



**SPECIAL COUNCIL MEETING
MONDAY, 6 APRIL 2020**

AGENDA

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AGENDA

REPORTS

**SPECIAL CHIEF EXECUTIVE OFFICER'S REPORT
HELD ON 6 APRIL 2020**

NOTICE OF MEETING AND AGENDA

CR _____

PLEASE TAKE NOTICE that the next **SPECIAL COUNCIL MEETING** will be held as an Electronic Meeting at **5.30pm**

MONDAY, 6 APRIL 2020

**JOANNE ABBISS
CHIEF EXECUTIVE OFFICER**

3 April 2020

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

3 PUBLIC QUESTION TIME

Minimum time to be provided – 15 minutes (unless not required)

This meeting is being held as an Electronic Meeting via online meeting software. Members of the public are invited to submit questions in writing by 3 pm on the day of this meeting (06 April 2020) Questions should be forwarded via email to info@armadale.wa.gov.au

The public's cooperation in this regard will be appreciated.

**4 SUSPENSION OF MEETING PROCEDURES (STANDING ORDERS)
LOCAL LAW**

RECOMMEND

That Council suspend the operation of the following clauses:

- (i) Clause 8.2 – Members to Occupy Own Seats**

- (ii) **Clause 9.1 – Members to Rise, in respect to the showing of hands and the requirement to stand.**
- (iii) **Clause 13.2 – Question – Method of Putting, in respect to the showing of hands.**
- (iv) **Clause 15.8(1) – Precedence of Person Presiding, in respect to the requirement for the person presiding to rise.**

of the City of Armadale Standing Orders Local Law for the duration of this electronic meeting and that these matters be determined at the discretion of the Presiding Member.

5 BUSINESS OF THE MEETING

SPECIAL CHIEF EXECUTIVE OFFICER’S REPORT
Report of the Chief Executive Officer.4

BUSINESS ARISING FROM REPORT

6 CLOSURE

SPECIAL CHIEF EXECUTIVE OFFICER'S REPORT

6 APRIL 2020

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CITY OF ARMADALE
Special Chief Executive Officer's Report

Mayor and Councillors
City of Armadale

Following is my Report for the period
ended 6 April 2020

1.1 - ELECTRONIC MEETINGS - COUNCIL AND COMMITTEE

WARD : ALL
FILE No. : M/187/20
DATE : 30 March 2020
REF : NP
RESPONSIBLE : Executive Director
MANAGER : Corporate Services

In Brief:

- Recent amendments have been made to the *Local Government (Administration) Regulations 1996* to allow electronic meetings to be held in specific circumstances resulting from the COVID 19 pandemic.
- This report provides details of the changes and requirements needed to implement the changes.
- Recommend that Council adopt the following policy:
EM 18 – Electronic Council and Committee Meetings

Tabled Items

Nil

Decision Type

- Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- Executive** The decision relates to the direction setting and oversight role of Council.
- Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil

Strategic Implications

- 4.1 Visionary Civic leadership and sound governance
 - 4.1.2 Make decisions that are sound, transparent and strategic
 - 4.1.3 Support the role of the elected body
- 4.2 An innovative and progressive organization
 - 4.2.2 Implement business plans and practices that improve service delivery

Legal Implications

Section 5.5 *Local Government Act 1995* – Convening Council Meetings
Section 1.7 *Local Government Act* – Local Public Notice
Regulations 3, 6, 7, 12, 14C, 14D, 14E *Local Government (Administration) Regulations 1996*

Council Policy/Local Law Implications

City of Armadale Standing Orders Local Law.

Budget/Financial Implications

This will be subject to any decision to broadcast or live stream council meeting.

Consultation

Critical Response Team (CRT)
Local Government Recovery Team (LGRT)

BACKGROUND

On the 25 March 2020 the *Local Government (Administration) Amendment Regulations 2020* (eMeeting Regulations) were gazetted which now facilitates the safe continuation of Council business in the time of COVID-19 through allowing electronic meetings.

The power to make the eMeeting Regulations (section 5.25(1)(ba) of the *Local Government Act 1995* [the Act]) was inserted into the Act back in 1998, and foreshadowed the holding of Council or Committee meetings by either telephone, video conference or other electronic means. Despite this, it was only in 2005 that the *Local Government (Administration) Regulations 1996* were amended to include regulations 14A and 14B, which specifically allowed for attendance at meetings by telephone or “other means of instantaneous communication”, aimed principally at facilitating meetings in very vast local government areas in the regions. The eMeeting Regulations are broader than the existing provisions to facilitate the holding of eMeetings in all local government areas including the metropolitan area, but are specifically limited in terms of the circumstances in which they can be used.

DETAILS OF PROPOSAL

It is proposed that Council adopt Policy EM 18 – Electronic Council and Committee Meetings

COMMENT

Analysis

Changes

As of 26 March 2020, all –

- (a) council meetings;
- (b) council committee meetings; and
- (c) audit committee meetings (collectively: “meetings”), can be conducted electronically (eMeeting), including –
 - i. electronic means of attendance by the relevant members (Members); and
 - ii. by means of telephone, video conference or “other instantaneous communication”, as determined by the council or mayor of the local government but only after first consulting with the CEO.

However, the prerequisites for holding an eMeeting are –

- (a) Firstly –
 - i. a “public health emergency” or “state of emergency” exists (Emergency) and which are defined in the regulations; and
 - ii. the council or mayor considers it appropriate, or alternatively –
 - a. if a “direction” (issued under the same legislation as an emergency) has been issued (regardless of whether it is an Emergency) that prevents council meetings being held in person; and
 - b. the council or mayor authorises it.
- (b) Secondly – notice of the eMeeting, which specifies it is to be conducted electronically.

The table below sets out a summary of the relevant statutory requirements of meetings that are now varied in circumstances where an eMeeting is held.

The left column sets out some of the requirements that applied to all meetings prior to the gazettal of the eMeeting Regulations, and which continue to apply to all meetings, except for eMeetings.

The right column sets out the relevant the corresponding requirements, as varied, where an eMeeting is held, pursuant to the eMeeting Regulations.

