

Section 86 Committee Policy

Policy - CP026

Prepared	Reviewed	Approved	Date	Council Minute No.
Manager Corporate Administration	ELT	Council	23 January 2019	2019/0010
Trim File: 18/02/01		To be reviewed: January 2023		
Document Owner: GMCS		Review Frequency: Four yearly		

1. The purpose of this policy is

To ensure compliance in the delegation of Council's powers, functions and duties under Section 86 of the *Local Government Act 1989* (the Act), and to allocate roles and responsibilities for Council and the Section 86 Committees.

2. Policy Statement

Council will comply with the Act in relation to the delegation of powers and functions, the appointment and ongoing operation of committees set up under Section 86 (S86) of the Act.

3. Principles

A S86 Committee's legal status is derived from Council through formal delegation.

Under S86 of the Act, Council is able to delegate certain functions, duties and powers to an authorised body or persons to manage and control assets, resources and/or property owned, leased or controlled by Council by executing a Deed of Delegation.

S86 Committees are subject to Council policies and procedures, in the same way as other areas of Council, and as such they will form part of Council's organisational structure.

Council will provide the necessary information, resources and support to allow each committee to function effectively.

Appointing a Committee

A S86 Committee will only be formed by resolution of Council in circumstances that Council determines would be beneficial to Council and/or the community. S86 Committees are appointed at public meetings, usually called and chaired by the Mayor of the day, Councillors or nominated officers of Council.

Delegation

Following the election of a committee at a public meeting, a Deed of Delegation that sets out exactly which powers and functions are being delegated will be executed by Council. This will be prepared by the Governance & Risk Unit in consultation with the relevant designated Council Officer.

When appointing and delegating to a committee, the Council will:

- establish/acknowledge the purpose of the committee;
- determine what the committee should do to meet its purposes (functions, duties and powers);
- clearly identify the role and responsibilities of the committee and Council including liability issues;
- be consistent in requirements for similar committees;
- be sufficiently broad to allow the committee to operate without undue restriction or constant reference to the Council; and
- acknowledge the different requirements and functions of committees.

When providing a delegation to a special committee, the Council will include provision for:

- meeting and other procedures of the committee;
- accounting procedures;
- reporting procedures; and
- limiting the authority of the committee.

Each S86 Committee will be provided with a comprehensive handbook that provides key information and copies of relevant documents, sets out roles and responsibilities and provides points of contact for each committee.

Meeting Procedures

The Deed of Delegation will include meeting and reporting requirements that the committee must follow.

Statutory Responsibilities of S86 Committee Members

Committee members are bound by the Conflict of Interest provisions of the Act.

Committee members must not make improper use of information acquired as a Committee member, and are bound by sections of the Act relating to the use of information.

Insurance

Council provides suitable insurance to cover all its buildings and contents.

Committee of Management members appointed under Section 86 of the Act are covered by the Council's Liability and Personal Accident policies when carrying out activities for and on behalf of the committee whilst acting within their delegated powers.

Volunteers appointed or authorised by the committee are also covered by the Council's liability and personal accident policies whilst carrying out activities for and on behalf of the S86 Committee. All volunteers must be registered with the Governance & Risk Unit.

Hirers of any facility from the committee must have their own Public Liability insurance in accordance with any hire or lease agreements.

Certain activities may need to be covered by a separate insurance policy. The Governance & Risk Unit are able to advise if any such policy is required.

Monitoring Performance

The performance of all committees, in respect of their management of Council owned or controlled property will be monitored to ensure that safe operation and effective governance and financial controls are in place.

The committee will be required to report to Council at least annually. The report should include details of maintenance issues, usage and financial details as per the Governance Compliance Checklist in each Section 86 Committee's handbook, as appropriate.

Dispute Resolution Procedure

Disputes and grievances shall in the first instance, wherever possible, be dealt with informally between the parties involved. Generally grievances with Council should be raised with the designated Council officer and grievances with the committee should be raised with the Chairperson. (Informal)

If a satisfactory resolution can not be reached the matter will be progressed to the Chief Executive Officer who will decide the necessary course of action. (Formal)

All formal grievances and their outcomes should be recorded in Council's electronic record keeping system (Content Manager).

