

1.43 TEMPORARY EMPLOYMENT OF CEO OR APPOINTMENT OF ACTING CEO

OBJECTIVE

To establish a policy, in accordance with Section 5.39C of the *Local Government Act 1995* ('the Act'), that details the Shire of Gingin's processes for appointing an Acting or Temporary Chief Executive Officer (CEO) for periods of less than 12 months of planned or unplanned leave, or an interim vacancy in the substantive office.

DEFINITIONS

1. **Acting CEO** means a person employed or appointed to fulfil the statutory position of CEO during a period where the substantive CEO remains employed but is on planned or unplanned leave.
2. **Temporary CEO** means a person employed or appointed to fulfil the statutory position of CEO for the period of time between the end of the substantive CEO's employment and the appointment and commencement of a newly appointed substantive CEO.

SCOPE

This policy applies to the statutory position of Chief Executive Officer (CEO) of the Shire of Gingin.

POLICY

1. **Acting and Temporary CEO Requirements and Qualification**
 - a. When the CEO is on planned or unplanned leave, or the CEO's employment with the Local Government has ended, an Acting or Temporary CEO is to be appointed in accordance with this Policy to fulfil the functions of CEO as detailed in Section 5.41 of the *Local Government Act 1995*, and other duties as set out in the Act and associated Regulations.
 - b. Through this policy and in accordance with section 5.36(2)(a) of the Act, the Council determines that employees appointed to the substantive position of Executive Manager are considered suitably qualified to perform the role of Acting or Temporary CEO.
 - c. A person appointed to the position of Acting Executive Manager is not included in the determination set out in Clause 2(b).
2. **Appoint Acting CEO – Planned and unplanned leave for periods up to 5 weeks (35 days)**
 - a. The CEO is authorised to appoint, in writing, an Executive Manager as Acting CEO, where the CEO is on planned or unplanned leave for periods not exceeding 5 weeks, subject to the CEO's consideration of the Executive Manager's performance, availability, operational requirements and, where appropriate, the equitable access to the professional development opportunity.
 - b. The CEO must appoint an Acting CEO for any leave periods greater than 2 working days and less than 5 weeks.

- c. The CEO is to immediately advise all Council Members when and for what period of time the Executive Manager is appointed as Acting CEO.
- d. If the CEO is unavailable or unable to make the decision to appoint an Acting CEO in accordance with (2), then the following line of succession shall apply:
- e. The Executive Manager Corporate and Community Services will be appointed as Acting CEO; or
- f. If the Executive Manager Corporate and Community Services is unable to act, the Executive Manager Regulatory and Development Services will be appointed as Acting CEO; or
- g. If the Executive Manager Regulatory and Development Services is unable to act, Executive Manager Operations and Assets will be appointed as Acting CEO.
- h. Council may, by resolution, extend an Acting CEO period under subclause (4) beyond 5 weeks if the substantive CEO remains unavailable or unable to perform their functions and duties.

3. Appoint Acting CEO for extended leave periods greater than 5 weeks but less than 12 months.

- a. This clause applies to the following periods of extended leave:
 - i. Substantive CEO's Extended Planned Leave which may include accumulated annual leave, long service leave or personal leave; and
 - ii. Substantive CEO's Extended Unplanned Leave which may include any disruption to the substantive CEO's ability to continuously perform their functions and duties.
- b. The Council will, by resolution, appoint an Acting CEO for periods greater than 5 weeks but less than 12 months, as follows:
 - i. Appoint one employee, or multiple employees for separate defined periods, as Acting CEO to ensure the CEO position is filled continuously for the period of extended leave; or
 - ii. Conduct an external recruitment process in accordance with clause 5(1)(c)(iii).
- c. The President will liaise with the CEO, or in their unplanned absence the Coordinator Governance to coordinate Council reports and resolutions necessary to facilitate an Acting CEO appointment.
- d. Subject to Council's resolution, the President will execute in writing the Acting CEO appointment with administrative assistance from the Coordinator Governance.

4. Appoint Temporary CEO – Substantive Vacancy

- a. In the event that the substantive CEO's employment with the Shire of Gingin is ending, the Council when determining to appoint a Temporary CEO may either:

- i. by resolution, appoint an employee appointed to the substantive position of Executive Manager as the Temporary CEO for all or part of the period of time until the substantive CEO has been recruited and commences their employment with the Local Government; or
 - ii. by resolution, appoint an employee appointed to the substantive position of Executive Manager as the interim Temporary CEO for all or part of the period of time until an external recruitment process for a Temporary CEO can be completed; or
 - iii. following an external recruitment process in accordance with the principles of merit and equity prescribed in section 5.40 of the Act, appoint a Temporary CEO for all or part of the period of time until the substantive CEO has been recruited and commences employment with the Local Government.
- b. The President will liaise with the Coordinator Governance to coordinate Council reports and resolutions necessary to facilitate a Temporary CEO appointment.
 - c. The President is authorised to execute in writing the appointment of a Temporary CEO in accordance with Council’s resolution/s, with administrative assistance from the Coordinator Governance.

5. Remuneration and conditions of Acting or Temporary CEO

- a. Unless Council otherwise resolves, an employee appointed as Acting CEO shall be remunerated at 75% of the cash component only of the substantive CEO’s total reward package.
- b. Council will determine, by resolution, the remuneration and benefits to be offered to a Temporary CEO when entering into a contract in accordance with the requirements of Sections 5.39(1) and (2)(a) of the Act.
- c. Subject to relevant advice, the Council retains the right to terminate or change, by resolution, any Acting or Temporary CEO appointment.

GOVERNANCE REFERENCES

Statutory Compliance	<i>Local Government Act 1995</i> s.5.39 Contracts for CEO and senior employees Local Government Act 1995 s.5.39C Policy for temporary employment or appointment of CEO s.5.40 Principles affecting employment by local governments <i>Local Government (Administration) Regulations 1996</i> r.18FA Model standards for CEO recruitment, performance and termination (Act s.5.39A(10)) Sch. 2 – Model standards for CEO recruitment, performance and termination
Industry Compliance	
Organisational Compliance	Shire of Gingin Standards for CEO Recruitment, Performance & Termination

POLICY ADMINISTRATION

Review Cycle	2 years	Next Review	2023
Department	Office of the CEO		

Version	Decision Reference	Synopsis
1.	17/08/2021 – Item 11.3	Policy adopted. *Absolute Majority required (LGA s.5.39C)
2.	15/02/2022 – Item 11.1	Policy amended – reference to Senior Employees deleted