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## 5.1 Appointment of an independent person to the Chief Executive Officer Performance Review Committee

*This report seeks a decision relating to the preliminary arrangements for the appointment of an independent person to the Chief Executive Officer Performance Review Committee for the 2011-12 review.*

*This is a regular or standard report.*

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File Reference:  
Attachments: Nil

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## 1 Executive summary

### 1.1 Topic

This report seeks a decision relating to the preliminary arrangements for the appointment of an independent person to the Chief Executive Officer (CEO) Performance Review Committee for the 2011-12 review.

### 1.2 Context

The annual process for the CEO review is designed to meet the terms and conditions of the CEO's contract of employment and provide all elected members with the opportunity for input. The membership of the CEO Performance Review Committee (the Committee) includes an independent non-voting member who is qualified to assist in the review.

### 1.3 Suggested outcome

It is suggested that Council consider this item in Confidence. Section (ii) 90(3)(d) of the *Local Government Act 1999* is suggested as the most appropriate to use for this purpose.

This item is presented as a confidential item because the recommendation regarding the independent person equates to commercial information that would confer a commercial advantage on a third person prior to the appointment being finalised.

The possible implications/s of not considering this item in Confidence is/are it could create a situation of price fluctuation and confer an advantage or disadvantage on the selected person. It could also damage our business reputation for potential competitors to be aware of an appointment before the successful organisation/person.

## 2 Recommendation(s)

### 1. That:

- a. **under the provisions of Section 90(2) of the *Local Government Act 1999* an Order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.**

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- b. the Chief Executive Officer Performance Review Committee is satisfied that it is necessary that the public be excluded to enable the Chief Executive Officer Performance Review Committee to consider the report at the meeting on the following grounds:
- Section 90(3)(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
- (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
  - (ii) would, on balance, be contrary to the public interest;
- c. accordingly, on this basis the principle that meetings of the Chief Executive Officer Performance Review Committee should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential
2. That the Chief Executive Officer Performance Review Committee determine the appointment process for the independent person who will be a part of the Chief Executive Officer Performance Review Committee for the 2011-12.
3. That the matter of the appointment of an independent person to the Chief Executive Officer Performance Review Committee having been considered in confidence under Section 90(3)(d) of the *Local Government Act 1999* an Order be made under the provisions of Section 91(7) and (9) of the *Local Government Act 1999* that the minutes and the report of the Chief Executive Officer Performance Review Committee relating to discussion of the subject matter be kept confidential until the appointment of the independent member is finalised and confirmed to the Members of the Chief Executive Officer Performance Review Committee.

## Key factors

### 3 Discussion

The Committee is required to nominate an independent person to be a part of the Committee in accordance with Clause 15.4.5 of the CEO's contract of employment, which states:

*'The review must be carried out by a review panel (the Panel), which will comprise five members of the Council and an independent consultant, who is not a member or employee of the Council, and who has qualifications to assist the Council in the performance review.'*

The practice for the review has been that the independent person appointed to the Committee is a human resource management specialist/consultant who can provide expertise and assistance in both employee relations and contemporary performance review practices within both the public and private sectors.

**6      Closure**