

City of Joondalup Standards for CEO Recruitment, Performance and Termination

Council Policy

Responsible Directorate: Governance and Strategy

Objective: To establish the standards to be observed by the City of Joondalup in relation to the recruitment, performance and termination of CEOs in accordance with Schedule 2 of the *Local Government (Administration) Regulations 1996*.

Division 1 — Preliminary Provisions

1. Citation:

These are the *City Standards for CEO Recruitment, Performance and Termination*.

2. Terms used:

2.1 In these standards:

“**Act**” means the *Local Government Act 1995*.

“**additional performance criteria**” means performance criteria agreed by the Council and the CEO under clause 16.1(b).

“**applicant**” means a person who submits an application to the City for the position of CEO.

“**City**” means the City of Joondalup, being a local government established as a body corporate under section 2.5 of the Act.

“**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.

“**Council**” means the Council of the City.

“**job description form**” means the job description form for the position of CEO approved by the Council under clause 5.2.

“selection criteria” means the selection criteria for the position of CEO determined by the Council under clause 5.1 and set out in the job description form.

“selection panel” means the selection panel established by the Council under clause 8 for the employment of a person in the position of CEO.

- 2.2 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.

Division 2 — Standards for Recruitment of CEOs

3. Overview of Division:

This Division sets out standards to be observed by the City in relation to the recruitment of CEOs.

4. Application of Division:

4.1 Except as provided in subclause 4.2, this Division applies to any recruitment and selection process carried out by the City for the employment of a person in the position of CEO.

4.2 This Division 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 13.2.

5. Determination of selection criteria and approval of job description form:

5.1 The Council must determine the selection criteria for the position of CEO, based on the Council’s consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the City.

5.2 The Council 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 subclause 5.1.

6. Advertising requirements:

6.1 If the position of CEO is vacant, the City must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.

6.2 If clause 13 applies, the City 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.

7. Job description form to be made available by the City:

If a person requests the City to provide to the person a copy of the job description form, the City 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 City 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.

8. Establishment of selection panel for employment of CEO:

8.1 In this clause:

“**independent person**” means a person other than any of the following:

- a. a Council member;
- b. an employee of the City;
- c. a human resources consultant engaged by the City.

8.2 The Council must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.

8.3 The selection panel must comprise:

- a. Council members (the number of which must be determined by the Council); and
- b. at least 1 independent person.

9. Recommendation by selection panel:

9.1 Each applicant’s knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.

9.2 Following the assessment referred to in subclause 9.1, the selection panel must provide to the Council:

- a. a summary of the selection panel’s assessment of each applicant; and
- b. unless subclause 9.3 applies, the selection panel’s recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.

9.3 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 Council:

- 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.

9.4 The selection panel must act under subclauses 9.1, 9.2 and 9.3:

- a. in an impartial and transparent manner; and
- b. in accordance with the principles set out in section 5.40 of the Act.

9.5 The selection panel must not recommend an applicant to the Council under subclause 9.2(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; and
- 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.

9.6 The Council must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

10. Application of cl. 5 where new process carried out:

10.1 This clause applies if the Council accepts a recommendation by the selection panel under clause 9.3(a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.

10.2 Unless the Council considers that changes should be made to the duties and responsibilities of the position or the selection criteria:

- a. clause 5 does not apply to the new recruitment and selection process; and
- b. the job description form previously approved by the Council under clause 5.2 is the job description form for the purposes of the new recruitment and selection process.

11. Offer of employment in position of CEO:

Before making an applicant an offer of employment in the position of CEO, the Council 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 local government and the applicant.

12. Variations to proposed terms of contract of employment:

12.1 This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the Council a contract of employment (the "**negotiated contract**") containing terms different to the proposed terms approved by the Council under clause 11(b).

12.2 Before entering into the negotiated contract with the applicant, the Council must, by resolution of an absolute majority of the Council, approve the terms of the negotiated contract.

13. Recruitment to be undertaken on expiry of certain CEO contracts:

13.1 In this clause:

“commencement day” means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.

13.2 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; and
 - 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 Council that they wish to have their contract of employment renewed upon its expiry.

13.3 Before the expiry of the incumbent CEO’s contract of employment, the City 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.

13.4 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 subclause 13.3 to be employed in the position of CEO.

14. Confidentiality of information:

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

Division 3 — Standards for Review of Performance of CEOs

15. Overview of Division:

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

16. Performance review process to be agreed between Council and CEO:

16.1 The Council 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.

16.2 Without limiting subclause 16.1, the process agreed under subclause 16.1(a) must be consistent with clauses 17, 18 and 19.

16.3 The matters referred to in subclause 16.1 must be set out in a written document.

17. Carrying out a performance review:

17.1 A review of the performance of the CEO by the Council must be carried out in an impartial and transparent manner.

17.2 The Council 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.

18. Endorsement of performance review by Council:

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

19. CEO to be notified of results of performance review:

After the Council has endorsed a review of the performance of the CEO under clause 18, the City 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 Council proposes to address and manage those issues.

Division 4 — Standards for Termination of Employment of CEOs

20. Overview of Division:

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

21. General principles applying to any termination:

21.1 The Council must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.

21.2 The Council 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; and
- b. notifying the CEO of any allegations against the CEO; and
- 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.

22. Additional principles applying to termination for performance-related reasons:

22.1 This clause applies if the Council proposes to terminate the employment of a CEO for reasons related to the CEO's performance.

22.2 The Council must not terminate the CEO's employment unless the Council has:

- a. in the course of carrying out the review of the CEO's performance referred to in subclause 22.3 or any other review of the CEO's performance, identified any issues (the "**performance issues**") related to the performance of the CEO; and
- b. informed the CEO of the performance issues; and
- 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 Council.

22.3 The Council must not terminate the CEO's employment unless the Council has, within the preceding 12-month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

23. Decision to terminate:

Any decision by the Council to terminate the employment of a CEO must be made by resolution of an absolute majority of the Council.

24. Notice of termination of employment:

24.1 If the Council terminates the employment of a CEO, the City must give the CEO notice in writing of the termination.

24.2 The notice must set out the Council's reasons for terminating the employment of the CEO.

Creation Date: 20 April 2021 (CJ056-04/21)

Amendments:

Related Documentation: *Local Government Act 1995*

Local Government (Administration) Regulations 1996