

Chief Executive Officer Employment and Remuneration Policy



POLICY STATEMENT

Council is committed to, and will ensure the application of good governance, transparency and fairness in all matters relating to the employment, management and remuneration of the Chief Executive Officer (CEO).

Objective

This policy reinforces Council's commitment to good governance practices and provides a consistent, fair and transparent framework for employment matters relating to the Chief Executive Officer (CEO) including recruitment, contract terms, performance monitoring and annual review.

Context/Rationale

The *Local Government Act 2020* (Act) requires Council to develop, adopt and keep in force a Chief Executive Officer Employment and Remuneration Policy (Policy).

This Policy provides for the following matters which Council is responsible for under the Act or as a requirement of this Policy:

- (a) the recruitment and appointment of the CEO;
- (c) approving the Contract of Employment between Council and the CEO;
- (d) the appointment of an Acting CEO;
- (e) the provision of independent professional advice in relation to the matters dealt with in the Policy;
- (f) the monitoring of the CEO's performance;
- (g) an annual review of the CEO's performance; and
- (h) determining the CEO's remuneration.

The CEO must be a natural person and employed under a contract of employment which does not exceed five years. The CEO is eligible to be re-appointed under a new contract of employment which does not exceed five years.

Key linkages

All City of Whittlesea policies comply with the *Victorian Charter of Human Rights and Responsibilities*.

This policy has clear linkages to the following legislation and Council documents:

- Chief Executive Officer's Employment Contract
- CEO Position Description
- CEO's Key Performance Indicators
- *Local Government Act 2020*
- *Fair Work Act 2009*
- *Equal Opportunity Act 2010*

- *Gender Equality Act 2020*
- *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019*
- Council's Procurement Policy and Procedures
- Government Policy on Executive Remuneration in Public Entities
- Protecting Integrity – Leading the Way. Managing the employment cycle of a council CEO – Local Government Inspectorate (Victoria) (February 2019)

TERMS OF REFERENCE

These Terms of Reference establish and govern the operation of the Chief Executive Officer Employment Matters Advisory Committee (Committee) in implementing the Policy.

1. COUNCIL'S ROLE

Under the Act, Council is responsible for:

- Developing, adopting and keeping in force the CEO Employment and Remuneration Policy;
- Undertaking the recruitment and appointment of a CEO when a vacancy occurs in the office of CEO; and
- Appointing an Acting CEO when there is a vacancy in the office of the CEO, including a temporary vacancy.

To implement the requirements of the Act, Council will:

- establish a Committee to oversee the implementation of the Policy;
- appoint an Independent Chair to the Committee to assist with and advise on the implementation of this Policy;
- undertake all necessary steps in the recruitment of a permanent CEO prior to presenting a recommendation to Council for endorsement;
- in the case of a vacancy, appoint an Acting CEO for a maximum of 12 months only;
- determine the rate of remuneration of the Independent Chair of the Committee;
- consider reports and recommendations from the Committee; and
- review this Policy within 12 months of a Council election.

2. THE CEO EMPLOYMENT MATTERS ADVISORY COMMITTEE

Membership

The CEO Employment Matters Advisory Committee will be comprised of:

- The Mayor;
- Deputy Mayor;

- One additional Councillor;

appointed annually by Council. For continuity purposes, where there is a change of Mayor, it is recommended the previous Mayor be one of the additional Councillors appointed to the Committee; and

- One Independent Chair appointed by Council in accordance with this Policy.

The Independent Chair is a full member of the Committee and is expected and required to be an active participant in Committee meetings.

Length of appointment

The appointment of the Councillor Committee members will be determined annually by Council.

Role

The Committee's role is to report to the Council annually and provide recommendations, appropriate advice, information and feedback on matters relevant to these Terms of Reference.

The Committee is advisory only and has no delegated decision-making power or authority.

The Committee is established to:

- Make recommendations to Council on employment matters relating to the CEO;
- Monitor and make recommendations to Council on performance matters relating to the CEO; and
- Perform any other functions or responsibilities prescribed by the Act or specified by Council.

Functions

The Committee will carry out the following functions:

Recruitment

- a) Establish and oversee the process to enable the Council to appoint the CEO, including, but not limited to:
 - advising on the selection of a recruitment consultant or agency to facilitate and advise on the recruitment process;
 - acting as the Selection Panel;
 - preparing a short list of applicants for interview;
 - interviewing shortlisted applicants;
 - coordinating and reviewing testing of applicants; and
 - developing details of the interview process – questions, etc.
- c) Provide recommendations on the terms and conditions of the CEO's contract of employment; and
- d) Provide a recommendation on any extension of the appointment of the CEO under section 44(3) of the Act, when required.

