

Appointment of Acting Chief Executive Officer Policy

Local Government Act 2009

1. Policy Statement

The purpose of this policy is to establish a consistent and transparent approach to the appointment of a person as Acting Chief Executive Officer (CEO) which complies with a Council Resolution made by Townsville City Council (Council) on 18 September 2024.

This policy must be read in conjunction with both the Chief Executive Officer Recruitment and Onboarding Policy and the Chief Executive Officer Employment Performance Policy, which were both resolved and adopted by Council on 18 September 2024.

2. Principles

The *Local Government Act 2009* (the Act) requires that a Council appoint an Acting CEO if:

- there is a vacancy in the office of the CEO; or
- the CEO is unable to perform their responsibilities of the office of the CEO.

Section 195 of the Act makes provision for the appointment of an Acting CEO:

195 Appointing an Acting Chief Executive Officer

A local government may appoint a qualified person to act as the Chief Executive Officer during –

- (a) any vacancy, or all vacancies, in the position; or*
- (b) any period, or all periods, when the Chief Executive Officer is absent from duty or cannot, for another reason, perform the Chief Executive Officer's responsibilities.*

3. Scope

This policy applies to all Councillors and the CEO. This policy applies to the appointment of an Acting CEO.

4. Responsibility

Role	Responsibility
Local Government	Under section 195 of the Act, it is the responsibility of the local government to appoint an Acting CEO where there is a vacancy in the CEO position.
Councillors	Councillors appointing an Acting CEO must ensure the person is qualified to be the Acting CEO, having regard to the ability, experience, knowledge and skills that Councillors consider appropriate given the role (refer to clause 6.2).
CEO	The CEO is responsible for appointing an Acting CEO in the circumstances set out in this policy.
Mayor	The Mayor, on behalf of Council, is responsible for: <ul style="list-style-type: none">the consideration and approval of an application for leave from the CEO; andappointment and approval of an Acting CEO in the circumstances set out in this policy, subject to Council Resolution.
Director - Business Services (or alternate Director where there is a conflict)	Administrative and other assistance to facilitate the appointment of an Acting CEO in the circumstances set out in this policy.

5. Definitions

Acting CEO - means the Acting Chief Executive Officer of Townsville City Council.

Councillor - means all elected representatives including the Mayor.

6. Policy

This policy details the criteria and considerations for appointment of an Acting CEO for Council.

6.1. Approval of CEO Leave

An application from the CEO for annual leave, long service leave, an extended absence or personal leave is to be approved by the Mayor on behalf of Council, for which consent should not be unreasonably withheld.

In the determination, the following inexhaustive list of factors may be taken into consideration when assessing whether to grant or refuse annual leave, long service leave or extended leave:

1. whether reasonable notice has been provided so that coverage can be arranged;
2. the length of time of annual leave being requested;
3. the operational requirements of the business; and,

4. whether other employees will also be on leave during the requested leave period.

6.2. Acting CEO Requirements

- (a) When the CEO is on planned or unplanned leave, or the CEO's employment with Council has ended, an Acting CEO is to be appointed in accordance with this policy to fulfil the functions and perform the duties of CEO under the Act or any other written law.
- (b) Any employee holding the substantive position of a Director of a Division of Council that reports to the CEO is considered by Council to be suitably qualified to perform the role of Acting CEO for the purposes of this policy for periods of up to six weeks.
- (c) An employee appointed to temporarily act in a position referred to in clause 6.2(b) is not considered to be suitably qualified to perform the role of Acting CEO for the purposes of this policy (unless there are no such employees in a permanent position).

6.3. Appointment of Acting CEO

6.3.1 Leave Periods of up to 30 Working Days

- (a) The CEO is authorised to appoint in writing one of the employees identified in clause 6.2(b) as Acting CEO, where the CEO is on planned or unplanned leave for periods not exceeding 30 working days, subject to the CEO's consideration of that employee'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 planned or unplanned leave periods between seven working days and 30 working days. This includes, but is not limited to, the following circumstances:
 - i. Where the CEO is on annual, sick or long service leave for a period exceeding one week;
 - ii. Where the CEO will not be within the State of Queensland for a period of more than one week; or,
 - iii. Where the CEO will be absent for other reasons for a period not exceeding 30 consecutive working days in any one occasion.
- (c) Nothing in clause 6.3.1(a) prevents the CEO from appointing more than one employee detailed in clause 6.2(b) to share the duties of Acting CEO for the planned or unplanned leave period.
- (d) Following an appointment under clause 6.3.1(a), the CEO is to advise Council's elected members which employee (or employees) has been appointed as Acting CEO and for what duration, as soon as possible.
- (e) If the CEO is unavailable or unable to make the decision to appoint an Acting CEO in accordance with clause 6.3.1(a), the Mayor is authorised to appoint, in writing, a person holding a substantive position listed in clause 6.2(b) of this policy as Acting CEO until the period of the CEO's absence has ended or until Council can make a resolution under clause 6.3.2 of the policy, whichever comes first.