Non eMeeting	eMeeting
At least 72 hour’s notice (no time is specified for Special Council meeting notice) is to be given to Members of an Ordinary Council meeting (by the CEO), with – <ul style="list-style-type: none"> • time and date; • agenda; and • place. 	The notice requirement for the place of a meeting is discharged upon notice being given that the meeting will be conducted by electronic means.
Local public notice is to be given for any meeting that changes in respect of any of the above details, from what was specified in the annual notice of meetings published pursuant to regulation 12(1) (Annual	Local public notice is to be given for any meeting that changes in respect of any of the above details, from what was specified in the annual notice of meetings published pursuant to regulation 12(1) (Annual

Non eMeeting	eMeeting
<p>Meeting Notice). 72 hours notice must be given to members for Ordinary Meetings of council and for Special Meetings notice must be given before the meeting.</p>	<p>Meeting Notice). 72 hours notice must be given to members for Ordinary Meetings of council and for Special Meetings notice must be given before the meeting.</p>
<p>It is an offence for Members failing to attend meetings, in the absence of leave.</p>	<p>Attendance by electronic means satisfies the attendance requirement under the Act provided that</p> <ul style="list-style-type: none"> (a) a public health emergency or a state of emergency exists in the whole or a part of the area of the district of a local government; and (b) because of the public health emergency or state of emergency, the member is unable, or considers it inappropriate, to be present in person at a meeting; and (c) the member is authorised to attend the meeting by electronic means by — <ul style="list-style-type: none"> (i) the mayor; or (ii) the president; or (iii) the council. <p>A meeting may be held by electronic means —</p> <ul style="list-style-type: none"> (a) if — <ul style="list-style-type: none"> (i) a public health emergency or a state of emergency exists in the whole or a part of the area of the district of a local government; and (ii) because of the public health emergency or state of emergency, the mayor, president or council considers it appropriate for the meeting to be held by electronic means; <p>or</p> <ul style="list-style-type: none"> (b) if — <ul style="list-style-type: none"> (i) a direction is issued under the <i>Public Health Act 2016</i> or the <i>Emergency Management Act 2005</i> that prevents the meeting from being held in person; and (ii) the mayor, president or council authorises the meeting to be held by electronic means. <p>The electronic means by which the meeting</p>

Non eMeeting	eMeeting
	is to be held include by telephone, video conference or other instantaneous communication, as determined by — (a) the mayor; or (b) the president; or (c) the council. The CEO must be consulted before a determination as to the means by which an eMeeting is to be held.
Meetings are to be open to the public. Unconfirmed minutes are to be publicly available within (Admin. Reg. 13) – <ul style="list-style-type: none"> • 10 days of a council meeting; and • 5 days of a committee meeting. 	eMeetings constitute open to the public for the purpose of s5.23, if – <ul style="list-style-type: none"> • unconfirmed minutes are available for public inspection under Admin. Reg. 13 (10 days of a Council meetings and 5 days of a Committee meeting); or • the meeting is publicly broadcast on a website; or • the meeting or broadcast is otherwise publicly accessible.
Ordinary council meetings are to have time allocated for public questions and responses.	s5.24’s requirement for public questions is satisfied, if – <ul style="list-style-type: none"> • there is an opportunity for questions to submitted prior to the meeting; and either – • there is a response in accordance with the normal procedures; or • it is determined a response is inappropriate due to the Emergency.
The meeting agenda (including notice papers) must be made available for public inspection at the same time as - <ul style="list-style-type: none"> • tabled or presented at a meeting; and • made available to Members (subject to provisions on confidentiality: Admin. Reg 14(2)).	The meeting agenda, as well as notice papers, reports or other documents to be presented, may, be – <ul style="list-style-type: none"> • tabled or presented at the meeting; and • provided to Members and/or made publicly available for inspection, in any manner determined (electronically or otherwise).

Summary of Requirements

The following requirements are needed to conduct eMeetings in these circumstances.

1. To satisfy the requirement for meetings to be open to the public for the purpose of Admin Regulation 14E(3), it must be determined which of the following will apply –
 - unconfirmed minutes are available for public inspection under regulation 13, i.e in the case of a Council meeting, within 10 business days after the meeting and in the case of a Committee meeting, within 5 business days after the meeting; or
 - the meeting is publicly broadcast on a website; or
 - the meeting or broadcast is otherwise publicly accessible.

2. The Mayor (in writing) or Council (by resolution) must determine whether the meeting is to be held using an eMeeting method, and must do so in consultation with the CEO. (Admin Reg. 14D(3) & (4)]
3. Council must still allocate time for raising questions by members of the public, and must determine how —
 - (a) the Council or Committee provides a means to submit a question prior to the meeting; and
 - (b) the Council or Committee determines at the meeting —
 - (i) to respond to the question submitted by the member of the public at the meeting in accordance with the procedure determined by the Council or Committee; or
 - (ii) that, given the public health emergency, state of emergency or direction issued under the *Public Health Act 2016* or the *Emergency Management Act 2005*, it is not appropriate to respond to the question at the meeting.
4. The meeting agenda, as well as notice papers, reports or other documents to be presented, may, be —
 - tabled or presented at the meeting; and
 - provided to Members and/or made publicly available for inspection, in any manner determined (electronically or otherwise).
5. Identify any clauses within the Standing Orders Local Law that cannot be complied with and provide a recommendation in the agenda (following question time) to suspend specified clauses that may limit eMeeting effectiveness or efficiency.
These clauses are:
 - (i) Clause 8.2 – Members to Occupy Own Seats
 - (ii) Clause 9.1 – Members to Rise, in respect to the showing of hands and the requirement to stand.
 - (iii) Clause 13.2 – Question – Method of Putting, in respect to the showing of hands.
 - (iv) Clause 15.8(1) – Precedence of Person Presiding, in respect to the requirement for the person presiding to rise.
6. Regulation 14A of the *Local Government (Administration) Regulations 1996* specifically defines a 'suitable place' to be used by a Council Member, which must be approved before they can attend a meeting by telephone. The same principle applies to eMeetings too, as the suitability of the 'place' may impact the confidentiality of matters behind closed doors, and otherwise risk Council Members being interrupted during the meeting. Council Members should advise the Presiding Member by email (cc'd to the CEO for records capture), the place they will use to connect to an eMeeting and how this place controls the risk of a confidentiality breach and limits the potential for interruptions.

CONCLUSION

Given the current state of emergency and public health emergency declared in Western Australia, it is recommended that Council formalize their approach to the necessary conduct of eMeetings by way of policy.

ATTACHMENTS

1. [Policy EM 18 - Electronic Council and Committee Meetings](#)

RECOMMEND

That Council

- 1. Pursuant to s. 2.7(2)(b) *Local Government Act 1995* adopt Policy EM 18 – Electronic Council and Committee Meetings as attached to this agenda; and**
- 2. Given the current state of emergency and public health emergency declarations , approve that all Ordinary and Special Council and Committee meetings be conducted electronically for the duration of the declared emergency.**

****1.2 - DRAFT POLICIES - RATES ASSISTANCE / A SMARTER WAY TO PAY**

WARD : ALL
FILE No. : M/189/20
DATE : 30 March 2020
REF : JS
RESPONSIBLE : Executive Director
MANAGER : Corporate Services

In Brief:

- As part of a whole of government response to the COVID19 Pandemic, the City has reviewed its outstanding debt collection processes with particular emphasis on the hardship provisions.
- Recommend that Council adopt the draft policy Rates Assistance
- Recommend that Council adopt the draft policy A Smarter Way to Pay
- Recommend that certain fees, charges and penalty interest be waived.

