

ITEM 10 PERFORMANCE REVIEW COMMITTEE - REVIEW OF CHARTER

The Performance Review Committee has the responsibility to conduct performance reviews of the General Manager in accordance with the Performance Review Committee Charter – 9 June 2015.

The Performance Review Committee, under the current term of Council, was elected at an Ordinary Meeting of Council on 20 November 2017, consisting of the Lord Mayor, Deputy Lord Mayor (Cr David Brown) and Cr Mithra Cox.

As part of the responsibilities of the newly elected Performance Review Committee, the Charter has been reviewed against the Office of Local Government, 'Guidelines for the Appointment and Oversight of the General Managers' and in consideration of recommendations by the Corporate Governance Committee.

RECOMMENDATION

- 1 Council note the report.
- 2 The revised Performance Review Committee Charter be adopted.

REPORT AUTHORISATIONS

Report of: Deanne Heidrich, Business Development Manager
Authorised by: David Farmer, General Manager

ATTACHMENTS

- 1 Performance Review Committee Charter - Draft for resolution 19 February 2018

BACKGROUND

The current Performance Review Committee Charter was last adopted by Council on 9 June 2015. Under a new term of Council, the Committee has been re-elected, consisting of the Lord Mayor, Deputy Lord Mayor (Cr David Brown) and Cr Mithra Cox, and the commencement of the process for the review of performance of the General Manager has commenced. The Corporate Governance Committee has the responsibility to ensure the Committee is undertaking the process in accordance with the Charter and make recommendations as required.

At the Corporate Governance Committee meeting of 28 November 2017, the Committee recommended that the Charter be reviewed by Council early in 2018, with an additional responsibility and function being:

“ensure the implementation of both internal and external audit recommendations is considered by the Council (elected body) when evaluating the performance of the General Manager”.

The addition represents a recommendation for corruption prevention from a recent ICAC investigation into Botany Council (now Bayside Council) whereby the chief financial officer and other Council employees fraudulently misused official functions to obtain financial benefits for themselves and others, and Councillors failed to exercise their function to adequately scrutinise the responsibilities and performance of the General Manager and therefore the organisation.

Other administrative changes have been made for clarification purposes. These changes are highlighted in red for easy reference. The changes in the attached checklist reflect a change in order of the tasks.

CONSULTATION AND COMMUNICATION

Corporate Governance Committee.

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1 INTRODUCTION

The General Manager is accountable for the fulfilment by the organisation of its goals, statutory responsibilities and the targets set in the Council's strategic and management plans. The General Manager has overall accountability for the leadership and effective management of the Council's human, non-financial and financial resources and for implementing the Council's strategies, policies and programs. In addition the General Manager should ensure the highest levels of probity and corporate governance are adhered to across the organisation. The General Manager should be held accountable for the two aspects inherent in his/her responsibilities:

Overall performance of the organisation

His/her individual performance

The Performance Review Committee has been established following consideration of the Office of Local Government Guidelines for the Appointment and Oversight of General Managers. The focus of the Performance Review Committee is to monitor and review the General Manager's performance in accordance with the Department of Local Government, Standard Contract General Managers of Local Councils in New South Wales.

2 AUTHORITY

The Performance Review Committee has full delegation for the whole process of performance management, including discussions regarding performance, any actions that should be taken and the determination of the new annual performance agreement. The day-to-day oversight and management of the General Manager shall be the responsibility of the Lord Mayor in accordance with Council policies.

The Performance Review Committee may make recommendations, however does not have decision-making authority in relation to renewal of contract nor salary adjustments above annual indexations provided for in the Standard Contract - General Managers of Local Councils in New South Wales.

3 RESPONSIBILITIES AND FUNCTIONS

The responsibilities and functions of the Performance Review Committee are to -

Conduct the performance reviews of the General Manager on an annual basis.

Develop an agreed annual performance agreement. The performance agreement should contain but not be limited to key indicators that measure how well the General Manager has met expectations with respect to:

- o service delivery targets from the Council's Delivery Program, Operational Plan and Community Strategic Plan;
- o budget compliance;
- o organisational capability;
- o timeliness and accuracy of information and advice to Councillors;
- o timely implementation of council resolutions;
- o management of organisational risks;
- o implementation of both internal and external audit recommendations;
- o leadership.

Report the findings and recommendations of those reviews to a Closed Session of Council including salary adjustments above those outlined in the General Managers Contract. This is not an opportunity to debate the results or re-enact the performance review of the General Manager.

Report recommendations on contract renewal to a Closed meeting of Council. Subsequently, the decision by Council to offer a new contract and a salary package should be reported to an open meeting of Council.

Performance management:

Is an essential component of corporate governance, allowing a Council to monitor and respond to how the General Manager delivers against the goals and outcomes required by Council

Engenders a mutual understanding of what is expected of the General Manager by Council

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Links the General Manager's personal performance objectives with Council's organisational goals as identified in Council's strategic and management plans

Should be a constructive and collaborative process between the parties

Promotes communication and provides feedback on performance between the General Manager and Council

Addresses the leadership qualities of the General Manager that are set out in the agreement

The performance management report of any Council staff member, including the General Manager, should not be released to the public and should be retained on the appropriate confidential Council employment file. Release of such personal information to other than the Performance Review Committee, the General Manager and the Councillors in confidence may be a breach of privacy legislation.

