

COUNCIL AGENDA

Supplementary Items

25 January 2023

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

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CITY OF BUSSELTON





SUPPLEMENTARY ITEMS FOR THE COUNCIL MEETING TO BE HELD ON 25 JANUARY 2023

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16. FINANCE AND CORPORATE SERVICES REPORT

16.4 ESTABLISHMENT OF CEO PERFORMANCE REVIEW COMMITTEE

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Governance
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER	Chief Executive Officer - Tony Nottle
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A CEO Performance Review Committee Terms of Reference  Attachment B Amended Council Policy: CEO Performance Review  Attachment C Current Council Policy: CEO Performance Review  Attachment D Council Policy: CEO Performance Review Track Changes 

OFFICER RECOMMENDATION

That the Council:

1. Disband the CEO Performance Review Panel established under Council resolution C2108/162;
2. Pursuant to section 5.8 of the *Local Government Act 1995* (the Act), establishes a Chief Executive Officer Performance Review Committee (the Committee) and adopts the Terms of Reference for the Committee at Attachment A;
3. Appoints the following Councillors to the Committee as members:
 - (a) Cr. Grant Henley
 - (b) Cr. Paul Carter
 - (c) Cr. Anne Ryan
4. Appoints the following Councillor to the Committee as deputy member:
 - (a) Cr. _____
5. Adopts the amended Council policy: CEO Performance Review (Attachment B) to replace the current policy (Attachment C).

EXECUTIVE SUMMARY

This report recommends that the Council establish a Chief Executive Officer (CEO) Performance Review Committee under section 5.8 of the *Local Government Act 1995* (the Act), in replacement of the current CEO Performance Review Panel, which is recommended for disbandment. It also recommends the adoption of an amended Council Policy: CEO Performance Review (the Policy) to reflect the proposed new governance structure, and to provide for an improved and more transparent process for the CEO performance review.

BACKGROUND

Section 5.38 of the Act requires a local government to review the performance of the CEO if the CEO is employed for a term of more than one year. Changes to the Act and the *Local Government (Administration) Regulations 1996* (the Regulations) in 2021 resulted in a set of model standards being prescribed in relation to the recruitment, review of the performance, and termination of employment of CEOs (Model Standards). Local governments were required to adopt (by absolute majority) standards which incorporated the Model Standards. The City of Busselton CEO Standards for Recruitment, Performance and Termination (CEO Standards) were adopted on 28 April 2021 (C2104/083).

It is a requirement of the CEO Standards that the process by which the CEO's performance will be reviewed is documented and agreed to by both parties. While there is no specific requirement to have a Council policy (only to set out the agreed process in a written document), in support of transparency Council adopted the current CEO Performance Review policy in August 2021 (C2108/162). The policy provides for the establishment, composition and responsibilities of a CEO Performance Review Panel (the Panel), with the Panel members also appointed via Council Resolution C2108/162.

The City appointed Mr Tony Nottle as its new CEO on 5 December 2022. Under the CEO employment contract the Council and the CEO are to negotiate and determine Performance Criteria within 3 months of its commencement, with the Panel responsible for developing and recommending the performance criteria to Council. It is proposed that amendments be made to the governance structure for the CEO performance review prior to that process being undertaken.

OFFICER COMMENT

CEO Performance Review Committee

The establishment of a CEO Performance Review Committee (the Committee) is recommended in order to strengthen the governance structures associated with the CEO performance review, and to ensure application of the City's Standing Orders Local Law to decision making, and confidentiality provisions of the Act.

A proposed Terms of Reference for the Committee is presented for Council adoption (Attachment A). It is proposed that the Committee be responsible for:

- review of the CEO's performance in accordance with the CEO Standards, CEO employment contract and the Policy;
- developing and recommending to Council performance criteria to be met by the CEO;
- reporting concluded findings and recommendations to Council;
- monitoring progress of achievement against performance criteria; and
- as required, provide advice and recommendations to Council in relation to the appointment of an independent facilitator to assist them with the performance review process.