4. Who is responsible for implementing this policy?

The **Section 86 Committee** (under the delegation) shall be responsible for:

- fulfilling any roles, responsibilities and functions as required by Council and as set out in the Handbook and Deed of Delegation;
- managing these roles, responsibilities and functions, subject to Council's policy and direction and in accordance with the Act 1989, Handbook and Deed of Delegation;
- in the case of facility management committees, carry out the management, general operations and regulate usage of the facility;

- in the case of facility management committees, facilitate patronage; accept bookings for the facility subject to Council's policy and direction;
- in the case of facility management committees; manage risks associated with the operation of the facility in accordance with Council's policy and develop and review existing facilities where required; and
- raise funds where required to provide for the ongoing management, operation and purpose of the Committee function and including if applicable, maintenance of the facility, as appropriate.

The relevant **designated Council Officer** shall be responsible for;

- liaising with the committee to provide advice and assistance in relation to the operations of the S86 Committee or facility, and for monitoring to ensure that systems and processes are in place to enable the safe and efficient running of Council facilities;
- ensuring hire agreements and maintenance regimes are in place; and
- carrying out inspections as per the regime as appended to the committee's handbook.

Section 86 Committee	Designated Council Officer
-----------------------------	-----------------------------------

Colignan Recreation Reserve	Manager Leisure & Cultural Services
Kow Plains Homestead	Ouyen Service Centre Team Leader

The **Chief Executive Officer** shall ensure that S86 Committees provide evidence of compliance with the requirements set out in the Committee's Deed of Delegation and handbook, and that all Deeds of Delegation and handbooks accord with the requirements of the Act.

5. Definitions

Section 86 Committee	A Section 86 Committee is a Special Committee of Council set up under the <i>Local Government Act 1989</i> to which the Council delegates certain functions, duties and powers.
Deed of Delegation	This sets out the specific functions of the committee and establishes/acknowledges the purpose of the committee; determines what the committee should do to meet its purposes; sets out the functions, duties and powers that Council is delegating; clearly identifies the roles and responsibilities of the committee and Council, including liability issues.
Council Property	Includes vacant land, reserves, parks, ovals, buildings, structures, private land under agreement, water and anything attached.
Operations	The maintenance, hire, control, operation, occupancy, use, conservation and development of property.

Governance Governance includes the committee's deed of delegation, election of members, meeting processes, conflicts of interest, volunteer register, register of interest returns and statutory reporting.

Specialist advice will be made available to S86 Committees as follows;

The Governance & Risk Unit will provide support and guidance in relation to legal and governance compliance issues, including development of the Deed of Delegation in consultation with the Designated Council Officer.

The Governance & Risk Unit will also provide support and guidance on risk management, accident and insurance issues.

The Occupational Health and Safety Unit will provide support and guidance on occupational health and safety issues.

In addition, other key Mildura Rural City Council staff are available to advise for example on recreation, building maintenance and various other issues and can be contacted through the Designated Council Officer.

6. Legislation and other references

6.1 Legislation

For further information related to this policy see:

- *Local Government Act 1989*

6.2 Documents

This Policy is implemented in conjunction with the following documents:

- Section 86 Handbook and appendices;
- Section 86 Deeds of Delegation; and
- Governance Compliance Checklist.

6.3 Risk Assessment

<p>Risk Category</p> <p>Asset Management Committees Compliance – Legal & Regulatory Contract Management Contract Tendering & Procurement Corporate Governance Environmental Sustainability</p>	<p>✓ ✓ ✓ ✓</p>	<p>Risk Category</p> <p>Financial Sustainability Human Resource Management Leadership & Organisational Culture Occupational Health & Safety Organisational Risk Management Project Management Public Image and Reputation</p>	<p>✓</p>
---	--------------------------------------	--	----------