – eg corflutes, tear-drop signs, brochures/flyers, how to vote cards, vehicle wrapping, magnetic vehicle signage, paid advertising in the traditional media (TV, radio and print), direct mail campaigns, paid advertising on platforms like Facebook, campaign websites (domain registration, website hosting and development) and donations of services/goods in kind (again valued at a true commercial rate).

Use of paid personnel for letterboxing, pre and poll attendance etc.

Rental of office space for campaign purposes.

Exclude:

Travel or transport expenses; impractical and potentially unfair given the significant number of geographically large LGAs in Queensland.

Services/assistance provided by volunteers - eg where a website might be developed by a volunteer who is not otherwise engaged in such work, volunteers who manage and staff pre and poll attendance, volunteers who establish campaign committees and undertake administrative and communications responsibilities, volunteers who coordinate a candidates programs, diaries and participation in candidate forums.

3 For how long do candidates, parties and third parties campaign for local government elections?

Some candidates will start their election campaign 12 months prior to the election date. A well prepared candidate, particularly one who is NOT an incumbent will have their election campaign mapped out and materials drafted by September/October of the year preceding the election date.

4 From what period should expenditure caps apply?

The period of application for spending limits should extend from the day the nominations open for election of a new Council or Councillor, until the declaration of each local government poll at the end of that term. – i.e. the full term of council including the election period.

This prevents 'pre-spending' before the commencement of the cap and between Election Day and the Declaration of the Poll. Examples would include printing of advertising material, registration of domain name, web hosting costs etc.

OSCAR cannot see that the application of a cap over an extended period would present difficulties for candidates in terms of responding to emerging issues and engaging with electors.

5 How much are local government candidates spending on their campaigns, and how does spending vary across local government areas, and for new or incumbent candidates?

We do not know how much has been expended in the past beyond feedback we have had from some councillors in both the Noosa Council (undivided) and Sunshine Coast Regional Council (SCRC - divided), it appears that most councillors spent in the range of \$10,000 to \$15,000 which is in fact lower than the DLGRMA's proposed figures.

We do not have knowledge of how this spending varies across other LGAs or whether there is significant variation in expenditure between new and incumbent candidates.

It is true that too low a level for caps may favour incumbents and other well-known candidates, as challengers may be limited in their ability to raise their profile and overcome this advantage.

Given the variation in the size and nature of Queensland's local government areas and divisions, some form of scaling will inevitably be required under any expenditure cap scheme to reflect the different size and possibly characteristics of LGAs and divisions.

6 How much are mayoral candidates spending on their campaigns, and how does this vary across different local government areas?

We agree that mayoral candidates typically spend much more than other candidates in local government elections. We believe in the case of the SCRC the successful mayoral candidate spent in the order of \$200,000 and believe this may have been true in other large SEQ councils - ie Moreton Bay, Ipswich, and Logan. We assume Brisbane and Gold Coast would be considerably higher again.

Of course the amount of expenditure would be considerably lower for most other councils in Queensland.

7 How much are groups of candidates, parties, and third parties spending on campaigns, and how does this vary across different local government areas?

OSCAR is not aware of this information. There have not been any groups of candidates in recent Sunshine Coast local elections to the best of our knowledge. We do not believe there has been much expenditure by political parties in recent elections with the exception of the Greens and we have no knowledge of the quantum of their expenditure. We are also unaware of third party spending.

8 What factors should be used to determine variation in the applicable expenditure cap? For example, should caps vary according to:

a. the number of electors within the local government area

Yes.

In a March 2019 Discussion Paper on Local Government Reforms the Department of Local Government, Racing and Multicultural Affairs (DLGRMA) proposed the following basis for determining the quantum of electoral expenditure caps in local government elections:

- Councillor candidates in local government areas/divisions:
 - with fewer than 20,000 electors - \$10,000;
 - with 20,000 electors or more – sliding cap of 50¢ per elector;
 - with 40,000 electors or more - \$20,000.
- Mayoral candidate in Local Government areas:
 - with fewer than 60,000 electors - \$30,000;
 - with more than 60,000 electors – a sliding cap of 50¢ per elector;
 - with 200,000 electors or more - \$100,000.
- Third parties: same cap that applies for Mayoral candidates.
- Groups of candidates and political parties that endorse candidates: sum of individual members expenditure caps up to the maximum for positions to be filled in lieu of candidate caps.
- Caps are per four-year term.
- Aggregation and collaboration limits on candidates and groups of candidates using third parties to exceed expenditure caps.

At the time OSCAR was in general agreement with what was being proposed by the Department and felt that their cap formula was worthy of discussion for council and mayoral candidates – ie a lower threshold of \$10,000 for councillor candidates and \$30,000 for mayoral candidates irrespective of the number of electors under 20,000 and then a sliding scale of \$0.50 per elector up to \$20,000 for councillors and \$100,000 for mayors.

