

Logan City Council

Chief Executive Officer Performance and Contract Management Guidelines

Logan City Council

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1 Introduction and Overview

Efficient and effective local government requires efficient and effective local government leadership.

These guidelines outline a Performance Management System for the Chief Executive Officer (CEO) at Logan City Council (**Council**) as the basis on which performance expectations and outcomes of the CEO are set, monitored and reviewed annually. They also outline the basis upon which the CEO employment contract will be managed.

This includes:

- establishment of a Performance Review Panel to facilitate the development and review of the CEO Performance Agreement, and the process by which the panel will operate;
- roles and responsibilities of key stakeholders in the CEO Performance Management System;
- key inputs to developing the CEO Performance Agreement;
- the overarching process for establishing and reviewing CEO performance; and
- management of the CEO contract of employment.

The CEO Performance Management System has consequences for performance, either recognition of above expectation performance, or performance management where performance is below expectations, and by disciplinary action if needed.

2 The Structure of the CEO Performance Management System

The Performance Agreement

The key to this system is in the setting and agreeing of performance expectations between the parties at the start of the financial year. The key documents underpinning this process may include:

- the Council's current Corporate Plan and, in particular the annual Operational Plan that delivers on the Corporate Plan;
- annual organisational priorities set by the CEO / Executive Leadership Team (ELT);
- the Code of Conduct for staff;
- Council Value statements;
- the role statement / position description for the position of CEO;
- core competencies for the CEO position, linked to Councils Leadership and Performance Capability Framework; and
- a suite of relevant Corporate Key Performance Indicators.

These documents will be used to develop the CEO Performance Agreement.

The CEO Performance Management System philosophy is that the Performance Agreement will be used as the basis of encouraging relevant and rigorous conversations about performance at review time, with final assessments being evidence-based.

Competent Performance

The basis of the CEO Performance Management System is to ensure that the CEO achieving required levels of performance and meeting Council's expectations as outlined in the Performance Agreement. Of course, there is an expectation that a high performing CEO would achieve some higher ratings.

Ratings

Performance objectives for the CEO will be evaluated objectively utilising relevant organisational data and inputs. An overarching five-point scale will be used to define descriptors of performance, and is summarised below:

Rating	General Descriptor
Above Competent Performance	<p><i><u>Generally defined as</u> - outcomes consistently above the level of competence that would be acceptable in the role - consistently exceeds reasonable expectations. Excellent role model for others - what other staff should aspire to.</i></p> <p><i><u>For projects</u> - completed as required but with significant additional/better outcomes (E.g. major cost saving, winning major awards or significant positive community recognition).</i></p>
Competent Performance With Some Highlights	<p><i><u>Generally defined as</u> - competent performance with some above competent outcomes / components (E.g. communicates competently but did an outstanding job facilitating the community forum).</i></p> <p><i><u>For Projects</u> – completed as required with some value-add (E.g. on time but under budget).</i></p>
Competent Performance	<p><i><u>Generally defined as</u> – what is expected of a person competently performing duties and undertaking responsibilities at the required level - outcomes meet objectives at the standard envisaged.</i></p> <p><i><u>For projects</u> - completed as required / expected.</i></p>
Competent Performance With Some Exceptions	<p><i><u>Generally defined as</u> - outcomes generally at competent level, but with some below competent outcomes (E.g. personal management generally competent but regularly arrives late to meetings).</i></p> <p><i><u>For projects</u> - generally acceptable completion of project with some minor exceptions (E.g. delivered slightly over time or slightly over budget).</i></p>
Unacceptable Performance	<p><i><u>Generally defined as</u> - outcomes consistently below competent performance requiring significant remedial action. Potential negative impact on Councils reputation.</i></p> <p><i><u>For projects</u> - project not completed as required with no valid justification</i></p>
Not Applicable	<p><i>Did not proceed as originally envisaged for reasons beyond the CEO's control.</i></p>

It is important to note that under the CEO Performance and Contract Management Guidelines a 'competent' rating means that the CEO is performing at the level of competence expected in the role.

