

LATE ITEM - C18/5625 - PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER (REC) (ATTACHMENTS)

Ward : All
 Category : Operational
 Subject Index : Recruitment
 Customer Index : Not Applicable
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Nil
 Works Programme : Not applicable
 Funding : Not Applicable
 Responsible Officer : Kylie Johnson
 Executive Manager Organisational Development

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

LATE ITEM - C18/5625 - PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER (REC) (ATTACHMENTS)**KEY ISSUES / SUMMARY**

- The Council are required to approve a selection process for the Chief Executive Officer role prior to the vacancy being advertised, and a proposed process is outlined for consideration of the Council.
- The proposed process is based on use of an independent external Recruitment Consultant and authorising the Governance Committee to assist with key stages up to the point that the Council are required to consider and select the preferred Applicant by Absolute Majority decision.
- The Council needs to identify the remuneration package range available for the advertised vacancy of the Chief Executive Officer role, and there is a requirement to not exceed the Total Reward Package Determination of the Salaries and Allowances Tribunal.
- A draft Employment Contract is provided which is based on the Model contract developed by the Local Government Professionals Association and WALGA, and further refined through legal comment and alignment with City of Melville employment conditions.

BACKGROUND

The Chief Executive Officer, Dr Shayne Silcox tendered his resignation on Thursday 24 May 2018, effective 30 July 2018.

The process to select a Chief Executive Officer must be in line with best practice standards and in a manner that complies with Local Government Legislation, and as such needs to be determined through a resolution of the Council before the process can commence.

In respect to best practice, the City of Melville has an extremely professional and competent Employee Service Team that is able to manage the recruitment process internally. However to ensure the process is seen as transparent and perceived as providing a strong merit based selection process, it is proposed that an independent external Recruitment Consultant be utilised.

The Executive Manager Organisational Development is able to liaise and advise the Governance Committee in respect to utilising the services of an independent external Recruitment Consultant. They can also liaise with the Consultant, the Governance Committee, and the Council, to advise and ensure compliance with the Local Government Act, best practice and the ability to be present at any meetings to record minutes and the overall process on behalf of the organisation.

To facilitate the process beyond the appointment of a Consultant it is recommended that Council authorise the Governance Committee to coordinate the process to advertise, interview and recommend the preferred Applicants to the Council. The final approval of the recommended Applicant and the associated contract will require an Absolute Majority decision of the Council.

LATE ITEM - C18/5625 - PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER (REC) (ATTACHMENTS)

In support of best practice as detailed in the Local Government Operational Guidelines for Appointing a CEO *“Elected Members should declare any previous association with a potential applicant at the time of short-listing if they are part of the interview panel/selection committee established for the purpose. Similarly, if the interviews involve the full council, the elected member should make an appropriate declaration before the interviews commence.”*

If a Member’s relationship with an applicant is deemed by the Governance Committee to be significant and may be perceived as nepotism or patronage, the member should exclude himself/herself from the selection process.

The Guideline also states that *“Elected Members may act as referees for applicants... When this occurs it is recommended that the member provide a written referee report prior to interview.”*

DETAIL

The proposed process is attached as **5625 CEO Recruitment – Proposed Process**, and is based on the use of an external independent Consultant.

The inclusion of a Confidentiality Agreement, which requires all persons involved in the selection process to agree to appropriate levels of confidentiality, is a suggestion from the Local Government Operational Guidelines for Appointing a CEO. The Guideline highlights that any information which finds its way into the public domain before a recommendation is made to the Council may well compromise the selection process.

The draft Employment Contract **5625 Draft Contract of Employment CEO** is based on the Model contract developed by the Local Government Professionals Association and WALGA, and further refined through legal comment and alignment with City of Melville employment conditions.

The Council will assess preferred Applicants through a presentation and questions session and refer to information in the Selection Report from the Governance Committee. The Council will then select the preferred Applicant in accordance with section 5.36 of the *Local Government Act 1995*. Approval to appoint the preferred Applicant and the final contract is to be by Absolute Majority decision.

Following the selection of the preferred Applicant by the Council, the Applicant is to be offered the position by the Consultant. The contract is to be finalised, in consultation with the Executive Manager Organisational Development, through the Consultant and under the direction of the Council. It is noted that the value of the remuneration and benefits cannot be greater than the amount advertised.

If, as the recruitment process is undertaken, any changes to the proposed process are required, they are able to occur with the authorisation of the Governance Committee. Any variation to the process will, however need to be noted in the final report to the Council that identifies the recommended applicant.

LATE ITEM - C18/5625 - PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER (REC) (ATTACHMENTS)**STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

The advertising process will be the key public communication aspect of this process.

II. OTHER AGENCIES / CONSULTANTS

If the Council determine to utilise a Consultant, recruitment agencies will be engaged with a scope document developed and distributed based on the City of Melville's requirements.

