

Chief Executive Officer Standards

Mandatory minimum standards for the recruitment, selection, performance review and termination of employment.

On 3 February 2021, the Local Government (Administration) Amendment Regulations 2021 (CEO Standards) introduced mandatory minimum standards for the recruitment, selection, performance review and termination of employment in relation to local government Chief Executive Officers (CEOs). The aim of the CEO Standards is to provide local government with a consistent and equitable process for CEO recruitment, performance review and termination across all local governments, in accordance with the principles of merit, equity and transparency.

It is a requirement that local governments prepare and adopt the CEO Standards within three months of the CEO Standards coming into operation (by 3 May 2021). Until such time as a local government prepares and adopts its own CEO Standards, the model CEO Standards in regulations apply. It is important to note that local governments may introduce additional standards where appropriate, however, any additional standards must be consistent with the model standards in the Local Government (Administration) Amendment Regulations 2021.

The need for CEO Standards

Stakeholder consultation with the local government sector and the community as part of the Local Government Act Review identified the need for reform in the area of CEO recruitment and performance review.

Required actions for local governments

Local governments must prepare and adopt the CEO Standards within three months of the Local Government (Administration) Amendment Regulations 2021 coming into effect.

The standards prescribed under Schedule 2 of the CEO Standards are deemed a local government's standards until such time as the Model CEO Standards are formally adopted by the council.

As a minimum, a local government can adopt the CEO Standards by the council resolving to insert the name of the local government into a copy of the CEO Standards.

If considered appropriate, a local government may elect to include additional standards that reflect their specific needs when the council adopts the CEO Standards. The local government must ensure that any additional standards are consistent with the CEO Standards.

Priority actions for local governments

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Local governments must become familiar with the requirements of the CEO Standards and take steps to adopt them within three months, particularly if the council is planning to recruit a new CEO or renew an existing CEO's contract.

Local governments should review their CEO's contract expiry date at their earliest convenience to determine whether the CEO will have provided ten or more consecutive years of service on expiry of the contract.

Where a current CEO will have provided ten or more consecutive years of service on expiry of their contract, the local government is required to undertake a new recruitment process for the position. The incumbent CEO must also apply for the position, in accordance with the Model Standards, if they are seeking further tenure.

If the CEO's contract has recently been renewed and the CEO has already completed ten or more consecutive years of service, the mandatory requirement to undertake a recruitment process will apply on expiry of their current contract.

Local governments should also review their current process for performance review at the earliest possible opportunity to ensure it meets the requirements of the Model CEO Standards.

Implications for CEO recruitment commenced prior to 3 February 2021

Local governments are encouraged to contact the Department of Local Government, Sport and Cultural Industries if there was a CEO recruitment process already in train on 3 February 2021. The department will provide advice specific to the local government's circumstances based on the point where they are at in the recruitment and selection process.

Recruiting and selecting a CEO

Local governments must decide on the selection criteria for the position of CEO prior to a recruitment process being undertaken. A job description form (JDF) which sets out the duties and responsibilities of the position (5(2)(a)) and details the selection criteria (5(2)(b)) must be prepared by the local government and approved by an absolute majority of the council.

Local governments must advertise the vacancy in accordance with section 5.36(4) of the Act and regulation 18A of the Local Government (Administration) Regulations 1996. The key change here is that state-wide notice advertising the position must also include a website address where a JDF for the position can be accessed.

Local governments are required to establish a selection panel to conduct the recruitment and selection process. The selection panel must be made up of council members and at least one independent person(s) who is not a current council member, human resources consultant, or employee of the local government. The independent person(s) should have experience in the recruitment and selection of CEO's and/or senior executives.

It is the role of the selection panel to recommend one or more suitable applicants based on the selection criteria. The selection panel provides an advisory role to the council; however, the ultimate decision-making authority remains with the council of the local government. The council must give due consideration to the recommendations provided by the selection panel.

Establishing a selection panel

It is open to local governments to determine the most appropriate and effective process for establishing a selection panel, provided the composition of the panel reflects the requirements in CEO Standards.