It is also recommended that the Committee provide advice and recommendations to Council on CEO remuneration reviews and assessments.

As per the Terms of Reference the Committee members may meet outside of formal Committee meetings to undertake functions which inform their formal decision making.

With respect to membership, it is recommended that the Committee initially consist of three Councillors, to align with the current Panel membership, with a fourth Councillor appointed as a deputy member.

It is further recommended that the current Panel members are appointed as Committee members, until the day of the next ordinary Council election. Officers believe a Committee membership of 4 or 5 Councillors would be ideal, however given the relative urgency of this item (with performance criteria pending negotiation) and the fact that not all Councillors will be present at the 25 January 2023 Council meeting, it is suggested that Council further review and consider increased membership as part of the usual review of Committees and working groups in the lead up to the ordinary election. It should be noted that, under Section 5.10(4) of the Act, the Mayor would in any event be appointed to the Committee if he informs the CEO of his wish to be a member.

CEO Performance Review Policy

The Policy (Attachment B) outlines the process and principles applicable to review of the CEO's performance. Amendments to the current policy (provided at Attachment C) reflect the proposed establishment of a Committee, with the functions and responsibilities of the Committee and its members moved to the proposed Committee Terms of Reference.

The Policy retains detail around the appointment and role of an independent consultant as a facilitator, and sets broad guidelines for the review process. It is recommended that commencement of the process is brought forward to before that start of each financial year as opposed to 'as early as practicable in each financial year' to allow for performance criteria to be properly considered as part budget finalisation and as part of the organisation's broader performance review processes.

Additional process provisions are proposed to formalise the feedback mechanism for Councillors not on the Committee, and to provide some more guidance around the assessment of the CEO's performance, with a rating scale included to guide Committee members.

Statutory Environment

Section 5.38 of the Act requires a local government to review the performance of the CEO annually.

Section 5.39B(2), (3), (5) and (6) of the Act relate to adoption of model standards, as contained within Schedule 2 of the Regulations.

Under Section 5.8 of the Act, a local government may, by absolute majority, establish committees of three or more persons to assist the Council. Section 5.10(4) of the Act provides for the Mayor to be appointed at their election to the Committee.

Relevant Plans and Policies

Council adopted the City's Standards for CEO Recruitment, Performance Review and Termination at its Ordinary Meeting 28 April 2021 (C2104/083).

Financial Implications

There are no financial implications associated with the officer recommendation, with the City's 2022/23 budget containing relevant and adequate funding allocations.

Stakeholder Consultation

No external stakeholder consultation was required or undertaken in relation to this matter. Officers have however researched the governance structure of other local governments in relation to the CEO performance review, and the recommendation to establish a committee of Council aligns to the research findings.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Not seek to establish a committee under section 5.8 of the Act and instead retain the current CEO Performance Review Panel. It is recommended in this case different amendments be made to the Policy to guide the functioning of the Panel;
2. Amend the Committee Terms of Reference;
3. Make additional or different amendments to the CEO Performance Review Policy.

CONCLUSION

The establishment of a CEO Performance Review Committee will strengthen the governance structure associated with the CEO performance review. As such, it is recommended that the current CEO Performance Review Panel be disbanded and that the current Panel members be appointed to the new Committee. Amendments are also proposed to the CEO Performance Review Policy to reflect this and to provide for a more structured and formalised process.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Panel will be disbanded and the Committee established immediately on adoption of the officer recommendation. The Committee will meet within one month to elect a Presiding Member and Deputy Presiding Member. The Policy will be updated on the City's website within one week.



1. INTRODUCTION

- 1.1. The CEO Performance Review Committee (the Committee) is established under the powers given in section 5.8 of the *Local Government Act 1995* (the Act).
- 1.2. The Committee is established for the purpose of assisting the Council to fulfil its functions under the City of Busselton Standards for CEO Recruitment, Performance Review and Termination (CEO Standards) in relation to review of the Chief Executive Officer's (CEO) performance.

