



## DELEGATED AUTHORITY

Policy Name	Delegated Authority V2
Last Reviewed	27 November 2017
Amendments	These delegations are a formalisation of existing arrangement.
	Amendment to Investment of Council Funds
	Amendment to Power to Accept Tenders
	Amendment to Contract Price Variation
	New Document Standing Orders Local Laws
	Minor administration changes
Resolution Number	OC171221-1522
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## Introduction

In accordance with the *Local Government Act 1995* (the Act) Section 5.42, a local government may delegate to the Chief Executive Officer (CEO) the exercise of any of its powers or the discharge of any of its duties under the Act.

All delegations made by the Council must be by absolute majority decision.

Limits on delegation to the CEO:

- Any power or duty that requires a decision of an absolute majority decision or 75% majority if local government
- Accepting a tender which exceeds an amount determined by the local government
- Appointing an auditor
- Acquiring or disposing of any property valued at an amount determined by the local government
- Any of the local government's powers under Section 5.98, 5.98A, 5.99 or 5.99A of the *Local Government Act 1995*
- Borrowing money on behalf of the local government
- Hearing, determining an objection of a kind referred to in Section 9.5
- The power under Section 9.49A (4) to authorise a person to sign documents on behalf of the local government
- Any power or duty that requires the approval of the Minister or Governor

The CEO may delegate any of his powers to another employee with or without further conditions in accordance with the Act, subject to any conditions imposed by the local government on its delegation to the CEO. All delegations must be in writing.

Subsection 5.44 (3) (b) of the Act does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.

A register of delegations relevant to the CEO and other employees is to be kept and reviewed at least once every financial year.

If a person is exercising a power or duty that they have been delegated, the ACT requires them to keep necessary records to the exercise of power or discharge of the duty. The written record is to contain:

- How the person exercised the power or discharged the duty
- When the person exercised the power or discharged the duty
- The persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

## Register of Delegation of Authority

The Delegation Register contains a record of all Delegations of Authority made to the CEO pursuant to section 5.42 of the Act.

Where listed, some of these functions are hereby delegated by the CEO to Bunbury Harvey Regional Council (BHRC) employees pursuant to Section 5.44 of the ACT.

The purpose of delegations is to assist with improving the time taken to make decisions within the constraints allowed by the relevant legislation.

Each instrument of delegation describes the function being delegated and the relevant statutory reference which is the source of power for the exercise of the function.

*Definitions:*

Delegation	<ul style="list-style-type: none"><li>• Conferral of the ability to exercise a power or duty to a person or body from a person or body that is vested with the responsibility to exercise that power or duty</li><li>• The act of empowering to act for another</li><li>• To commit powers or duties to others</li></ul>
Authorisation	<ul style="list-style-type: none"><li>• The designation of an officer or a body as a person or body that is capable of exercising a statutory power or duty</li><li>• The act of giving someone official permission to do something</li></ul>

**Background to delegations and authorisations**

Delegation and authorisations are the means by which decision making bodies can access the power to undertake certain statutory functions.

Delegation does not imply a parting with powers by the person who grants the delegation, but points rather to a conferring of an authority to do things which otherwise the person would have to do himself.

When a person or body exercises delegated authority they do so 'on behalf' of the delegate and in doing so the person or body exercising delegated authority forms the relevant state of mind to make the decision 'on behalf' of the delegator. An authorised person or body exercises the statutory function in their own right.

**Standard Conditions of Delegation**

All delegations are subject to the following *Standard Conditions*:

- In exercising delegation any and all Officers to whom authority has been delegated shall comply with any and all laws and regulations in force in Western Australia and the requirements of any and all local laws and policies of the Bunbury Harvey Regional Council.
- In exercising delegations any and all Officers to whom authority has been delegated shall exercise the delegation in accordance with any budget authority where applicable.
- Delegated authority cannot be exercised where a financial interest or interest affecting impartiality is evident.
- It is a statutory requirement to maintain a record of each decision made under delegated authority. Documents relating to delegated authority decisions shall as a minimum, record:
  - Date the decision was exercised
  - Name of the officer/committee exercising the decision
  - Description of how the person exercised the power or discharged the duty, including where appropriate, any directions to staff to carry our work associated with the decision unless those directions are included in Policies, Corporate Guidelines of the Delegation Register.
- Where ever possible the requirements of the above shall be incorporated into administrative documents and maintained according to the Records Management Plan.