- (f) Council may, by resolution, extend an Acting CEO period under clause 6.3.2 beyond 30 working days if the substantive CEO remains unavailable to perform their functions and duties.

6.3.2 Extended Leave Periods Greater Than 30 Working Days but Less Than 12 Months

- (a) Where the CEO's extended period of leave is greater than 30 working days but less than 12 months, Council is to appoint an Acting CEO in accordance with one of the following options:
 - i. Extend any Acting CEO appointment made by the CEO under clause 6.3.1(a);
 - ii. Appoint another employee, or multiple employees listed in clause 6.2(b) for a defined period to ensure the CEO position is filled continuously for the extended period of leave; or,
 - iii. Commence an external recruitment process in accordance with clause 6.3.3(b)(iii).
- (b) For the purposes of clause 6.3.2(a), extended leave may arise by way of:
 - i. The CEO clearing extended planned leave which may include accumulated or combined annual leave, long service leave, or personal leave; or
 - ii. The CEO taking unplanned leave or is absent from duty which may include any disruption to the substantive CEO's ability to continuously perform their functions and duties.
- (c) The Council position is that it would be highly unusual to allow leave or to have a period of absence for a CEO of greater than 12 months. If there were extraordinary circumstances then Council may, by resolution, allow for a period of leave of greater than 12 months on conditions it considered appropriate.
- (d) The Mayor will liaise with the CEO, or in their unplanned absence, the Director Business Services to coordinate the necessary Council reports to facilitate an Acting CEO appointment.¹
- (e) Subject to Council's resolution, the Mayor will execute in writing the Acting CEO appointment with administrative assistance from the Director Business Services.²

6.3.3 Substantive Vacancy of the CEO

- (a) In the event the CEO's employment with Council is ending, Council may appoint an Acting CEO in advance of a permanent CEO being appointed, in accordance with the Chief Executive Officer Recruitment and Onboarding Policy.
- (b) Under the circumstances described in 6.3.3(a), Council when determining to appoint an Acting CEO, may either:
 - i. appoint an employee identified in clause 6.2(b) to be Acting CEO until such time a new substantive CEO has commenced their employment with Council;

¹ Where the Director Business Services is to be the Acting CEO the Mayor will obtain assistance from an alternative Director.

² Where the Director Business Services is to be the Acting CEO the Mayor will obtain administrative assistance from an alternative Director.

- ii. appoint multiple employees listed in clause 6.2(b) as the Acting CEO for a defined period, and until such time that a new substantive CEO has commenced their employment with Council;
 - iii. appoint an Acting CEO following an external recruitment process for an Acting CEO; or,
 - iv. appoint an employee identified in clause 6.2(b) to be an interim Acting CEO until an external recruitment process for an Acting CEO can be completed under clause 6.3.3(b)(iii) and their employment with Council as Acting CEO has commenced.
- (c) The Mayor will liaise with the Director Business Services³ to coordinate the necessary Council reports to facilitate an Acting CEO appointment.
- (d) The Mayor is authorised to execute in writing the appointment of an Acting CEO in accordance with Council's resolution with administrative assistance from the Director Business Services.⁴

6.3.4 Emergency Provisions

In the case of the unavailability of the CEO due to an emergency, the provisions of clause 6.3.1(e) are to apply.

6.4. Remuneration and Conditions of the Acting CEO

- (a) Unless Council otherwise resolves, an employee appointed as Acting CEO shall be remunerated at 90% to 100% of the cash component only of the substantive CEO's total remuneration package.
- (b) Council will determine by resolution, the remuneration and benefits to be offered to an Acting CEO that is not a current Council employee when entering into a contract.
- (c) Subject to any relevant advice and the provisions contained in the Chief Executive Officer Employment Performance Policy, Council retains the right to terminate or change, by resolution, any Acting appointment.

7. Legal Parameters

Human Rights Act 2019

Information Privacy Act 2009

Local Government Act 2009

Local Government Regulation 2012

Work Health and Safety Act 2011

³ Where the Director Business Services is to be the Acting CEO the Mayor will obtain assistance from an alternative Director.

⁴ Where the Director Business Services is to be the Acting CEO the Mayor will obtain administrative assistance from an alternative Director.

8. Associated Documents

Chief Executive Officer Employment Performance Policy
Chief Executive Officer Recruitment and Onboarding Policy
Council Resolution made by Council on 18 September 2024