2. OBJECTIVE

- 2.1 The Committee is responsible for undertaking the performance review of the CEO and reporting findings and recommendations to Council.
- 2.2 The functions of the Committee are to:
 - a. provide advice and recommendations to Council in relation to the appointment of an independent facilitator to assist the committee in conducting the CEO performance review;
 - b. develop, review and recommend to Council performance criteria to be met by the CEO;
 - c. review the CEO's performance in accordance with the provisions contained within the CEO's contract of employment and the CEO Performance Review Policy;
 - d. report concluded findings and recommendations to Council for consideration;
 - e. monitor the progress of achievement by the CEO against the performance criteria;
 - f. provide advice and recommendations to Council on CEO remuneration reviews and assessments.

3. MEMBERSHIP

- 3.1. The Council will appoint to the Committee
 - a. The Mayor plus two elected members; and
 - b. one elected member as deputy member of the Committee.
- 3.2. Membership of the Committee will, unless determined otherwise, cease on the day of the next ordinary Council election.
- 3.3. Council will appoint new members to the Committee at the Council meeting following each Council election.
- 3.4. Committee members must:
 - a. as soon as practicable after their appointment, complete appropriate training in the conduct of CEO performance reviews;
 - b. participate in the performance review process in a fair and impartial manner;

- c. ensure their assessment of the CEO's achievements against the performance criteria is based on evidence;
- d. maintain confidentiality in relation to the performance review and any information received; and
- e. ensure accurate and comprehensive records are kept and provided to the City's administration for recording within the City's record keeping system.

4. PRESIDING MEMBER

- 4.1. The Committee shall appoint a Presiding Member and Deputy Presiding Member to conduct its business.

5. MEETINGS

- 5.1. The Committee shall meet formally at least twice per year. The Committee members may also meet outside of formal Committee meetings to undertake functions which inform their decision making e.g. CEO performance review meetings, meetings with an independent facilitator.
- 5.2. The Committee shall report to Council in accordance with clause 2.10 of the *City of Busselton Standing Orders Local Law 2018*.
- 5.3. Meeting Agenda papers are to be provided to members not less than 72 hours prior to the meeting.
- 5.4. The Presiding Member shall ensure that detailed minutes of all meetings are kept in accordance with the Part 14 of the *City of Busselton Standing Orders Local Law 2018*.
- 5.5. All members of the Committee shall have one vote. If the vote of the members present is equally divided, the Presiding Member shall cast a second vote.
- 5.6. Where the Committee makes a recommendation to the Council, the Chief Executive Officer shall ensure that the recommendation is on the agenda of the next practicable ordinary Council meeting.

6. QUORUM

- 6.1. The quorum for a meeting shall be at least 50% of the number of offices of membership, whether vacant or not.

7. DELEGATED POWERS

- 7.1. The Committee does not have authority to implement actions in areas over which the CEO has legislative responsibility and does not have any delegated power from Council.
- 7.2. Committee recommendations are not binding on Council and must be endorsed by Council to take effect.

8. EVALUATION OF COMMITTEE'S EFFECTIVENESS

- 8.1. At the meeting of the Committee prior to the ordinary Council elections, the Committee shall undertake a review to evaluate its effectiveness, and as a guide the following should be determined:
 - a. are the Committee's purpose and objectives being met?
 - b. should the purpose and objectives be amended?
 - c. is the Committee functioning effectively and as per the requirements of the Act?
 - d. are the Committee members regularly attending meetings?
 - e. review the Terms of Reference, including membership.