## Section 1: Delegation of Authority – Financial Management

### **Purpose**

To specify delegation of authority in accordance with Section 5.42 of the Local Government Act 1995 to the Chief Executive Officer in respect of Financial Management functions of the Bunbury Harvey Regional Council.

Reference	DAFM01
Subject	Payments from Municipal and Trust Funds
Category	Financial Management

### **Delegator**

Council

### **Delegates**

Chief Executive Officer

### **Sub Delegates**

Manager Finance

### **Power of Duty**

Pursuant to Section 5.42 of the *Local Government Act 1995* and in accordance with Section 13 *Local Government Financial Management Regulations 1996*, the Chief Executive Officer is delegated authority to approve payments from the Municipal and Trust Funds and to operate those funds and certify accounts.

### **Conditions**

- Electronic Funds Transfer (EFT) transactions require dual authorisation of payments before transmission
- A list of accounts paid by EFT for the month being presented to the next ordinary meeting of the Council in accordance with Regulation 13(2) if the Local Government (Financial Management) Regulations 1996,

### **Statutory Framework**

Section 5.42 *Local Government Act 1995*

Section 13 *Local Government Financial Management Regulations 1996*

### **Policy**

N/A

### **Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016
27/11/2017	Review	OC171221-1522 21/12/2017

Reference	DAFM02
Subject	<i>Release of Bank Guarantees</i>
Category	Financial Management

**Delegator**

Council

**Delegates**

Chief Executive Officer

**Sub Delegates**

Manager Finance

**Power of Duty**

Pursuant to Section 5.42 of the *Local Government Act 1995*, Council delegated its authority to the Chief Executive Officer to release a Bank Guarantee.

**Conditions**

Two (2) signatories are required for each transaction. One (1) being the Chief Executive Officer and One (1) being a representative from the Finance Department.

**Statutory Framework**

Section 5.42 *Local Government Act 1995*

**Policy**

N/A

**Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016
27/11/2017	Conditions Added	OC171221-1522 21/12/2017

Reference	DAFM03
Subject	<i>Investment of Council Funds</i>
Category	Financial Management

**Delegator**

Council

**Delegates**

Chief Executive Officer

**Sub Delegates**

Manager Finance

**Power of Duty**

Pursuant to Section 6.14 of the *Local Government Act 1995* and Section 18 of the *Trustees Act 1962*, Council delegated its authority to the Chief Executive Officer to invest Council's funds in authorised investments being Term Deposits.

**Conditions**

As per Investment Policy adopted by Council.

**Statutory Framework**

Section 5.42 *Local Government Act 1995*

Section 18 *Trustees Act 1962*

**Policy**

Investments Policy

**Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016
27/11/2017	Addition of Investments Policy	OC171221-1522 21/12/2017

Reference	DAFM04
Subject	<i>Write Off of Moneys</i>
Category	Financial Management

**Delegator**

Council

**Delegates**

Chief Executive Officer

**Sub Delegates**

Manager Finance

**Power of Duty**

Pursuant to the provisions of Section 6.12 of the *Local Government Act 1995*, the Chief Executive Officer is delegated authority to write off or waive fees and charges and moneys due to the Bunbury Harvey Regional Council that are considered unrecoverable or where circumstances warrant in accordance with the associated conditions

**Conditions**

- All the necessary measures have been taken to recover the debt
- The debt remained unpaid for a minimum period of 90 days after its due date for payment
- A limit of \$1000 with respect to individual debt write offs
- A list of debts written off under this authority is to be presented to Council on a quarterly basis

**Statutory Framework**

Section 5.42 and 6.14 *Local Government Act 1995*

**Policy**

N/A

**Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016
27/11/2017	Review	OC171221-1522 21/12/2017



Reference	DAFM05
Subject	<i>Discount of Bulk Compost and/or Mulch Sales</i>
Category	Financial Management

**Delegator**

Council

**Delegates**

Chief Executive Officer

**Sub Delegates**

Nil

**Power of Duty**

Authority to make minor variations and grant concessions on price of bulk compost and/or mulch sales subject to Section 5.42 of the Local Government Act 1995 and part 4 of the Local Government (Functions and General) Regulations 1996 and in accordance with the following conditions.

