Delegation Policy

Policy Number	A12
Responsible Officer(s)	Chief Executive Officer
Policy Adopted	August 2022
Last revised date	August 2026
Minutes reference	2026/08-10
Next review date	August 2030
Applicable Legislation	*Local Government Act 1999*

1. POLICY OVERVIEW

1.1 The decision-making obligations for the Wakefield Regional Council ("the Council") are conferred by a power or function under statute. The Council, as a governing body, is then required to make decisions, evidenced by resolution passed at a Council meeting.

1.2 Administratively and operationally, the Council, as a governing body, simply cannot attend to all matters arising for action and determination under the various statutes which give rise to such obligations for the Council. Accordingly, for the purposes of conducting its governing and regulatory activities effectively and efficiently, the Council delegates its powers and/or functions.

1.3 A 'delegation' is the means by which the Council may authorise another person or body to exercise certain powers and functions, and enables the Council, as a governing body, to focus on policy and strategy, leaving the Chief Executive Officer, and through the CEO, Council employees, to attend to the day to day operations of the Council.

1.4 Delegations are a fundamental part of good governance and play an important role in ensuring that the Council is acting in accordance within the legal and policy framework that applies to it.

1.5 It is important that delegations are managed effectively to ensure decisions are validly made by a lawfully appointed delegate.

2. POLICY SCOPE

2.1 This Policy applies to the CEO, and any employee who, in the performance of their duties, require delegated authority to perform those duties, together with any other bodies who have delegated authority from the Council from time to time.

3. POLICY PURPOSE

3.1 This Policy establishes a framework for delegating authority by, and within, the Council, in a manner that facilitates efficiency and increases the accountability of employees for their performance.

3.2 Delegations will be made to achieve the following objectives:

3.2.1 to ensure the efficiency and effectiveness of the Council's administrative processes;

3.2.2 to ensure appropriate employees and/or bodies have been provided with the level of authority necessary to discharge their roles and responsibilities;

3.2.3 to ensure that delegated authority is exercised by the most appropriate individual and/or body within the organisation;

3.2.4 to ensure internal controls are effective; and

3.2.5 to ensure transparency in decision making by ensuring that delegations are clearly defined and recorded.

4. DEFINITIONS

For the purpose of this Policy:

Act means the *Local Government Act 1999*;

Chief Executive Officer (CEO) means the Chief Executive Officer of the Council (including any person acting in that Office);

Council means the Wakefield Regional Council;

Delegation means a delegation made by the Council under section 44(2) of the Act, and includes any sub-delegation made by the CEO (or other 'head' delegate); and

Delegations Register means the written record of each of the delegations made by the Council.

5. PROCEDURE

5.1 Section 44 of the Act provides an express power for the Council, by resolution, to delegate its powers and functions to:

- a Council committee; or
- a subsidiary of the Council; or
- an employee of the Council for the time being occupying a particular office or position; or
- an authorised person.

5.2 Section 44(3) of the Act sets out the functions which the Council cannot delegate, being powers generally related to public interest and policy decisions:

(a) power to make a by-law or to determine that a by-law applies only within a part or parts of the area of the council;

(b) power to declare rates or a charge with the character of a rate;

(c) power to borrow money or to obtain other forms of financial accommodation;

(d) power to adopt or revise a strategic management plan of the council;

(da) power to adopt or revise an annual business plan or budget of the council;

(e) power to approve expenditure of money on works, services or operations of the council not contained in a budget adopted by the council;

(g) power to approve payment or reimbursement of expenses that may be paid at the discretion of the council and for which the council has not adopted a formal policy or made specific financial provision;

(h) power to establish a subsidiary, or to participate in the establishment of a regional subsidiary;

(i) power to make an application or recommendation, or to report or to give a notice, to the Governor or the Minister, being an application, recommendation, report or notice for which provision is made by or under this or another Act;

(j) power to fix, vary or revoke a fee under section 188(1)(d) to (h);

(ja) the power to revoke the classification of land as community land under section 194;

(k) a power or function excluded from delegation by the regulations.

5.3 Pursuant to section 44(4) of the Act, a delegation by the Council, as a governing body:

5.3.1 Is subject to conditions and limitations as determined by the Council, or as specified by the regulations; and

5.3.2 if made to the CEO, authorises the sub delegation of the delegated power or functions (unless the Council directs otherwise), and if made to anyone else, authorises the sub-delegation of the delegated power or function only with the approval of the Council; and

5.3.3 is revocable at will and does not prevent the Council from acting in relation to a delegated function or power.

5.4 All delegations to the CEO extend to any person appointed to act in that Office.

5.5 Where a delegation is made by the Council to an officer or employee, other than the CEO, the resolution will, unless otherwise required by statute, identify the delegate by reference to the office or position held, rather than by the name.

5.6 In the event that a power or function is delegated to an employee of the Council, the employee is responsible to the CEO for the efficient and effective exercise or performance of that power or function.

5.7 Any conditions or limitations applying to a delegation (or sub-delegation) are to be specified in the Instrument of Delegation (or sub-delegation).