9. APPROVAL

Council Adoption	DATE		Resolution #	
Previous Adoption	DATE		Resolution #	



Council Policy

Council Policy Name: Chief Executive Officer Performance Review

Responsible Directorate: Finance and Corporate Services **Version:** Draft

1. PURPOSE

- 1.1. The CEO Standards require the City and the Chief Executive Officer (CEO) to agree and set out in a written document the process by which the CEO's performance will be reviewed.
- 1.2. The purpose of this Policy is to set out the CEO performance review process in a transparent manner, and to provide overall guidance for process.

2. SCOPE

- 2.1. This Policy is applicable to the review of the CEO's performance in accordance with section 5.38 of the Act and the CEO Standards.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Interest	an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association
Policy	this City of Busselton Council policy titled "Chief Executive Officer Performance Review"
CEO Standards	City of Busselton CEO Recruitment, Performance Review and Termination

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. – LEADERSHIP – A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021, and specifically Strategic Priority 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. Council has established a CEO Performance Review Committee (the Committee) for the purpose of undertaking the performance review of the CEO and reporting findings and recommendations to Council.
- 5.2. The Committee's functions and responsibilities are set out in the Committee Terms of Reference. This Policy further outlines the process to be followed by the Committee in relation to the CEO Performance Review.

- 5.3. Administrative support for the CEO performance review process will be provided by the Manager responsible for the human resources function.

Independent Facilitator

- 5.4. If the Committee does not have the resources and / or expertise to undertake the performance review process to the expected standard, or considers it may otherwise be beneficial, the Committee may, using the administrative support provided, engage an independent facilitator to assist.
- 5.5. An independent facilitator may be required to assist in:
- a. development and review of performance criteria;
 - b. preparation of a performance agreement;
 - c. collection of performance evidence;
 - d. preparation of the performance appraisal report;
 - e. facilitating meetings between the Committee and the CEO;
 - f. the provision of feedback to the CEO;
 - g. preparation of plans to support improvement (if required); and
 - h. the provision of an objective view regarding any performance management related matters.
- 5.6. A facilitator must not have an Interest which would impact on their ability to carry out their functions in a fair and impartial manner.

Performance Criteria

- 5.7. Performance criteria, additional to criteria contained within the CEO's employment contract, may be included in a separate performance agreement, agreed to by the CEO and the Council.
- 5.8. Performance criteria should be specific, measurable, achievable, relevant (or reasonable) and timely.
- 5.9. Adjustments to the performance agreement may be initiated by either the CEO or the Council.

Performance Review Process

- 5.10. Performance of the CEO is to be measured in an objective manner against the performance criteria and the CEO's achievement of duties under their employment contract and section 5.41 of the Act.
- 5.11. The performance review process will generally commence around March each year.
- 5.12. The Committee will give the CEO notice of commencement of the performance review process, and, within 21 days, the CEO will prepare and submit to the Committee a report assessing their own performance against the performance criteria, and their duties under the employment contract and the Act.
- 5.13. Evidence of performance may also include demonstration of:
- a. progress towards implementing the Council's strategic vision;
 - b. achievement of key business outcomes;
 - c. meeting of statutory requirements and Audit Committee reports;
 - d. organisational KPI results;
 - e. organisational engagement metrics;
 - f. interactions with the Council and Councillors which support a functional local government; and
 - g. relationships with relevant organisations, stakeholder groups and professional networks.
- 5.14. Councillors who are not members of the Committee will have the opportunity to provide feedback on the CEO's performance to the Committee's Presiding Member or independent facilitator.

- 5.15. The Committee will assess and rate each of the performance criteria and determine an overall rating using the following rating scale as a guide:

3	Exceeds Expectations - Performance exceeds requirements at times, consistently high quality of work and outcomes
2	Meets Expectations - Performance meets expected requirements
1	Some Improvement Required - Major requirements have been met, but expectations are not consistently delivered
0	Unsatisfactory- Important requirements have not been met, major shortcomings
N/A	Not applicable- e.g., if the milestone is not yet due and progress cannot be reported on

- 5.16. An assessment of "Some improvement required" or "Unsatisfactory" requires an additional comment identifying areas for improvement. Similarly, "Exceeds expectations" requires substantiation with examples of where the performance has exceeded requirements.