**Conditions**

- To a maximum of 10% variation on the advertised price.

**Statutory Framework**

Section 5.42 of the Local Government Act 1995 and part 4 of the Local Government (Functions and General) Regulations

**Policy**

N/A

**Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a new arrangement	OC81023-1385 31/03/2016
27/11/2017	Review	OC171221-1522 21/12/2017

Reference	DAFM06
Subject	<i>Discount of Bulk Waste Disposal Charges</i>
Category	Financial Management

**Delegator**

Council

**Delegates**

Chief Executive Officer

**Sub Delegates**

Nil

**Power of Duty**

Authority to make minor variations and grant concessions on price of bulk waste disposal subject to Section 5.42 of the Local Government Act 1995 and part 4 of the Local Government (Functions and General) Regulations 1996 and in accordance with the following conditions.

**Conditions**

- To a maximum of 10% variation on the advertised price.

**Statutory Framework**

Section 5.42 of the Local Government Act 1995 and part 4 of the Local Government (Functions and General) Regulations

**Policy**

N/A

**Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a new arrangement	OC81023-1385 31/03/2016
27/11/2017	Review	OC171221-1522 21/12/2017

## Section 2: Delegation of Authority – General

### **Purpose**

To specify delegation of authority in accordance with Section 5.42 of the Local Government Act 1995 to the Chief Executive Officer in respect of General functions of the Bunbury Harvey Regional Council.

Reference	DAG01
Subject	Power to Accept Tenders
Category	General

### **Delegator**

Council

### **Delegates**

Chief Executive Officer

### **Sub Delegates**

Nil

### **Power of Duty**

Pursuant to Section 3.57 of the *Local Government Act 1995* and Regulations 11 to 24 of the *Local Government (Function and General) Regulations 1996*, Council delegates its authority to the Chief Executive Officer to accept tenders received up to \$100,000 and up to \$200,00 where a tender for the supply of products or services is procured through the Western Australian Local Government Authority (WALGA), State or Commonwealth Governments or any of its agencies that provide preferred supplier contracts or agreements.

The Chief Executive Officer is also delegated authority to undertake negotiations pursuant to Regulation 20 of the *Local Government (Function and General) Regulations 1996* with the person who in his opinion submitted the most advantageous tender, with the purpose of variation in respect of the required works or goods in accordance with the conditions as stated.

### **Conditions**

- The Chief Executive Officer is to provide advice on all tenders accepted where the goods or services so procured contain options to extend the Contract for a further period(s).
- Price variations are limited to 10% of the contract value.

### **Statutory Framework**

Section 3.57 *Local Government Act 1995*

Regulation 11-24 of the *Local Government (Functions and General) Regulations 1996*

### **Policy**

N/A

### Adoption and Review

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016
27/11/2017	Add Condition: <i>Price variations are limited to 10% of the contract value.</i>	OC171221-1522 21/12/2017

Reference	DAG02
Subject	<i>Contract Price Variation</i>
Category	General

**Delegator**

Council

**Delegates**

Chief Executive Officer

**Sub Delegates**

Nil

**Power of Duty**

Pursuant to the provisions of Section 5.42 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996* the Chief Executive Officer is delegated authority to approve a price variance for a contract subject to sufficient funds being available within the approved expenditure budget for that project or item subject to the conditions stated.

**Conditions**

- Price variations are limited to a maximum amount of \$1,000.00 excluding GST or 10% of the contract value, whichever is the greater amount.