Local governments are encouraged to establish a policy for establishing a selection panel that outlines the panel's terms of reference, timeframes for recruitment and details the roles and responsibilities of panel members. It is recommended that panel members sign a confidentiality agreement prior to accepting a position on the selection panel.

The Model CEO Standards Guidelines provide further details on establishing a selection panel and the scope of the panel's role and responsibilities.

CEO performance reviews

The council of a local government is already required to undertake an annual review of the CEO's performance in accordance with section 5.38 of the Local Government Act 1995 (Act). A performance review carried out in an objective and comprehensive manner can facilitate a good understanding between the council and the CEO on the progress and achievement of council priorities.

Local governments should review their current process for performance review in consultation with the CEO and make any changes required to ensure that the process meets the requirements set out under Division 3 of the CEO Standards.

The CEO Standards require the council and the CEO to agree on the process for performance review and any performance criteria additional to those specified in the CEO's contract of employment. Local governments must ensure that the process for performance review is documented. Following a review of the CEO's performance, the council must formally endorse the outcomes of the review.

More detailed information can be found in the Guidelines on the CEO Standards.

 [CEO Standards and Guidelines \(pdf\) 487 KB](#)

Termination of employment of a CEO

The requirements in the CEO Standards regarding termination of employment are based on the principles of procedural fairness. Any decision to terminate a CEO's contract of employment must be compliant with the CEO Standards and consistent with employment and contract law.

The CEO Standards provide that before a decision is made to terminate the employment of a CEO, the council must have conducted a CEO performance review within the preceding twelve months (in accordance with section 5.38 of the Act). As a part of that process, the performance review must have identified any relevant performance issues that needed to be addressed by the CEO, informed the CEO of the issues and provided the CEO with a reasonable opportunity to address those issues in accordance with a performance management plan.

Local governments are encouraged to consider seeking independent legal advice when considering whether to terminate the employment of their CEO.

Any decision to terminate the employment of a CEO must be made by an absolute majority of the council.

Policy for temporary employment or appointment of an acting CEO required

Where the role of CEO is not fulfilled for a significant period, this leads to increased risk to the operations and governance of the local government. Therefore, local governments are required to develop and implement a policy that outlines the arrangements to temporarily replace a CEO for any period less than twelve months, for example, when a CEO is on planned or unplanned leave. The policy should include the decision-maker(s) for appointing an acting CEO. It is a requirement under 5.39C of the Local Government Act that local governments prepare and adopt a policy for temporary employment or appointment of an acting CEO.

Example of what may be included in a local government's policy:

As an example, the policy may include employee position titles, specifying that the Council considers a person holding these positions to be suitably qualified and experienced for the position of CEO. In addition, the policy should also include a methodology for the CEO to appoint an Acting CEO from the listed positions for a period of absence of up to four weeks; however any decision regarding the appointment of an Acting CEO for any period exceeding four weeks must be made by the council.

The policy must be made available on the local government's official website.

Please note: The Model CEO Standards for recruitment and selection do not apply to the employment or appointment of an acting or temporary CEO for less than one year.

Impact of the COVID-19 pandemic on these requirements

Local governments play a vital role in local communities, and CEOs fulfill a key leadership role in local governments. The CEO Standards aim to support local governments to recruit and manage CEOs and therefore, it is not anticipated that the requirements of the CEO Standards will be affected by the pandemic.

Local governments should review their current arrangements for CEO recruitment, performance review and termination and seek to adopt the CEO Standards within the next three months (by 3 May 2021). If a local government has any CEO recruitment or management processes already underway, the local government is encouraged to contact the department for advice specific to their situation.

Further information and support available

Further information can be found on the department's website including a copy of the [regulations, detailed explanatory notes and guidelines \(/local-government/strengthening-local-government/public-consultations/local-government-act-review/priority-reforms\)](#). Local governments can also contact the department directly at actreview@dlgsc.wa.gov.au (<mailto:actreview@dlgsc.wa.gov.au>) with any queries in relation to the CEO Standards.