- 5.17. The Committee will meet with the CEO to discuss the ratings and feedback and prepare a record of the review, which will become the official record of the performance review.

- 5.18. Consideration should be given to:

- how the CEO has achieved the performance criteria and outcomes and whether their methods are acceptable and sustainable;
- the extent to which performance is contingent upon current circumstances;
- the manner in which the CEO has adapted to and managed changing external circumstances;
- the attention the CEO has given to equal employment opportunity and work health and safety.

- 5.19. It is important that contextual factors, external or otherwise, are given appropriate weight. Failure to meet performance criteria does not necessarily mean the CEO has performed poorly; both performance effort and outcomes should be considered.

- 5.20. The performance review process is recognised as a two way communication process. As such, the CEO will be provided with an opportunity during the process to provide feedback in relation to the Council's performance, and to raise any matters which may be impacting on the performance of their duties.

- 5.21. The CEO may nominate a representative to assist them in performance review meetings.

Performance Review Outcomes

- 5.22. Within one month of the conclusion of the performance review process, the performance review findings and recommendations will be presented as a confidential report to Council in accordance with section 5.23 of the Act.

- 5.23. Any areas that require attention or improvement must be identified, discussed with the CEO, and a plan agreed to address the issues. The plan should outline the actions to be taken, who is responsible for the actions and timeframes.

- 5.24. Regular discussion and ongoing feedback on the identified performance issues should be scheduled to ensure improvements are being made.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*

- 6.2. *Local Government (Administration) Regulations 2021*

6.3. City of Busselton CEO Standards for Recruitment, Performance Review and Termination

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	11 August 2021	Resolution #	C2108/168



Council Policy

Council Policy Name: Chief Executive Officer Performance Review

Responsible Directorate: Finance and Corporate Services **Version:** Adopted

1. PURPOSE

- 1.1. The CEO Standards require the City and the Chief Executive Officer (CEO) to agree and set out in a written document the process by which the CEO's performance will be reviewed.
- 1.2. The purpose of this Policy is to set out the CEO performance review process in a transparent manner, and to provide overall guidance for process.

2. SCOPE

- 2.1. This Policy is applicable to the review of the CEO's performance in accordance with section 5.38 of the Act and the CEO Standards.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Interest	an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association
Panel	CEO Performance Review Panel
Policy	this City of Busselton Council policy titled "Chief Executive Officer Performance Review"
CEO Standards	City of Busselton CEO Recruitment, Performance Review and Termination

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. – LEADERSHIP – A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021, and specifically the following Strategic Priority:
 - a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. Following every local government election, Council will appoint a CEO Performance Review Panel comprising of the Mayor and two other elected members. The Panel may also include an independent observer mutually agreed to by the CEO and the Panel.
- 5.2. The Panel is authorised to undertake the CEO performance review, including:
- a. developing the performance agreement and performance criteria (key performance indicators);
 - b. conducting the performance review in line with this Policy;
 - c. reporting the performance review findings and recommendations to Council; and
 - d. holding regular meetings to discuss and provide feedback if performance issues are identified.
- 5.3. Panel members must:
- a. as soon as practicable after their appointment, complete appropriate training in the conduct of CEO performance reviews (Noting this requirement does not apply until after the 2021 Council elections);
 - b. undertake the performance review process in a fair and impartial manner;
 - c. ensure their assessment is based on evidence of the CEO's achievements against the performance criteria;
 - d. maintain confidentiality in relation to the performance review and any information received; and
 - e. ensure accurate and comprehensive records are kept within the City's record keeping system (using the administrative support provided).
- 5.4. Administrative support for the process will be provided by the Manager responsible for the human resources function.

