

POL 0014: Appointment of Acting or Temporary CEO

Purpose

To establish policy, in accordance with Section 5.39C of the *Local Government Act 1995* ('the Act'), that details the Shire of Esperance's processes for appointing an Acting or Temporary Chief Executive Officer (CEO) for periods of less than 12 months of planned or unplanned leave or an interim vacancy in the substantive office.

Scope

This Policy applies to the Shire President, Councillors and CEO of the Shire of Esperance.

Definitions

Acting CEO: A person employed or appointed to fulfil the statutory position of CEO during a period where the substantive CEO remains employed but is on planned or unplanned leave.

Temporary CEO: A person employed or appointed to fulfil the statutory position of CEO for the period of time between the end of the substantive CEO's employment and the appointment and commencement of a newly appointed substantive CEO.

Practice

Acting and Temporary CEO Requirements and Qualification

When the CEO is on planned or unplanned leave, or the CEO's employment with the Local Government has ended, an Acting or Temporary CEO is to be appointed in accordance with this Policy to fulfil the functions of CEO as detailed in Section 5.41 of the *Local Government Act 1995*, and other duties as set out in the Act and associated Regulations.

Through this policy and in accordance with section 5.36(2)(a) of the Act, the Council determines that employees appointed to the substantive positions of Director Corporate and Community Services, Director of External Services or Director Asset Management are considered suitably qualified to perform the role of Acting or Temporary CEO.

A person appointed to act in the position of Director Corporate and Community Services, Director of External Services or Director Asset Management is not included in the determination set out in Clause 2 (2).

Appoint Acting CEO – Planned and unplanned leave for periods up to 5 weeks

The CEO is authorised to appoint the Director Corporate and Community Services, Director of External Services or Director Asset Management in writing as Acting CEO, where the CEO is on planned or unplanned leave for periods not exceeding 5 weeks, subject to the CEO's consideration of the Director Corporate and Community Services, Director of External Services or Director Asset Management performance, availability, operational requirements and where appropriate, the equitable access to the professional development opportunity.

The CEO must appoint an Acting CEO for any leave periods greater than 48 hours and less than 5 weeks.

The CEO is to immediately advise all Council Members when and for what period of time the Director Corporate and Community Services, Director of External Services or Director Asset Management is appointed as Acting CEO.

If the CEO is unavailable or unable to make the decision to appoint an Acting CEO in accordance with (2), then the following line of succession shall apply -

1. The Director of Corporate and Community Services will be appointed as Acting CEO; or
2. If the Director of Corporate and Community Services is unable to act, the Director Asset Management will be appointed as Acting CEO; or
3. If the Director Asset Management is unable to act, the Director External Services will be appointed as Acting CEO.

Council may, by resolution, extend an Acting CEO period under subclause (4) beyond 5 weeks if the substantive CEO remains unavailable or unable to perform their functions and duties.

Appoint Acting CEO for extended leave periods greater than 5 weeks but less than 12 months.

This clause applies to the following periods of extended leave -

1. Substantive CEO's Extended Planned Leave which may include accumulated annual leave, long service leave or personal leave; and
2. Substantive CEO's Extended Unplanned Leave which may include any disruption to the substantive CEO's ability to continuously perform their functions and duties.

The Council will, by resolution, appoint an Acting CEO for periods greater than 5 weeks but less than 12 months, as follows -

1. Appoint one employee, or multiple employees for separate defined periods, as Acting CEO to ensure the CEO position is filled continuously for the period of extended leave; or
2. Conduct an external recruitment process in accordance with clause 5(1)(c)(iii) of the *Local Government Act 1995*.

The Shire President will liaise with the CEO, or in their unplanned absence the Director Corporate and Community Services to coordinate Council reports and resolutions necessary to facilitate an Acting CEO appointment.

Subject to Council's resolution, the Shire President will execute in writing the Acting CEO appointment with administrative assistance from the Director Corporate and Community Services.

Appoint Temporary CEO – Substantive Vacancy

In the event that the substantive CEO's employment with the Shire of Esperance is ending, the Council when determining to appoint a Temporary CEO may either -

1. by resolution, appoint an existing Director as the Temporary CEO for the period of time until the substantive CEO has been recruited and commences their employment with the Local Government; or
2. by resolution, appoint an existing Director as the interim Temporary CEO for the period of time until an external recruitment process for a Temporary CEO can be completed; or
3. following an external recruitment process in accordance with the principles of merit and equity prescribed in section 5.40 of the Act, appoint a Temporary CEO for the period of time until the substantive CEO has been recruited and commences employment with the Local Government.

The Shire President will liaise with the existing Directors to coordinate Council reports and resolutions necessary to facilitate a Temporary CEO appointment.

The Shire President is authorised to execute in writing the appointment of a Temporary CEO in accordance with Council's resolution/s, with administrative assistance from the Director Corporate and Community Services, Director of External Services or Director Asset Management.

Remuneration and conditions of Acting or Temporary CEO

Unless Council otherwise resolves, an employee appointed as Acting CEO shall be remunerated at 75% of the cash component only of the substantive CEO's total reward package.

Council will determine by resolution, the remuneration and benefits to be offered to a Temporary CEO when entering into a contract in accordance with the requirements of Sections 5.39(1) and (2)(a) of the Act.

Subject to relevant advice, the Council retains the right to terminate or change, by resolution, any Acting or Temporary CEO appointment.

.....End.....

Document Information

Responsible Position	Manager Human Resources
Risk Rating	Low

Referencing Documents

- *Local Government Act 1995*
- *Local Government Amendment Act 2019*
- *Local Government (Administration) Regulations 2021*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Jun 2021	1	D21/20123	New policy	O0621-150	Jun 2023
Nov 2021	2	D21/20123[v2]	Insert clause numbering for reference	O1121-202	Nov 2023

Nov 2023	3	D21/20123[v3]	Remove reference to individual director positions and replace with an existing Director'.	O1123-189	Nov 2025
Aug 2026	4	D21/20123[v4]	Change title from Temporary Employment or Appointment of CEO to Appointment of Temporary/Acting CEO	O0826-117	Aug 2028