

<b>Circular Details</b>	Circular No 19-17 / 14 August 2019 / A646898
<b>Previous Circular</b>	N/A
<b>Who should read this</b>	General Managers/Councillors
<b>Contact</b>	Council Governance Team / 02 4428 4100 / olg@olg.nsw.gov.au
<b>Action required</b>	Information

## The appointment and dismissal of senior staff

### What's new or changing

- The purpose of this Circular is to remind councils of the requirements of the *Local Government Act 1993* (the Act) relating to the appointment and dismissal of senior staff other than the general manager.

### What this will mean for your council

- Under section 338 of the Act, only general managers and the holders of positions determined by the council by resolution to be “senior staff” positions, may be employed under fixed term contracts of employment based on those approved by the Chief Executive of the Office of Local Government (OLG) (senior staff contracts).
- Council staff must not be employed under a senior staff contract unless the council has **first** determined by resolution that the position the staff member has been appointed to, is a “senior staff” position for the purposes of section 332 of the Act.
- Under section 337 of the Act, general managers are also required to consult with the council **before** appointing or dismissing the holders of “senior staff” positions. While this need not necessarily occur at a formal council meeting, where consultation occurs outside of a council meeting, the requirement to consult with the “council” under section 337 necessarily requires that this be undertaken in a way that ensures that **all** members of the governing body are informed of the proposed decision and have the opportunity to provide comment.
- When consulting the council in making a decision to appoint or dismiss a senior staff member, the general manager should consider the views of councillors. However, the ultimate decision to appoint or dismiss senior staff rests with the general manager and not the governing body. It is therefore not open to the governing body of the council to direct the general manager on the appointment or dismissal of senior (and any other) staff.

### Key points

- Under section 332 of the Act, the governing body of a council may, in consultation with the general manager, determine positions within a council’s organisation structure to be “senior staff” positions.

- Under section 332, a council may not determine a position to be a “senior staff” position unless:
  - the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the *Local Government (State) Award*, and
  - the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3B of the *Statutory and Other Offices Remuneration Act 1975*) payable with respect to senior executives whose positions are graded Band 1 under the *Government Sector Employment Act 2013*. As of 2018/19 this is \$187,900.

#### **Where to go for further information**

- For more information, contact the Council Governance Team by telephone on 02 4428 4100 or by email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).



**Tim Hurst**  
**Deputy Secretary**  
**Local Government, Planning and Policy**

Office of Local Government  
5 O’Keefe Avenue NOWRA NSW 2541  
Locked Bag 3015 NOWRA NSW 2541  
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209  
E [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au) W [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au) ABN 44 913 630 046