Independent Consultant

- 5.5. If the Panel does not have the resources and / or expertise to undertake the performance review process to the expected standard, the Panel may, through the administrative support provided, engage an external consultant facilitator to assist.
- 5.6. A consultant must not have an Interest which would impact on their ability to carry out their functions in a fair and impartial manner.
- 5.7. A consultant may be required to facilitate:
- a. setting performance criteria;
 - b. preparing the performance agreement;
 - c. collecting performance evidence;
 - d. writing the performance appraisal report;
 - e. facilitating meetings between the Panel;
 - f. assisting with the provision of feedback to the CEO;
 - g. formulating plans to support improvement (if required); and
 - h. providing an objective view regarding any performance management related matters.

Performance Criteria

- 5.8. Performance criteria, additional to criteria contained within the CEO's employment contract, may be included in a separate performance agreement, agreed to by the CEO and the Council.
- 5.9. Performance criteria must be specific, measurable, achievable, relevant (or reasonable) and timely.
- 5.10. Adjustments to the performance agreement may be initiated by either the CEO or the Council.

Performance Review Process

- 5.11. Performance of the CEO is to be measured in an objective manner against the performance criteria and the CEO's achievement of duties under their employment contract and section 5.41 of the Act.
- 5.12. The performance review process will generally commence as early as practicable in each financial year. The Panel will give the CEO notice of commencement of the performance review process.
- 5.13. Within 21 days of being given notice of commencement of the process, the CEO will prepare and submit to the panel a report assessing their own performance against the performance criteria, and their duties under the contract and the Act.
- 5.14. Evidence of performance may also include demonstration of:
- a. progress towards implementing the Council's strategic vision;
 - b. achievement of key business outcomes;
 - c. meeting of statutory requirements and Audit Committee reports;
 - d. organisational KPI results;
 - e. organisational engagement metrics;
 - f. interactions with the Council and Councillors which support a functional local government; and
 - g. relationships with relevant organisations, stakeholder groups and professional networks.
- 5.15. Consideration should be given to:
- a. how the CEO has achieved the performance criteria and outcomes and whether their methods are acceptable and sustainable;
 - b. the extent to which performance is contingent upon current circumstances;
 - c. the manner in which the CEO has adapted to and managed changing external circumstances;
 - d. the attention the CEO has given to equal employment opportunity and work health and safety.
- 5.16. It is important that contextual factors, external or otherwise, are given appropriate weight. Failure to meet performance criteria does not necessarily mean the CEO has performed poorly; both performance effort and outcomes should be considered.
- 5.17. The performance review process is recognised as a two way communication process between the Council and the CEO. As such, the CEO will be provided with an opportunity during the process to provide feedback in relation to the Council's performance, and to raise any matters which may be impacting on the performance of their duties.
- 5.18. The CEO may nominate a representative to assist them in performance review meetings.

Performance Review Outcomes

- 5.19. Within one month of the conclusion of the performance review process, the performance review findings and recommendations will be presented as a confidential report to Council in accordance with section 5.23 of the Act.
- 5.20. Any areas that require attention or improvement must be identified, discussed with the CEO, and a plan agreed to address the issues. The plan should outline the actions to be taken, who is responsible for the actions and timeframes.
- 5.21. Regular discussion and ongoing feedback on the identified performance issues should be scheduled to ensure improvements are being made.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Administration) Regulations 2021*
- 6.3. City of Busselton CEO Standards for Recruitment, Performance Review and Termination

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	11 August 2021	Resolution #	C2108/168
Previous Adoption	DATE	N/A	Resolution #	N/A



Council Policy

Council Policy Name: Chief Executive Officer Performance Review

Responsible Directorate: Finance and Corporate Services **Version:** Draft**Adopted**

1. PURPOSE

- 1.1. The CEO Standards require the City and the Chief Executive Officer (CEO) to agree and set out in a written document the process by which the CEO's performance will be reviewed.
- 1.2. The purpose of this Policy is to set out the CEO performance review process in a transparent manner, and to provide overall guidance for process.