An overall rating will be agreed for each objective in the Performance Agreement and rigorous conversation about performance will be undertaken to ensure objectivity through the review process. Comments and supporting documentation will be captured throughout the performance review cycle to clearly establish criteria for performance, and resulting review ratings.

Performance-based remuneration, as detailed in the CEO's contract of employment, is aligned to the rating system used in the CEO Performance Management System and the delivery of agreed annual key projects / priorities.

Performance Agreement Format

Within three months after the commencement date, the CEO and Council will sign a Performance Agreement setting out agreed performance criteria and expectations. This provides time for the CEO to observe the structure, culture and performance of the organisation and make a judgement on initiatives to be taken in the first Performance Agreement for consideration by the Performance Review Panel.

The Performance Agreement is subsequently negotiated between the Council and the CEO at the start of each financial year, with the Performance Review Panel having the delegation from the Council to conduct the review process.

The Performance Agreement has six key components:

Component	Description
Significant Annual Projects and Priorities	Achievement of a small number of significant projects and priorities agreed with the Council
Roles and Responsibilities	Achievement of roles and responsibilities as contained in the role statement/position description for the position
Core Competencies	Performance against generic responsibilities and core competencies for the CEO
Behavioural Expectations	Consistent with Council's Values and the Code of Conduct for Staff
Personal Development	An improvement plan for personal leadership development
Key Corporate Performance Indicators	Key operational measures that underpin organisational performance

The key components of the CEO Performance Agreement will be aligned to key projects and priorities identified from the annual Operational Plan and the annual organisation priorities set by the ELT, as well as the specific projects and priorities as determined by Council.

Significant Annual Projects and Priorities

Significant annual projects and priorities may include:

- generic projects and priorities, wherein a project or priority is set for the wider ELT; and
- CEO-specific projects and priorities.

Significant annual projects and priorities would normally stem from:

- key projects / identified by Council from the annual Operational Plan;
- the annual organisation priorities set by the ELT;
- specific projects / priorities for the CEO as determined by Council; and / or
- remedial / carry-forward action identified as part of the previous year's review.

Position-Specific Roles and Responsibilities

Position-specific roles and responsibilities are contained in the position description / role statement for the CEO role and are extracted into the Performance Agreement.

In particular, the following fundamental responsibilities of the CEO are highlighted:

- articulate a vision and sense of purpose for the staff of the Council based on the Council's Corporate and Strategic plans;
- motivate and inspire the staff of the Council to achieve the aims and objectives contained within the Corporate and Strategic plans;
- demonstrate excellence in leadership and management to ensure the efficient and effective operations of the Council organisation are aimed at providing high levels of value for money service delivery and continuing to build a higher performing organisation;
- work respectfully with, provide high quality advice to and be accountable to the Council to assist Council in its decision making and to efficiently and effectively implement Council decisions; and
- provide an important link between the Council, the community, other key stakeholders and the Council staff.

It is important to note that the *Local Government Act 2009* clearly distinguishes between the roles and responsibilities of the executive (elected councillors) and the administrative (Council employees) areas of local government. This is sometimes referred to as the separation of powers.

The primary role of Councillors is to focus on policy development and strategic delivery of services in the public interest. Local government decisions are made to direct the operational work and realise the planned goals that are set out in the local government's Corporate Plan.

Councillors are responsible for:

- planning and developing corporate plans and strategies to deliver outcomes to the community; and
- providing strategic vision and leadership.

The internal day-to-day work of the local government is carried out by local government employees under the direction of the CEO.

Responsibilities and Core Competencies

Responsibilities and core competencies are linked to Council's Leadership and Performance Capability Framework, and are divided into the following key areas, with additional description and detail to ensure clarity of expectations and thorough assessment of performance is delivered:

1. Safety focus;
2. Strategic focus and alignment;
3. Commitment to Excellence;
4. Leadership and Culture;
5. Commitment to High Performing Teams;
6. Working in the local government context;
7. Financial Management;
8. Personal Management.