We note that in its submission to the EGC on the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 (page 9)* the Local Government Association of Queensland (LGAQ) has indicated that “*For several years now, the LGAQ has supported the introduction of expenditure caps for Queensland local government elections*”. Further, at a Special Meeting in April 2019 the LGAQ membership resolved to support “*the introduction of expenditure caps for local government elections set at \$1 per enrolled voter for mayoral and councillor elections, with lower expenditure limits (“floors”) of \$20,000 for mayoral elections, \$15,000 for councillor elections in undivided councils, or \$10,000 for councillor elections in divided councils*”. They did make the point, with which we concur, that this “*floor*” was not intended as a must spend amount.

Again, at the time OSCAR felt this level of cap was too high but in retrospect, and based on feedback from candidates who are intending to contest the upcoming 2020 Council elections, we believe the LGAQ’s position may be acceptable one, particularly for candidates for Councillor positions.

Perhaps an expenditure cap quantum somewhere between the figures proposed by the DLGRMA and the LGAQ might be the best outcome?

Sadly, neither the DLGRMA's maximum figure of \$100,000 for mayoral elections or the \$200,000 figure proposed by the LGAQ (or something between the two) are affordable for most potential candidates and therefore increasingly this mean only the wealthy or the very well-funded will be able to contest mayoral elections with any prospect of success.

One unintended consequence of this might be more party aligned candidates standing for mayoral positions to take advantage of financial support from their political party and this is something OSCAR is very opposed to as we believe local government should be free of party endorsed/funded candidates in the majority of councils in Queensland where this is not already the case.

b. whether the council is a metropolitan or non-metropolitan council

No - provided travel associated expenses are excluded for expenditure caps as we have suggested above.

c. the different categories of council identified by the Local Government Remuneration Commission, or

Yes, but this will be largely achieved by a regime of sliding caps based on the number of electors. However, as remuneration for Councillors and Mayors is determined based on the category, it could be argued that to base the cap on category would be appropriate as well.

d. some other variable?

Not in addition to the suggestions we have made above.

Note: We acknowledge that incumbent councillors and mayors have a decided advantage in elections as do new candidates who already enjoy a high profile in the community (eg sportspeople) but we do not believe expenditure caps for incumbents should be lower than for new candidates.

9 Should there be any difference in the applicable cap depending on whether the candidate is independent or endorsed by a party?

No.

10 Should higher caps be set for mayoral candidates, and if so, how should they be calculated?

Yes, but this will be achieved by a regime of sliding cap amounts per elector based on the number of electors, or by the category of Council should this method be used..

11 What caps should apply for groups of candidates and political parties? Should some form of aggregation be employed to calculate these spending caps?

We support aggregation based on the individual cap that would apply to each member of the group. There must also be a mechanism for aggregation for candidates of political parties to avoid "double-dipping".

12 What caps should apply for third party groups?

The same caps as would apply to the aggregated caps for each of the individual candidates making up the group.

Note: We have serious concerns about the role of third-parties and the caps that apply. Do these provisions mean that in a large council with over 200,000 electors, you could have a situation where one or more third parties could undertake media campaigns costing up to \$100,000 each to further their cause or to run a negative campaign against a particular candidate or group of candidates?

This problem is compounded if third parties do not need to be registered under expenditure cap proposals – how do electors judge their political independence, their membership make-up etc?

For this reason we believe that third parties should be registered so that electors are aware of the individual/s and/or organisations that constitute any third party undertaking electoral expenditure.

13 Should different caps be set for by-elections than for general elections?

No.

14 What penalties should apply in relation to expenditure in excess of a cap and/or efforts to circumvent an applicable expenditure cap?

We agree that expenditure caps are only effective in so far as they are enforced and appropriate systems must be in place so that expenditure can be properly monitored and audited against statutory caps. Additionally, any penalties for those in breach of the statutory limits must be material. Where a third party does not complete a declaration, penalty points should be applied to their executive officers.

Penalties should include significant fines and potential imprisonment. Consideration should also be given to disqualification from office of successful candidates who are proved to have breached expenditure cap limits and a ban for standing in the following election for unsuccessful candidates.

15 Are any additional powers or supporting provisions required to aid the Electoral Commission of Queensland in monitoring and investigating the accuracy of reported expenditure?

There must be appropriate powers and financial support for the ECQ to manage complaints relating to expenditure cap breaches.

The regulations need to be very clear as to what evidence must be produced by the candidate and third parties when audited, eg invoices and receipts, and where, for example, a campaign office has been rented the records should show whether the rent paid by the candidate is commercial rent as applied to other tenants for the period of time or partially subsidised by the property owner.

Where a third party is reluctant or has to be hounded by the ECQ to submit their statements that penalty points should apply to their executive officers and members.

We believe that third parties should be registered so that electors are aware of the individual/s and/or organisations that constitute any third party undertaking electoral expenditure.

There must be appropriate powers and financial support for the ECQ to manage complaints relating to expenditure cap breaches.

16 What resources or training may need to be provided to candidates and other election participants to ensure they understand their requirements with respect to any expenditure caps?

We believe it would be necessary to provide some or all of online training, information papers, factsheets and Q & As on the websites of both the DLGRMA and the ECQ; both organisations have shown they are capable of doing these things well.

It would also be useful to establish a dedicated “hot line” where candidates or third parties can seek advice on matters relating to expenditure caps.

The requirements around expenditure caps should also form part of the content of future mandatory candidate training that is now required before council elections and by-elections.