

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 12 November 2024
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 19.3

Responsible Officer: Zoë Gill
Executive Governance Officer
Office of the CEO

Subject: Proposed CEO Leave Policy

For: Decision

1. Proposed CEO Leave Policy – Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- Chief Executive Officer, Greg Georgopoulos
- Director Environment & Infrastructure, David Waters
- Director Corporate Services, Gary Lewis
- Acting Director Community & Development, Jess Charlton
- Executive Governance Officer, Zoë Gill
- Minute Secretary, Rebekah Lyons
- IT Support, Tom Portas

be excluded from attendance at the meeting for Agenda Item 19.3: (Proposed CEO Leave Policy) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(a) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is:

- (a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

2. Proposed CEO Leave Policy – Confidential Item

SUMMARY

The purpose of this Report is to provide a draft CEO Leave Policy for Council consideration and adoption.

The policy has been developed as a result of Council's resolution at the 27 August 2024 Council meeting to consider and approve any leave requests of the Chief Executive Officer (CEO) in accordance with the CEO's employment agreement.

In reviewing the process for leave requests by the CEO, Administration has taken the opportunity to clarify Acting CEO arrangements when there is an absence of the CEO in line with the requirements set out in s102 of the *Local Government Act 1999*.

The adoption of this policy will provide guidance to both the CEO and the Council in how to best manage periods of CEO leave in accordance with the CEO's employment agreement and the legislative requirements.

RECOMMENDATION

Council resolves:

- 1. To receive and note the report titled "Proposed CEO Leave Policy" (Agenda Item 19.3, 12 November 2024 Council Meeting)**
- 2. To adopt the proposed CEO Leave Policy in *Appendix 1* of the Proposed CEO Leave Policy Report (Agenda Item 19.3, 12 November 2024 Council meeting) with an effective date of 19 November 2024.**
- 3. To authorise the CEO to make any formatting, nomenclature or other minor amendments to the CEO Leave Policy.**

1. BACKGROUND

Council resolved to approve leave requests of the CEO in accordance with the CEO's employment agreement at the 27 August 2024 Council meeting. Part 6 of resolution 308/24 from that meeting is below:

6. That Council and the administration, as appropriate:

- a. undertake a review of its practice of considering 'late items' for the purposes of ensuring compliance with the *Local Government Act 1999* (SA);**
- b. review the accuracy of its report writing; and**
- c. consider and approve any leave requests of the Chief Executive Officer (CEO) in accordance with the CEO's employment agreement.**

This resolution was made as a result of recommendations of the Independent Inquiry into the Mayor's Use of the Mayor, which noted that Council was not approving leave requests in line with the CEO's employment agreement.

Under section 20 of the CEO's Employment Agreement leave is to be approved by Council:

20. LEAVE

20.1 Annual Leave

- 20.1.1 The CEO is entitled to 20 days of annual leave per completed year of service, which may be taken at any time approved by the Council. This leave is cumulative from year to year if unused.
- 20.1.2 The CEO is not entitled to any leave loading payment.
- 20.1.3 There should not be more than 40 days annual leave to the credit of the CEO at the end of any one year of service. The Council may direct the CEO to take any outstanding leave when / if the balance reaches 40 days.
- 20.1.4 Any entitlement to annual leave standing to the credit of the CEO at the time of cessation of employment shall be discharged by the Council by payment based on the CEO's TEC Package as set out in Schedule 2.

20.2 Sick/Carer's Leave

- 20.2.1 The CEO is entitled to 10 paid days of sick/carer's leave for each year of service for the purpose:
 - 20.2.1.1 convalescing in respect of a personal injury or illness (sick leave); or
 - 20.2.1.2 providing care and support to an Immediate Family or Household Member who is suffering from an injury or illness (carer's leave).
- 20.2.2 The Council may require the CEO to provide documentary evidence in support of any sick/carer's leave absence, whether or not the CEO seeks payment for such absence.
- 20.2.3 There shall be no entitlement to payment in lieu of accrued sick/carer's leave entitlements upon the cessation of the CEO's employment.