Tabled Items

Nil

Decision Type

- Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc
- Executive** The decision relates to the direction setting and oversight role of Council.
- Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil

Strategic Implications

Nil

Legal Implications

Nil

Council Policy/Local Law Implications

This report proposes the adoption of two policies with respect to the payment of rates and service charges, which are intrinsically linked.

Budget/Financial Implications

The respective budgets to which this report relates are:

Corporate Services Directorate	Actual 2019	Revised Budget 2020	Actual YTD 2020	LTFP 2021
Rates : Special Arrangement Fees	\$13,260	\$24,000	0	\$24,000
Rates : Late Payment Interest	\$314,584	\$295,000	\$237,575	\$295,000

As at the end of February, the City's rate debtors total \$11.6M including rubbish and ESL charges. This represents 12.3% of the total amount billed (\$95.1M). This comprises:

Type	Amount	% of Outstanding Amount	% of Rates Billed
4 Installments	\$ 4,871,019	42.76%	5.12%
Smarter Way To Pay	\$ 2,209,866	19.40%	2.32%
Recovery Action	\$ 2,183,622	19.17%	2.30%
Payment Option Pending	\$ 1,303,415	11.44%	1.37%
Deferred (Eligible Pensioners)	\$ 639,404	5.61%	0.67%
Interim rates	\$ 142,042	1.25%	0.15%
Other Special Payment Arrangements	\$ 41,147	0.36%	0.04%
TOTAL	\$ 11,390,515	100.00%	11.98%
TOTAL RATES BILLED	\$ 95,117,418		

For the last few years the City's rates debtors have increased from \$2M (3.2%)* in 2016 to \$3.5M (5.1%)* in 2019.

*Percentage of total rates and service charges at 30 June.

The City can expect an increase in the rates debtors outstanding in the 2020/2021 financial year, which will likely remain elevated for the short term as the community recovers from the economic consequences of the COVID 19 Pandemic.

This represents a significant risk to the City, which will need to be managed, with oversight by the Executive and Audit Committee.

Consultation

The Western Australian Local Government Association (WALGA)
 Other Local Governments

BACKGROUND

The City has a Debtors General Recovery procedure, adopted by Council and scheduled for review this year. That review has been brought forward and updated due to the COVID-19 Pandemic. This is to ensure that City Officers have the capacity to assist ratepayers in the management of rates and other payments that are due to the City in line with Council's expectations.

Specifically, the hardship arrangements of the policy have been aligned to the *“Local Government collection of overdue rates for people in situations of vulnerability: Good Practice Guidance”* produced by the Ombudsman Western Australia.

Council’s endorsement of the procedure, which is now set out and provided for in a policy format, is sought as a matter of urgency due to the economic consequences of the COVID-19 Pandemic.

DETAILS OF PROPOSAL

The draft policy *“Rates Assistance”* has been premised on a best practice approach, following a review of the debt collection policies of other local governments, State agencies and the Ombudsman’s Good Practice Guidelines.

To supplement the draft policy, a further draft policy has been developed to formalise the City’s *A Smarter Way to Pay* program – an initiative established some time ago. *A Smarter Way to Pay* has facilitated a personalised and flexible approach to payment arrangements, and has the flexibility to assist people experiencing financial hardship. The program was one of the first to be introduced in Western Australia and now has 11,200 ratepayers signed up out of the total 37,500 City ratepayers.

COMMENT

In the current circumstances, specific commentary is provided on contemporary good practice principles for people in situations of vulnerability, featured in the City’s policy and procedures.

The Ombudsman’s Guidelines contain two overarching principles:

Overarching Principle 1: Overdue rates must be paid, nonetheless, fair, reasonable and flexible approaches to payment are beneficial.

Overarching Principle 2: Good Practice Guidance should not impose unreasonable regulatory cost burdens on local governments and should be fit for size and circumstance.

There are a further four principles supplemented by Good Practice guidance:

- Good Culture
- Good Decisions
- Good Support
- Good Service

The Good Practice guidance is reproduced below.

Principle	Guidance
<p>Good culture</p> <p><i>A culture of achieving positive outcomes in the collection of overdue rates from people in situations of vulnerability is embedded throughout the organisation and the subject of leadership.</i></p>	<ol style="list-style-type: none"> 1. Local government senior management, including the CEO, should communicate, and model, the organisation's commitment to achieving positive outcomes for people in situations of vulnerability in respect to the collection of overdue rates. 2. Governance frameworks and systems should reflect and support the local government's commitment to achieving positive outcomes for people in situations of vulnerability. 3. Good practice should be shared internally and externally to promote continuous improvement in the support provided to people in situations of vulnerability.
<p>Good decisions</p> <p><i>Decisions in respect to overdue rates from people in situations of vulnerability are lawful, reasonable, transparent, result in proportionate outcomes, reflect contemporary practice and are capable of being reviewed.</i></p>	<ol style="list-style-type: none"> 4. Local governments should ensure that decision making is consistent with applicable legislation and regulations and accord procedural fairness to people in situations of vulnerability. 5. If they have not already done so, local governments should develop and publish a financial hardship policy that is responsive to the needs of people in situations of vulnerability, including Aboriginal and Torres Strait Islander people in situations of vulnerability. 6. Local governments should ensure that policies and practices relating to the collection of overdue rates, including the practices of external collection agencies, follow a fair and transparent process that is supported by good record keeping. 7. Ratepayers should be informed of their rights to internal and external review of decisions regarding overdue rates and their right to complain about the decision making process.
<p>Good support</p> <p><i>Staff are supported in all of their interactions with people in situations of vulnerability.</i></p>	<ol style="list-style-type: none"> 8. Staff responsible for assisting people in situations of vulnerability should have access to training, be supported and recognised.
<p>Good service</p> <p><i>Accessible and flexible service provision supports the early identification and provision of support to people in situations of vulnerability.</i></p>	<ol style="list-style-type: none"> 9. Local governments should encourage the proactive, early identification of people in situations of vulnerability to minimise the accumulation of debt. 10. Where practicable and available, local governments should develop proactive working relationships with financial counsellors, community legal centres and other relevant organisations to facilitate timely referrals of ratepayers in situations of vulnerability. 11. Local governments should be flexible and accessible in their communication methods. Wherever practicable, people in situations of vulnerability, including those with disability or who require translation services, should be able to use the channel that best reflects their individual needs and preferences. 12. For ratepayers in situations of vulnerability, local governments should negotiate a flexible alternative payment arrangement that reflects their actual capacity to pay.

These principles have guided the City's review of its outstanding debts recovery processes.

Draft *Rates Assistance* Policy

The draft *Rates Assistance* policy sets out a stepped escalation process, with the objective of supporting and motivating the ratepayer to enter into an arrangement which commits to regular minimum payments, but is generally within their financial means.

There are some instances where a ratepayer does not wish to commit to a payment plan, and occasionally, it is necessary to escalate recovery actions through a process endorsed by the Council. The policy sets out the stepped escalation, but notes that at every step, a reasonable effort is made to contact and negotiate with the ratepayer.

