



CEO Employment and Remuneration Policy

September 2021



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Policy Name details

Responsible department: People, Culture and Safety

Authorised by: Council

Approval date: 15 September 2021

Annual Desktop Review date: Annually

Review date: within 12 months from adoption date, and at least every 2 years by the Committee and within 6 months of each Council election

Version number: One

Associated to Strategic Direction: Well Governed

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1. Purpose

- 1.1 This is the Chief Executive Officer Employment and Remuneration Policy (**Policy**) of Port Phillip City Council (**Council**), made in accordance with section 45 of the Act.
- 1.2 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 Chief Executive Officer ensuring that:
 - (i) the recruitment decision is based on Merit;
 - (ii) the recruitment processes support transparency in the recruitment process and subject to Council’s discretion to offer re-appointment in accordance with section 44 of the Act, the public advertising of the position; and
 - (iii) regard is had to gender equity, diversity and inclusiveness;
 - (b) approving the Contract of Employment entered into between Council and the Chief Executive Officer;
 - (c) the appointment of an Acting Chief Executive Officer
 - (d) the provision of independent professional advice in relation to the matters dealt with in the Policy;
 - (e) the monitoring of the Chief Executive Officer’s performance;
 - (f) an annual review of the Chief Executive Officer’s performance; and

(g) determining the Chief Executive Officer's remuneration.

2 Date of Commencement

2.1 This Policy commences operation on 16 September 2021.

3 Definitions

3.1 In this Policy, unless the context suggests otherwise the following words and phrases mean:

Act means the *Local Government Act 2020*.

Annual Review Report has the meaning given in paragraph 10.1.

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

Committee means the CEO Employment Matters Committee.

Committee Terms of Reference means the Chief Executive Officer Employment Matters Committee Terms of Reference as in force from time to time and initially approved by Council resolution on 18 August 2021.

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

Council means Port Phillip City Council.

Councillors means the individuals holding the office of a member of **Port Phillip City** Council.

Council meeting has the same meaning as in the Act.

Independent Advisor means the consultant appointed by Council from time to time to provide independent 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.

Merit means an appointment decision based on the objective assessment of an individual's work-related qualities, capabilities and potential against the genuine requirements of the role and Key Selection Criteria.

Performance Plan means the annual performance plan setting out KPIs for the CEO.

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.

Recruitment Policy means the recruitment policy adopted by the CEO under section 48(2) of the Act.

Recruitment Provider means a consultant with specialist expertise in sourcing and evaluating candidates for senior executive roles.

Regulations means the Regulations made under Division 7 of Part 2 of the Act.

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.

4 Overview

- 4.1 This Policy outlines the mechanisms which support Council in fulfilling its obligations regarding the CEO's employment and under the Act.
- 4.2 The aims of the CEO in relation to this Policy are to:
 - 4.2.1 work collaboratively with the Committee in determining the Performance Plan on an annual basis;
 - 4.2.2 actively participate in the performance appraisal and annual review process as required by the Committee;
 - 4.2.3 make use of constructive feedback from Councillors and Committee Members in relation to performance appraisals;
 - 4.2.4 undertake professional development on an as needed basis, or as part of the Performance Plan; and
 - 4.2.5 promptly draw the Committee's attention to any situation where any variation of the Performance Plan may be required in light of the current circumstances.
- 4.3 The aims of Council (including via the Committee) in relation to this Policy are to:
 - 4.3.1 establish the Committee;
 - 4.3.2 provide processes for the recruitment of a natural person, and their appointment, to the position of CEO;
 - 4.3.3 draft and approve the Contract of Employment entered into between Council and the CEO;
 - 4.3.4 seek and be guided by independent professional advice in relation to the matters dealt with in this Policy;
 - 4.3.5 provide processes for determining and reviewing the CEO's Remuneration Package;
 - 4.3.6 provide processes for the monitoring of the CEO's performance including setting the Performance Plan and conducting an annual review;
 - 4.3.7 determine, as required, whether any variations to the Remuneration Package and terms and conditions of employment of the CEO; and
 - 4.3.8 provide processes for the appointment of an Acting Chief Executive Officer.

- 4.3.9 have regard to all legal, contractual and statutory obligations owed to the CEO.

5 CEO Employment Matters Committee

- 5.1 Council has established the Committee under the Committee Terms of Reference.
- 5.2 The Committee Terms of Reference sets out:
 - 5.2.1 the purpose of the Committee;
 - 5.2.2 the duties and functions of the Committee;
 - 5.2.3 the composition of the Committee;
 - 5.2.4 Committee members;
 - 5.2.5 frequency of meetings;
 - 5.2.6 quorum;
 - 5.2.7 voting;
 - 5.2.8 reporting;
 - 5.2.9 support;
 - 5.2.10 the role of the Independent Advisor on the Committee;
 - 5.2.11 key activities of the Committee.

