

## Standards for CEO Recruitment, Performance and Termination Policy

### Objectives

This Policy is adopted in accordance with section 5.39B. of the *Local Government Act 1995* and Schedule 2 of the *Local Government (Administration) Regulations 1996*, and r18FB. and r18FC of the *Local Government (Administration) Regulations 1996*.

### Scope

These are the adopted Town of Bassendean Standards for CEO Recruitment, Performance and Termination as per the prescribed regulations for Local Governments in relation to the following:

- a) The recruitment of CEOs
- b) The review of the performance of CEOs, and
- c) The termination of the employment of CEOs.

### Definitions

- 1) In this Policy:

**Act** means the *Local Government Act 1995*

**Additional performance criteria** means performance criteria agreed by the Town of Bassendean and the CEO under clause 2.1 (1) (b)

**Applicant** means a person who submits an application to the Town of Bassendean 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 Town of Bassendean under clause 1.2 (2)

**Local government** means the Town of Bassendean

**The Town** means the Town of Bassendean

**Selection criteria** means the selection criteria for the position of CEO determined by the Town of Bassendean under clause 1.2 (1) and set out in the job description form

**Selection panel** means the selection panel established by the Town of Bassendean under clause 1.5 for the employment of a person in the position of CEO

**Review panel** means Council Members participating in the CEO performance review process.

- 2) 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.

## **1. Standards of Recruitment of CEOs**

This section sets out standards to be observed by the Town in relation to the recruitment of CEOs.

- 1) Except as provided in clause 1 (2), this section applies to any recruitment and selection process carried out by the Town for the employment of a person in the position of CEO.
- 2) This section 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 the circumstances referred to in clause 1.10.

## **1.2 Determination of Selection Criteria and Approval of Job Description Form**

- 1) The Town must determine the selection criteria for the position of CEO, based on the Town's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the Town.
- 2) The Town 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 clause 1.2 (1).

### 1.3 Advertising Requirements

- 1) If the position of CEO is vacant, the Town must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.
- 2) If clause 1.10 applies, the Town must advertise the position of CEO in the manner referred to in the *Local Government (Administration) Regulations 1996* regulation 18A as if the position was vacant.

### 1.4 Job Description Form

If a person requests the Town to provide to the person a copy of the job description form, the Town must:

- a) inform the person of the website address referred to in the *Local Government (Administration) Regulations 1996* regulation 18A(2)(da), or
- b) if the person advises the Town 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) In this clause ***independent person*** means a person other than any of the following:
  - a) a council member
  - b) an employee of the Town,
  - c) a human resources consultant engaged by the Town.
- 2) The Town 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 (the number of which must be determined by the Town), and
  - b) at least 1 independent person.

## **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 clause 1.6 (1), the selection panel must provide to the Town:
  - a) a summary of the selection panel's assessment of each applicant, and
  - b) unless clause 1.6 (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 Town:
  - 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 clauses 1.6 (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 Town under clause 1.6 (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
  - 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 Town 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 the Town 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 the Town 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 Town 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 Position of CEO**

- 1) Before making an applicant an offer of employment in the position of CEO, the Town must, by resolution of an absolute majority of the 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 Town and the applicant.

### **1.9 Variations to Proposed Terms of Contract of Employment**

- 1) This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 1.8 negotiates with the Town a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the Town under clause 1.8 (b).
- 2) Before entering into the negotiated contract with the applicant, the Town must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

### **1.10 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
    - 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 Town 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 Town 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 clause 1.10 (3) to be employed in the position of CEO.

### **1.11 Confidentiality of Information**

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

The performance and remuneration package review will be conducted in accordance with the Chief Executive Officer's Contract of Employment.

### **1.12 Certification of compliance with adopted standards for CEO recruitment**

1) As soon as practicable after the person is employed in the position of CEO, the Town must, by absolute majority resolution, certify that the person was employed in accordance with the Town's adopted standards in relation to the recruitments of CEOs.

2) The Town's Office of the CEO will provide a copy of the resolution to the Department CEO within 14 days after the resolution is passed by the Town.

## **2. Standards for Review of Performance of CEOs**

This section sets out standards to be observed by the Town in relation to the review of the performance of CEOs.

## **2.1 Performance Review Process to be Agreed between Local Government and CEO**

- 1) The Town 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 clause 2.1 (1), the process agreed under clause 2.1 (1)(a) must be consistent with clauses 2.2, 2.3 and 2.4.
- 3) The matters referred to in clause 2.1 (1) must be set out in a written document.