A timeline has been attached as a checklist for easy reference.

4 COMPOSITION OF THE PERFORMANCE REVIEW COMMITTEE

The Performance Review Committee is to be composed of:

Lord Mayor as the Chairperson.

Deputy Lord Mayor.

One Councillor elected by Council;

One Councillor may be nominated by the General Manager (optional).

An External Facilitator by agreement of the General Manager and Performance Review Committee, selected by the Performance Review Committee from suitable candidates in the list supplied by Local Government NSW, to assist with the facilitation of the process of performance review and the development of new performance agreements;

An Independent Observer, to be selected by the Performance Review Committee, from the Independent Members of the Corporate Governance Committee, to observe and ensure the process is carried out in an open and transparent manner.

All Councillors will be provided with the opportunity to provide feedback to the Performance Review Committee on the General Manager's performance. An annual Closed Briefing Session will be provided for this feedback to occur, however feedback can be provided to the Lord Mayor at any time during the year by appointment, outside of this Briefing Session.

Those Councillors selected to take part in the Committee should have received training on performance management of General Managers or demonstrate prior learning. The demonstration of prior learning is to be referred to the Chair of the Corporate Governance Committee for determination.

5 TERMS OF APPOINTMENT

Terms of appointment are as follows:

Committee Members

Lord Mayor

Deputy Lord Mayor

Councillor appointed by the Council

Other Committee Members

Councillor appointed by the General Manager

Appointment

Term of Council

Annual (position elected annually)

Term of Council or as resolved by Council

Annually (optional) at the discretion of the General Manager

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External Facilitator	Annually (optional) by agreement of the General Manager and the Performance Review Committee (if there is a decision to appoint, the External Facilitator is selected by the Performance Review Committee from suitable candidates in the list supplied by Local Government NSW)
Independent Observer	Annually by the Performance Review Committee from the independent membership of Corporate Governance Committee

6 OBLIGATIONS OF MEMBERS

Members of the Performance Review Committee, in performing their duties, shall:

- Act honestly and in good faith;
- Participate in the work of the Performance Review Committee;
- Perform their duties in a manner that ensures public trust in the integrity, objectivity, and political impartiality;
- Exercise the care, diligence and skill that would be expected of a reasonable person;
- Comply with the Performance Review Committee Charter; and
- Comply with Council's Code of Conduct.

7 MEETINGS

The Performance Review Committee will assess the performance of the General Manager in the first quarter of the financial year on an annual basis. Meetings comprising the review are:

Confidential Briefing Session for Councillors to provide feedback on the General Manager's performance and provide feedback for the development of the following year's Performance Agreement;

Performance Review Committee to discuss and compile feedback on the General Manager's performance against the current Performance Agreement;

Performance Review Committee meeting with the General Manager to provide feedback on performance against the current Performance Agreement. The agenda for this meeting would normally include:

- o Outlining the process of the meeting;
- o Discussing and reaching agreement on the rating that should be given against each objective;
- o Noting any significant issues which should be taken into account at the next Performance Agreement Review;
- o Identifying actions to be taken immediately to alleviate any specific problem areas, to enhance performance, to remove any barriers to achievement of performance, and agree on steps necessary to bring this about;
- o Dealing with any other issues which are performance-related and which the General Manager or the Committee see as warranting discussion.

Performance Review Committee meet with General Manager to develop and agree on a new performance review agreement.

Facilitation of the process is the responsibility of the Lord Mayor's office in consultation with:

Human Resources and/or External Facilitator - to ensure the Committee knows of and applies contemporary performance review practices;

Governance - to ensure all legislative and statutory requirements are met;

Chair of the Governance Committee as required.

Meetings will be chaired by the Lord Mayor. A quorum will consist of all Councillor members of the Performance Review Committee. Decisions between parties may be undertaken electronically.

A timeline has been attached as a checklist for easy reference.

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8 MINUTES AND REPORTING

Minutes of meetings will be recorded through the following output documents:

Performance Agreement (this document is the agreement by which the performance of the General Manager will be assessed against)

Performance Review (this document is the assessment by the Performance Review Committee of the General Manager's performance)

Minutes of a Closed Session of Council recording the findings and recommendations of the annual performance review and recommendations for contract renewal and salary adjustments above those outlined in the General Manager's Contract.

The following will be reported to Council by the Performance Review Committee in Closed Session:

The findings and recommendations of the performance review along with the new agreed performance agreement for the next review period.

NOTE: This is not an opportunity to debate the results or re-enact the performance review of the General Manager.

Any new performance agreement.

9 EVALUATION AND REVIEW

A review of the Performance Review Committee will be undertaken within 12 months of a newly elected Council to ensure the purpose, membership and operation of the Committee is effective and to make appropriate changes.