Importantly, the policy features a specific section on hardship. This section sets out the City's position, recognising there are certain actions the City can undertake to assist persons in situations of vulnerability. The policy position on hardship is also premised on the principle that there is willingness to pay, but an inability to do so.

Draft *A Smarter Way to Pay* Policy

The draft *A Smarter Way to Pay* policy formalises (in a policy) the special payment arrangement that has operated successfully in Armadale for many years. The special payment arrangement runs a twelve-month cycle from April to March, and the arrangements are ongoing until such time as either party terminates the arrangements.

The *Smarter Way to Pay* program aims to provide ratepayers with an easy and convenient program for the payment of rates and service charges, tailored to individual needs and circumstances. The program allows ratepayers to choose weekly, fortnightly or monthly payments and there are no fees, charges or interest payments.

Further Financial Hardship Measures

Expanded period to pay arrears

The *A Smarter Way to Pay* program enables the City to spread payments, including arrears, over a defined period of time. This period of time has generally been within a two year timeframe, with longer periods permitted in certain circumstances. Historically, these arrangements have been made at the discretion of the Chief Executive Officer exercising delegated authority CORPS 2.0 from Council to use the power of the local government under s6.49 of the *Local Government Act 1995*. This section allows the Local Government to enter into special payment arrangements outside of the standard arrangements set out in the Act (i.e. pay in full after 35 days; or by two or four instalments).

It is recommended that the CEO is granted delegated authority to implement the *Smarter Way to Pay* policy and to extend the period to make payments, including arrears over a period of up to five (5) years where the circumstances of the individual warrant such an arrangement.

This would reflect the policy position of Council ... that its service objective is to help and assist people, particularly those experiencing hardship, to regain control of their financial situation. In this regard City Officers will continue to work collaboratively with rate payers.

Reduction or suspension of direct debit payments for a period of time

In conjunction with the expansion of the repayment periods, there is also scope to either temporarily reduce to a minimum weekly/fortnightly payment or in some cases, suspend payments for a period of time, if ratepayers are experiencing hardship. Ordinarily, this would result in an alternative arrangement to the *Smarter Way to Pay*, which incurs administrative fees and charges. However, it is recommended that those arrangements be permitted under the *Smarter Way to Pay* program and incur no fees, charges or interest.

Interest on Overdue Rates and Service Charges

Interest on overdue rates and charges is currently charged at the maximum rate permitted (11%) where no payment arrangement is in place with the City through the standard instalments arrangements, the *Smarter Way to Pay* program or other Special Payment Arrangement. The enabling legislation for penalty interest charges is section 6.51 of the *Local Government Act 1995*.

This section states:

6.51. Accrual of interest on overdue rates or service charges

(1) A local government may at the time of imposing a rate or service charge resolve to impose interest (at the rate set in its annual budget) on —*

*(a) a rate or service charge (or any instalment of a rate or service charge);
and*

(b) any costs of proceedings to recover any such charge, that remains unpaid after becoming due and payable.

(3) Accrued interest is, for the purpose of its recovery, taken to be a rate or service charge, as the case requires, that is due and payable

The *Local Government Act 1995* does not permit money owing in relation to the penalty interest charge to be waived during the year. Instead, in order to remove the penalty interest impost on ratepayers, the Council will have to apply s.6.47 of the Act, which provides capacity to waive a rate or service charge, with penalty interest being considered a rate or service charge by virtue of s6.51(3).

Section 6.47 states:

“Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.”*

** Absolute majority required.*

Dishonoured fees on direct debit defaults

The City's budget lists the following fees and charges:

Dishonour Fee	\$15.00
Special Payment Arrangement*	\$51.00 (per assessment)
Special Payment Arrangement (dishonour)	\$10.00 (per dishonour)

*excludes *Smarter Way to Pay*, conditions apply.

These fees and charges are imposed under s6.16 of the Act and may be amended at any time during the year.

6.12. Power to defer, grant discounts, waive or write off debts

(1) Subject to subsection (2) and any other written law, a local government may —
(a) when adopting the annual budget, grant a discount or other incentive for the early payment of any amount of money; or*
(b) waive or grant concessions in relation to any amount of money; or
(c) write off any amount of money,

which is owed to the Local Government

In the case of fees and charges for Dishonour Fee, Special Payment Arrangement and Special Payment Arrangement (dishonour), these fees can be waived for the current financial period through the application of s6.12(b). Council may then consider what fees, if any it wishes to impose for the FY21 financial year.

State Government and WALGA Position

The City is responding to the COVID-19 Pandemic as part of a whole-of-government approach. Recently, the Premier of Western Australia, the Hon Mark McGowan MLA requested WA Councils to consider a rate freeze and to review other fees and charges with the same perspective.

WALGA has also adopted a Local Government Sector position along similar lines, as follows:

- 1. Notes the significant contribution of Local Governments in supporting their communities through the COVID-19 pandemic from a financial, economic, community and social perspective.*
- 2. Requests each Local Government give consideration to the following suite of actions, for Local Governments with the capacity to do so, to provide a coordinated and consistent response to the COVID-19 pandemic:*
 - a. Consider not increasing rates for the 2020-21 financial year*
 - b. Adoption of the WALGA template rates hardship policy by Local Governments that do not currently have a policy*
 - c. Consider rate relief options to support small businesses affected by the COVID-19 pandemic*
 - d. Review fees and charges considering whether fees can be reduced, waived or deferred during the COVID-19 pandemic*

- e. *Bring forward capital works and infrastructure spending with aggressive application of reserves and borrowing*
- f. *Prioritise Local Government spending with businesses and contractors located within the Local Government*
- g. *Implement business friendly payment terms to support business cash flow*
- h. *Consider supporting Community sporting and cultural groups by either establishing grant programs or waiving fees and charges*
- i. *Redeploy staff affected by facility closures to tasks that support the community*

Council has directed the draft budget for FY21 to be prepared based on a rates freeze. This report deals with the hardship policy and other responses in relation to payments of rates put forward by WALGA in its recent position adopted by the WALGA State Council.

Other measures being taken include reducing the City's 28-day payment terms to expedite payments to businesses (its contractors and service providers). The Council will also examine projects that can be brought forward or are 'shovel ready' to deliver local economic stimulus through the Federal Government's stimulus package. The Council will also consider future reports on the strategic utilisation of funds from its cash reserves and borrowings.

Finally, the City has redeployed resources to assist, and structured the rates service to be able to provide a greater level of service and support to its ratepayers. A customer advocate service will be offered to ensure that ratepayers receive a personalised service catering for their particular circumstances. This is considered important to ensure hardship situations are effectively managed.