20.3 Long Service Leave

Long service leave entitlements will be granted in accordance with the provisions of the *Long Service Leave Act 1987* (SA).

20.4 Compassionate Leave

- 20.4.1 The CEO is entitled to two days of paid compassionate leave for bereavement upon the death of a family member, or in other special circumstances as are shown to exist to the satisfaction of the Council.
- 20.4.2 The CEO may be required to provide evidence to the Council in respect of an absence for compassionate leave, whether or not the CEO seeks payment for such absence.

20.5 Parental Leave

The CEO is entitled to parental leave in accordance with the provisions of the Act.

20.6 Leave at the direction of the Council

The Council may, at any time during the employment, direct the CEO to take leave at full pay and direct the CEO not to report for Duties in whole or in part.

Council can delegate the function of approving leave.

In reviewing the process for leave requests by the CEO, Administration has taken the opportunity to clarify Acting CEO arrangements when there is an absence of the CEO in line with the requirements set out in s102 of the *Local Government Act 1999* (discussed below).

The proposed CEO Leave Policy has been developed to provide guidance to Council and the CEO in compliance with the Act and the CEO's employment agreement.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5	A Progressive Organisation
Objective 01	We have the right people with the right knowledge and skills in the right jobs and they are supported and developed
Priority 01.1	Progressively enhance our safe systems of work to maintain emotional and physical safety of our people
Objective 05	We are accountable, informed, and make decisions in the best interests of the whole community
Priority 05.1	Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations.

➤ Legal Implications

Employment conditions, including the leave entitlements, must be consistent with the requirements of the *Fair Work Act 1994*, *Long Service Leave Act 1987* and with the CEO's Employment Agreement.

Section 102(b) of the *Local Government Act 1999* requires a suitable person to be appointed by the CEO in consultation with Council in the absence of the CEO, as well as what should occur if the CEO has not appointed an Acting CEO:

102—Person to act in absence of chief executive officer

In the absence of the chief executive officer, the following provisions apply:

- (a) if there is a deputy to the chief executive officer—the deputy must act in the office of the chief executive officer;
- (b) if there is no deputy or the deputy is absent—a suitable person appointed by the chief executive officer after consultation with the council must act in the office;
- (c) if a person is not appointed under paragraph (b)—a suitable person must be appointed by the principal member of the council to act in the office (after taking into account the organisational structure of the council);
- (d) if a person is not appointed under paragraph (c)—a suitable person must be appointed by any three or more members of the council to act in the office (after taking into account the organisational structure of the council).

➤ **Risk Management Implications**

The proposed CEO Leave Policy will assist in mitigating the risk of:

Poor governance practices occurring leading to a loss of stakeholder confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Low (3E)	Low

Please note that there are many other controls in place to manage this risk.

➤ **Financial and Resource Implications**

There are no financial and resource implications that would arise from the adoption of this policy.

➤ **Customer Service and Community/Cultural Implications**

There is an expectation from the community that Council will have appropriate systems in place to support the effective operations of Council during periods that the CEO is absent.

➤ **Sustainability Implications**

Not Applicable.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable.

Council Workshops: Not Applicable.

Advisory Groups: Not Applicable.

External Agencies: Not Applicable.

Community: Not Applicable.

➤ **Additional Analysis**

Proposed CEO Leave Policy

The proposed policy delegates approval of leave requests:

- To the Mayor, in consultation with the Deputy Mayor, for requests for four (4) weeks or less
- By Council resolution for requests greater than four weeks.

This delegation of leave requests ensures that there is appropriate oversight of leave approvals whilst ensuring that the process remains efficient, and that Council does not need to turn its mind to each individual leave request.

Appointing Acting CEO

In relation to appointing an Acting CEO in the absence of the CEO, the proposed policy:

- acknowledges the CEO's authority under s102 of the Act to make appointments of a suitably qualified Acting CEO during periods of absence after consultation with the Council
- identifies the positions the CEO will appoint as Acting CEO, being one of the Executive Leadership Team
- acknowledges that the Policy satisfies the CEO's obligation to consult with Council prior to appointing an Acting CEO.

