



DOCUMENT TYPE	Policy
TITLE	APPOINTING AN ACTING CHIEF EXECUTIVE OFFICER
NUMBER:	POL-1019

PURPOSE

To provide for the appointment of an Acting CEO from time to time during any periods of approved leave of absence or absence from the Shire of Wyndham East Kimberley.

STATUTORY IMPLICATIONS

Sections of the Local Government Act, 1995 that apply to this item include:

- Local Government Act 1995, Section 5.39C and 5.36 (2); and
- Local Government (Administration) Amendment Regulations 2021.

“5.39C. Policy for temporary employment or appointment of CEO

(1) A local government must prepare and adopt a policy that sets out the process to be followed by the local government in relation to the following —*

(a) the employment of a person in the position of CEO for a term not exceeding 1 year;

(b) the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

** Absolute majority required.*

(2) A local government may amend the policy.*

** Absolute majority required.*

(3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.

(4) The CEO must publish an up-to-date version of the policy on the local government’s official website”.

Further, it has been long held that section 5.36(2) also relates to the position of Acting Chief Executive Officers. This section states:

“A person is not to be employed in the position of CEO unless the council —

(a) believes that the person is suitably qualified for the position; and

(b) is satisfied with the provisions of the proposed employment contract”.*

POLICY STATEMENTS

Pursuant to Section 5.37 of the Local Government Act 1995, Directors are designated as senior employees. The Shire currently provides for three Directors in its corporate structure being:

- a) Director Corporate Services;
- b) Director Planning and Community Development; and
- c) Director Infrastructure.

For the purposes of Section 5.36 (2) of the Local Government Act 1995, the Council has determined that employees that are appointed in one of the above positions are suitably

qualified to be appointed as Acting CEO by the CEO, from time to time, when the CEO is on periods of leave, subject to the following conditions:

1. The CEO is not an interim CEO or Acting in the position;
2. The person appointed is to be suitably qualified, experienced and knowledgeable for the Acting CEO role;
3. The appointment must not be for the purpose of filling any vacancy of the CEO's position;
4. The CEO must inform the elected members of all proposed Acting CEO arrangements;
5. The term of appointment is no longer than one month;
6. The CEO shall report to Council for their approval any proposal to fill an Acting CEO role over one month with as much advance notice as possible;
7. That the employment conditions of the person appointed are not varied other than the employee is entitled at the CEO's discretion, to an amount no greater than the salary equivalent to that of the CEO during the Acting period; and
8. If the Chief Executive Officer's position becomes vacant, all acting arrangements are to be determined by the Council.

In the case of the unavailability of the CEO due to an emergency, the Director Planning and Community Development is automatically appointed as the Acting CEO for up to one month from commencement, and continuation is then subject to determination by the Council.

All other interim, Acting or CEO appointments to be referred to Council.

RISK

Risk: Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

Control: Review policies and procedures in accordance with review schedule.

DOCUMENT AND VERSION CONTROL

Responsible Directorate		Office of the CEO	
Responsible Officer		Chief Executive Officer	
Statutory References		<i>Shire of Wyndham East Kimberley Local Laws</i>	
Related Documents		POL-1016 Designation of Senior Employees	
Amendment History (Adoption and last 3 amendments)			
Version	Date Issued - Resolution Number	Item #	Description of Change
1.0	22/03/2022 - 118600	12.2.3	Council Adoption
1.1	01/11/2023 – CEO024	--	Reference Updates as per POL-1014 Policy Management (previously CP-GOV-3353)
Date of Next Review		March 2025	