ATTACHMENTS

1. Draft Policy - Rates Assistance - *This matter is considered to be confidential under Section 5.23(2) (e iii) of the Local Government Act, as it deals with the matter, if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person*
2. [↓](#) Draft Policy - A Smarter Way to Pay

RECOMMEND

That Council:

1. adopt the *Rates Assistance* policy attached as a Confidential Attachment;
2. adopt the *A Smarter Way to Pay* policy;
3. In accordance with Section 6.47 of the Local Government Act 1995, grant a waiver of the Section 6.51 Penalty Interest charges incurred on outstanding rates and service charges for the remaining portion of the financial year effective from 1 March 2020.
4. In accordance with Section 6.12 of the *Local Government Act 1995* grant a waiver of the following fees and charges set out in the City's annual budget and listed below:

Dishonour Fee	\$15.00
Special Payment Arrangement*	\$51.00 (per assessment)
Special Payment Arrangement (dishonour)	\$10.00 (per dishonour);

*excludes *Smarter Way to Pay*, conditions apply.

- for the remaining portion of the financial year effective from 1st March 2020.
5. note that the adoption of the policies and waiver of fees, charges and penalty interest is part of a suite of measures aimed at reducing the economic and social impacts of the COVID19 Pandemic on the community.
 6. Grant delegated authority to the Chief Executive Officer to administer the *A Smarter Way to Pay* policy
 7. Grant delegated authority to the Chief Executive Officer to administer the *Rates Assistance* policy

ABSOLUTE MAJORITY RESOLUTION REQUIRED

****1.3 - DELEGATIONS TO THE CEO AND OFFICERS - PUBLIC HEALTH ACT 2016
AND FOOD ACT 2008**

WARD : ALL
FILE No. : M/176/20
DATE : 27 March 2020
REF : KD/KA
RESPONSIBLE : Chief Executive Officer
MANAGER

In Brief:

- This report proposes the creation and amendment of delegations from Council to the Chief Executive Officer and other Officers for powers under the *Public Health Act 2016, Health (Miscellaneous Provisions) Act 1911* and *Food Act 2008*.
- It is recommend that Council approve the creation and amendment of delegations as detailed in the recommendation and as attached to this report.

Tabled Items

Nil

Decision Type

- Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- Executive** The decision relates to the direction setting and oversight role of Council.
- Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil

Strategic Implications

- 1.2 Active community life that is safe and healthy
 - 1.2.2 Provide opportunities to improve health outcomes for everyone.
 - 1.2.2.2 Implement effective management of risk to health matters
- 1.3 The community has the services and facilities it needs
 - 1.3.2 Deliver Services
 - 1.3.2.3 Deliver initiatives that respond to local law enforcement and legislative compliance

- 4.1 Visionary Civic Leadership and Sound Governance
- 4.1.2 Make Decisions that are sound, transparent and strategic
- 4.1.2.1 Implement policies and associated delegations to improve transparency of decisions.

Legal Implications

Public Health Act 2016 s 21 - Enforcement agency may delegate
Health (Miscellaneous) Act 2011 s26 – Powers of local government
Food Act 2008 s118 - Functions of enforcement agencies and delegation

Interpretation Act 1984:

- s53 - Appointments may be by name or office
- s58 - Delegates, performance of functions by
- s59 - Power to delegate, effect of

Council Policy/Local Law Implications

Nil

Budget/Financial Implications

There are no cost implications in delegating these powers to the CEO and Officers. However there could be cost implications in commencing proceedings against third parties for breaches of the legislation.

Consultation

1. Health Services
2. Governance and Administration
3. CEO's Directorate

BACKGROUND

Council is required to undertake a review of all delegations each financial year and as such, under the direction of the CEO and with having regards to actions that may be required as a result of the COVID-19 pandemic, a thorough review of the City's delegations/authorisations has commenced.

The review to date has highlighted a need to amend and introduce new delegations immediately to ensure the operational activities continue accurately and effectively particularly with regards to the responding to any actions required as a result of COVID-19.

DETAILS OF PROPOSAL

It is proposed that Council amend and adopt new delegations to the Chief Executive Officer and nominated officers as detailed in the tables below and as detailed in the attachments to this report.

Proposed new delegations:

Delegation No:	Delegation Name	Delegated To
DS 29.0	Appointment of Authorised or Approved Officer (<i>Asbestos Regs</i>)	Chief Executive Officer
DS 30.0	Enforcement Agency Reports to the Chief Executive Officer	Health Services Manager
DS 32.0	Commence Proceedings (<i>Public Health Act 2016</i>)	Chief Executive Officer
DS 33.0	Appointment of Environmental Health Officers	Chief Executive Officer
DS 34.0	Appoint Authorised Officers and Designate Officers (<i>Food Act 2008</i>)	Chief Executive Officer
DS 35.0	Food List – Public Access	Manager Health Services
DS 36.0	Food Act 2008 – Functions of enforcement agency	Chief Executive Officer Manager Health Services
DS 37.0	Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911 - Power or duty of the local government (enforcement agency) under these Acts	Chief Executive Officer Manager Health Services

Proposed amended delegations:

Delegation No:	Delegation Name	Delegated To
DS 28.0	Designation of Authorised Officers (<i>Public Health Act 2016</i>)	Chief Executive Officer

COMMENT

ANALYSIS

Sections 21 of the *Public Health Act 2016*, prescribes that an Enforcement Agency (City of Armadale) may delegate certain powers and duties to the Chief Executive Officer and other Officers. A delegation authorises persons or class of persons to exercise powers that the Enforcement Agency would ordinarily exercise.

The City of Armadale has established a Delegations Register in accordance with s5.46 of the *Local Government Act 1995* to improve the efficiency of decision making for stakeholders. This register is now contained within the Attain system.

Council is also required under the *Local Government Act 1995* to undertake a review of all delegations each financial year. This review has commenced with a full review of other delegations to be presented to Council before the end of the financial year.

The review to date has highlighted some matters that need immediate attention to ensure that operational activities continue effectively particularly with regards to the responding to any actions required as a result of COVID-19.

To enable this to occur a number of new delegations and amendments are proposed and are presented in the documents attached to this and in the recommendation contained within this report.

OPTIONS

1. Adopt the recommendation as proposed to create and amend delegations.
2. Not adopt the recommendation to create and amend delegations.
3. Adopt some of the proposed changes.

CONCLUSION

To provide the administration with appropriate powers to undertake the duties required of a local government in an efficient and effective manner Option 1 is recommended.

ATTACHMENTS

1. [↓](#) # 1 - Amended Delegation (PHA)
2. [↓](#) # 2 - New Delegations (Food & PHA)

RECOMMEND

That Council:

1. **Authorise and grant the following delegation to the Chief Executive Officer, inclusive of amendments and as detailed in Attachment 1 – Amended Delegations (PHA).**

DS 28.0 - Designation of Authorised Officers (Public Health Act 2016)

2. **Authorise and grant the following delegations to the Chief Executive and Officers and as detailed in Attachment 2 – ‘New Delegations (Food & PHA).**

DS 29.0 - Appointment of Authorised or Approved Officer (Asbestos Regs)

DS 30.0 - Enforcement Agency Reports to the Chief Health Officer

DS 32.0 - Commence Proceedings (*Public Health Act 2016*)

DS 33.0 - Appointment of Environmental Health Officers

DS 34.0 - Appoint Authorised Officers and Designate Officers (*Food Act 2008*)

DS 35.0 - Food List – Public Access

DS 36.0 - *Food Act 2008* – Functions of enforcement agency

DS 37.0 - *Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911* - Power or duty of the local government (enforcement agency) under these Acts

ABSOLUTE MAJORITY RESOLUTION REQUIRED

1.4 - LEGAL MATTER - LS/LIT/4

WARD : ALL
FILE No. : M/194/20
DATE : 2 April 2020
REF : JA
RESPONSIBLE : Chief Executive Officer
MANAGER

In Brief:

- A confidential report is presented as an attachment to this Agenda.