An overall rating will be agreed for each competency area in the Performance Agreement and rigorous conversation about performance will be undertaken to ensure rigour and objectivity through the review process. Comments and supporting documentation will be captured throughout the performance review cycle to clearly establish criteria for performance, and resulting review ratings.

Values and Behaviours

The CEO is expected to behave in accordance with the Code of Conduct for staff, and to exhibit Council's agreed values. It is through the 'walking the talk' leadership of the CEO and ELT members that movement towards the required values-based culture will be achieved.

Behavioural objectives aligned to Council's values will be established and reviewed as part of the CEO Performance Agreement.

Corporate Key Performance Indicators

A series of key performance indicators will form part of the Performance Agreement for the CEO. These will be developed by the Council through the Performance Review Panel.

The selected corporate key performance indicators will provide a broad overview of how the organisation is performing.

Personal and Professional Development Plan

We live in changing times and circumstances, so it is essential that a CEO keeps skills and knowledge contemporary at all times. Accordingly, there is a mutual obligation on the Council and the CEO to make a strong commitment to the ongoing personal and professional development of the CEO.

Council and the CEO will work together to ensure the CEO skills and knowledge are at the required competency standard and that the CEO is keeping appropriately abreast of contemporary issues and trends. The Performance Agreement for the CEO will therefore include a personal development plan which could include such aspects as participating in executive coaching, provision of a mentor, undertaking a course of study, visiting best practice organisations to bring back ideas for implementation, attending conferences or seminars, and membership of professional or leadership organisations relevant to the role.

There is an obligation on the Council to support the CEO in the acquisition of competencies and contemporary skills and knowledge.

Managing Diminished Performance

Should performance expectations not be met, then a process to address diminished performance and to elevate performance to an acceptable level will be followed.

Council will clearly identify areas where performance is not at the required standard, supported by appropriate evidence, including clarity on the level of performance expected.

From there the Council will support the CEO to bring performance up to the required level through actions such as support for personal / professional development / assistance (which may include mentoring), regular feedback meetings with the Mayor or Performance Review Panel, or other agreed initiatives.

Should performance not improve to the required standard following the above development actions, the Council will consider other actions which, at its ultimate conclusion could see the dismissal of the CEO for failure to perform under the contract of employment.

Whenever CEO performance is an issue, the Council may engage appropriate external and experienced assistance in setting and actioning a Diminished Performance Plan. The Performance Review Panel will make that engagement on Council's behalf.

Changes to Performance Agreements

Any changes to the CEO Performance Agreement will be negotiated, agreed and documented when they occur. In particular, this is an important function of the mid-year performance review.

3 Performance Review Process

Director and Manager Inputs to the CEO Performance Agreement

Once the Performance Agreement for the CEO has been established at the commencement of the annual performance cycle, the CEO will ensure that his or her performance objectives are appropriately cascaded to each of the Directors, who will in turn cascade these to the appropriate level of detail with the managers that report to them.

As inputs to mid-year and annual performance review discussions, the CEO will undertake the review of Director performance, and Directors will undertake the review of Manager performance. This information will ultimately roll up to inform the review of CEO performance where applicable.

Preparation and review meetings

The CEO Performance Management System operates based on all parties being well-prepared for reviews. The CEO will prepare a written self-assessment report prior to the review being undertaken and that self-assessment distributed (along with any relevant attachments or supporting documentation) to each member of the Performance Review Panel well in advance of the review meeting so each person can be well prepared for that meeting.

At the review meeting the CEO will formally present the self-assessment in summary, and also refer to actions taken on issues arising from the review meeting held 12 months ago. The CEO will then engage in discussion and answer any questions Panel members might have and then leave the meeting so that the Panel can consider the performance of the CEO in the review period. The Panel will make a judgement on CEO performance using the ratings provided in the Performance Agreement.