**Statutory Framework**

Section 5.42 *Local Government Act 1995*

Part 4 of the *Local Government (Functions and General) Regulations 1996*

**Policy**

N/A

**Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016
27/11/2017	Changed condition for variation from 5% to 10%	OC171221-1522 21/12/2017

Reference	DAG03
Subject	<i>Tender Variation</i>
Category	General

**Delegator**

Council

**Delegates**

Chief Executive Officer

**Sub Delegates**

Nil

**Power of Duty**

Pursuant to the provisions of Section 5.42 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996* the Chief Executive Officer is delegated authority to authorise variations to tender specifications which will alter the price of the tender, once the tender advertising period has closed in accordance to the conditions stated.

**Conditions**

- The Chief Executive Officers capacity to approve an original tender and/or variation is set according to the schedule of purchasing limits.

**Statutory Framework**

Section 5.42 *Local Government Act 1995*

Part 4 of the *Local Government (Functions and General) Regulations 1996*

**Policy**

N/A

**Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016
27/11/2017	Review	OC171221-1522 21/12/2017

Reference	DAG04
Subject	<i>Administer Local Laws</i>
Category	General

**Delegator**

Council

**Delegates**

Chief Executive Officer

**Sub Delegates**

Site Supervisor

Team Leader

**Power of Duty**

Pursuant to the provisions of the *Local Government Act 1995* the Chief Executive Officer is delegated authority to administer the local laws and to do all other things that are necessary or convenient to be done for, or in connection with, performing the functions of the BHRC under the BHRC Standing Orders Local Laws.

**Conditions**

Nil

**Statutory Framework**

*Sections 3.18 & 5.42 Local Government Act 1995*

*Bunbury-Harvey Regional Council Standing Orders Local Law 2017*

**Policy**

N/A

**Adoption and Review**

Date	Amendment	Reference
28/11/2017	New Document	OC171221-1522 21/12/2017

## Section 3: Delegation of Authority – Operational

### **Purpose**

To specify delegation of authority in to the Chief Executive Officer in accordance with Section 5.42 of the Local Government Act 1995 in respect of Operational functions of the Bunbury Harvey Regional Council.

Reference	DAGO01
Subject	<i>Purchase and Trade of Fleet Vehicles</i>
Category	Operational

### **Delegator**

Council

### **Delegates**

Chief Executive Officer

### **Sub Delegates**

Nil

### **Power of Duty**

Pursuant to the provisions of Section 5.42 of the *Local Government Act 1995* and Part 6 of the *Local Government (Functions and General) Regulations 1996* Council delegates its authority to the Chief Executive Officer to trade existing fleet vehicles and purchase new fleet vehicles from motor vehicle suppliers to ensure that Bunbury Harvey Regional Councils business needs are met for different work areas, based on prices equal to or better than prices listed in the State Governments Contract and Management Services (CAMS) listing for the supply of motor vehicles.

### **Conditions**

As per annual budget allowances or under authority of Council

### **Statutory Framework**

Section 5.42 *Local Government Act 1995*

Part 6 of the *Local Government (Functions and General) Regulations 1996*

### **Policy**

N/A

### **Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016
27/11/2017	Conditions added	OC171221-1522 21/12/2017



Reference	DAG002
Subject	<i>Authority to Sell, Lease or Dispose of Plant, Equipment and Materials</i>
Category	Operational

**Delegator**

Council

**Delegates**

Chief Executive Officer

**Sub Delegates**

Nil

**Power of Duty**

Pursuant to the provisions of Section 5.42 and 3.58 of the *Local Government Act 1995* the Chief Executive Officer is delegated authority to sell, lease or otherwise dispose of, whether absolutely or not, plant, equipment and materials which are no longer required for the Councils purposes subject to the conditions stated.

**Conditions**

- Subject to the value of the asset being no greater than \$50,000. This value is hereby established in accordance with Section 5.43(d) of the *Local Government Act 1995*.
- A disposition that is described in Regulation 30 of the *Local Government (Functions and General) Regulations 1996* as an exempt disposition is excluded from the application of Section 3.58 of the Act and condition above.

**Statutory Framework**

Section 3.58, 5.42 and 5.43(d) *Local Government Act 1995*

Regulation 30 of the *Local Government (Functions and General) Regulations 1996*

**Policy**

N/A

**Adoption and Review**

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016
27/11/2017	Review	OC171221-1522 21/12/2017