

## 1. Purpose and Intent

The *Local Government Act* 1989, the recently enacted *Local Government Act* 2020, and other legislation, makes provision for the appointment of authorised officers. Council is committed to ensuring that a person who is appointed under an Act or Regulation as an authorised officer, has the powers to do so of that position.

This Policy ensures the appointment of authorised officers are in line with best practice principles and comply with all relevant legislation.

## 2. Scope

This Policy applies to contractors engaged or appointed by Council, as well as staff.

## 3. Definitions

<b>Council:</b>	means Frankston City Council
<b>Instrument of Appointment and Authorisation:</b>	means a legal document appointing a person to be authorised by an authority (Council) which has powers, to administer and enforce any Act, regulation or local laws which relates to the functions and powers of the authority.
<b>Authorised Officer:</b>	means a person (other than a Councillor) who is authorised by an authority (Council) under legislation to exercise a statutory function or carry out those powers in their own right.

## 4. Authorisation

This Policy is managed by the Governance and Information Department, and is approved by Frankston City's Mayor and Council's Chief Executive Officer (CEO):

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Mayor, Frankston City

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CEO, Frankston City Council

in accordance with Frankston City Council resolution at its Council Meeting on 21 September 2020.

## 5. Policy

### Distinction between a delegation and an appointment of authorisation

There is a basic distinction between a delegation and an appointment of authorisations.

Delegation, refers to a position that has been given the powers to act on behalf of Council or the Chief Executive Officer. For example, Council has given the Chief Financial Officer, Manager Community Relations and Manager Financial and Corporate Planning the powers to ensure certain disability matters are addressed in the Council Plan. When a person holding a position at Council as a member of staff exercises delegated authority they do so on behalf of the delegator (Council or CEO).

Authorisations, refers to a person who has been appointed by an authority which has the powers to authorise a person to administer and enforce the laws under the legislation under which they have been appointed. For example, *John Smith* has been given authorisation under s224 of the Local Government Act 1989 to enter land or a building at any reasonable time. A person acting under authorisations is doing so on in their own right.

The term authorised officer varies according to the context in which it is used. For example a municipal building surveyor is appointed under Section 254 of the Building Act 1993 for offences against numerous regulations.

### Appointment of an Authorised Officer

The appointment of an authorised officer is made in the following way:

1. The People and Culture Department through the HR Notify, confirms the employment of a person to a position, including the commencement date.
2. The responsible Manager is advised to discuss the required delegations and authorisations with the Governance Compliance Officer.
3. Instruments of Appointment and Authorisations are prepared by the Governance Compliance Officer upon request and sent to the CEO for approval. For appointments made under the Planning and Environment Act 1981, these are submitted to Council for approval.
4. Once the Instrument of Appointment has been approved, details are recorded in the Corporate Register. The original is retained by the Governance Unit for evidentiary, auditing and record keeping purposes.
5. A copy of the "signed" Instrument of Appointment and Authorisation is sent to the authorised person which must be on hand with them at all times.
6. The original signed Instrument of Appointment and Authorisation is held on file in Governance for record keeping purposes

### Authorised Officer Identity Cards

It is the responsibility of the Manager to notify and arrange for the issue of the authorised officer's identify card, following receipt of the approved Instrument of Appointment.

A copy of the approved Instrument of Appointment must be forwarded to the People and Culture Department before the identity card can be issued.

An Identity card must:

- (a) Have a reference be made to *section 224 of Local Government Act 1989*; and
- (b) Contain a photograph of the authorised officer; and
- (c) Contain the signature of the authorised officer; and
- (d) Be signed by a member of Council staff appointed for the purpose (CEO or MBS)

The authorised person must at all times carry this identity card and must produce his or her identity card upon entering a private property or being requested to do so.

The authorised person must keep a signed copy of their Instrument of Appointment and Authorisation, and if requested be able to produce this as required.

#### Revocation of Appointments and Authorisations

Upon completion of a contract or project, or when the officer departs the organisation, the Instrument of Appointment and Authorisation is automatically revoked.

In the event circumstances change with the person's responsibilities, the relevant Manager will need to notify Governance for the Instrument of Appointment and Authorisation to be revoked, to ensure the person does not administer or enforce the laws under the legislation under which they have been appointed.

#### Review of Appointments and Authorisations

A review of all persons who are appointed as an authorised officer will be conducted annually, to ensure that the information is still current.

#### Register of Appointments and Authorisations

Section 224 (1) – A Council must maintain a register that shows the name of all people appointed by it to be authorised officers.

Council is also required under Section 12 of the Local Government Regulations to keep a register of all persons with authorisations under section 224 of the Local Government Act and when requested, make this information available to members of the public for inspection.

#### Internal Audit

Governance will conduct audits on a quarterly basis and will report these results to EMT the Audit and Risk Committee annually. These audits will be undertaken in conjunction with the delegation audits.

## 6. Roles and responsibilities

Audit and Risk Committee	<ul style="list-style-type: none"> <li>provides recommendations on any identified breaches</li> </ul>
CEO, Directors and Managers	<ul style="list-style-type: none"> <li>reports any identified breaches to the Manager Governance and Information</li> </ul>
Managers	<ul style="list-style-type: none"> <li>responsible for notifying Governance if a staff member or contractor requires an Instrument of Appointment to administer and enforce the laws under the legislation under which they have been appointed</li> </ul>
Governance	<ul style="list-style-type: none"> <li>ensures a register of all current Instruments of Appointment and Authorisations are maintained and available for review upon request. Conduct audits and report results to EMT quarterly and the Audit and Risk Committee annually.</li> <li>provides training and information sessions on authorisations and appointments.</li> </ul>

## 7. Policy non-compliance

Non-compliance with this Policy has the potential to make a decision or action made under authorisations invalid or legal action being taken against the authorised office.

## 8. Related documents

- Compliance Management Framework
- Various Acts and Regulations that reference authorised officers
- Staff Code of Conduct
- Risk Management Policy

## 9. Implementation of the Policy

Council will have a process in place to ensure that a person who is appointed under an Act or Regulation as an authorised officer, has the powers to do so of that position.

An engagement plan will be developed outlining key messages that will be communicated to staff about training and expectations, in order to meet the standards in the Policy and the Compliance Management Framework.

## 10. Document History

Date approved	Change Type	Version	Next Review Date
21 September 2020	New	1	September 2026