

	<b>TERMS OF REFERENCE</b>
	The Chief Executive Officer's Performance Development Review Committee

Date Approved	15 July 2014
Minute Number	CEO02/14
Version Number	2.0
Responsible Officer	Chief Executive Officer
Council File Reference	14-002826
Related Policies	Nil
Applicable Legislation	<i>Local Government Act, 1999</i> <i>Local Government (Procedures at Meetings) Regulations 2013</i>

1. Establishment of the Chief Executive Officer's Performance Development Review Committee

Pursuant to Section 41 of the *Local Government Act 1999*, the Council establishes a committee to be known as the Chief Executive Officer's Performance Development Review Committee ("the Committee").

2. Objective

- The Committee is established for the purpose of engaging in and undertaking:
- a developmental process to determine, in conjunction with the Chief Executive Officer, relevant Key Performance Measures for the Chief Executive Officer,
- the formal review process of the performance of the Chief Executive Officer against the agreed Key Performance Measures in accordance with these terms of reference and,
- for making other recommendations to the Council relevant to the employment and performance of the Chief Executive Officer.

3. Membership

- 3.1 Membership of the Committee shall consist of no less than the Mayor and two Elected Members.
- 3.2 The Council appoints the Mayor as the Presiding Member of the Committee.
- 3.3 The Committee will be re-established after each Council periodic election or at such other time as Council determines as appropriate.
- 3.4 Council appoints all members of the Committee for the balance of the current term of the Council unless determined otherwise by a resolution of Council.
- 3.5 The Committee shall appoint a Deputy Presiding Member.

#### 4. Terms of Reference – Operational Matters

- 4.1 The Council authorises the Committee to perform its functions as set out in these terms of reference. All decisions of the Committee will constitute recommendations to the Council.
- 4.2 The Committee shall act at all times in strict accordance with the *Local Government Act 1999* and may determine its own meeting procedures including by the adoption in whole or in part of Part 2 of the Local Government (Procedures at Meetings) Regulations 2013.
- 4.3 The reporting and accountability requirements imposed upon the Committee (for the purpose of Section 41(8) of the Act), are satisfied by the delivery of the minutes of the proceedings of the Committee to each member of the Council in accordance with Section 91(3) of the Act ie within 5 days after the Committee meeting.
- 4.4 The Committee shall meet at the Council office, 29 Alfred Terrace, Streaky Bay, as required to fulfil the responsibilities imposed upon it at clause 5 of these Terms of Reference and otherwise, on such dates and at such times as the Presiding Member of the Committee or the Committee by resolution may determine.
- 4.5 A quorum for a meeting of the Committee shall be one half of the total number of members of the Committee in office divided by two (ignoring any fraction) and adding one.
- 4.6 All decisions of the Committee shall be made on the basis of a majority decision of the members present.
- 4.7 All members of the Committee must, subject to any provision of the Act to the contrary, vote on a question arising for decision.
- 4.8 If the Presiding Member of the Committee is absent from a meeting then the Deputy Presiding Member will preside at that meeting.

#### 5. Terms of Reference – Functions and Responsibilities

- 5.1 The Committee is charged with undertaking the following functions at all times with the assistance of an external facilitator if deem necessary, who shall be chosen either by the Committee or the Presiding Member with the authority of the Committee:
  - 5.1.1 to receive at its first meeting the results of the review of the Chief Executive Officers Performance Appraisal for the most recent review period if an external facilitator has been engaged. In the event that an external facilitator is engaged the Chief Executive Officer will be entitled to be represented by a suitably qualified professional;

If the Committee has not engaged an external facilitator, undertake an agreed qualitative assessment with the Chief Executive Officer, a process that is to be endorsed by the Committee and Chief Executive Officer;

- 5.1.2 to acknowledge and endorse at its first meeting 'The Statement of Mutually Agreed Understandings and Assumptions' which underpins the Chief Executive Officer's Performance Development Review Process and which appears as Appendix 1 to these Terms of Reference.
- 5.1.3 to acknowledge the existing Key Performance Measures which have previously been developed and applied under the Council's current Strategic Management Plan.
- 5.1.4 to acknowledge and endorse the Key Performance Measures for the performance of the Chief Executive Officer for the next "*review period*", and to develop and endorse Key Performance Measures whenever the Council adopts a new Strategic Plan;
- 5.1.5 to undertake the annual performance development review of the Chief Executive Officer for a "*review period*" within three calendar months of the conclusion of that "*review period*" against the Key Performance Measures that applied for that "*review period*"; and
- 5.1.6 to receive the results of the review of the Chief Executive Officer's performance appraisal.
- 5.2 The Key Performance Measures to be developed and endorsed pursuant to sub-clause 5.1.4 above will be developed by the Committee in conjunction with both the Chief Executive Officer and the external facilitator if engaged by the Committee.
- 5.3 The Committee is authorised to amend the *Statement of Mutually Agreed Undertakings and Assumptions* provided that the concurrence of the Chief Executive Officer to the proposed amendments is first obtained.
- 5.4 The Committee may recommend to the Council that these Terms of Reference be amended where the Committee forms the opinion that such amendments are necessary for the better operation of the Committee in the performance of its functions and responsibilities.
- 5.5 Where the Committee is required to act jointly with or to obtain the concurrence of the Chief Executive Officer in the performance of its functions and responsibilities, the Council expects that both parties will negotiate and consult in good faith to achieve the necessary objectives.

