



### **3/004 CEO Recruitment & Selection, Performance Review and Termination**

#### Objective

To set out the principles and criteria under which Council manage the Recruitment & Selection, Performance Review and Termination processes for the position of Chief Executive Officer (CEO) at the Town of Port Hedland (the Town), 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 Town's policies, practices, processes and capabilities, which are available in the Town's Model Standards for CEO Recruitment, Performance and Termination (Model Standards). 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 Town's Recruitment & Selection Management Practice;
- the CEO's contract; and
- this Policy.

#### Content

##### **A. 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 Town of Port Hedland.
- 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 Town has established a selection committee to conduct the recruitment and selection process.
- The Town attracts applicants through a transparent, open and competitive process (this is not necessary for vacancies of less than one year). The Town must advertise a vacancy for the position of CEO in the manner prescribed in the Town's Model Standards.
- The Town has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.



- The Town 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 Town re-advertises the CEO position and undertakes a recruitment and selection process after each instance where a person has occupied the position for ten (10) consecutive years.

### *Advertising*

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

### *Recruitment & Selection Committee*

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

The Committee is responsible for assessing applicants and making recommendations to Council regarding the most suitable applicant or applicants. The role of an independent Committee 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 Committee.

### *Recruitment & Selection Committee (or Committee) Terms of Reference (see separate document)*

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

- Primary function of the Committee;
- Roles and responsibilities of all Committee members;
- Composition of the Committee;
- Duration of the term;
- Desirable criteria for appointment to the Committee;



- A requirement that Committee members sign a confidentiality agreement and agree to the duties;
- Declaration of any conflicts of interest; and
- Any other information the Town deems necessary for the Committee 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 Town may seek to engage an independent external recruitment/human resources person or agency in accordance with the Town'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 Town
- Preparing the selection summary assessment and recommendations with the Town
- Arranging for an integrity check and/or police clearance and
- Assisting the Town/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 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 Town (Band 1).

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

## **B. 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; and
- 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 need 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 Committee*

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

Refer to the Town's Performance Review Committee Terms of Reference for information about the function and structure of the Performance Review Committee.

#### *Independent Consultant*

Where a Council lacks the resources or expertise to meet the expected standard of performance review (or any aspect of it), the Town may seek to engage an independent consultant in accordance with the Town'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 Committee;
- 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.

### **C. 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 Town.
- 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; and
- The required notice of termination (which outlines the reasons for termination).

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

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

The Town 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 Town must certify that the termination was in accordance with the adopted standards in regulations.

#### **D. Acting CEO**

Should a CEO become incapacitated or exit the Town 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.

The Town's Senior Employees and Acting CEO Policy outlines the process by which the Town's Directors can be appointed to perform the role of Acting CEO for a period of up to three (3) months.

For periods of between 3 months and one year, Council in the first instance should consider the skills, capabilities, experience and qualifications of the Directors employed by the Town to act in the CEO position. Underpinned by the Town's recruitment and selection processes, Council should consider:



- Expressions of interest in writing by the Directors;
- Confirmation that there are no active performance management plans of any Directors who express interest;
- Conducting interviews and/or presentations by the Directors to the Recruitment & Selection Committee; and
- The Committee discussing suitability following interviews/presentations, utilising the CEO position description, details from the Directors expression of interest, feedback from the interview/presentation and consideration of operational requirements. The Committee to make a recommendation to Council for appointment to a term no greater than one year.

Where the Committee deem that none of the Directors are suitable to temporarily fill the position of CEO following the above process, Council may engage an external acting CEO or procure an 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.

#### 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
- [Town of Port Hedland Strategic Community Plan 2022-2032](#)
- [Town of Port Hedland Corporate Business Plan 2023-2027](#)
- Town of Port Hedland Model Standards CEO Recruitment, Performance & Termination
- Town of Port Hedland CEO Recruitment & Selection Review Committee Terms of Reference
- Town of Port Hedland CEO Performance Review Committee Terms of Reference
- Town of Port Hedland Recruitment & Selection Internal Operating Procedure
- [Town of Port Hedland 1/027 Severance Payment Policy](#)

#### Definitions

**‘Act’** means the Local Government Act 1995.

**‘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;

**‘Committee’** means the Town of Port Hedland CEO Recruitment & Selection Committee or CEO Performance Review Committee as stipulated in this document.



**‘Council’** means the Council of the Town of Port Hedland.

**‘Chief Executive Officer’** (CEO) means the Chief Executive Officer of the Town of Port Hedland.

**‘Elected Member’** means the Mayor or a Councillor of the Town of Port Hedland Council.

**‘KPIs’** means Key Performance Indicators and Performance Criteria as agreed between the CEO and Council to deliver the key priorities of the Town of Port Hedland Corporate Business Plan.

**‘Model Standards’** are the Town of Port Hedland Model Standards for CEO Recruitment, Performance and Termination.

**‘Position description’** means the position description form for the position of CEO approved by the local government under clause 5(2).

**‘Selection criteria’** means the selection criteria for the position of CEO determined by the Town of Port Hedland and set out in the position description.

Relevant legislation	<a href="#">Local Government Act 1995</a> <a href="#">Local Government (Administration) Regulations 1996</a>
Delegated authority	Executive Manager Human Resources
Business unit	Human Resources
Directorate	Corporate Services

<i>Governance to complete this section</i>			
Version Control	Version No.	Resolution No.	Adoption date
	01	CM202425/220	12 December 2024
Review frequency	3 Yearly		

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