STATUTORY AND LEGAL IMPLICATIONS

There are a variety of legal and policy requirements as detailed below. The key requirement to note at this point is that under *Local Government (Administration) Regulations 1996*, Regulation 18C it is required that "*The local government is to approve a process to be used for the selection and appointment of a CEO for the local government before the position of CEO of the local government is advertised.*"

The specific relevant documentation that guides this process includes;

- Relevant sections of the *Local Government Act 1995* (Sections 5.36,5.39,5.40) ;
- Relevant sections of the *Local Government (Administration) Regulations 1996* (18A, 18B, 18C, 18E, 18F);
- Local Government Operational Guideline Number 10 – Appointing a CEO;
- Local Government Management Association and WALGA Model Contract for Local Government CEOs ;
- *Equal Opportunity Act 1984*;
- Prevention of Workplace Bullying, Discrimination & Harassment (City of Melville Policy OP-003).

Under Section 5.39 (7) of the *Local Government Act 1995* it states that the recruitment process needs to take into account "*a report made by the Salaries & Allowances Tribunal, under Section 7A of the Salaries & Allowances Act 1975, containing recommendations as to the remuneration to be paid or provided to a CEO.*" The latest report from the Salaries and Allowances Tribunal on recommendations for CEO salaries has recommended a Total Reward Package range for City of Melville of between \$247,896 - \$375,774.

LATE ITEM - C18/5625 - PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER (REC) (ATTACHMENTS)

Section 5.23. of the *Local Government Act 1995* entitled "Meetings generally open to the public" provides

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following -*
- (a) a matter affecting an employee or employees;*
 - (b) the personal affairs of any person;*
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
 - (e) a matter that if disclosed, would reveal:*
 - (i) information that has a commercial value to a person; or*
 - (ii) information about the business, professional, commercial or financial affairs of a person,*
 - (iii) where the trade secret or information is held by, or is about, a person other than the local government;*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

FINANCIAL IMPLICATIONS

The cost of the recruitment process will be within the 2018-2019 operational budget.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Risks with this matter relate to ensuring the recruitment process is seen as professional, confidential, and transparent, attracts suitable applicants, and complies with legislative requirements.

LATE ITEM - C18/5625 - PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER (REC) (ATTACHMENTS)

Risk Statement	Level of Risk	Risk Mitigation Strategy
Risk of the City of Melville not coordinating a transparent, confidential and professional process that attracts a suitable applicant.	Medium level of risk	Use of external consultant based on quote evaluation that includes referees. Use of confidentiality agreements. Broad advertisement of vacancy.

POLICY IMPLICATIONS

The organisational Purchasing Policy is relevant to this matter.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could determine to coordinate the selection and appointment process internally through the Employee Services Team. This has not been recommended on the basis that it is considered an external Consultant will be seen as more transparent and promote more interest from potential applicants.

Advantages

1. The City's Employee Services team has demonstrated ability to support and advise on the Executive recruitment process, including finalising the position description, setting up selection panels, shortlisting against the desired attributes and essential skill areas and carrying out of reference and qualification checks.
2. The City controls the process and can co-opt nominated participants into different elements of the selection process, including short listing and interviews through to arranging for relevant testing and validation (such as psychometric testing for preferred candidates).
3. Costs can be controlled and will be lower as a 'success fee' for recruiting agencies would not apply.

Disadvantages:

1. Reputational Risk - An internal process does not offer the same opportunity to solicit applications and 'sell' the benefits of the role, using a range of innovative sourcing solutions (e.g. "Headhunt").
2. Probity - managing perceptions in the wider community of fairness and equity, especially if there are internal candidates.

LATE ITEM - C18/5625 - PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER (REC) (ATTACHMENTS)**CONCLUSION**

To formally commence the recruitment process for the Chief Executive Officer role the Council needs to confirm whether to select and appoint a Consultant to assist with the process, determine the process to be followed, remuneration range to be advertised and draft employment contract.

OFFICER RECOMMENDATION (5625)**APPROVAL**

1. That an external Recruitment Consultant be contracted to coordinate the recruitment process, with the Executive Manager Organisational Development to assist the Consultant, Governance Committee and the Council as required.
2. That the Council authorises the Governance Committee to coordinate the Chief Executive Officer recruitment process to the point of recommendation of the preferred applicants for final decision by the Council.
3. That the recruitment process **5625 CEO Recruitment – Proposed Process** be endorsed.
4. That the Council authorises the Governance Committee to make variations to the recruitment process should the need to do so arise, and that any variations made be reported back to the Council in the final report that recommends the preferred applicant.
5. That the value of the total remuneration package for the Chief Executive Officer position be advertised in accordance with the Salaries and Allowances Tribunal Chief Executive Officers Total Reward Package Determination of 10 April 2018.
6. That the draft Employment Contract **5625 Draft Contract of Employment CEO** be endorsed as the base document for finalisation by the Council once the preferred Applicant is decided.