Decision Type

- Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- Executive** The decision relates to the direction setting and oversight role of Council.
- Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil

A Confidential Report is presented as an Attachment to this Agenda.

ATTACHMENTS

1. Confidential Attachment - Worksafe Appeal - Landfill Incident August ~ CEO's Report to Special Council of 6 April - *This matter is considered to be confidential under Section 5.23(2) (d) of the Local Government Act, as it deals with the matter involves legal advice obtained or which may be obtained by the City of Armadale*

RECOMMEND

That Council:

1. **Adopt the recommendations of the City's solicitor as contained within the Confidential report.**
2. **Authorise the CEO to execute and finalise any documents or processes related to the recommendations.**

SPECIAL CHIEF EXECUTIVE OFFICER'S REPORT		
ATTACHMENTS		
6 APRIL 2020		
ATT NO.	SUBJECT	PAGE
1.1 ELECTRONIC MEETINGS - COUNCIL AND COMMITTEE		
1.1.1	Policy EM 18 - Electronic Council and Committee Meetings	27
1.2 DRAFT POLICIES - RATES ASSISTANCE / A SMARTER WAY TO PAY		
1.2.2	Draft Policy - A Smarter Way to Pay	29
1.3 DELEGATIONS TO THE CEO AND OFFICERS - PUBLIC HEALTH ACT 2016 AND FOOD ACT 2008		
1.3.1	# 1 - Amended Delegation (PHA)	32
1.3.2	# 2 - New Delegations (Food & PHA)	35



[POLICY – EM 18 - Electronic Council and Committee Meetings](#)

1. Rationale

To ensure that the Council can continue to hold meetings and make decisions in the best interests of the community where a public health emergency or state of emergency exists.

2. Policy

Where –

- (a) a public health emergency or a state of emergency exists; or
 - (b) where a direction is issued under the *Public Health Act 2016* or the *Emergency Management Act 2005* that prevents a meeting from being held in person;
- the Mayor or Council may authorize the meeting to be held electronically.

This policy shall read in conjunction with Policy EM 6 – Public Question Time and will take precedence where there is any inconsistency.

2.1 Means for conducting a meeting electronically

The means by which the meeting is to be held electronically shall be by video conference or other instantaneous communication determined by the Mayor or Council.

2.2 Meetings open to the public

To ensure compliance with section 5.23(1) of the *Local Government Act 1995* unconfirmed minutes of the meeting shall be made available to the public for inspection via the City's website within 10 business days of a Council meeting and 5 days of a Committee meeting.

2.3 Public Question Time

Where a meeting is open to the public and is conducted electronically:

- all questions shall be submitted electronically no later than 3:00pm on the date of the meeting; and
- the Council or Committee must determine at the meeting –
 - (i) to respond to the question submitted by the member of the public at the meeting in accordance with the procedure determined by the Council or Committee; or
 - (ii) that, given the public health emergency, state of emergency or direction issued under the *Public Health Act 2016* or the *Emergency Management Act 2005*, it is not appropriate to respond to the question at the meeting.

2.4 Agendas, Notice Papers, reports or other documents

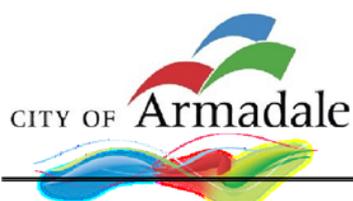
If a Council or a Committee holds an electronic meeting, a notice paper, agenda, report or other document may be —

- (a) tabled at the meeting, or produced by the local government or a Committee for presentation at the meeting, in any manner determined by the Council or Committee, including by electronic means; and
- (b) made available to members of the Council or Committee, or for inspection by members of the public, in any manner determined by the Council or Committee, including by electronic means.

2.5 Deputations

Requests for deputations to attend Council or Committee meetings must be lodged electronically no later than one day before the meeting.

Related Delegation		
Related Local Law		
Related Policies		
Related Legislation		
Related Budget Schedule		
Related Corporate Business Plan Strategies		
Last Reviewed		
Next Review Date		
Authority Council Meeting of:		



POLICY – XXX XX – A Smarter Way to Pay

1. Rationale

To provide ratepayers with an easy and convenient program for the payment of rates and service charges, tailored to individual needs and circumstances.

2. Scope

The provisions of this policy apply to Special Payment Arrangements made under Section 6.49 of the *Local Government Act 1995*.

3. Policy

For Ratepayers who wish to pay their rates by regular payments throughout the year, the City will offer a direct debit plan in accordance with the *Smarter Way to Pay* program set out below:

- i. The *Smarter Way to Pay* program will operate from April to March each financial year.
- ii. Payment arrangements made under the *Smarter Way to Pay* program are ongoing until such time as either party terminates the arrangements.
- iii. No Administration Fee will be charged unless the arrangement is cancelled within 2 years of the commencement date, in which event the City will charge the Special Arrangement Administration Fee set out in the fees and charges schedule within the City's Annual Budget.
- iv. No interest is charged on payment arrangements made in accordance with the *Smarter Way to Pay* program. If a payment arrangement is cancelled, penalty interest on any arrears due and payable will accrue at the rate set in the City's Annual Budget, from the date of cancellation.
- v. On application to the *Smarter Way to Pay* program, the City will:
 - Review the ratepayer's current rates and services charges owed to the City;
 - Forecast the rates due for the next financial year;
 - Discuss with the ratepayer their financial capacity
 - Agree with the ratepayer on weekly, fortnightly or monthly payment arrangements;
 - Agree with the ratepayer the review date of the payment arrangements.
- vi. The Chief Executive Officer may extend the period to make payments, including arrears over a period of up to five (5) years where the circumstances of the individual warrant such an arrangement.
- vii. In special circumstances, the Chief Executive Officer may approve a temporary suspension of the payment arrangements, based on short term financial hardship

4. Financial/Budget Implications

This policy provides for the regular cashflow of rate payments. The program does not charge administration or interest charges, which are incurred by the City.