2. SCOPE

- 2.1. This Policy is applicable to the review of the CEO's performance in accordance with section 5.38 of the Act and the CEO Standards.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Interest	an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association
Panel	CEO Performance Review Panel
Policy	this City of Busselton Council policy titled "Chief Executive Officer Performance Review"
CEO Standards	City of Busselton CEO Recruitment, Performance Review and Termination

4. STRATEGIC CONTEXT

~~4.1.~~ This Policy links to Strategic Theme 4. – LEADERSHIP – A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021, and specifically ~~the following~~ Strategic Priority:

~~4.2.4.1.~~ 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. ~~Council has established. Following every local government election, Council will appoint a~~ CEO Performance Review ~~Committee (the Committee) for the purpose of undertaking the performance review of the CEO and reporting findings and recommendations to Council.~~ **Panel comprising of the Mayor and two other elected members. The Panel may also include an independent observer mutually agreed to by the CEO and the Panel.**

5.2. The Committee's Panel is authorised to undertake the functions and responsibilities are set out in the Committee Terms of Reference. This Policy further outlines the process to be followed by the Committee in relation to the CEO Performance Review.

5.2. CEO performance review, including:

- a. ~~developing the performance agreement and performance criteria (key performance indicators);~~
- b. ~~conducting the performance review in line with this Policy;~~
- c. ~~reporting the performance review findings and recommendations to Council; and~~
- d. ~~holding regular meetings to discuss and provide feedback if performance issues are identified.~~

5.3. Panel members must:

- a. ~~as soon as practicable after their appointment, complete appropriate training in the conduct of CEO performance reviews (Noting this requirement does not apply until after the 2021 Council elections);~~
- b. ~~undertake the performance review process in a fair and impartial manner;~~
- c. ~~ensure their assessment is based on evidence of the CEO's achievements against the performance criteria;~~
- d. ~~maintain confidentiality in relation to the performance review and any information received; and~~
- e. ~~ensure accurate and comprehensive records are kept within the City's record keeping system (using the administrative support provided).~~

5.4.5.3. Administrative support for the CEO performance review process will be provided by the Manager responsible for the human resources function.

Independent Consultant Facilitator

5.5.5.4. If the Panel Committee does not have the resources and / or expertise to undertake the performance review process to the expected standard, or considers it may otherwise be beneficial, the Panel Committee may, using through the administrative support provided, engage an external consultant independent facilitator to assist.

5.6.1.1. A consultant must not have an Interest which would impact on their ability to carry out their functions in a fair and impartial manner.

5.7.5.5. An independent facilitator consultant may be required to assist in facilitate:

- a. ~~development and review setting of~~ performance criteria;
- b. ~~preparation ing of a the~~ performance agreement;
- c. ~~collection ag of~~ performance evidence;
- d. ~~writing preparation of~~ the performance appraisal report;
- e. ~~facilitating meetings between the Committee and the CEO Panel;~~
- f. ~~assisting with~~ the provision of feedback to the CEO;
- g. ~~formulating preparation of~~ plans to support improvement (if required); and
- h. the provision of providing an objective view regarding any performance management related matters.

5.6. A consultant facilitator must not have an Interest which would impact on their ability to carry out their functions in a fair and impartial manner.

Performance Criteria

5.8.5.7. Performance criteria, additional to criteria contained within the CEO's employment contract, may be included in a separate performance agreement, agreed to by the CEO and the Council.

5.9.5.8. Performance criteria must should be specific, measurable, achievable, relevant (or reasonable) and timely.

~~5.10.5.9.~~ Adjustments to the performance agreement may be initiated by either the CEO or the Council.

Performance Review Process

~~5.11.5.10.~~ Performance of the CEO is to be measured in an objective manner against the performance criteria and the CEO's achievement of duties under their employment contract and section 5.41 of the Act.

