

Policy P639 CEO Recruitment, Performance and Termination

Strategic Direction	Leadership
Responsible Business Unit/s	People & Performance
Responsible Officer	Manager People & Performance, Mayor of the City of South Perth
Affected Business Unit/s	Council

Policy Objectives

To set out the minimum standards and guidelines in which Council manage the Recruitment & Selection, Performance Review and Termination processes for the position of Chief Executive Officer (CEO) at the City of South Perth (the City), in accordance with the *Local Government Act 1995* (Act) and the Local Government (Administration) Regulations 1996, as amended (Regulations).

The minimum standards are set by the Regulations and the Department of Local Government, Sport and Cultural Industries (the Department) provide recommended guidelines which can be customised to suit the City's policies, practices, processes and capabilities. Where the Department has documented 'must' in the guidelines, Council are required to undertake the relevant action. These have been incorporated in this Policy.

When Council are undertaking a Recruitment & Selection, Performance Review and/or Termination process for the CEO position, the following documents should be referred to:

- the Department's minimum standards and guidelines (Operational Guidelines)
- the City's Recruitment & Selection Management Practice
- the CEO's contract and
- this Policy.

Policy Scope

This Policy applies to Council with regards to the Recruitment & Selection, Performance Review and Termination processes for the position of CEO.

Policy Statement

1. RECRUITMENT AND SELECTION

The minimum standard for recruitment and selection will be met if:

- The Council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO within the City of South Perth.
- The Council has approved, by absolute majority, the Position Description (PD) which clearly outlines the qualifications, selection criteria and responsibilities of the position. The PD is made available to all applicants.
- The City has established a selection panel or committee to conduct the recruitment and selection process.
- The City attracts applicants through a transparent, open and competitive process (this is not necessary for vacancies of less than one year). The City must advertise a vacancy for the position of CEO in the manner prescribed.
- The City has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.
- The City has verified the recommended applicant's work history, qualifications, referees and claims made in their job application.
- The appointment is merit-based, with the successful applicant assessed as clearly demonstrating how their knowledge, skills and experience meet the selection criteria.
- The appointment is made impartially and free from nepotism, bias or unlawful discrimination.
- The Council has endorsed by absolute majority the final appointment.
- The Council has approved the employment contract by absolute majority.
- The City re-advertises the CEO position and undertakes a recruitment and selection process after each instance where a person has occupied the position for ten consecutive years.

Advertising

The City must advertise in accordance with section 5.36(4) of the Act. It is recommended the City also advertises on other platforms as used by the City at that point in time to attract applicants to the vacant position.

Recruitment & Selection Panel (or Committee)

The Recruitment & Selection Panel is made up of current City Elected Members and must include at least one independent panel member. The independent panel member cannot be a current Federal, State or Local Government Elected Member, a previous Federal, State or City Elected member, a recruitment/human resources consultant, or a current or previous employee of the City. The independent panel member shall be selected from a City generated candidate list.

The Panel is responsible for assessing applicants and making recommendations to Council regarding the most suitable applicant or applicants. The role of an independent panel member is to bring an impartial perspective to the process and reduce any perception of bias or nepotism.

Where possible, the Council should ensure diversity on the Panel.

Recruitment & Selection Panel (or Committee) Terms of Reference

The Recruitment and Selection Panel should have a terms of reference to facilitate the CEO recruitment and selection and should include the following information:

- Primary function of the Panel
- Roles and responsibilities of all panel members
- Composition of the Panel
- Duration of the term
- Desirable criteria for appointment to the Panel
- A requirement that panel members sign a confidentiality agreement and agree to the duties and responsibilities of their role
- Declaration of any conflicts of interest and
- Any other information the City deems necessary for the Panel to effectively carry out their role.

Independent Recruitment/Human Resources Person

Where a Council lacks the capacity or expertise to facilitate the recruitment and selection process (or any aspect of it), the City may seek to engage an independent external recruitment/human resources person or agency in accordance with the City's procurement policies and practices.

The independent external recruitment/human resources person is not to be directly involved in determining which applicant should be recommended for the position, their role is not one of decision maker.

If engaging an independent recruitment person or agency, they will require to demonstrate experience as well as an employment agent license under the *Employment Agents Act 1976 (WA)*.

The independent recruitment/human resources person may be engaged to support one or more of the following aspects of the recruitment process:

- Development or review of the position description
- Development of selection criteria
- Development of assessment methods in relation to the selection criteria
- Drafting of the advertisement
- Executive search
- Preliminary assessment of the applications
- Shortlisting
- Drafting questions for interview
- Coordinating interviews with the City
- Preparing the selection summary assessment and recommendations with the City
- Arranging for an integrity check and/or police clearance and
- Assisting the City/Council in preparing the employment contract.

Employment Contract

The Council must ensure the CEO's employment contract includes the necessary provisions required under section 5.39 of the Act and associated Regulations.

Section 5.39 of the Act provides that a CEO's contract must not be for a term exceeding five years.

The term of a contract for an acting or temporary position cannot exceed one (1) year.

Independent legal advice may be sought to ensure the contact is lawful, with Council approving budget for this to occur.

CEO remuneration is determined by the Salaries and Allowances Tribunal and the remuneration package may not fall outside the band applicable to the City (Band 2).

Council must approve by absolute majority the CEO's employment contract and the person they appoint as CEO.

2. PERFORMANCE REVIEWS

The minimum standard for performance review will be met if:

- Performance criteria is specific, relevant, measurable, achievable and time-based.
- The performance criteria and the performance process are recorded in a written document, negotiated with and agreed upon by the CEO and Council.
- The CEO is informed about how their performance will be assessed and managed and the results of their performance assessment.
- The collection of evidence regarding performance outcomes is thorough and comprehensive.
- Assessment is made free from bias and based on the CEO's achievements against documented performance criteria, and decisions and actions are impartial and transparent.
- The Council has endorsed the performance review assessment by absolute majority.