3. OPTIONS

Council has the following options:

- I. Receive and note the report and adopt the proposed CEO Leave Policy.
- II. Receive and note the report and adopt the proposed CEO Leave Policy with some amendments. Should Council select this option, it is recommended that Council seek advice from administration regarding any proposed changes.
- III. Do not receive the report or adopt the CEO Leave Policy.

4. APPENDICES

- (1) Proposed CEO Leave Policy

Appendix 1

Proposed CEO Leave Policy

COUNCIL POLICY

 Adelaide Hills COUNCIL	CEO LEAVE APPROVAL POLICY
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Policy Number:	TBC
Responsible Department(s):	Office of the CEO People and Culture
Relevant Delegations:	As per the Delegations Register and as detailed in this Policy
Other Relevant Policies:	Nil
Relevant Procedure(s):	Acting or Higher Duties Procedure Leave Procedure
Relevant Legislation:	Local Government Act 1999 (SA) Fair Work Act 1994 (SA) Long Service Leave Act 1987 (SA)
Policies and Procedures Superseded by this policy on its Adoption:	Nil
Adoption Authority:	Council
Date of Adoption:	<i>Date of Council Meeting</i>
Effective From:	<i>14 Days after Council Meeting</i>
Minute Reference for Adoption:	<i>To be entered administratively following Council Meeting</i>
Next Review:	No later than December 2027 or as required by legislation or changed circumstances

Version Control

Version No.	Date of Effect	Description of Change(s)	Approval
1.0	XX/X/2024	New Policy	Council - Res X/24

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CEO LEAVE APPROVAL POLICY

1. INTRODUCTION

- 1.1 The CEO Leave Approval Policy (the Policy) provides Council and its administration with principles and guidelines for managing leave entitlements for the Chief Executive Officer (CEO). The policy delegates approval of leave requests, provides that Council is kept informed of leave periods, and outlines Acting CEO arrangements during absences of the CEO.
- 1.2 This policy is to be read in conjunction with other relevant Council policies. The development of this policy has taken into account requirements of the *Local Government Act 1999* (Section 102).

2. OBJECTIVES

- 2.1 The objectives of this policy are to:
- Provide direction in the event of the absence of the CEO
 - Ensure that Council is compliant with all legislative requirements and the agreed conditions of the CEO's employment agreement
 - Outline the process for the approval of leave requests and the appointment of an Acting CEO
 - Delegate the power to approve leave requests to the Mayor in consultation with the Deputy Mayor
 - Provide guidance to the CEO of persons who are suitably qualified to act as CEO during approved periods of leave (meeting the requirements of the CEO to consult with Council on the appointment of Acting CEOs).

3. DEFINITIONS

- 3.1 **"Absence of the CEO"** means:
- 3.1.1 a period when the CEO is on leave 5 business days or longer, or
 - 3.1.2 if the leave is for a shorter period, the CEO is unable to perform the duties of the CEO under the *Local Government Act 1999*.
- 3.2 **"Chief Executive Officer"** means the appointed Chief Executive Officer for the Adelaide Hills Council.
- 3.3 **"Council"** means the elected body of the Adelaide Hills Council constituted pursuant to the Act.
- 3.4 **"Employment Agreement"** means the employment agreement executed between Adelaide Hills Council and the CEO.
- 3.5 **"Executive Leadership Team"** means an executive employee of Council, being specifically the Director Corporate Services, Director Environment and Infrastructure,

Director Community and Development or Executive Governance Officer, or a person acting in those positions.

4. SCOPE

- 4.1 The policy applies in respect of periods of annual leave, long service leave, sick or carer's leave, compassionate leave and parental leave taken by the CEO.