~~5.11.~~ The performance review process will generally commence around March as early as practicable in each financial year.

~~5.12.~~ The Committee Panel will give the CEO notice of commencement of the performance review process, and,

~~5.13.~~

~~5.14.5.12.~~ Within 21 days of being given notice of commencement of the process, the CEO will prepare and submit to the Committee panel a report assessing their own performance against the performance criteria, and their duties under the employment contract and the Act.

~~5.15.5.13.~~ Evidence of performance may also include demonstration of:

- a. progress towards implementing the Council's strategic vision;
- b. achievement of key business outcomes;
- c. meeting of statutory requirements and Audit Committee reports;
- d. organisational KPI results;
- e. organisational engagement metrics;
- f. interactions with the Council and Councillors which support a functional local government; and
- g. relationships with relevant organisations, stakeholder groups and professional networks.

~~5.14.~~ Councillors who are not members of the Committee will have the opportunity to provide feedback on the CEO's performance to the Committee's Presiding Member or independent facilitator.

~~5.15.~~ The Committee will assess and rate each of the performance criteria and determine an overall rating using the following rating scale as a guide:

<u>3</u>	<u>Exceeds Expectations - Performance exceeds requirements at times, consistently high quality of work and outcomes</u>
<u>2</u>	<u>Meets Expectations - Performance meets expected requirements</u>
<u>1</u>	<u>Some Improvement Required - Major requirements have been met, but expectations are not consistently delivered</u>
<u>0</u>	<u>Unsatisfactory- Important requirements have not been met, major shortcomings</u>
<u>N/A</u>	<u>Not applicable- e.g., if the milestone is not yet due and progress cannot be reported on</u>

~~5.16.~~ An assessment of "Some improvement required" or "Unsatisfactory" requires an additional comment identifying areas for improvement. Similarly, "Exceeds expectations" requires substantiation with examples of where the performance has exceeded requirements.

~~5.17.~~ The Committee will meet with the CEO to discuss the ratings and feedback and prepare a record of the review, which will become the official record of the performance review.

~~5.16.5.18.~~ Consideration should be given to:

- a. how the CEO has achieved the performance criteria and outcomes and whether their methods are acceptable and sustainable;
- b. the extent to which performance is contingent upon current circumstances;

- c. the manner in which the CEO has adapted to and managed changing external circumstances;
- d. the attention the CEO has given to equal employment opportunity and work health and safety.

~~5.17.5.19.~~ It is important that contextual factors, external or otherwise, are given appropriate weight. Failure to meet performance criteria does not necessarily mean the CEO has performed poorly; both performance effort and outcomes should be considered.

~~5.18.5.20.~~ The performance review process is recognised as a two way communication process ~~between the Council and the CEO~~. As such, the CEO will be provided with an opportunity during the process to provide feedback in relation to the Council's performance, and to raise any matters which may be impacting on the performance of their duties.

~~5.19.5.21.~~ The CEO may nominate a representative to assist them in performance review meetings.

Performance Review Outcomes

~~5.20.5.22.~~ Within one month of the conclusion of the performance review process, the performance review findings and recommendations will be presented as a confidential report to Council in accordance with section 5.23 of the Act.

~~5.21.5.23.~~ Any areas that require attention or improvement must be identified, discussed with the CEO, and a plan agreed to address the issues. The plan should outline the actions to be taken, who is responsible for the actions and timeframes.

~~5.22.5.24.~~ Regular discussion and ongoing feedback on the identified performance issues should be scheduled to ensure improvements are being made.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Administration) Regulations 2021*
- 6.3. City of Busselton CEO Standards for Recruitment, Performance Review and Termination

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	11 August 2021	Resolution #	C2108/168
Previous Adoption	DATE	11 August 2021 N/A	Resolution #	C2108/168 N/A