10 REFERENCES:

Local Government Act 1993

Guidelines for the Appointment and Oversight of General Managers – Office of Local Government

Code of Conduct

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CHARTER ADOPTED ON 9 JUNE 2015 *

PERFORMANCE REVIEW COMMITTEE TIMELINES				
Timeline	Date anticipated	Activity	Responsibility	Output
Annually	July	Agreed Performance Agreement	Performance Review Committee	Signed Performance Agreement
Within 3 months of the commencement date of the contract and annually	September	A Performance Management Committee be formed through election of Councillors to Committees and Reference Groups	Council	Report to Council and formal resolution of Council (open session) as part of the annual Election of Councillors to Committees and Reference Groups report to Council
	October	General Manager provide advice on option of an extra Councillor	General Manager	Written advice to Chair of Performance Review Committee
	October	Inclusion of an External Facilitator, by agreement of the General Manager and the Performance Review Committee, and selected by the Performance Review Committee from suitable candidates in the list supplied by Local Government NSW	General Manager and Performance Review Committee	Written advice to the Chair of Performance Review Committee and the General Manager. If an agreement to opt in for an External Facilitator; documentation engaging the external facilitator
	October	Performance Review Committee select the independent observer from the independent membership of the Corporate Governance Committee	Performance Review Committee	Documentation engaging the independent observer Option to consult with Corporate Governance Committee (if required)
	December	A performance agreement setting out agreed performance criteria must be signed between the General Manager and the Performance Review Committee	Performance Review Committee and General Manager	Performance Agreement and formal resolution of Council (closed session) receiving and noting performance agreement

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Timeline	Date anticipated	Activity	Responsibility	Output
Within 2 months of the signing of the performance agreement	February	The General Manager may prepare and submit to Council an action plan which sets out how the performance criteria are to be met	General Manager	Written advice to Chair of Performance Review Committee
21 days' notice (before annual review)	June	The General Manager gives the Chair of the Performance Review Committee written notice that an annual performance review is due	General Manager	Written advice to Chair of Performance Review Committee
At least 10 days' notice	June	The Chair must give the General Manager written notice of any performance review to be conducted	Performance Review Committee	Written advice to the General Manager
Annually, prior to commencement of the performance review process	June	Councillors be provided with a timeline, including relevant dates, for the conduct of the General Manager's Performance Review.	Performance Review Committee	Formal advice to Councillors
After 6 months	December	The Performance Review Committee may also decide, with the agreement of the General Manager, to provide interim feedback to the General Manager midway through the annual review period	Performance Review Committee and General Manager	Written advice to the General Manager

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Timeline	Date anticipated	Activity	Responsibility	Output
Prior to the annual performance review	October	Provide training on performance management of the General Manager or demonstrate prior learning	Chair Governance Committee	Records of attainment of training or advice from the Chair of Governance Committee determining recognition of prior learning
	July	The General Manager submit to Council a self-assessment of his/her performance	General Manager	Written advice to the Chair of the Performance Review Committee
Annually	June	Councillors will be provided with the opportunity to provide feedback to the Performance Review Committee on the General Manager's performance.	Performance Review Committee	Invitation to Councillors to a closed briefing session
	August	The General Manager's performance must be reviewed having regard to the performance criteria in the Agreement	Performance Review Committee and General Manager	Formal resolution of Council (closed session) receiving and noting performance review
Within 6 weeks of the conclusion of the performance review	September	Council will prepare and send to the General Manager a written statement with Council's conclusions on the General Manager's performance during the performance review period	Performance Review Committee	Performance Review documentation completed with findings and recommendations against criteria in agreed performance agreement
Annually as soon as practicable following the conclusion of the performance review	October	Council receive a report on the recommendations and findings of the Performance Review in Closed Session.	Performance review Committee	Report to Council and formal resolution of Council (closed session).
As soon as possible after receipt of the statement	December	The General Manager and the Performance Review Committee will agree on any variation to the performance agreement for the next period of review	Performance Review Committee and General Manager	Performance agreement documentation developed
				Formal resolution of Council (closed session) receiving and noting agreed performance agreement

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Timeline	Date anticipated	Activity	Responsibility	Output
Annually	October	The performance agreement must be reviewed and varied by agreement	Performance Review Committee and General Manager	Signature of all parties
Contract renewal	December	Performance Review Committee make recommendations to Council on contract renewal and salary adjustments above those outlined in the General Managers Contract	Performance Review Committee	Report to Council and formal resolution of Council (closed session).
				Subsequently, details of decision by Council to offer a new contract and a salary package should be reported to an open meeting of Council
Verification process	February, May, August, November	Verification by the Corporate Governance Committee of the process being undertaken	Corporate Governance Committee	Checklist be provided to Corporate Governance Committee for verification

Facilitation of the Performance Review process is undertaken in consultation with:

- Human Resources and/or External Facilitator are to ensure the Committee knows of and applies contemporary performance review practices;
- Governance to ensure all legislative and statutory requirements are met;
- Chair of the Governance Committee as required.

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SUMMARY SHEET

Responsible Division	Office of the Lord Mayor	
	Date	Adopted/Endorsed by
Date last adopted		
Date of previous adoptions	9/6/15	Council
	18/5/15	Council (rescinded on 9 June 2015)
	November 2012	Council
	October 2011	Council