

**P16/3733 - APPOINTMENT OF AUTHORISED OFFICERS UNDER PUBLIC HEALTH ACT
2016 (AMREC) (ATTACHMENT)**

Ward	:	All
Category	:	Operational
Subject Index	:	Public Health
Customer Index	:	Environmental Health Services
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Not applicable
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Graeme Blakey Coordinator Environmental Health

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 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 checked="" 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>

**P16/3733 - APPOINTMENT OF AUTHORISED OFFICERS UNDER PUBLIC HEALTH ACT
2016 (AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The new *Public Health Act 2016* is now law in Western Australia. The Act represents a comprehensive reform of public health legislation in WA and replaces the outdated *Health Act 1911*.
- Environmental Health Officers appointed under the Health Act will need to be appointed as authorised officers under the Public Health Act to enforce the provisions of the new Act.
- Council can delegate authority to appoint authorised officers to the Chief Executive Officers.

BACKGROUND

The *Public Health Act 2016* received Royal Assent on 25 July 2016. The *Health Act 1911* (the old Act) will be phased out over a period of three to five years through a staged process and replaced by the *Public Health Act 2016*. This report informs the Council of the commencement of the *Public Health Act 2016*, and request the Chief Executive Officer be provided with the appropriate delegation to designate Environmental Health Officers.

Under the provisions of the old Act, Environmental Health Officers employed by Local Governments were “approved” through the powers conferred to the Executive Director Public Health from the Department of Health WA. Under the provisions of Section 21 of the *Public Health Act 2016*, the Local Government, also referred to as an enforcement agency, has the power to delegate the duty conferred or imposed on it, to the Chief Executive Officer.

DETAIL

The new *Public Health Act 2016* provides modern legislation to regulate public health in Western Australia. The Act will repeal much of the outdated *Health Act 1911* and is designed to better protect and promote the health of all Western Australians.

The *Public Health Act 2016* provides a flexible and proactive framework for the regulation of public health. Key features of the Act include:

- Promoting public health and wellbeing in the community
- Help prevent disease, injury, disability and premature death
- Inform individuals and communities about public health risks
- Encourage individuals and their communities to plan for, create and maintain a healthy environment
- Support programs and campaigns intended to improve public health
- Collect information about the incidence and prevalence of diseases and other public health risks for research purposes
- Reduce the health inequalities in public health of disadvantaged communities.

**P16/3733 - APPOINTMENT OF AUTHORISED OFFICERS UNDER PUBLIC HEALTH ACT
2016 (AMREC) (ATTACHMENT)**

Local governments will enforce the *Public Health Act 2016*. Authorised officers (previously known as Environmental Health Officers) are responsible for investigating any public health matter within their local government boundaries.

Traditionally, under the provisions of the *Health Act 1911*, all Environmental Health Officers (EHOs) were “approved” by the Executive Director Public Health (EDPH) to perform specified functions of the Act. The EDPH was a specified role within the *Health Act 1911* and the person assigned to that role was an employee of the Department of Health WA.

Each time a Local Government appointed an EHO, it had to seek “approval” from the EDPH for that EHO to undertake the duties of the *Health Act 1911*. This application process can take several weeks with the EHO being ultimately issued with an authority card through the Department of Health.

The introduction of the *Public Health Act 2016* will see EHOs be referred to as Authorised Officers and as such are to be designated and authorised by the Local Government that employs them, and no longer relies on “approvals” from the Department of Health WA. The Local Government may delegate the function of authorising officers to the Chief Executive Officer.

This will streamline the appointment of Authorised Officers and enable newly employed officers who have the necessary qualifications to begin enforcing the provisions of the Public Health Act in a shorter time period

STAKEHOLDER ENGAGEMENT

Not Applicable

STATUTORY AND LEGAL IMPLICATIONS

Under Section 312 of the *Public Health Act 2016* Environmental Health Officers currently appointed by the City of Melville will be taken to have been designated as an Authorised Officer under section 24(1).

However, any new officer appointed will require to be authorised by the Local Government under section 24(1).

FINANCIAL IMPLICATIONS

None

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The Department of Health WA has recommended that local governments take steps to ensure relevant delegated authorities are in place, in order to minimise the impact on local governments. There is a risk that if the steps recommended by the Department of Health WA are not taken near the time the new Act comes into effect the City will not have all the authority it needs to enforce the legislation. This could mean that the responsible officers will not have the authority for investigating any public health matter within the City of Melville.

**P16/3733 - APPOINTMENT OF AUTHORISED OFFICERS UNDER PUBLIC HEALTH ACT
2016 (AMREC) (ATTACHMENT)****POLICY IMPLICATIONS**

Not Applicable

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

That the Council does not delegate authority to the Chief Executive Officer but appoints Authorised Officers through Council resolution. This is likely to still be a shorter process than currently exists under the existing Health Act, but will still lead to delays in newly employed Environmental Health Officers from beginning enforcement duties.

CONCLUSION

Under the Public Health Act the administrative process for issuing approvals for Authorised Officers can be taken with minimum delay and officers can be given authority to perform their functions almost immediately after they are employed through the delegation of that duty to the Chief Executive Officer.

Section 30 of the *Public Health Act 2016* specifies that an Authorised Officer must be issued a certificate of authority card by the Local Government. It is envisaged that this certificate of authority card would be signed or approved by the delegate of the Council who it is recommended, would be the Chief Executive Officer.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3733)
ABSOLUTE MAJORITY**

At 9.37pm Cr Robartson moved, seconded Cr Aubrey –

That the Council delegates to the Chief Executive Officer by absolute majority decision the authority to designate Authorised Officers in accordance with section 21 (1) (b) (i) of the *Public Health Act 2016* and the amended delegation Appointment of Authorised Persons [DA – 055 Appointment of Authorised Persons](#)

At 9.37pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY (12/0)