5.8 For the avoidance of doubt, despite delegating any function or power, the Council retains the discretion to exercise its original power or function. However, caution will be exercised in this regard, particularly in relation to matters where a delegate has exercised the delegated power or function.

6. RESPONSIBILITIES

6.1 The CEO (or their delegate) must:

6.1.1 prepare all Instruments of Delegation (and sub-delegation), in consultation with key stakeholders;

6.1.2 ensure that any conditions or limitations applying to a sub-delegation are specified in the Instrument of sub-delegation

6.1.3 ensure that employees in roles with delegated authority possess the relevant knowledge and skills to adequately exercise the delegated powers or functions assigned to that position;

6.1.4 ensure delegated powers or functions, including any conditions and limitations, are appropriate for the responsibilities and level of the position or body to which the powers or functions have been delegated;

6.1.5 ensure relevant employees (or bodies) are, in an ongoing manner, kept aware of legislative amendments that will necessitate amendments to the Council's delegations;

6.1.6 have regard to the powers and functions that may not be delegated pursuant to sections 44(3) and (3a) of the Act;

6.1.7 facilitate all required amendments to delegations when the duties or functions of positions within the organisation change;

6.1.8 maintain the Delegations Register pursuant to section 44(6) of the Act;

6.1.9 manage and coordinate the review of the Delegations Register, as required by section 44(6a) of the Act; and

6.1.10 provide ongoing advice and guidance to employees in relation to delegated authority.

6.2 Employees (or other bodies) who have been delegated powers or functions must:

6.2.1 only exercise the delegations that have been applied against the position (or role) they currently occupy;

6.2.2 take steps to ensure they understand the powers and functions that have been delegated to them;

6.2.3 comply with all relevant statutory requirements of the delegation, and act within the scope of the delegation conferred;

6.2.4 comply with Council policies in the exercise of any delegated power or function;

6.2.5 maintain appropriate records of any decision or action taken in furtherance of a delegation;

6.2.6 comply with any limitations or conditions placed on the delegation; and

6.2.7 be accountable for any delegated power or function they exercise. In doing so, employees (and other bodies) will be supported to ensure that they have the necessary skills, competency and qualifications (if required) to undertake their duties and roles.

7. OPTION NOT TO EXERCISE A DELEGATION

7.1 The CEO is not obliged to exercise the delegation where the CEO believes special or unusual circumstances exist which would make it more transparent or ethical for the matter to be dealt with other than by the CEO, the matter should be transferred to Council for a decision.

7.2 An officer is also not obliged to exercise the sub-delegation where the officer believes special or unusual circumstances exist which would make it more transparent or ethical for the matter to be dealt with other than by the officer, the matter should be transferred to the CEO for further consideration.

7.3 Examples of referring matters to the CEO or Council may include:

(a) the decision may, or is likely to, raise an issue of significant public interest, concern or controversy;

(b) the decision may raise an issue of policy or process not covered by existing policy or practice;

(c) the decision may, or appears likely to, give rise to substantial public objection;

(d) the decision could reasonably appear to be inconsistent with a previous decision or decisions by or on behalf of Council;

(e) implementation of the decision would require expenditure of Council funds, and such funds have not been specifically provided for in the budget;

(f) the delegate is not satisfied that the decision has been the subject of appropriate consultation with those likely to be interested in or affected by it;

(g) the delegate is not satisfied that the decision is one that is appropriate for the decision of the administration rather than of Council;

(h) the delegate believes that it is more appropriate that the decision or any issue arising in connection with it should be determined by the Council rather than the administration;

(i) any Councillor has indicated a desire to call in the decision for Council.

8. CONFLICTS OF INTEREST FOR EMPLOYEES

8.1 An employee must not exercise a delegated power or function that would give rise to a conflict of interest for them under section 120 of the Act, without first having disclosed that interest to the CEO and obtaining authorisation from the CEO to so Act.

8.2 A person is not required to exercise a delegated power or function where, in their considered opinion, circumstances exist that would make it more appropriate for the matter to be dealt with by another delegate. In these circumstances, the delegate must refer to their immediate line manager.

8.3 Any inappropriate exercise of a delegated power or function by an employee may constitute misconduct, resulting in disciplinary action.

9. VARYING / REVOKING DELEGATIONS

9.1 The Council may at any time resolve to vary or revoke a delegation.

9.2 The CEO may at any time determine to vary or revoke a sub-delegation.

9.3 Any amendments to an employee's delegated authority (including the CEO's) are to be reflected in the Delegations Register as soon as reasonably practicable.

10. AVAILABILITY OF POLICY

10.1 This Policy is available for inspection at the Council office during ordinary business hours.

10.2 A copy of the Policy will also be provided to the public upon request and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

10.3 The Policy is also available to download via the Council's website at www.wrc.sa.gov.au

11. REVIEW

11.1 The Delegations Register will be reviewed in accordance with section 44(6a) of the Act.

11.2 This Policy shall be reviewed every 48 months, or more frequently if required by legislation or Council.

Document history:

Version	Review	Description of Change
1.0	August 2022	New Policy
2.0	August 2026	Reviewed, no changes.