The CEO will then re-join the meeting to be provided with an overview of the assessment and ratings by the Review Panel.

The timing of the performance review should be considered and determined by the Council, having regard to relevant local factors. All parties to the review should be made aware of the timeline and process to be used.

Periodic and Annual Reviews

Periodic CEO performance reviews will be undertaken during the year, including a mid-year review. Any agreed changes to the Performance Agreement will be documented at these reviews.

The detailed annual review will be scheduled by the Performance Review Panel in sufficient time to ensure both parties are well prepared for the review meeting. The outcomes of the annual review will be recorded and agreed by the Performance Review Panel. The periodic review outcomes will be considered as an input at the annual review.

Outcomes of the annual review may also contribute to the setting of projects and priorities for the next year (including any remedial action required as a result of the previous year's review), as well as agreeing the personal development plan for the next year.

Reporting to Council

Following completion of the annual review of the CEO's performance and the setting of the new Performance Agreement, a report on the performance review, together with the new Performance Agreement, should be reported to Council in closed committee by the Mayor. This report is confidential and must not be debated in open Council. Any issues raised at the Council meeting should be referred back to the Review Panel for consideration at its next meeting, or a special meeting if required.

4 Roles and Responsibilities in the CEO Performance Management System

Role of the Mayor

The Mayor has responsibility for day to day oversight of the CEO, and the specific responsibilities relating to the CEO;

- leading, managing and providing strategic direction to the CEO;
- directing the CEO in line with Council's approved policy position or decisions; and
- conducting an annual performance review for the CEO.

The Mayor will ensure that any performance related matters are brought immediately to the CEO's attention, to discuss, agree and record actions to address this. Where appropriate, the Mayor may call the Performance Review Panel together to discuss performance related matters outside of review meetings.

Role of Councillors

All Councillors have a fundamentally important role to play in the CEO review and setting of the new Performance Agreement for the CEO. The Performance Review Panel will facilitate a process that enables input from all Councillors on the performance of the CEO.

Membership and Role of Performance Review Panel

The Performance Review Panel is appointed by Council and is responsible for:

- overseeing the implementation of the CEO Performance Management System processes in accordance with these guidelines;
- undertaking the periodic and annual reviews of the CEO with appropriate input from Councillors;
- setting the CEO Performance Agreement for the following year;
- facilitating feedback from Councillors and other stakeholders regarding the performance of the CEO (using 360 degree feedback or a similar mechanism) for use as an input to the annual CEO performance review; and
- recommending changes to the CEO Performance and Contract Management Guidelines for Council's consideration.

The Performance Review Panel will comprise the Mayor and Deputy Mayor, as well as at least two other Councillors and reflect the composition of interests on the Council.

Membership will also be extended to an external person experienced in performance management and /or the role of a local government CEO to help bring both expertise and independence to the review.

An external facilitator experienced in executive performance management in local government, will be used to advise and support the Performance Review Panel in undertaking the annual CEO performance review, and in the setting of the Performance Agreement for the following year. This brings both experience and independence to the process. The facilitator is not a voting member of the Performance Review Panel.

Training for Members of the Performance Review Panel

All members of the Performance Review Panel and the CEO will be trained in processes associated with the CEO Performance Management Guidelines and in effective performance management principles and practices, which will include fairness, equity, perspective, merit and natural justice. All Councillors will be invited to attend this training for their own professional development.

5 Management of the CEO Contract of Employment

The Contract of Employment

The contract forms the basis of employment of the CEO by Council and once signed by both parties it can only be varied by mutual consent, unless specifically stated in the contract.

Performance Management

The CEO's contract of employment requires the implementation of a formal performance management process with this guideline being used as the basis of setting, monitoring and reviewing the CEO's performance.

Under the contract the CEO is required to perform at least at a competent standard in accordance with the Performance Agreement adopted by Council for the role. This is a fundamentally important component of the management of the CEO by Council.

Contract Variations

Under the terms of the CEO's contract, variations can be made to the contract where both parties agree and any such variations should be reported to Council for endorsement.