Section 5.38 of the Act provides that for a CEO who is employed for a term of more than one year, the performance of the CEO is to be reviewed formally at least every year of their employment.

Performance Criteria/Key Performance Indicators (KPI's)

One of the CEO's key responsibilities is to oversee the implementation of Council's strategic direction so it is important to align the CEO's KPI's to the goals contained in the Strategic Community Plan and Corporate Business Plan. As these plans are updated, the CEO's KPI's should be updated to reflect the changes.

In leading the administrative arm of a local government, the CEO is responsible for undertaking core tasks, the achievement of which will contribute to the effectiveness of the Council. It is important that the outcomes associated with these tasks are measurable and clearly defined.

These could be in relation to:

- Service delivery targets from the Council’s Strategic Community Plan
- Budget compliance
- Organisational capability
- Operational and project management
- Financial performance and asset management
- Timeliness and accuracy of information and advice to Councillors
- Implementation of Council resolutions
- Management of organisational risks
- Leadership and human resource management and
- Stakeholder management and satisfaction.

Council needs to be realistic in terms of their expectation of a CEO’s performance and provide appropriate resources and support to facilitate the achievement of KPI’s.

Performance Review Panel (or Committee)

The Performance Review Panel is made up of Elected Members, and may include an independent observer if appropriate. The Panel’s role is to develop the performance agreement, conduct the performance review and report on the findings and recommendations of the review to Council.

It is recommended that the Performance Review Panel have a Terms of Reference for the performance review process, including all elements as listed in the Recruitment and Selection section above.

Independent Consultant

Where a Council lacks the resources or expertise to meet the expected standard of performance review (or any aspect of it), the City may seek to engage an independent consultant in accordance with the City’s procurement policies and practices. The independent consultant may be engaged to support one or more of the following aspects of the performance review process:

- Setting performance criteria (KPI’s)
- Preparing the performance agreement
- Collecting performance evidence

- Writing the performance appraisal report
- Facilitating meetings between the Panel
- Assisting with the provision of feedback to the CEO
- Formulating plans to support improvement (if necessary), and
- Providing an objective view regarding performance management related matters between the parties.

3. TERMINATION

The standards for the termination of the CEO’s employment (other than for reasons such as voluntary resignation or retirement) are based on the principles of fairness and transparency. Procedural fairness is a principle of common law regarding the proper and fair procedure that should apply when a decision is made that may adversely impact upon a person’s rights or interests.

The minimum standards for the termination of the CEO’s contract will be met if:

- Decisions are based on assessment of the CEO’s performance as measured against the documented performance criteria in the CEO’s contract.
- Performance issues have been identified as part of a performance review (conducted within the preceding 12 months) and the CEO has been informed of the issues. The Council has given the CEO a reasonable opportunity to improve and implement a plan to remedy the performance issues, but the CEO has not subsequently remedied these issues to the satisfaction of the City.
- The principle of procedural fairness is applied. The CEO is informed of their rights, entitlements and responsibilities in the termination process. This includes the CEO being provided with notice of any allegations against them, given a reasonable opportunity to respond to those allegations or decisions affecting them, and their response is genuinely considered.
- Decisions are impartial and transparent.
- The Council has endorsed the termination by absolute majority.
- The required notice of termination (which outlines the reasons for termination) is provided to the CEO in writing.

The early termination of a CEO's employment may end due to:

- Poor performance;
- Misconduct, or
- Non-performance or repudiation of contract terms.

The City may seek independent legal, employment or industrial relations advice prior to a CEO termination.

A Council may also seek independent advice during the termination process including advice on the relevant employment legislation affecting CEO employment and the application of that legislation to their specific circumstances.

The Council is required to endorse the decision to terminate the CEO's employment by way of absolute majority decision. The City must certify that the termination was in accordance with the adopted standards in regulations.

4. ACTING CEO

Should a CEO become incapacitated or exit the City due to one of the reasons outlined above during the course of their tenure, Council have the option to temporarily appoint or temporarily employ a person to the position of CEO for no greater than one year.

Council in the first instance should consider the skills, capabilities, experience and qualifications of the Directors employed by the City to act in the CEO position. Underpinned by the City's recruitment and selection processes, Council should consider:

- Expressions of interest by the Directors
- Conducting interviews and/or presentation by the Directors to the Recruitment & Selection Panel
- The Panel discussing suitability following interviews, utilising the CEO position description, feedback from the interview and the Directors expression of interest. The Panel to make a recommendation to Council for appointment to a term no greater than one year.

Where the Panel deem that none of the Directors are suitable to temporarily fill the position of CEO following the above process, Council should engage an external independent recruitment consultant or agency to undertake a recruitment process as outlined in part A of this Policy, however for an appointment of no greater than one year.

The Council may amend the Acting CEO arrangements as required by absolute majority.

The CEO must publish an up to date version of this policy on the City’s website.

It is recommended that Council liaise with the City’s Manager Human Resources on all aspects of this Policy (excluding all Council decisions and Panel composition requirements).

Legislation / Local Law Requirements

Local Government Act 1995

Local Government (Administration) Regulations 1996

Other Relevant Policies / Key Documents

Guidelines for Local Government CEO Recruitment & Selection, Performance Reviews and Terminations by the Department of Local Government, Sport, and Cultural Industries

City of South Perth Strategic Plan 2021-2031

City of South Perth Corporate Business Plan 2021-2023

M652 Recruitment and Selection

P637 Employee Separation Payments

City of South Perth Model Standards CEO Recruitment, Performance & Termination