6 Appointment and reappointment of the CEO

- 6.1 The Council's role is to appoint the CEO, on the advice of the Committee.
- 6.2 The appointment (or reappointment) of the CEO must be made by a resolution of Council.
- 6.3 Council will, by resolution, determine whether reappointment of the incumbent CEO pursuant to section 44(3) of the Act is under consideration or whether Council will go to or test the market for a CEO.
- 6.4 Where the reappointment of the current CEO is under consideration:
 - 6.4.1 at least eight months prior to the expiration of the period of employment, Council and the CEO may confer about whether the CEO shall be re-appointed for a further period and, if so, on what terms;
 - 6.4.2 Council must advise the CEO no later than six months (or such other period as they may agree in writing) prior to the expiration of the period of employment whether it is proposing to exercise its discretion to offer re-appointment to the CEO; and
 - 6.4.3 where the period of employment is one year or less, the period of months referred to in clause 6.4.1 shall be three and the period of months referred to in clause 6.4.2 shall be two months.
- 6.5 **Where the reappointment of the incumbent CEO is under consideration:** the Committee shall ensure a confidential, fair and respectful process is undertaken so that Council should make its decision on whether and on what terms to offer re-appointment only after reasonable time is provided for Councillors to be informed adequately on relevant matters and to allow an opportunity for the incumbent CEO to make a formal presentation to the Council and/or the Committee.

6.6 **Where Council makes the decision to go to or test the market for a CEO:** the Committee shall, in accordance with Council's Procurement Policy and Procedures seek and appoint an independent Executive Search Consultant/Provider (**Recruitment Provider**) to manage and conduct the process of selection of a suitable candidate(s) for Council's consideration for appointment to the position of CEO, and ensure professional care throughout administration of the process.

6.6.1 The Committee shall, in conjunction with the Recruitment Provider engaged, develop and agree upon:

- a recruitment sub-committee charged with interviewing candidates identified by the Provider
- a search and selection process and timeframe
- setting the salary and conditions based on industry benchmarks
- key accountabilities
- key selection criteria
- candidate application material
- a candidate identification strategy
- methods of applicant evaluation – embracing diversity and gender equity principles and best practice processes to eliminate bias
- public relations activities.

6.6.2 The Committee shall, in conjunction with the Recruitment Provider:

- ensure that the CEO role is publicly advertised;
- oversee the development of the candidate pool by the Recruitment Provider, providing feedback on the quality and diversity of candidates being identified;
- review the Recruitment Provider's report on the candidate pool and select between 5 to 8 candidates from that pool for preliminary interview by the Panel; and
- shortlist the final 3 candidates for interview by the full Council.

6.7 Once the preferred candidate is determined by the full Council, with the support of the Recruitment Provider, the Committee shall negotiate the terms of employment within the contractual framework of employment provided by Council in accordance with the Act

6.8 The Committee shall then:

- ensure, through the Recruitment Provider, that all candidates are updated on the outcome of the recruitment and selection process; and
- develop and recommend to the Council an on-boarding program for the new CEO.

7 Contract of Employment

7.1 7.1The Contract of Employment is to be read in conjunction with this Policy (but the terms of the Policy are not incorporated into the Contract of Employment).

7.2 The Contract of Employment will, at a minimum, outline the following:

- the employment term, which must not exceed 5 years in accordance with section 44(2) of the Act;
- the responsibilities and duties of the position, including compliance with the Act and the Code of Conduct for Council staff;
- the conflict of interest management requirements;
- the CEO's Remuneration Package and other entitlements;
- any legislative and contractual obligations, including those during and continuing after appointment;
- the CEO's leave entitlements;
- dispute resolution procedures;
- processes for managing unsatisfactory performance;
- processes for early termination, including notice of termination provisions; and
- any other matters required to be contained in the Contract of Employment by the Regulations.

7.3 The Contract of Employment may only be varied by a resolution of Council and where such variation is accepted by the CEO, recorded in a deed of variation.

8 Remuneration and Expenses

8.1 The Remuneration Package provided to the CEO will form part of the Committee's annual review, having regard to (in accordance with section 45(3) of the Act):

8.1.1 any statement of policy issued by the Government of Victoria which is in force with respect to its wages policy (or equivalent);

8.1.2 any Public Sector Wages Determination (see **Note 1** below).

8.2 Remuneration will be reviewed on an annual basis, in accordance with the CEO's Performance Plan and contractual requirements.

8.3 In line with the City of Port Phillip Expense Policy, Council will meet reasonable expenses incurred by the CEO in relation to:

- (a) membership and subscription fees payable to professional associations which are reasonably necessary in order to carry out duties;
- (b) reasonable costs incurred where attending conferences, seminars or other networking functions; and
- (c) reasonable costs incurred in performance of required duties.