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Remuneration

- a) Undertake an annual review of the Total Remuneration Package as part of the CEO's annual performance review, in accordance with the CEO's contract of employment.
- b) Make recommendations annually, usually in October on the remuneration of the CEO.

Performance Monitoring

- a) Develop annually, in conjunction with the CEO, relevant and measurable performance objectives (KPIs) for the CEO and make recommendations to Council;
- b) Undertake performance reviews every six months against the agreed KPIs in accordance with these Terms of Reference and the CEO contract.
- c) At the conclusion of the mid-term review, the independent chair will provide the Mayor with a summary report of the outcome. The Mayor will provide the independent summary report to all Councillors in a confidential briefing or via email.
- c) Make annual recommendations on development opportunities for the CEO; and
- d) Make recommendations annually to Council on matters relating to the CEO's performance and performance review, as appropriate.

Other Prescribed Functions or Responsibilities

Make recommendations to Council on any other matters relevant to the employment and performance of the CEO in accordance with the CEO's employment contract and the Act.

Complaints Process

Should an external complaint be made in relation to the behaviour of the CEO, CEMAC:

- a) to be notified within 2 working days of the complaint being received;
- b) may, depending on the nature of the complaint, and with the assistance of the Executive Manager, Office of Council & CEO, appoint an independent investigator from Council's panel of investigators to investigate the complaint, affording the CEO natural justice;
- c) inform the CEO, as soon as reasonably practicable of either the independent investigator finding(s) or CEMAC finding(s);
- d) provide, with the assistance of the Executive Manager, Office of Council & CEO, a confidential report at the next scheduled meeting of the Council informing of the complaint and finding(s) with recommendations for the council to consider; or

- e) should the findings be for a serious nature and require an urgent decision of the Council, recommend the Mayor call and unscheduled Council meeting.

Notwithstanding points a-e above, if the nature of the complaint requires referral to an external body for investigation, the Public Interest Disclosure coordinator will advise CEMAC at an appropriate time to ensure the integrity of any investigation is not compromised.

Should an internal complaint be received in relation to the behaviour of the CEO, the complaint must be referred to and dealt with in accordance with Council's Complaint Policy by the Mayor. The Mayor will inform CEMAC of the complaint and outcome.

The Mayor can, at their discretion, seek advice from CEMAC on the appropriate way to handle the complaint.

3. INDEPENDENT CHAIR

- a) In accordance with the Act, Council is required to obtain independent professional advice.
- b) The appointment of an Independent Chair to the Committee will ensure consistent and quality advice to the Committee and Council.
- c) The Independent Chair will be appointed following an advertisement calling for expressions of interest from suitably skilled and qualified people.
- d) The Independent Chair will chair each CEMAC meeting.

Remuneration

The Independent Chair will be remunerated at a rate to be determined by Council.

Qualities and Qualifications

The Independent Chair must possess and demonstrate the following key competencies:

- Strong leadership and communication skills;
- Skills, expertise and experience in one or more of the following:
 - human resources management (including Executive recruitment, remuneration and talent management);
 - senior business or government (including local government) experience;
 - experience with and understanding of employment law; and
 - demonstrated ability in performance management and development of executive level staff.
- Understanding of good governance and previous experience or facilitation experience working with governance bodies or boards Members in membership and/or facilitation roles;
- Ability to work effectively with Councillors and the CEO; and

- Knowledge and understanding of the issues affecting Council.

Appointment Process

- a) Council will publicly call for Expressions of Interest from interested persons to be an Independent Chair of the Committee.
- b) Where there is a vacancy in the position of Independent Chair (or an impending vacancy) the Committee will call for Expressions of Interest.
- c) The Committee, with secretariat assistance from the Executive Manager Office of Council & CEO, will prepare a shortlist, conduct interviews and make a recommendation to Council on the appointment of the Independent Chair.
- d) The Independent Chair appointed by Council will be a natural person with appropriate experience recommended by the Committee.
- e) The list of all Expressions of Interest considered by the Committee will be provided to Council.

Appointment Timeframe

The Independent Chair may be appointed for up to four (4) years, or the term of the CEO's contract, whichever is the lesser period.

The Independent Chair may be re-appointed by Council, subject to satisfactory performance and at the discretion of the Council.

