Standards for CEO recruitment, selection, performance, and termination

Introduction

This Policy ensures the Shire of Toodyay is compliant with s.5.39B of the *Local Government Act 1995, by adopting the standards for CEO recruitment, selection, performance and termination*.

Objective

To adhere to r18FA of the *Local Government (Administration) Regulations 1996* in relation to the standards for CEO recruitment, selection, performance, and termination.

Scope

This policy applies to the process followed by Council in regard to CEO recruitment, selection, performance, and termination.

Definitions

Term	Definition
Additional performance criteria	Performance criteria agreed by the Council and the CEO under clause 2.1(1)(b) of this policy.
Applicant	A person who submits an application to the Shire for the position of CEO.
Commencement day	The day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.
Contract of Employment	The written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO.
Contractual performance criteria	The performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act.
Independent person	A person other than any of the following — (a) a Council member; (b) an employee of the Shire; (c) a human resources consultant engaged by the Shire.
Job description form	The job description form for the position of CEO approved by Council under clause 1.2 of this policy.

Term	Definition
Member	In relation to a council or committee, a Council Member in the Act; Elected Member; or Councillor; or a member of the committee.
Selection criteria	The selection criteria for the position of CEO determined by Council under clause 1.2 of this policy and set out in the job description form.
Selection panel	The selection panel established by Council under clause 1.5 for the employment of a person in the position of CEO.
Shire	The Shire of Toodyay or the term *local government* as stated in Schedule 2 of the *Local Government (Administration) Regulations 1996.*
Refer to the Corporate Documents Glossary	https://www.toodyay.wa.gov.au/documents/470/corporate-documents-glossary-(definitions)

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.

Policy Statement

These are the Shire of Toodyay Standards for CEO Recruitment, Performance and Termination.

1. Standards for recruitment of CEOs

1.1 Application

(1) Except as provided in subclause (2), this part applies to any recruitment and selection process carried out by the Shire for the employment of a person in the position of CEO.

(2) This part does not apply —

(a) If it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or

(b) In relation to a renewal of the CEO's contract of employment, except in circumstances referred to in clause 1.10.

1.2 Determination of selection criteria and approval of job description form

(1) Council must 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 Shire of Toodyay.

(2) Council must, by resolution of an absolute majority, 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).

1.3 Advertising requirements

(1) If the position of CEO is vacant, the Shire must ensure it complies with section 5.36(4) of the Act and regulation 18A of the Regulations.

(2) If clause 1.10 applies, the Shire must advertise the position of CEO in the manner referred to in regulation 18A of the Regulations as if the position was vacant.

1.4 Job description form to be made available by Shire

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

(a) inform the person of the website address where the job description form for the position can be accessed; or

(b) if the person advises the Shire 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.

1.5 Establishment of selection panel for employment of CEO

(1) Council must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.

(2) The selection panel must comprise —

(a) Members who have demonstrated relevant training or experience (the number of which must be determined by the Council); and

(b) at least one Independent Person with demonstrated relevant training or experience.

1.6 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 Shire —

(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(s) 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 Council —

(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.

(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 Council 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) Council must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

1.7 Application where new process carried out

(1) This clause applies if Council accepts a recommendation by the selection panel under clause 1.6(3)(a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.

(2) Unless Council considers that changes should be made to the duties and responsibilities of the position or the selection criteria —

(a) clause 1.2 does not apply to the new recruitment and selection process; and

(b) the job description form previously approved by the local government under clause 1.2(2) is the job description form for the purposes of the new recruitment and selection process.

1.8 Offer of employment in the position of CEO

Before making an Applicant an offer of employment in the position of CEO, the Council must, by resolution of an absolute majority, 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 Shire and the Applicant.

1.9 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 1.8, negotiates with the Council a contract of employment (***the negotiated contract***) containing terms different to the proposed terms approved by Council under clause 1.8(b), the Council must, by resolution of an absolute majority of the Council, approve the terms of the negotiated contract, **before** entering into the negotiated contract.

1.10 Recruitment to be undertaken on expiry of certain CEO contracts

(1) 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 Council that they wish to have their contract of employment renewed upon its expiry.

(2) Before the expiry of the incumbent CEO's contract of employment, the Shire 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.

(3) 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 (2) to be employed in the position of CEO.

1.11 Confidentiality of information

The Shire must ensure that information provided to, or obtained by, the Shire 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.

2. Standards for review of performance of CEOs

2.1 Performance review process to be agreed between Shire and CEO

(1) Council 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 2.2, 2.3 and 2.4.

(3) The matters referred to in subclause (1) must be set out in a written document.

(4) An independent Consultant must be engaged by Council to assist Council in the performance review process.

2.2 Carrying out a performance review

(1) A review of the performance of the CEO by Council must be carried out in an impartial and transparent manner.

(2) Council 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.

2.3 Endorsement of performance review

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

2.4 CEO to be notified of results of performance review

After Council has endorsed a review of the performance of the CEO under clause 2.3, the Shire President 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 Shire proposes to address and manage those issues.

3. Standards for termination of employment of CEOs

3.1 General principles applying to any termination

(1) Council must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.

(2) Council 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.

3.2 Additional principles applying to termination for performance related reasons

(1) This clause applies if Council proposes to terminate the employment of a CEO for reasons related to the CEO's performance.

(2) The Shire must not terminate the CEO's employment unless Council 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 Council.

(3) The Shire must not terminate the CEO's employment unless Council has, within the preceding 12-month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

3.3 Decision to terminate

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

3.4 Notice of termination of employment

(1) If Council terminates the employment of a CEO, the Shire President must give the CEO notice in writing of the termination.

(2) The notice must set out Council's reasons for terminating the employment of the CEO.

3.5 Termination payment

Any decision by the Shire 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

- DLGSC 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
- Appointment of Acting CEO (GOV15).

Legislation

- *Local Government Act 1995*
- *Local Government (Administration) Amendment Regulations 2021*
- *Local Government (Administration) Regulations 1996*
- *State Records Act 2000*

Associated documents

Template Standards for CEO Recruitment, Performance and Termination – downloadable from the Western Australian Local Government Association (WALGA) website.

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