## **2.2 Carrying Out a Performance Review**

- 1) A review of the performance of the CEO by the Town must be carried out in an impartial and transparent manner.
- 2) The Town of Bassendean 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 by Local Government**

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

## **2.4 CEO to be Notified of Results of Performance Review**

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

## **2.5 Annual Review**

The review must be conducted annually as follows:

- 1) At a time that is no later than 3 months after the anniversary of the Commencement Date, or

- 2) If otherwise agreed by the CEO and Council, should events or new priorities delay or alter this process, such as efforts redirected towards crisis management, and
- 3) Should this process be delayed as per 2.5 (2), the CEO anniversary date for the purposes of the annual review process will be adjusted for the remainder of the CEO employment contract.

Interim quarterly reviews will also be undertaken by the Review Panel to discuss progress on the CEO's Key Performance Indicators (KPI's).

## **2.7 Review Panel**

The annual CEO performance review panel will consist of:

- the Mayor, and
- six Council Members.

The panel will be facilitated by an independent external facilitator.

The selection of facilitators will be in consultation and negotiation with the CEO.

The Mayor as the representative of Council, and the CEO, shall agree upon a shortlist of two or more candidates for the position of a facilitator. The shortlist of candidates will be presented to Council for its consideration. Council is to appoint by resolution of an absolute majority the independent facilitator from the shortlisted candidates provided.

Council Members participating in the review process must:

- a) Understand the requirements and responsibilities of a performance review process
- b) Show an ability to be fair and objective
- c) Provide feedback which is constructive, specific and non-judgmental
- d) Be measured and unbiased in decision making
- e) Use good communication and interpersonal skills to participate in a productive and meaningful process
- f) Subjectively and effectively assess operational performance and strategy achievements, and
- g) Attend a WA Local Government Association (WALGA) 'CEO Performance Review' training session.



## 2.8 Review Process

A review of the performance of the CEO by the Town will be carried out in an impartial and transparent manner, including the engagement of an independent external facilitator in consultation with the Mayor and CEO and in line with the Town's Procurement and Purchasing procedures.

The independent external facilitator will:

- (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, based on that evidence.

The process may include:

- 1) a self-assessment by the CEO of their performance against the relevant criteria to all Council Members
- 2) feedback from the Council Members (Review Panel), and agreement on key focus areas for the review interview
- 3) an appraisal interview with the CEO by the Review Panel with support of the independent facilitator with regard to:
  - a) Performance and Assessment Criteria
  - b) Any changes to the work values or responsibilities of the position
  - c) The hours worked, including hours in addition to normal working hours
  - d) The condition of the market and economy generally, and
  - e) The experience of the CEO and the Market conditions for Local Government CEO's.
- 4) an opportunity for the CEO to provide comment.
- 5) The independent facilitator attending a full Council Workshop to discuss findings
- 6) a full report to the Council and the CEO including:
  - a) Endorsement of the CEO's performance for the period under review
  - b) The CEO's remuneration for the next 12 months
  - c) If required, the extension or renewal of the CEO Contract
  - d) Determination of appropriate Key Performance Indicators for the next 12 months, and
  - e) A professional development plan based on the above.

## **2.9 Endorsement of performance review**

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

## **2.10 CEO to be notified of results of the performance review**

After the Town has endorsed a review of the performance of the CEO under clause 18, the Mayor 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.

## **3. Standards for Termination of Employment of CEOs**

This section sets out standards to be observed by the Town in relation to the termination of the employment of CEOs.

### **3.1 General Principles Applying to any Termination**

- 1) The Town must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- 2) The Town 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
  - b) notifying the CEO of any allegations against the CEO
  - 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 the Town proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- 2) The Town must not terminate the CEO's employment unless the Town has:
  - a) in the course of carrying out the review of the CEO's performance referred to in clause 3.2 (3) or any other review of the CEO's performance,

identified any issues (the performance issues) related to the performance of the CEO

- b) informed the CEO of the performance issues
  - 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 Town.
- 3) The Town must not terminate the CEO's employment unless the Town 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 the Town to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

### **3.4 Notice of Termination of Employment**

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

### **Record Keeping**

Documents in relation to these standards must be registered on the Town's records management system and where applicable stored on the CEO's confidential personnel file.

<b>Document responsibilities:</b>			
<b>Owner:</b>	Council	<b>Owner Business Unit:</b>	Chief Executive Officer
<b>Inception date:</b>	Last Review Date (OCM- 16/5/21) Reviewed 30/07/24 (Ref: OCM 2024-07-30/10)	<b>Decision maker:</b>	Council
<b>Review date:</b>	May 2027	<b>Repeal and replace:</b>	
<b>Compliance requirements:</b>			
<b>Legislation</b>	<b><i>Local Government Act 1995</i></b>		