5. LEGISLATIVE OBLIGATIONS

- 5.1 Under s102 of the *Local Government Act 1999*, a person must be appointed to act in the absence of the CEO:

102—Person to act in absence of chief executive officer

In the absence of the chief executive officer, the following provisions apply:

- (a) if there is a deputy to the chief executive officer—the deputy must act in the office of the chief executive officer;
- (b) if there is no deputy or the deputy is absent—a suitable person appointed by the chief executive officer after consultation with the council must act in the office;
- (c) if a person is not appointed under paragraph (b)—a suitable person must be appointed by the principal member of the council to act in the office (after taking into account the organisational structure of the council);
- (d) if a person is not appointed under paragraph (c)—a suitable person must be appointed by any three or more members of the council to act in the office (after taking into account the organisational structure of the council).

6. POLICY STATEMENT

- 6.1 The CEO is eligible for annual leave, sick/carer's leave, long service leave, compassionate leave and parental leave as provided in their contract of employment and by relevant legislation.
- 6.2 Council acknowledges the importance of all employees accessing leave entitlements and will not unnecessarily withhold approval of leave requests.
- 6.3 In the absence of the CEO it is appropriate for a person to perform the duties of the CEO to enable the efficient functioning of the local government's administration and to remain compliant with the Act.

7. LEAVE REQUESTS AND APPROVAL

- 7.1 Council authorises the Mayor, in consultation with the Deputy Mayor, to grant approval for (or refuse) all leave requests up to and including periods of four (4) weeks duration.
- 7.2 The CEO shall provide reasonable prior notice for all leave requests where practicable.
- 7.3 The Mayor, in consultation with the Deputy Mayor, will give consideration to the CEO's leave requests in a timely manner.

- 7.4 If the Mayor has not responded to the leave requests in a timely manner, Council authorises the Deputy Mayor to grant approval for (or refuse) the leave request.
- 7.5 Any refusal of a leave request should provide reasons for that refusal.
- 7.6 If a leave request has been refused, the CEO can refer the leave request to Council for consideration and decision.
- 7.7 Periods of leave greater than four (4) weeks in duration will be provided to Council for consideration and decision.
- 7.8 Council is to be notified of all pre-approved periods of leave via email.

8. ACTING CHIEF EXECUTIVE OFFICER APPOINTMENT

- 8.1 Council acknowledges the CEO's authority, under s102(b) of the *Local Government Act 1999*, to appoint an Acting CEO during periods of absence after consultation with the Council.
- 8.2 Council acknowledges that this Policy satisfies the CEO's obligation to consult with Council in relation to appointing an Acting CEO under s102(b) of the *Local Government Act 1999*.
- 8.3 Council notes the CEO will appoint one of the Executive Leadership Team to act in the role of the CEO during periods of absence.
- 8.4 Appointment to the role of Acting CEO must be made in writing by the CEO and Council is to be advised of the appointment by email.
- 8.5 In the event that the CEO has not appointed an Acting CEO, and is absent from the role, the Mayor has authority under s102(c) of the *Local Government Act 1999* to appoint a suitable person Acting CEO after taking into account the organisational structure of the Council.
- 8.6 In the event that the Mayor has not appointed an Acting CEO under section 8.5 of this Policy, three or more members of Council have the authority under s102(b) of the *Local Government Act 1999* to appoint a suitable person to Acting CEO after taking into account the organisational structure of the Council.
- 8.7 The Acting CEO will be afforded all delegated powers of the CEO whilst acting in the role.

9. DELEGATION

- 9.1 The Chief Executive Officer has the delegation to:
- Approve, amend and review any procedures that shall be consistent with this Policy; and

- Make any legislative, formatting, nomenclature or other minor changes to the Policy during the period of its currency.

10. AVAILABILITY OF THE POLICY

- 10.1 This Policy will be available via the Council's website www.ahc.sa.gov.au.

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3. Proposed CEO Leave Policy – Duration of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 19.3 in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	Until Further Order
Related Attachments	Nil
Minutes	Nil
Other (presentation, documents, or similar)	Nil

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.