

G.5 Standards for CEO Recruitment and Selection, Performance Review and Termination

Introduction

Section 5.39B of the *Local Government Act 1995* requires local governments to adopt standards for CEO recruitment and selection, performance review and termination of employment.

Policy Intent

This policy sets out standards to be observed by the Shire of Toodyay in relation to the recruitment and selection, review of performance and termination of CEOs.

Policy Statement

1. Preliminary provisions

1.1 Terms Used

In these standards —

Act means the Local Government Act 1995;

additional performance criteria means performance criteria agreed by the local government and the CEO under clause 3.1(1)(b) of this policy;

applicant means a person who submits an application to the local government for the position of CEO;

contract of employment means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

contractual performance criteria means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act;

job description form means the job description form for the position of CEO approved by the local government under clause 2.2 of this policy;

local government means the Shire of Toodyay;

selection criteria means the selection criteria for the position of CEO determined by the local government under clause 2.1 of this policy and set out in the job description form;

selection panel means the selection panel established by the local government under clause 8 for the employment of a person in the position of CEO.

Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

2. Standards for recruitment of CEOs

2.1 Application

- (1) Except as provided in subclause (2), this part applies to any recruitment and selection process carried out by the Shire of Toodyay for the employment of a person in the position of CEO.
- (2) This part does not apply —
 - (a) to the appointment of temporary or acting CEOs for a period of less than one year; or
 - (b) to a renewal of the CEO's contract of employment, except where a period of 10 or more years has elapsed since a selection and recruitment process was carried out.

2.2 Determination of selection criteria and approval of job description form

- (1) The local government will determine the selection criteria for the position of CEO, based on its consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.
- (2) The local government must, by resolution of an absolute majority of the Council, approve a job description form for the position of CEO which sets out —
 - (a) the duties and responsibilities of the position; and
 - (b) the selection criteria for the position determined in accordance with subclause (1).

2.3 Advertising requirements

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and regulation 18A of the *Local Government (Administration) Regulations 1996*.

- (2) If clause 2.8 applies, the local government must advertise the position of CEO in the manner referred to in regulation 18A of the *Local Government (Administration) Regulations 1996* as if the position was vacant.

2.4 Job description form to be made available by local government

If a person requests the local government to provide to that person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in regulation 18A(2)(da) of the *Local Government (Administration) Regulations 1996*; or
- (b) if the person advises the local government that the person is unable to access that website address —
- (i) email a copy of the job description form to an email address provided by the person; or
- (ii) mail a copy of the job description form to a postal address provided by the person.

2.5 Establishment of selection panel for employment of CEO

- (1) In this clause —

independent person means a person *other than* any of the following —

- (a) a Council member;
- (b) an employee of the local government;
- (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —
- (a) Council members who have demonstrated relevant training or experience (the number of which must be determined by the Council);
- (b) a suitably qualified human resources consultant; and
- (c) at least 1 independent person with demonstrated relevant training or experience.
- (4) All Council members must be offered training in recruitment and selection from a suitably qualified source at least once every four years.

2.6 Recommendation by selection panel

- (1) Each applicant's knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.
- (2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
 - (a) a summary of the selection panel's assessment of each applicant; and
 - (b) unless subclause (3) applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.
- (3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —
 - (a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and
 - (b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.

If no changes are made in accordance with subclause (b), then clause 2.2 above does not apply in relation to this clause.

- (4) The selection panel must act under subclauses (1), (2) and (3) —
 - (a) in an impartial and transparent manner; and
 - (b) in accordance with the principles set out in section 5.40 of the Act.
- (5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —
 - (a) assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications and skills meet the selection criteria; and
 - (b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and
 - (c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance and any other claims made by the applicant.
- (6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

Adopted by Council on 27/07/2021

V1 – G.5 Standards for CEO Recruitment and Selection, Performance Review and Termination

***** This Document is not controlled once it has been printed *****

2.7 Offer of employment in the position of CEO

Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of Council, approve —

- (a) the making of the offer of employment to the applicant; and
- (b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

2.8 Variations to proposed terms of contract of employment

If an applicant who is made an offer of employment in the position of CEO under clause 2.6, negotiates terms different to the proposed terms approved by the local government under clause 2.6(b), the local government must, by resolution of an absolute majority of Council, approve the terms of the negotiated contract.

2.9 Recruitment to be undertaken on expiry of certain CEO contracts

- (1) In this clause —

commencement day means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.

- (2) This clause applies if —

- (a) upon the expiry of the contract of employment of the person (the incumbent CEO) who holds the position of CEO —

- (i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and
- (ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;

and

- (b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.

- (3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.

- (4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.

2.10 Confidentiality of information

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

3. Standards for review of performance of CEOs

3.1 Performance review process to be agreed between local government and CEO

- (1) The local government and the CEO must agree on —
 - (a) the process by which the CEO's performance will be reviewed; and
 - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 3.2, 3.3 and 3.4.
- (3) The matters referred to in subclause (1) must be set out in a written document.

3.2 Carrying out a performance review

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
 - (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
 - (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

3.3 Endorsement of performance review by local government

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

Adopted by Council on 27/07/2021

V1 – G.5 Standards for CEO Recruitment and Selection, Performance Review and Termination

***** This Document is not controlled once it has been printed *****

3.4 CEO to be notified of results of performance review

After the local government has endorsed a review of the performance of the CEO under clause 3.3, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

4. Standards for termination of employment of CEOs

4.1 General principles applying to any termination

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
 - (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and
 - (b) notifying the CEO of any allegations against the CEO; and
 - (c) giving the CEO a reasonable opportunity to respond to the allegations; and
 - (d) genuinely considering any response given by the CEO in response to the allegations.

4.2 Additional principles applying to termination for performance related reasons

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- (2) The local government must not terminate the CEO's employment unless the local government has —
 - (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the performance issues) related to the performance of the CEO; and
 - (b) informed the CEO of the performance issues; and
 - (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and

- (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.
- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12-month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

4.3 Decision to terminate

Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

4.4 Notice of termination of employment

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.
- (2) The notice must set out the local government's reasons for terminating the employment of the CEO.

4.5 Termination payment

Any decision by the local government to provide a termination payment to the CEO in excess of the conditions of the CEO employment contract must be made by resolution of an absolute majority of the Council.

Reference Information

Related Documents

Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination – WA Department of Local Government Sport & Cultural Industries

CEO Model Standards – Explanatory Notes – WA Department of Local Government Sport & Cultural Industries

Template Standards for CEO Recruitment, Performance and Termination – WA Local Government Association

Related Legislation

Local Government Act 1995 (WA)

Local Government (Administration) Amendment Regulations 2021

Local Government (Administration) Regulations 1996

Records Management Act 2000

Associated Forms and Attachments

Version Control Information

Version No.	Issue Date	Nature of amendment	Developed By	Approved By
V0	07/07/2021	Initial	CEO	
V1	15/07/2021	Minor amendments following workshop	CEO	Council

Document Control Information

Document Theme	Governance
Document Category	Executive
Document Title	Standards for CEO Recruitment and Selection, Performance Review and Termination
Document ID	G.5
Author (position title)	Chief Executive Officer
Approved By	Council
Date of Approval (OCM)	27/07/2021 Council Resolution No. 152/07/21
Date of Last Review	N/A
Date of Next Review	2023
Archive antecedent documents and previous versions	N/A

Adopted by Council on 27/07/2021

V1 – G.5 Standards for CEO Recruitment and Selection, Performance Review and Termination

***** This Document is not controlled once it has been printed *****