Reviewing the Contract

Considerations

The timeline process for contract negotiation/renewal is clearly set out in the contract of employment and should be followed meticulously by Council.

In considering whether or not to offer a new contract of employment to the CEO Council should consider the following:

- the outcomes of performance reviews over the period of the current contract – perhaps the most important consideration;
- any change in Council priorities which may have occurred during the course of employment or any change in skills or abilities required in the role;
- any relevant changes needed to the contract, which may include remuneration and/or employment conditions/benefits. Council should consider the prevailing market for CEO's and Job value of the position for a Council the size and complexity of Logan (an external person could be engaged to provide advice on this if required);
- the potential impact of losing a competently performing CEO, and the potential uncertainty of finding a better alternative;
- the message that would be sent to staff and impact the culture of the organisation if the CEO was not offered a new contract – either a negative or positive message, but unlikely to be positive if the CEO has been given positive performance reviews over the period of the contract and is a popular leader;

- the impact on Councils reputation as a fair and equitable employer; and
- the potential impact on the CEO's reputation.

Process

The Mayor should prepare a report to Council recommending that a new contract of employment be offered to the CEO and detailing any changes to the current contract that the Council might consider. The Mayor must undertake this in accordance with the timelines and processes contained in the CEO's contract of employment.

The Council should formally resolve to offer a new contract of employment to the CEO and detail the terms of such contract.

Terminating the Contract

This can be either during the contract or at the end of the contract in accordance with the process and timelines outlined in the contract.

Termination provisions are set out in the contract and can occur by:

- mutual agreement;
- the CEO resigning;
- summary dismissal;
- incapacitation;
- failure to perform;
- termination without cause; or
- non-renewal of contract.

Process for termination for failure to perform

The following process should be followed by Council where the CEO is not performing at the required level of competence and where Council may consider termination of the CEO's contract:

- Documented failure to perform at performance review meetings, or special meeting of the CEO Performance Review Panel, with supporting evidence documented and examples given of required level of performance
- Opportunity given to the CEO to improve and appropriate support provided by Council
- At subsequent review meeting(s) where an assessment is made by the CEO Performance Review Panel that performance has not improved to the required level, with substantiating evidence provided. If this failure is, in the Performance Review Panel's view, significant, then the matter should be formally escalated to Council
- Report provided to Council by the Panel and notice to terminate resolved by Council in accordance with the relevant clause of the CEO's contract
- Council considers paying out the notice period (this is recommended)
- Arrangements for CEO's exiting are made, including the return of Council property etc in accordance with the contract of employment

- Council appoints an Acting CEO
- Recruitment and appointment process commenced for a new CEO in accordance with these Guidelines

Process to terminate without cause

This should only be used in extenuating circumstances as it most often involves an unfair outcome for the CEO and opens up the potential for significant legal and other costs for the Council if an unfair dismissal action is commenced. The subsequent reputational damage for the Council may be something to avoid.

There are other options for termination that should be considered by Council to avoid the consequences of unfair dismissal. At the same time, depending on the circumstances this may be an option that the Council wishes to pursue in extenuating circumstances.

Should this action be taken a report should be provided to Council and Council should resolve to terminate the contract and pay out the notice period under the contract. It will be important for the Councillors to receive reliable legal and industrial advice before making the decision to terminate.

Arrangements should be made for the timely exit of the CEO and return of Council property in accordance with the contract should this occur.

6 Related Documents

Document	Document Management System Reference
Chief Executive Officer Recruitment, Appointment and Performance Policy	13485991
Chief Executive Officer Recruitment and Onboarding Guidelines	13512307
Chief Executive Officer Performance Review Panel Terms of Reference	13512265
Chief Executive Officer Performance Agreement Template	13512260
Chief Executive Officer Periodic Performance Review Template	13512274
Chief Executive Officer Employment Contract Template	13512252
Chief Executive Officer Recruitment Panel Terms of Reference	13512281