4. COMMITTEE PROCEDURES AND OPERATIONS

Meeting Schedule

- (i) Meetings of the Committee will be held at least once every six (6) months and, otherwise, as deemed necessary by the Committee to fulfil its objectives considering the CEO Contract of Employment, remuneration and Performance Review provisions processes.
- (ii) The Committee will provide a report to Council following the Committee's CEO's annual performance review.
- (iii) Special Meetings may be called by the Chair providing two (2) weeks' notice of and the reasons for the Special Meeting.

Chair

- (i) The Independent Chair will chair the meetings.
- (ii) If the Independent Chair is unavailable, the Mayor shall chair the meeting.

Meeting procedures

- (i) Meetings will follow standard meeting procedures as outlined in these Terms of Reference.
- (ii) All recommendations, proposals and advice must be directed through the Chair.
- (iii) All Committee meetings and records are confidential as the matters relate to personnel and contractual matters.

- (iv) There will be no official voting process and the Committee will operate on a consensus basis.
- (v) Majority and minority opinions will be reflected in Committee minutes and provided to Council.
- (vi) The duration of each Committee meeting should generally not exceed two hours.

Conflicts of Interest

If a Committee Member has a conflict of interest relating to any item on the Agenda, the Member must disclose to the Chair, the type and nature of the interest immediately before consideration of the matter in question and leave the meeting while the matter is being discussed.

Quorum and Attendance

- (i) A majority of members of the Committee constitute a quorum, providing that two (two) Councillors (one being the current Mayor) and one (1) Independent Chair are in attendance.
- (ii) If, at any scheduled Committee meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting will be adjourned and must re-convene within two (2) weeks of the adjourned meeting.
- (iii) The CEO will attend meetings, as required.
- (iv) A Member who misses two (2) consecutive meetings without a formal apology may, at the discretion of Council, have their term revoked.

Minutes of the Meeting

- (i) The Executive Manager Office of Council and CEO will provide executive support and undertake necessary administrative functions under this Policy (such as the compilation and distribution of meeting agenda and minutes) and will take the minutes for each Committee meeting;
- (ii) At the Chair's discretion, in considering the nature of the item being discussed, the minutes may be taken by another member of the committee and the Executive Manager Office of Council and CEO may be required to leave the meeting. The minutes of these items will be forwarded to the Executive Manager Office of Council and CEO to include in the formal minutes;
- (iii) The minutes will be in a standard format including a record of those present, apologies for absence, adoption of previous minutes, declaration of conflicts of interest and a list of adopted actions and resolutions of the Committee;
- (iv) The Agenda shall be distributed at least five (5) working days in advance of the meeting to all Committee members and a call for Agenda items will be made prior to issuing the Agenda;
- (v) Questions to the CEO should be put within 48 hours prior to meetings, where applicable;
- (vi) A copy of the minutes shall be distributed to all Committee members within ten (10) working days of the meeting, as far as practicable;

- (vii) A report to Council will be tabled after the annual performance review meeting of the Committee, as a confidential report to Council, or at a minimum having the minutes as a confidential attachment; and
- (viii) Reports to Council should reflect a consensus view. Where consensus cannot be reached, the report should clearly outline the differing points of view. That is, the majority and minority opinions.

Support to the Committee

The Committee may also request the appointment of a suitably qualified Independent Expert (as distinct from the Independent Chair) to assist in any other function specified in these terms of reference where:

1. The Committee consider it would benefit from the presence; or
2. Where there is not a consensus on performance -
 - a) The suitably qualified Independent Expert will be recommended by the Executive Manager Office of Council and CEO to the Committee;
 - b) The Committee will consider the recommendation of the Executive Manager Office of Council and CEO and make a recommendation to Council; and
 - c) The Independent Expert will be appointed by Council and must be a neutral person with appropriate experience; the list of independent experts considered by the Committee will also be provided to Council.
3. The Committee may obtain legal or other specific expert advice, as required and necessary;
4. Any formal advice requested by the Committee will be made available to all Committee Members and, where relevant and appropriate, will be provided to Council through meeting minutes; and
5. Any advice required by the Committee will be arranged through the Executive Manager Office of Council and CEO to ensure compliance with Council's procurement policies and procedures.

5. NON-COMPLIANCE

Failure to comply with this Policy may constitute a breach of the CEO's contract of employment, the *Local Government Act 2020* and/or the *Fair Work Act 2009*.

6. IMPLEMENTATION OF THE POLICY

Advice on the interpretation or application of this Policy should be sought, in the first instance, from the Executive Manager Office of Council and CEO.

7. OPERATION AND REVIEW

This Policy will remain in force until it is revised or revoked by a resolution of Council and must be reviewed within the 12 months following general Council elections.

