

Chief Executive Officer Performance Review Panel Terms of Reference

Tuesday, 14 March 2023
Council

Strategic Alignment - Enabling Priorities

Program Contact:

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Public

Approving Officer:

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EXECUTIVE SUMMARY

In accordance with Section 102A of the *Local Government Act 1999* (SA), a Council must review the performance of its Chief Executive Officer (CEO) at least once a year.

Following the 2022 Council Election, Council must re-establish its CEO Performance Review Panel pursuant to section 41 of the *Local Government Act 1999* (SA).

On behalf of Council, the CEO Performance Review Panel will be responsible for determining the performance review process against which the Chief Executive Officer's (CEO) performance will be assessed. Council determines the composition and terms of reference of the CEO Performance Review Panel.

RECOMMENDATION

THAT COUNCIL

1. Establishes the CEO Performance Review Panel, pursuant to Section 41 of the *Local Government Act 1999* (SA).
2. Appoints the following Council Members to the CEO Performance Review Panel 14 March 2023 until the last Council meeting in October 2026, those being:
 - 2.1. Lord Mayor
 - 2.2. Deputy Lord Mayor
 - 2.3. Cr _____
 - 2.4. Two Independent Members (as determined by the CEO Performance Review Panel)
3. Approves that Independent Members will be entitled to a sitting fee of \$500 per meeting.
4. Appoints the Lord Mayor as Chair and Deputy Lord Mayor as Deputy Chair from 14 March 2023 until the last Council meeting in October 2026.
5. Delegates to the CEO Performance Review Panel:
 - 5.1. In the exercise of the powers contained in Section 44 of the *Local Government Act 1999* (SA), the responsibility of the 2022-2026 Council term of office is to assist the Council by considering and determining matters as set out in the CEO performance Review Panel's Terms of Reference, namely:
 - 5.1.1. Appoint an independent advisor to assist in the CEO performance appraisal.
 - 5.1.2. To appoint independent members to the CEO Performance Review Panel.
 - 5.1.3. To establish Key Performance Indicators for the CEO.
 - 5.1.4. To determine the performance review process for the CEO
 - 5.1.5. To undertake the performance review of the CEO.
 - 5.1.6. To provide advice and support regarding the CEO's performance development.

5.1.7. Prepare and provide advice to Council to inform the CEO's Total Employment Cost Package review for decision by Council.

5.1.8. Authorise to determine a schedule of meetings to be held in the Colonel Light Room, Town Hall, Adelaide.

6. Authorises the Chief Operating Officer to vary the meeting schedule (including the commencement time, meeting place, date or cancellation of a meeting) after liaison with the Presiding Member and Chief Executive Officer.
7. Adopts the Terms of Reference for this Panel as Attachment A to Item 10.3 on the Agenda for the meeting of Council held on 14 March 2023.
8. Applies the provisions of Parts 1, 3 and 4 of the *Local Government (Procedures at Meetings) Regulations 2013 (SA)* to the CEO Performance Review Panel.
9. Authorises the amendment of these documents to reflect the resolution of the Council.
10. Authorises the administration to make any necessary or desirable typographical or syntactical revisions to the Terms of Reference.

IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	<p>Strategic Alignment – Enabling Priorities</p> <p>Consideration of Council's Governance structure assists Council in improving our governance and maximise community benefit continually.</p>
Policy	City of Adelaide Standing Orders
Consultation	Not as a result of this report
Resource	<p>Council and its Committees will conduct business in accordance with the relevant provisions of the <i>Local Government (Procedures at Meetings) Regulations 2013 (SA)</i> and the Corporation of the City of Adelaide Standing Orders.</p> <p>Pursuant to section 75 of the <i>Local Government Act 1999 (SA)</i>, Council Members nominated for a presiding member role where there is remuneration applicable must declare a material conflict of interest considering the allowance set by the Remuneration Tribunal and payable to the presiding member.</p> <p>No material conflict of interest applies to the deputy presiding member by reason only of being nominated as the deputy presiding member, as the Remuneration Tribunal did not provide an allowance for this role.</p>
Risk / Legal / Legislative	This will meet the requirements of Section 102A of the <i>Local Government Act 1999 (SA) 2021</i> and the requirements of the Employment Contract between the City of Adelaide and the CEO
Opportunities	A Governance Structure can assist in timely and effective decision-making.
22/23 Budget Allocation	There is no extra allowance for the Lord Mayor or Deputy Lord Mayor. Sitting fees for Independent Members are already incorporated into the existing operating budget.
Proposed 23/24 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report
22/23 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

Background

1. Section 102 A of the *Local Government Act 1999* (the Act) requires Council to review the performance of the CEO at least once each year.
2. The CEO was appointed in August 2021. A copy of the CEO's employment contract was provided to Council Members by the Lord Mayor in November 2022.
3. The contract specifies that the parties will agree to establish a Performance Review Panel under Section 41 of the Act to manage the performance review process.
4. The previous term of the Council established a Performance Review Panel in November 2021, but this expired at the conclusion of the 2022 General Council Election.

Purpose

5. The primary purpose of the Review Panel is to develop, monitor and assess key performance indicators and establish a process by which CEO performance is measured.
6. In undertaking this review, the Act requires Council to obtain and consider the advice of a qualified independent person for the purposes of any review.
7. The Review Panel is formed under Section 41 of the Local Government Act 1999 (SA) (the Act) to advise the Council and determine matters relating to CEO performance review as authorised within these Terms of Reference and the CEO's employment contract.
8. Consistent with the previous term of Council, the Review Panel's role is to:
 - 8.1. Establish Key Performance Indicators for the CEO.
 - 8.2. Determine the performance review process for the CEO.
 - 8.3. Undertake the performance review of the CEO.
 - 8.4. Provide advice and support regarding the CEO's performance development.
 - 8.5. Provide advice to inform the CEO's Total Employment Cost Package review.
 - 8.6. Appoint an independent advisor to assist in the CEO performance appraisal (as required).
 - 8.7. Appoint independent members to the CEO Performance Review Panel.
 - 8.8. Authorise to determine a schedule of meetings to be held in the Colonel Light Room, Town Hall, Adelaide

Membership

9. The composition of the Review Panel is determined by Council but must have at least two independent members (required by the CEO's employment contract).
 10. Consistent with the last term of Council, the membership of the Review Panel membership is proposed below:
 - 10.1. The Lord Mayor
 - 10.2. The Deputy Lord Mayor
 - 10.3. Council Member
 - 10.4. Two Independent Members
 - 10.4.1. one of whom will have substantial appropriate qualifications and experience in human resources management
 - 10.4.2. one of whom will have substantial local government experience.
 - 10.5. It is also recommended that independent members of the Panel be paid a sitting fee of \$500 per meeting. This is consistent with fees paid to independent members of the Audit and Risk Committee.
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ATTACHMENTS

Attachment A – CEO Performance Review Panel Terms of Reference

- END OF REPORT -