



**2016  
DELEGATED AUTHORITY**

## Delegated Authority

Version 1

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## Delegated Authority

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 out 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.

## Payments from Municipal and Trust Funds

### Instrument of Delegation

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

#### Adopted Reference

OC81023-1385 31/03/2016

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## Release of Bank Guarantees

### Instrument of Delegation

Reference	DAFM02
Subject	Release of Bank Guarantees
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

Nil

#### Statutory Framework

Section 5.42 *Local Government Act 1995*

#### Policy

N/A

#### Adopted Reference

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## Investment of Council Funds

### Instrument of Delegation

Reference	DAFM03
Subject	Investment of Council Funds
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

Nil

#### Statutory Framework

Section 5.42 *Local Government Act 1995*

Section 18 *Trustees Act 1962*

#### Policy

N/A

#### Adopted Reference

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## Write Off of Moneys

### Instrument of Delegation

Reference	DAFM04
Subject	Write Off of Moneys
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

#### Adopted Reference

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## Discount of Bulk Compost and/or Mulch Sales

### Instrument of Delegation

Reference	DAFM05
Subject	Discount of Bulk Compost and/or Mulch Sales
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

#### Adopted Reference

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## Discount of Bulk Waste Disposal Charges

### Instrument of Delegation

Reference	DAFM06
Subject	Discount of Bulk Waste Disposal Charges
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

#### Adopted Reference

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#### Amendments

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## **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.

## Power to Accept Tenders

### Instrument of Delegation

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 \$200,000 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).

#### Statutory Framework

Section 3.57 *Local Government Act 1995*

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

#### Policy

N/A

#### Adopted Reference

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## Contract Price Variation

### Instrument of Delegation

Reference	DAG02
Subject	Contract Price Variation
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 5% 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

#### Adopted Reference

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## Tender Variation

### Instrument of Delegation

Reference	DAG03
Subject	Tender Variation
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

#### Adopted Reference

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15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016

## **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.

## Purchase and Trade of Fleet Vehicles

### Instrument of Delegation

Reference	DAG01
Subject	Purchase and Trade of Fleet Vehicles
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

Nil

#### Statutory Framework

Section 5.42 *Local Government Act 1995*

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

#### Policy

N/A

#### Adopted Reference

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#### Amendments

Date	Amendment	Reference
15/03/2016	This delegation is a formalisation of existing arrangement.	OC81023-1385 31/03/2016

## Authority to Sell, Lease or Dispose of Plant, Equipment and Materials

### Instrument of Delegation

Reference	DAG02
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

#### Adopted Reference

OC81023-1385 31/03/2016

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15/03/2016

Date	Amendment	Reference
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## Document History

Number	Name	Amendment	Reference	Date Approved
DAFM01	Payments from Municipal and Trust Funds	This delegation is a formalisation of existing arrangement.	OC81023-1385	31/03/2016
DAFM02	Release of Bank Guarantees	This delegation is a formalisation of existing arrangement.	OC81023-1385	31/03/2016
DAFM03	Investment of Council Funds	This delegation is a formalisation of existing arrangement.	OC81023-1385	31/03/2016
DAFM04	Write off of Moneys	This delegation is a formalisation of existing arrangement.	OC81023-1385	31/03/2016
DAFM05	Discount of Bulk Compost and/or Mulch Sales	This delegation is a new arrangement	OC81023-1385	31/03/2016
DAFM06	Discount of Bulk Waste Disposal Charges	This delegation is a new arrangement	OC81023-1385	31/03/2016
DAG01	Power to Accept Tenders	This delegation is a formalisation of existing arrangement.	OC81023-1385	31/03/2016
DAG02	Contract Price Variations	This delegation is a formalisation of existing arrangement.	OC81023-1385	31/03/2016
DAG03	Tender Variation	This delegation is a formalisation of existing arrangement.	OC81023-1385	31/03/2016
DAO01	Purchase and Trade of Fleet Vehicles	This delegation is a formalisation of existing arrangement.	OC81023-1385	31/03/2016
DAO02	Authority to See, Lease or Dispose of Plant and Equipment	This delegation is a formalisation of existing arrangement.	OC81023-1385	31/03/2016