CEO PROTOCOLS FOR GOOD GOVERNANCE AND OVERSIGHT

Introduction

These protocols outline the shared responsibilities between the Chief Executive Officer (CEO), Mayor and Council in managing the administration of the CEO. As the CEO is employed by Council, it is essential to provide clarity on reporting requirements for the CEO on functions otherwise carried out by a manager.

This includes:

- management of the CEO's performance;
- administration of expenses and reimbursements;
- restructures or significant organisational reform;
- leave planning and leave management;
- approving external non-executive or executive appointments; and
- other administrative matters conducted in a traditional subordinate-manager relationship.

CEO Performance Management

Performance management of the CEO is undertaken in accordance with the CEO's Contract of Employment and the CEO Employment and Remuneration Policy. The CEO Employment Matters Advisory Committee (CEMAC) in consultation with the CEO will develop an agreed set of KPIs annually for resolution of Council.

Requirements

- CEO and CEMAC will conduct a Councillor Briefing workshop for KPI development.
- Six monthly reporting on the progress of KPIs to CEMAC. The six monthly KPI presentation can be a high-level overview outlining any key changes and/or challenges with KPIs outcomes or overall organisation performance.
- Annual reporting on KPIs to Council.
- All Councillors will have the opportunity/option to provide assessment and feedback to CEMAC for consideration after the six monthly and annual presentations. CEMAC will review feedback received and provide feedback to the CEO.
- If a Councillor has a concern about the CEO's performance or conduct, the Councillor must, in the first instance, email the Mayor and Independent Chair their concern with supporting evidence.

- If the Mayor has a concern, the Mayor must email their concern with supporting evidence to the Deputy Mayor and Independent Chair.
- The Mayor (or Deputy Mayor, if the concern was raised by the Mayor) and Independent Chair will do an initial assessment of the concern and determine the most appropriate process, if any, for dealing with the concern.
- The Mayor (or Deputy Mayor, if the concern was raised by the Mayor) and Independent Chair will ensure that natural justice applies in dealing with the concern, and communicate with the parties involved as appropriate.

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Corporate Credit Card

It is expected that the CEO will have access to a corporate credit card to fulfil the requirement of their role. The use of corporate credit cards is to be restricted only to Council related expenses. *For example: hotel and meal accommodation, or professional development and training.*

Requirements

- Limit is not to exceed \$10,000, unless otherwise approved by Council.
- Ensure purchases are in accordance with Council's Purchase/Credit Card policy.
- Credit card transactions of the CEO be approved by the Chief Financial Officer (CFO).
- Credit card statements of the CEO and their Executive Assistant (EA) be tabled to the Audit & Risk Committee for transparency.
- Receipts and justifications must be provided prior to acquittal.

Reimbursement of Expenses

There may be situations where the CEO is required to use cash to pay for Council related expenses. *For example: car parking or fuel for a corporate vehicle.*

Requirements

- Complete the required reimbursement form with a justification.
- Reimbursement of Expenses form to be approved by the Director Customer & Corporate Service to ensure compliance with organisational policies and tabled quarterly to Audit and Risk Committee.

Leave Approval & Processing

It is essential that Council maintains an awareness of the CEO's unplanned and planned leave arrangements. This ensures Council's OHS obligations are met and will provide clarity to Councillors on acting and interim arrangements.

Requests for annual leave will be provided by email to the Mayor in advance for email approval by the Mayor. Once approved, the leave processing should be sent to the Director Customer & Corporate Services.

Requirements

Sick or Unplanned Leave

- Notification of absence to the Mayor and CEO's Executive Assistant.

Planned Leave (1 week or more)*

- Consultation with Mayor.
- Information on acting arrangements sent to all Councillors.

Overseas Travel

- Overseas travel for work purposes requires a Council resolution in accordance with the travel policy as it applies to members of staff.

Processing & Reporting

- By the Director Customer & Corporate Services, with Mayor to be copied in via email on approval, where appropriate.
- Reporting to CEMAC on leave balances at the end of financial year.

*Acting CEO Arrangements

Where the CEO is proposed to be on leave for 5 working days or more, an Acting CEO should be appointed. An acting CEO must be a Director.

The CEO can appoint an Acting CEO for a period not exceeding 28 days (which cannot be extended without agreement of Council), in accordance with the *Local Government Act 2020* and Council's instrument of delegation to the CEO.

Professional Development & Mentoring

It is expected and essential that the CEO undertakes professional development and mentoring. During the annual KPI process, CEMAC will consider and recommend approval of the CEO's professional development activities to Council. Professional Development may include attendance at relevant interstate conferences.