5. Asset Management Implications

N/A

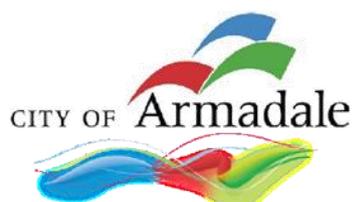
6. Environmental Implications

N/A

7. Occupational Safety and Health Implications

N/A

Related Delegation	CorpS 2.0 Agreements for Payments	
Related Local Law	n/a	
Related Policies	Policy xxx Rates Assistance	
Related Legislation	s.6.49 Local Government Act 1995	
Related Budget Schedule		
Related Corporate Business Plan Strategies		
Last Reviewed		
Next Review Date		
Authority Council Meeting of:		



OPERATING PROCEDURES
A Smarter Way to Pay

1. No Administration fee will be charged *unless the arrangement is cancelled within two years of your commencement date*. If it is cancelled within a two year period a Special Arrangement Fee will be charged as per the City's annual budget at the date of cancellation.
2. No Penalty interest (11%pa) will be charged *unless the arrangement is cancelled within two years of your commencement date*.
3. We require a security password supplied by you for general telephone enquiries and changes to bank account details. This is a name or numbers for identification purposes between the ratepayer and the City of Armadale only.
4. The City transmits the Direct Debit file on a Friday i.e.
 - Weekly - every Friday
 - Fortnightly payments – every second Friday
 - Monthly payments – payments will commence on the agreed date on the Friday on or after that date, if it is not a Friday e.g. (if the 17th is a Saturday will come out the following Friday)
 - If Friday is a Public Holidays funds will be deducted one working day prior to the public holiday.
5. The City of Armadale will give at least 14 days' notice in writing when any changes are made to the initial terms of the agreement i.e. new payment amount, frequency of drawing or the next drawing date.
6. If any payments are dishonoured, a dishonour fee will be charged as per the City's annual budget. This fee will not be charged if you meet all the requirements of the Rates & Charges (Rebates and Deferments) Act 1992 and are a registered concession holder (Pensioner or Senior) with the City.
7. If any payments are dishonoured, the City will write to you and require the payment to be made up. If two payments are dishonoured, the City reserves the right to terminate the arrangement and demand payment in full.
8. If in exceptional circumstances suspension or reduction of the Direct Debit payment is granted by the City, the payments must be made up / negotiated with City's Rates Department to the City's satisfaction. Limit of one per year on yearly direct debit arrangement.
9. If your yearly direct debit is cancelled by either party, within two years of commencement, *you will not be able to start another yearly direct debit arrangement for the same property*.



Amended Delegation (PHA)
Delegation of authority

Delegation	DS 28.0 Designate Authorised Officers (Public Health Act) (DRAFT)
Category	Health Services
Head of power	Public Health Act 2016
Delegator	Enforcement Agency (means Local Government as defined within the Act)
Express power to delegate	<i>Public Health Act 2016</i> s.21 Enforcement agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s.24(1) and (3) Designation of authorised officers
Function	<p>1. Authority to designate a person or class of persons as authorised officers for the purposes of enforcing:</p> <p>i. The <i>Public Health Act 2016</i> or other specified Act</p> <p>ii. Specified provisions of the <i>Public Health Act 2016</i> or other specified Act</p> <p>iii. Provisions of the <i>Public Health Act 2016</i> or another specified Act, other than the specified provisions of that Act.</p> <p>Including:</p> <p>a) an environmental health officer or environmental health officers as a class; OR</p> <p>b) a person who is not an environmental health officer or a class of persons who are not environmental health officers, OR</p> <p>c) a mixture of the two. [s.24(1) and (3)].</p>
Delegates	Chief Executive Officer
Conditions	<p>a) Subject to each person so appointed being;</p> <ul style="list-style-type: none"> • Appropriately qualified and experienced [s.25(1)(a)]; and • Issued with a certificate, badge or identity card identifying the authorised officer [s.30 and 31]. <p>b) A Register (list) of authorised officers is to be maintained in accordance with s.27.</p>
Express power to subdelegate	Nil – Unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].



Delegation of authority

<p>Statutory framework</p>	<p><i>Public Health Act 2016</i> s20 Conditions on performance of functions by enforcement agencies. s25 Certain authorised officers required to have qualifications and experience. s26 Further provisions relating to designations s27 Lists of authorised officers to be maintained s28 When designation as authorised officer ceases s29 Chief Health Officer may issue guidelines about qualifications and experience of authorised officers s30 Certificates of authority s31 Issuing and production of certificate of authority for purposes of other written laws s32 Certificate of authority to be returned. s.136 Authorised officer to produce evidence of authority</p> <p><i>Criminal Investigation Act 2006, Parts 6 and 13 – refer s.245 of the Public Health Act 2016</i> The Criminal Code, Chapter XXVI – refer s.252 of the <i>Public Health Act 2016</i></p>
<p>Policy</p>	<p>Nil</p>
<p>Record keeping</p>	<p>The exercise of this delegation is to be recorded in Attain.</p>

DRAFT



Delegation of authority

Delegation	DS 28.0 Public Health Act 2016
Category	Primary Delegations - Council to CEO
Delegator	Council
Express power or duty delegated	The Chief Executive Officer is delegated the authority to designate Authorised Officers in accordance with section 17 of the Public Health Act 2016.
Delegates	Chief Executive Officer
Conditions	Nil
Statutory framework	Section 17 & 21 Public Health Act 2016
Policy	Nil
Date adopted	27 May 2019
Adoption references	Resolution - D31/5/19
Last reviewed	27 May 2019



New Delegations (Food & PHA)

Delegation of authority

Delegation	DS 29.0 Appointment of Authorised or Approved Officer (Asbestos Regs) (DRAFT)
Category	Health Services
Head of power	Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	<i>Health (Miscellaneous Provisions) Act 1911</i> s.26 Powers of local government
Express power or duty delegated	<i>Health (Asbestos) Regulations 1992</i> r.15D(5) Infringement Notices
Function	Authority to appoint a person or classes of persons as an authorised officer or approved officer for the purposes of the Criminal Procedure Act 2004 Part 2 [r.15D(5)].
Delegates	Chief Executive Officer
Conditions	a) Subject to each person so appointed being issued with a certificate or identity card identifying the officer as a person authorised to issue infringement notices [r.15D(6)].
Express power to subdelegate	Nil - the <i>Health (Asbestos) Regulations 1992</i> do not provide a power to sub-delegate
Statutory framework	<i>Health (Miscellaneous Provisions) Act 1911</i> <i>Health (Asbestos) Regulations 1992</i> <i>Criminal Procedure Act 2004 - Part 2</i>
Record keeping	The exercise of this delegation is to be recorded in Attain.



