

## 7.1 Adoption of Policy 005 - Acting Chief Executive Officer

<b>Location</b>	<b>Town-wide</b>
<b>Reporting officer</b>	Graham Olson
<b>Responsible officer</b>	Anthony Vuleta
<b>Voting requirement</b>	Simple majority
<b>Attachments</b>	1. Policy 005 Acting Chief Executive Officer v 7 [7.1.1 - 3 pages]

### Recommendation

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That the Policy Committee recommends that Council adopts Policy 005 Acting Chief Executive Officer as attached.

### Purpose

To prescribe the processes for the appointment of an Acting CEO in ordinary and extraordinary circumstances.

### In brief

- The Chief Executive Officer has the delegation to determine acting arrangements for the filling of the CEO position when vacant for periods up to 3 months.
- The guidelines included in the delegation however are dependent to the availability of the Chief Executive Officer to make the decision as to the Chief Officer who will act in the role.
- A risk exists in these procedures regarding situations where the Chief Executive Officer is not only unavailable to perform his role but is also unavailable to decide on the acting arrangements.
- The attached Policy has been developed to address this risk and to provide guidelines for dealing with unexpected leave situations.

### Background

1. Pursuant to Section 5.36 of the *Local Government Act 1995*, it is a requirement that the Council employ a person to be the CEO to enable the functions of the Local Government and the functions of the Council to be performed. The manner of the recruitment is prescribed in the *Local Government Act 1995 and the Local Government (Administration) Regulations Act 1996*.
2. Due to the passage of the *Local Government Legislation Amendment Act 2019*, section 5.39C was inserted into the *Local Government Act 1995*. This section requires each Council to adopt a policy that sets out the process to be followed by the local government in relation to the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.
3. Sub-Section 5.39 (1a) of the *Local Government Act 1995*, recognizes that an employee may act in the position of a CEO for a term not exceeding one year without a written contract for the position in which he or she is acting.

4. The Chief Executive Officer (CEO) is contractually entitled to certain leave conditions as outlined in his or her employment contract. Acting arrangement for the position of Chief Executive Officer for leave periods less than 3 months is at the discretion of the CEO in accordance with the relevant delegation (Delegation 1.1.29).
5. These arrangements however apply primarily to scheduled leave and do not cover procedures for dealing with unexpected leave, or the unexpected vacating of the position by the CEO. To maintain business continuity for the position of Chief Executive Officer procedures have been developed to address these vacancy situations and included in draft Policy 005 Acting Chief Executive Officer.
6. The proposed Policy 005 Acting Chief Executive Officer provides contingency arrangements for situation of unforeseen leave for the position of Chief Executive Officer.

## Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL05 - Innovative, empowered and responsible organisational culture with the right people in the right jobs.	Adopting clear procedures for the filling of the CEO position will maintain continuity of Town administrative leadership.
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	Adopting clear procedures for the filling of the CEO position will maintain continuity of Town administrative decision making.

## Engagement

Internal engagement	
Stakeholder	Comments
Governance & Leadership	Guidance on risk management concerns.
Elected Members	Feedback of proposed guidelines

Other engagement	
Stakeholder	Comments
WALGA	The Town engaged with WALGA and received advise on the forthcoming changes to the Local Government Act.
Other Local Governments (2)	The Town approached 2 other council and got feedback on related local government policies.

## Legal compliance

[Section 5.36 of the Local Government Act 1995](#)

[Section 5.39\(1a\) of the Local Government Act 1995](#)

## Risk management consideration

Risk and consequence	Consequence rating	Likelihood rating	Overall risk analysis	Mitigation and actions
<b>Reputational</b> Negative public perception towards the Town should the position of CEO be vacant for any period.	Moderate	Likely	High	Council adopts an Acting CEO Policy
<b>Compliance</b> The Town is does not have an acting CEO policy as required.	Moderate	Unlikely	Moderate	Council adopts some form of an Acting CEO policy.
<b>Service Interruption</b> An unexpected vacancy in the office of CEO arises and there is no standing process to appoint an Acting CEO to convene a Council Meeting to fill the vacancy.	Catastrophic	Rare	Moderate	Under section 5.5 of the Act, only the CEO may convene a Council meeting. If the office of CEO falls unexpectedly vacant, there is no way for the Council to met.  By having a line of succession that is set out in policy, this situation is addressed.

## Financial implications

<b>Current budget impact</b>	Not applicable.
<b>Future budget impact</b>	Not applicable.

## Analysis

7. The Town has procedures included in delegation 1.1.29 dealing with acting arrangements for the position of Chief Executive Officers when it becomes temporarily vacant due to approved leave arrangements. These delegations have been included in the proposed Policy 005.
8. As these delegated procedures do not provide for situations where the vacancy of the Chief Executive Officers position is unexpected, or the CEO is unavailable to decide on any acting arrangements, a risk was identified regarding continuity in leadership for the Town
9. WALGA were contacted regarding possible guidelines for dealing with unforeseen vacancies but could only advise that they were aware of 2 other councils that have Council policies for dealing with vacancies in the position of Chief Executive Officers. Both councils were contacted however their policies dealt only with the filling of the vacancy, not temporary acting arrangements.
10. The proposed policy contains 5 key sections:
  - a. CEO Leave Entitlements
  - b. Appointment of an Acting CEO – Expected leave periods under 3 months
  - c. Appointment of an Acting CEO – Leave periods in excess of 3 months but no more than 12 months

- d. Appointment of an Acting CEO – Unexpected leave or vacancy
- e. Salary and conditions of Acting CEO

#### CEO Leave Entitlements

- 11. This section recognizes that the CEO has certain contractual leave entitlements that would be accessed as required and approved as outlined in the contract. The filling of any vacancy would be determined by the CEO in accordance with delegation 1.1.29.

#### Appointment of an Acting CEO – Expected leave periods under 3 months

- 12. This section contains the details of delegation 1.1.29 and the requirement that acting arrangements are advised in writing.

#### Appointment of an Acting CEO – Leave periods in excess of 3 months but no more than 12 months

- 13. For periods in excess of 3 months there must be council approval for the acting arrangements to occur. The process is also subject to Section 5.40 (a) of the *Local Government Act 1995* that requires that employees are to be selected and promoted in accordance with the principles of merit and equity.
- 14. This section also addresses the requirement of *Local Government Legislation Amendment Act 2019*, section 5.39C that each Council adopt a policy that sets out the process to be followed by the local government in relation to the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

#### Appointment of an Acting CEO – Unexpected leave or vacancy

- 15. This section deals with situations where the position of CEO may become vacant due to unforeseen circumstances. It provides for a process for the filling of the vacancy until such time as council can decide on any ongoing acting arrangements.

#### Salary and conditions of Acting CEO

- 16. This section provides guidance to the issue of the determination of remuneration for any acting arrangements until such time as council decides on any ongoing acting arrangements.
- 17. Current management practice provides remuneration at the rate of 80% of the substantive CEO's salary component for periods less than 5 weeks, and 90% of the substantive CEO's salary component for periods in excess of 5 weeks.

## Relevant documents

*'Not applicable'.*

## Further consideration