## **APPENDIX 1**

### **THE STATEMENT OF MUTUALLY AGREED UNDERSTANDINGS AND ASSUMPTIONS WHICH UNDERPIN THE CHIEF EXECUTIVE OFFICER'S PERFORMANCE DEVELOPMENT REVIEW PROCESS**

#### **PERFORMANCE EXPECTATIONS**

The Performance Development Review Process is based on the Council's Strategic Management Plan and uses the Plan's core goals as the foundation for determining the expectations of the Chief Executive Officer.

This Statement of Undertakings is agreed between the District Council of Streaky Bay and its Chief Executive Officer.

This Statement is not an employment agreement or an employment contract between the District Council of Streaky Bay and its Chief Executive Officer.

The purpose of this Statement is to ensure that both organisational and personal development outcomes are clearly articulated. Specifically, it is designed to enable:-

- an alignment between the Council's Strategic Management Plan and activities undertaken by the administration;
- enhance communication between Elected Members, the Performance Development Review Committee and the Chief Executive Officer; and
- identification and resolution of any systems and training and development needs necessary to achieve agreed outcomes.

#### **THE ROLES OF THE:**

##### **1. CHIEF EXECUTIVE OFFICER**

- The role of the Chief Executive Officer in this process is to ensure that the agreed goals are achieved and to raise issues with the Committee that may impact upon the effectiveness and the efficiency of the achievement of these goals.
- The Chief Executive Officer shall participate in the meeting of the Committee and provide information if requested by the Committee members.

##### **2. ELECTED MEMBERS**

- The role of Elected Members in this process is to agree on Council's corporate direction as reflected in the Strategic Management Plan, agree specific goals with the Chief Executive Officer, provide sufficient resources, monitor progress and provide feedback.

##### **3. COMMITTEE**

- The Chief Executives Officer's Performance Development Review Committee is to:
  - (a) Manage the process and to meet at least once a year;
  - (b) Conduct a full 360 Chief Executive Performance Review (optional);
  - (c) Make recommendations to Council;

- (d) Undertaking the activities set out in clause 5 of the Terms of Reference.

#### **4. PRESIDING MEMBER**

- The Presiding Member's role is to:
  - (a) Oversee and facilitate the conduct of meetings in accordance with the Local Government Act 1999 and the meeting procedures determined by the Committee under Clause 4.2 of the Terms of Reference.
  - (b) Ensure all Committee members have an opportunity to participate in discussions in an open and constructive manner.
  - (c) Facilitate two-way dialogue with the Chief Executive Officer to reach agreed outcomes.
  - (d) Where a matter has been debated significantly and no new information is being discussed to call the meeting to order and ask for the debate to be finalised and a motion to be put forward.

#### **REVIEW PERIOD**

- The Chief Executive Officer's Performance Development Review period will be 1 January to 31 December in any one year.
- The Committee will conduct its performance development review by undertaking a formal 12 monthly review by no later than the last working day in March of each year.

#### **REVIEW PRINCIPLES**

The principles that support the performance development review process are:

- The performance development review of the Chief Executive Officer is a private matter between the Chief Executive Officer and his employer, the Council. Therefore issues of performance shall not be made public. The proceedings of the Chief Executive Officer Performance Development Review Committee shall be conducted as detailed in Annexure A.
- The performance development review process is intentionally developmental. It is designed to achieve agreed outcomes and to facilitate open, honest and constructive dialogue between the Chief Executive Officer and the Council.
- The formal review will occur once every 12 months, but may be subject to an interim six month consideration.

#### **REVIEW PROCESS**

The process has three steps as follows:

1. Agree on the goals of the Strategic Management Plan which will have application for the current and next three years of the Strategic Management Plan;
2. Agree (annually) on the Key Performance Measures for each review period;
3. A formal review process – to evaluate (annually) performance.

The Committee's review and monitoring process relative to the Chief Executive Officer's Performance Development Review is based on the agreed Key Performance Measures.

## **ELECTED MEMBERS' ISSUES OF CONCERN**

It is accepted that an Elected Member who wishes to raise any issues of concern in respect to the Chief Executive Officer 's performance will do so by following the five step process as follows, (the Council meeting is a last resort to have such issues addressed):-

1. directly with the Chief Executive Officer (by telephone, office appointment);
2. through the Mayor
3. after having gone through step 1 and 2 above, directly with the external facilitator (if engaged) in relation to the Chief Executive Officer's Performance Development Review Process;
4. during a Chief Executive Officer's Performance Development Review Committee meeting; or
5. during a Council Meeting.

Approaches 3-5 require the concern or issue to be provided in written form.

## **ANNEXURE A**

The proceedings of the Chief Executive Officer's Performance Development Review Committee shall be undertaken in the following manner:

- The Committee will continue to meet until such time as all of the issues have been fully resolved.
- The Committee may use the services of an external facilitator to assist in its role.
- All Committee meetings will be held "in camera" with the public and all persons other than the Chief Executive Officer, nominated Council staff and the external facilitator, having been excluded pursuant to Section 90(3)(a) of the Local Government Act 1999.