

Temporary Employment or Appointment of CEO

Introduction

This policy addresses the requirements of section 5.39C of the *Local Government Act 1995* that require a Local Government to adopt, by absolute majority, a policy that sets out the process to be followed in relation to:

- Employment of a person in the position of CEO for a term not exceeding 1 year; and
- Appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

Objective

To establish policy, in accordance with Section 5.39C of the *Local Government Act 1995* ('the Act'), that details the Shire of Toodyay's processes for appointing an Acting or Temporary Chief Executive Officer (CEO) for periods of less than 12 months of planned or unplanned leave or an interim vacancy in the substantive office.

Scope

This policy applies to the statutory position of Chief Executive Officer (CEO) of the Shire of Toodyay.

Definitions

Term	Definition
Act	<i>Local Government Act 1995.</i>
Acting CEO	A person employed or appointed to fulfil the statutory position of CEO during a period where the substantive CEO remains employed but is on planned or unplanned leave.
CEO	Chief Executive Officer
Council	The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008.</i>
Executive Managers	Executive Managers defined as Senior Employees that Council resolved (Res. No. OCM026/03/22) to designate in accordance with section 5.37 of the <i>Local Government Act 1995</i> : <ul style="list-style-type: none"> • Executive Manager Corporate and Community Services;

Term	Definition
	<ul style="list-style-type: none"> Executive Manager Infrastructure, Assets and Services; and Executive Manager Development and Regulation.
Regulations	<i>Local Government (Administration) Regulations 1996.</i>
Shire	the Shire of Toodyay.
Shire President	A mayor or president elected by the Council from amongst the councillors.
Temporary CEO	A person employed or appointed to fulfill the statutory position of CEO for a period of time not exceeding one year.

Policy Statement

The CEO is required to give notice to the Shire President and all parties that may be affected by this policy, in respect to applications for annual or long service leave of more than two weeks. A Council resolution is required for periods of leave exceeding 6 weeks.

1. Acting and Temporary CEO Requirements and Qualification

- (a) When the CEO is on planned or unplanned leave, or is absent for any other reason, or the CEO's employment with the Local Government has ended, an Acting or Temporary CEO is to be appointed in accordance with this Policy to fulfill the functions of CEO as detailed in Section 5.41 of the *Local Government Act 1995*, and other duties as set out in the Act and associated Regulations.
- (b) Through this policy, and in accordance with Section 5.36(2)(a) of the Act, the Council determines that Executive Managers appointed to the substantive position(s) of:
 - Executive Manager Corporate and Community Services;
 - Executive Manager Infrastructure, Assets and Services; and
 - Executive Manager Development and Regulation.

are considered suitably qualified to perform the role of Acting or Temporary CEO.

- (c) A person appointed to act in the position of an Executive Manager is not included in the determination set out in Clause 3 (b).

2. Appoint Acting CEO – Planned and unplanned leave for periods up to 6 weeks

- (a) The CEO is authorised to appoint Executive Managers in writing as Acting CEO, where the CEO is on planned or unplanned leave for periods not exceeding 6 weeks, subject to the CEO's consideration of the Executive Manager's performance, availability, operational requirements and, where appropriate, the equitable access to the professional development opportunity.

- (b) The CEO must appoint an Acting CEO for any leave periods greater than 48 hours and less than 6 weeks.
- (c) The CEO is to immediately advise all Council Members when and for what period of time the Executive Manager is appointed as Acting CEO.
- (d) If the CEO is unavailable or unable to make the decision to appoint an Acting CEO in accordance with (2), then the following line of succession shall apply:
 - i. The Executive Manager Corporate and Community Services will be appointed as Acting CEO; or
 - ii. If the Executive Manager Corporate and Community Services is unable to act, the Executive Manager Infrastructure, Assets and Services will be appointed as Acting CEO; or
 - iii. If the Executive Manager Infrastructure, Assets and Services is unable to act, the Executive Manager Development and Regulation will be appointed as Acting CEO.
- (e) Council may, by resolution, extend an Acting CEO period under subclause (d) beyond 6 weeks if the substantive CEO remains unavailable or unable to perform their functions and duties.

3. Appoint Acting CEO for extended leave periods greater than 6 weeks but less than 12 months.

- (a) This clause applies to the following periods of extended leave:
 - i. Substantive CEO's Extended Planned Leave which may include accumulated annual leave, long service leave or personal leave; and
 - ii. Substantive CEO's Extended Unplanned Leave which may include any disruption to the substantive CEO's ability to continuously perform their functions and duties.
- (b) The Council will, by resolution, appoint an Acting CEO for periods greater than 6 weeks but less than 12 months, as follows:
 - i. Appoint one employee, or multiple employees for separate defined periods, as Acting CEO to ensure the CEO position is filled continuously for the period of extended leave; or
 - ii. Conduct an external recruitment process in accordance with the principles of merit and equity prescribed pursuant to the *Local Government Act 1995*.
- (c) The Shire President will liaise with the CEO, or in their unplanned absence the Executive Manager in accordance with Clause 2(d) to coordinate Council reports and resolutions necessary to facilitate an Acting CEO appointment.
- (d) Subject to Council's resolution, the Shire President will execute in writing the Acting CEO appointment with administrative assistance from the Executive Manager.

4. Appoint Temporary CEO – Substantive Vacancy

- (a) In the event that the substantive CEO's employment with the Shire is ending, the Council when determining to appoint a Temporary CEO may either:
 - i. by resolution, appoint an Executive Manager as the Temporary CEO for the period of time until the substantive CEO has been recruited and commences their employment with the Local Government; or
 - ii. by resolution, appoint an Executive Manager as the interim Temporary CEO for the period of time until an external recruitment process for a Temporary CEO can be completed; or
 - iii. following an external recruitment process, in accordance with the principles of merit and equity prescribed pursuant to the *Local Government Act 1995*, appoint a Temporary CEO for the period of time until the substantive CEO has been recruited and commences employment with the Local Government.
- (b) The Shire President will liaise with the Executive Manager to coordinate Council reports and resolutions necessary to facilitate a Temporary CEO appointment.
- (c) The Shire President is authorised to execute in writing the appointment of a Temporary CEO in accordance with Councils resolution/s, with administrative assistance from the Executive Manager.

5. Remuneration and Conditions of Acting or Temporary CEO

- (a) Unless Council otherwise resolves, an employee appointed as Acting CEO shall be remunerated at the cash component of the substantive CEO's total reward package.
- (b) Council will determine by resolution, the remuneration and benefits to be offered to a Temporary CEO when entering into a contract in accordance with the requirements of Sections 5.39(1) and (2)(a) of the Act.
- (c) Subject to relevant employee relations advice, the Council retains the right to terminate or change, by resolution, any Acting or Temporary CEO appointment.

Reference Information

Delegation Register

Legislation

Local Government Act 1995

Local Government (Administration) Regulations 1996

Associated documents

Application for Leave Form.

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