New Delegations (Food & PHA)

Delegation of authority

Delegation	DS 30.0 Enforcement Agency Reports to the Chief Health Officer (DRAFT)
Category	Health Services
Head of power	Public Health Act 2016
Delegator	Enforcement Agency (means Local Government as defined within the Act)
Express power to delegate	<i>Public Health Act 2016</i> s.21 Enforcement agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s. 22 Reports by and about enforcement agencies
Function	<ol style="list-style-type: none"> 1. Authority to prepare and provide to the Chief Health Officer, the Local Government's report on the performance of its functions under this Act and the performance of functions by persons employed or engaged by the City of Armadale [s.22(1)] 2. Authority to prepare and provide to the Chief Health Officer, a report detailing any proceedings for an offence under this Act [2.22(2)].
Delegates	Health Services Manager
Express power to subdelegate	Nil - Unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorised a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].
Statutory framework	<i>Public Health Act 2016</i> s.20 Conditions on performance of functions by enforcement agencies.
Record keeping	The exercise of this delegation is to be recorded in Attain.



New Delegations (Food & PHA)

Delegation of authority

Delegation	DS 32.0 Commence Proceedings (Public Health Act 2016) (DRAFT)
Category	Health Services
Head of power	Public Health Act 2016
Delegator	Enforcement Agency (means Local Government as defined within the Act)
Express power to delegate	<i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s.280 Commencing Proceedings
Function	Authority to commence proceedings for an offence under the <i>Public Health Act 2016</i> [s.280]
Delegates	Chief Executive Officer
Express power to subdelegate	Nil – Unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].
Statutory framework	<i>Public Health Act 2016</i> s.20 Conditions on performance of functions by enforcement agencies.
Record keeping	The exercise of this delegation is to be recorded in Attain.



New Delegations (Food & PHA)

Delegation of authority

Delegation	DS 33.0 Appointment of Environmental Health Officers (DRAFT)
Category	Health Services
Head of power	Public Health Act 2016
Delegator	Council
Express power to delegate	<i>Public Health Act 2016</i> s21 Enforcement Agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s.17 Appointment of environmental health officers
Function	1) Appoint one or more persons as environmental health officers; 2) An appointee may be - a) a person employed by the local government under the <i>Local Government Act 1995</i> section 5.36; or b) a person engaged by the local government under a contract for services.
Delegates	Chief Executive Officer
Conditions	A local government must not appoint a person as an environmental health officer unless the person has the qualifications and experience approved by the Chief Health Officer under section 18 of the <i>Public Health Act 2016</i> .
Express power to subdelegate	Nil – Unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].
Statutory framework	<i>Public Health Act 2016</i> s17 Appointment of environmental health officers <i>Local Government Act 1995</i> s5.36 Local government employees
Record keeping	The exercise of this delegation is to be recorded in Attain.



New Delegations (Food & PHA)

Delegation of authority

Delegation	DS 34.0 Appoint Authorised Officers and Designated Officers (Food Act 2008) (DRAFT)
Category	Health Services
Head of power	Food Act 2008
Delegator	Enforcement Agency (means Local Government as defined within the Act)
Express power to delegate	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	<i>Food Act 2008:</i> s.122(1) Appointment of authorised officers s.126(13) Infringement Officers
Function	<ol style="list-style-type: none"> 1. Authority to appoint a person to be an authorised officer for the purposes of the <i>Food Act 2008</i> [s.122(1)]. 2. Authority to appoint an Authorised Officer appointed under s.122(1) of this Act or the s.24(1) of the Public Health Act 2016, to be a Designated Officer for the purposes of issuing Infringement Notices under the <i>Food Act 2008</i> [s.126(13)].
Delegates	Chief Executive Officer
Conditions	1) In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to: <ul style="list-style-type: none"> • Appointment of Authorised Officers as Meat Inspectors • Appointment of Authorised Officers • Appointment of Authorised Officers – Designated Officers only • Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties of an Authorised Officer 2) maintain a list of appointed authorised officers. 3) issue each Authorised Officer with a Certificate of Authority as prescribed. 4) a Designated Officer appointed for the purpose of issuing infringements under s.126(13) is prohibited from also being a Designated Officer for the purpose of extending the time for payment of modified penalties [s.126(6)] and determining withdrawal of an infringement notice [s.126(7)].
Express power to subdelegate	NIL – <i>Food Regulations 2009</i> do not provide for sub-delegation.
Statutory framework	<i>Food Act 2008</i>
Record keeping	The exercise of this delegation is to be recorded in Attain.



New Delegations (Food & PHA)

Delegation of authority

Delegation	DS 35.0 Food List - Public Access (DRAFT)
Category	Health Services
Head of power	Food Act 2008
Delegator	Council
Express power to delegate	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	<i>Food Regulations 2009:</i> r.51 Enforcement agency may make list of food
Function	Authority to decide to make a list of food businesses maintained under s.115(a) or (b) publicly available [r.51].
Delegates	Health Services Manager
Conditions	In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.
Express power to subdelegate	NIL – <i>Food Regulations 2009</i> do not provide for sub-delegation.
Statutory framework	<i>Food Act 2008</i>
Record keeping	The exercise of this delegation is to be recorded in Attain – 'Submit a new record of exercise'.



New Delegations (Food & PHA)

Delegation of authority

Delegation	DS 36.0 Food Act 2008 - Functions of enforcement agency (DRAFT)
Category	Health Services
Head of power	Food Act 2008
Delegator	Council
Express power to delegate	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it
Express power or duty delegated	All powers exercisable by the Local Government under the <i>Food Act 2008</i> and regulations made there under.
Function	To exercise and discharge all or any of the powers and functions of the local government.
Delegates	Chief Executive Officer Manager Health Services
Conditions	All powers exercised are to be accordance with the requirements of the sections under which the function is to be performed. Only the Chief Executive Officer is authorised to institute proceedings for an offence under the <i>Food Act 2008</i> in accordance with s125 of the <i>Food Act 2008</i> . Any proceedings for an offence must be reported in accordance with s121(2) of the <i>Food Act 2008</i> .
Express power to subdelegate	NIL – <i>Food Regulations 2009</i> do not provide for sub-delegation.
Statutory framework	<i>Food Act 2008</i> Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record keeping	The exercise of this delegation is to be recorded in Attain.



New Delegations (Food & PHA)

Delegation of authority

Delegation	DS 37.0 Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911 - Power or duty of the local government (enforcement agency) under these Acts (DRAFT)
Category	Health Services
Head of power	Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	<i>Public Health Act 2016</i> s21(1)(c) Enforcement agency may delegate <i>Health (Miscellaneous Provisions) Act 1911</i> s26 Powers of Local Government
Express power or duty delegated	All powers exercisable by the Local Government under the <i>Public Health Act 2016</i> , the <i>Health (Miscellaneous Provisions) Act 1911</i> and regulations made there under, and the City's Health Local Laws.
Function	To exercise and discharge all or any of the powers and functions of the local government.
Delegates	Chief Executive Officer Manager Health Services
Conditions	Not to expend funds for the carrying out of works in default of a notice services under this Act without separate budget approval.
Express power to subdelegate	This authority is not to be sub delegated.
Statutory framework	<i>Public Health Act 2016</i> <i>Health (Miscellaneous Provisions) Act 1911</i>
Record keeping	The exercise of this delegation is to be recorded in Attain.