Requirements

- Provide CEMAC with details of planned professional development activities.
- Detail costings and absence periods (if applicable).

Motor Vehicle Accidents

Where the CEO is involved in a motor vehicle accident, the CEO must report the details of the accident to the Mayor. The Director Infrastructure and Environment will be responsible for reviewing the accident report to ensure management oversight.

Requirements

- Immediate reporting to the Mayor.
- Completion of Motor Vehicle Accident form and incident report on Council's online incident management system.
- Once reviewed by the Director Infrastructure and Environment, they will be required to authorise repairs in accordance with Council policy and close off the online incident management system report.

OHS Incidents

If the CEO is involved in an OHS incident, they must advise the Mayor in the first instance. The Mayor is to ensure the CEO has access to Corporate OHS support immediately in the event of an incident. An incident report in Council's online incident management system is to be completed as soon as practicable.

Where an incident involves a member of Council's staff, the CEO must advise the Mayor should the incident involve significant injury or damage to a Council asset or third party. This is to ensure the Mayor is aware of any incident that may cause media or community interest.

Requirements

- Immediate reporting to the Mayor, as soon as practicable.

Organisational Restructures

Where the CEO is planning on undertaking an organisational wide restructure, the CEO must ensure the Council is advised prior to implementation. This ensures Councillors are across the scope and intent of the proposal.

Requirements

- Briefing to all Councillors prior to implementation.

ATTACHMENT 2

DEFINITIONS

Act means the *Local Government Act 2020* (Vic).

Chair means the chair of the CEO Employment Matters Advisory Committee established under this Policy.

Chief Executive Officer or CEO means the Chief Executive Officer of Council.

Committee means the CEO Employment Matters Advisory Committee established under this Policy.

Contract of Employment means the contract of employment between Council and the CEO, including any schedules.

Council means Whittlesea City Council.

Councillors means the individuals holding the office of a member of Council.

Independent Chair means the consultant appointed by Council from time to time to provide independent professional advice in accordance with section 45(2)(a) of the Act.

KPIs means Key Performance Indicators or performance criteria however described.

Mayor means the Mayor of Council.

Policy means this CEO Employment and Remuneration Policy adopted in accordance with section 45 of the Act.

Public Sector Wages Determination means any Determination that is currently in effect under section 21 of the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019* in relation to remuneration bands for executives employed in public service bodies.

Remuneration Package means the total gross remuneration package paid to the CEO pursuant to the Contract of Employment.

Resolution means a resolution of Council made at a properly constituted Council meeting.

ATTACHMENT 3

LEGISLATION

Local Government Act 2020 - Section 45

- (1) A Council must develop, adopt and keep in force a Chief Executive Officer Employment and Remuneration Policy.
- (2) A Chief Executive Officer Employment and Remuneration Policy must—
 - (a) provide for the Council to obtain independent professional advice in relation to the matters dealt with in the Chief Executive Officer Employment and Remuneration Policy; and
 - (b) provide for the following—
 - (i) the recruitment and appointment process;
 - (ii) provisions to be included in the contract of employment;
 - (iii) performance monitoring;
 - (iv) an annual review; and
 - (c) include any other matters prescribed by the regulations.
- (3) A Council must have regard to—
 - (a) any statement of policy issued by the Government of Victoria which is in force with respect to its wages policy (or equivalent); and
 - (b) any Determination that is currently in effect under section 21 of the **Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019** in relation to remuneration bands for executives employed in public service bodies—

in developing the Chief Executive Officer Employment and Remuneration Policy.
- (4) A Council must adopt the first Chief Executive Officer Employment and Remuneration Policy under this section within 6 months of the commencement of this section.

Victorian Independent Remuneration Tribunal and Improving Performance Standards Act 2019 - Section 21

Determinations in relation to remuneration bands for executives employed in public service bodies

- (1) The Tribunal must make a Determination setting the values of the remuneration bands for executives employed in public service bodies which must—
 - (a) include a comprehensive review of the roles of executives employed in public service bodies and the existing remuneration provided to executives under the Public Administration Act 2004 as in force before the commencement of Part 7 of this Act; and
 - (b) provide for any other matter that the Tribunal considers relevant.
- (2) The Tribunal must make a new Determination under subsection (1) at the end of each subsequent period of 4 years after the previous Determination was made under subsection (1).
- (3) A new Determination under subsection (2) must—
 - a) include a comprehensive review of the roles of executives employed in public service bodies and the existing remuneration provided to executives; and
 - (b) provide for any other matter that the Tribunal considers relevant.