

Metropolitan Local Government Reform



Information Sheet

CEO Employment Arrangements

Decision Day to Post October 2015

Prepared for the Metropolitan Reform Implementation Committee by the Human Resources Subcommittee

Contents

CEO Employment Arrangements 3
Reform and changes in employment arrangements..... 3
Protections and underpinning principles 3
Amalgamation 5
Boundary change 7

CEO Employment Arrangements

Reform and changes in employment arrangements

Local government reform involves changes for staff, including CEOs.

The transition from existing local governments to form new organisations may occur in one of two ways:

- amalgamation of two or more local governments to form a new organisation; or
- adjustment of the boundaries of one or more existing local governments such that all or part of their district becomes part of another existing local government which retains its name.

Each of these processes will have some impact on CEOs as the reform progresses:

- they may continue as CEO of their employing local government, while working with other CEOs and a Local Implementation Committee on transition tasks, up until 1 July 2015;
- they may opt to take on a Project Director position, working on the transition towards the establishment of a new local government organisation, or another position within the local government, and then seek other opportunities as new local governments are established;
- their CEO position may be abolished as of 1 July 2015;
- their employment as a CEO may continue through to the October 2015 local government elections and possibly beyond that time;
- they may choose to work part of their contract and then accept a termination payment;
- they may apply for a CEO position in a new local government; or
- they may decide to retire, resign or seek an alternative position.

Protections and underpinning principles

There are legislative provisions and principles which provide protections for all staff, including CEOs, where employment arrangements are undergoing change.

Principles that local governments may wish to utilise for the management of all staff arrangements include the following:

- ensure that there is natural justice and transparency in decision-making in the process;
- maximise staff involvement in the change process;
- discuss employment arrangements, options and preferences with each individual staff member;
- maximise the retention of staff knowledge, skills and experience; and
- provide for prompt and sensitive dispute resolution.

This short guide summarises key information for CEOs regarding the change process.

Amalgamation

- In the event of an amalgamation, when two or more local governments are abolished and a new local government is created, the contract of the existing CEOs will cease from the time of the establishment of the new local government. This is because the former employing authority has been abolished.
- The cessation of an employment contract before the expiry term may result in a right of compensation for the former CEOs OR former CEOs may continue in an alternative role until the end of their contract (if within 2 years of 1 July 2015) or a period of 2 years from 1 July 2015 elapses.
- A job description for an interim CEO with performance objectives and outcomes should be developed. In addition, a submission should be made to the Salaries and Allowances Tribunal (SAT) for determination of a remuneration package.
- An interim organisation structure should also be developed.
- The Local Implementation Committee would facilitate the development of the interim CEO job description and interim organisation structure in the lead up to 1 July 2015 and recommend these to the incoming commissioner.
- A commissioner(s) will be appointed to the new local government from 1 July 2015. The commissioner will appoint the interim CEO and approve an interim organisation structure as soon as possible.
- A LIC may wish to advise the Minister of its preference for earlier commencement of Commissioner(s) in an advisory capacity prior to statutory appointment on 1 July 2015.
- An interim CEO may be a suitable person chosen by the commissioner. The process for selecting the interim CEO would be determined by the commissioner in keeping with the employment principles in section 5.40 of the *Local Government Act 1995*.
- Arrangements for the selection of a permanent CEO will be determined by the Council following the October 2015 local government elections.
- A position description for the permanent CEO position, including performance objectives and outcomes, will be prepared by the new Council. A submission will also be made to the SAT for a determination of the remuneration to be paid.
- A final organisation structure will be approved by the new Council.

- The permanent CEO position will be advertised. This will not preclude a previous CEO, the interim CEO, a CEO from elsewhere in the sector, or any external applicants, from applying.
- In making a selection, the Council must believe that the person selected is suitably qualified and must be satisfied with the proposed employment *contract*.
- *Clauses 11(4) and (5) of Schedule 2.1 of the Local Government Act 1995* apply.

Boundary change

- When the boundary of local government A is extended over local government B and local government B is abolished, the CEO of local government A will continue as CEO of the expanded district. Any preserved CEO arrangement would continue.
- The CEO of local government B may be eligible for compensation if their contract of employment is brought to an end prior to its term.
- Similarly, the Council of local government A will continue as the council of the expanded local government. The Council of local government B will cease from 1 July 2015.
- The position description of the CEO, including the performance objectives and outcomes, should be reviewed by the Council. A submission should also be made to the SAT for determination of remuneration for the position.
- A final organisation structure will be approved by the new Council elected in October 2015.
- If, in the review of organisational requirements and structure, local government A decides that a merit-based selection should be held for a new CEO, the local government will need to make the position vacant by bringing the contract of the existing CEO to an end.
- The Council's intentions should be discussed with the CEO, keeping in mind clauses 11(4) and (5) of Schedule 2.1 of the *Local Government Act 1995*.
- A change in the remuneration of the CEO by the Salaries and Allowances Tribunal will not result in the termination of his or her contract.
- If the contract of CEO A expires, the local government may renew, vary or choose not to renew the contract.
- The cessation of an employment contract before the expiry term may result in a right of compensation for the former CEOs OR former CEOs may continue in an alternative role until the end of their contract (if within 2 years of 1 July 2015) or a period of 2 years from 1 July 2015 elapses OR CEOs may choose to work part of their contract and then accept a termination payment.

Clauses 11(4) and (5) of Schedule 2.1:

Clause 11 (4) provides that a contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 of the Act so as to make it less favourable to that person unless compensation acceptable to the person is made or a period of at least 2 years has elapsed since the order had effect.

Clause 11 (5) provides that the rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government.

Disclaimer: The information and advice within this document is provided voluntarily by Department of Local Government and Communities as a public service. The information and advice is provided in good faith and is derived from sources believed to be reliable and accurate. No representation or warranty, express or implied, is made as to the accuracy, completeness or fitness for purpose of this document. The reader of this document should satisfy him or herself concerning its application to their situation. The State of Western Australia, the Department of Local Government and Communities and their officers expressly disclaim liability for any act or omission occurring in reliance on this document or for any consequences of such act or omission. Current as at September 2014.

CEO Employment Arrangements is available for viewing and download from the Department of Local Government and Communities website: www.dlqc.wa.gov.au

For more information, please contact:

Department of Local Government and Communities

Gordon Stephenson House, 140 William Street, Perth WA 6000

GPO Box R1250, Perth WA 6844

Telephone: (08) 6551 8700 Fax: (08) 6552 1555

Freecall: 1800 620 511 (Country only)

Email: info@dlqc.wa.gov.au Website: www.dlqc.wa.gov.au

Translating and Interpreting Service (TIS) – Tel: 13 14 50