¹ Note 1. Section 45(3)(a) of the Act requires Council to have regard to any statement of policy issued by Government of Victoria which is in force with respect to its wages policy (or equivalent). The current Victorian Government Wages Policy applies in the public sector until 31 December 2021. See:

<https://www.vic.gov.au/wages-policy-and-enterprise-bargaining-framework>

Section 45(3)(b) of the Act requires Council to have regard to the published remuneration bands for executives employed in public service bodies. See: <https://www.vic.gov.au/tribunals-determination-vps-executive-remuneration-bands>

9 Performance monitoring

- 9.1 Council will adopt an annual Performance Plan for the CEO, which will include KPIs. The Performance Plan must be developed collaboratively between the CEO and the Committee.
- 9.2 The CEO is to provide progress reports against the Performance Plan to the Committee on a bi-annual basis.
- 9.3 The Committee may meet with the CEO following each progress report to discuss the matters contained in the progress report.
- 9.4 Within the initial 4 to 6 months of the CEO's term, a workshop with Councillors and the CEO should be coordinated so that:
 - 9.4.1 the CEO can prepare and present an overview of their findings during the early months, and highlight any projections or forecasts of relevance to Council during their tenure;
 - 9.4.2 Councillors can provide feedback to the CEO on their perspective of the CEO's performance during the initial period; and
 - 9.4.3 Council and CEO can agree to projects and priorities for inclusion in the CEO's Performance Plan and KPIs
- 9.5 Nothing in this Policy prevents the Committee and/or Council from monitoring the CEO's performance on an ongoing basis.

10 Annual review

- 10.1 In preparation for Council's review, the Committee is required to submit an annual review report (**Annual Review Report**) to Council which includes recommendations on the following:
 - 10.1.1 whether, and to what extent, the CEO has met the KPIs under the Performance Plan;
 - 10.1.2 whether, and to what extent or in what respect, any KPIs or other criteria ought to be varied under the Performance Plan;
 - 10.1.3 whether, and to what extent, the Remuneration Package ought to be varied; and
 - 10.1.4 any other necessary matters.
- 10.2 The Committee will submit the Annual Review Report to Council only after meeting with the CEO to discuss the Committee's proposed recommendations.
- 10.3 The CEO may request the opportunity to address Council as part of this process.
- 10.4 Council shall, after receipt of the Annual Review Report, review the recommendations in the Annual Review Report, resolve upon the matters described in paragraph 10.1 and advise the CEO of the terms or effect of the resolution.

11 Acting CEO

- 11.1 Council must appoint an Acting CEO when there is a vacancy in the office of the CEO or the CEO is unable to perform their duties of the office of Chief Executive Officer.

- 11.2 The appointment of the CEO must be made by a resolution of Council unless the Acting CEO is appointed for a period not exceeding 28 days, in which case the CEO may appoint an Acting CEO under delegation from Council pursuant to section 11(3) of the Act.
- 11.3 The Committee may advise Council on the selection and appointment of an Acting CEO in accordance with the Committee Terms of Reference.
- 11.4 The Committee should consult with the incumbent CEO as to potential candidates for the Acting CEO role.

12 Independent advice

- 12.1 The Independent Advisor is responsible for providing independent professional advice in relation to the matters dealt with under this Policy in accordance with section 45(2)(a) of the Act.
- 12.2 The Independent Advisor will be appointed in accordance with the Committee Terms of Reference.
- 12.3 Council, or the Committee with the approval of a Resolution, can, on an as needed basis, obtain additional independent professional advice in relation to the matters dealt with under this Policy.

13 Administrative Support

- 13.1 Council acknowledges that, in implementing this Policy, it, the Committee and/or the Independent Advisor will from time to time require the assistance of members of staff, including assistance in relation to governance and human resources matters.
- 13.2 Council, the Committee and/or the Independent Advisor may from time to time request a member of staff to provide assistance in implementing this Policy, recognising that the position of the member of staff is made difficult because he or she is accountable to the CEO (or a person acting as CEO) and therefore acknowledging that requests for assistance need to be limited to no more than those which are reasonably necessary.
- 13.3 The CEO should be kept informed of any decisions made to utilise Council staff for the purposes outlined in this section.

14 Interaction with Act, Regulations and Committee Terms of Reference

- 14.1 This Policy applies subject to any inconsistent obligations in the Act or the Regulations.
- 14.2 The Policy applies to the exclusion of any inconsistent obligation in the Committee Terms of Reference.

15 Confidentiality

- 15.1 Council is not required to disclose any personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

16 Delegations

- 16.1 Council must not delegate the power to appoint the CEO, whether on a permanent or acting basis, however, it may delegate to the CEO the power to appoint an Acting CEO for a period not exceeding 28 days (sections 11(2)(d) and 11(3) of the Act).
- 16.2 Council must not delegate the power to make any decision in relation to the employment, dismissal or removal of the CEO (section 11(2)(e) of the Act).

17 Review of Policy

- 17.1 This Policy will be reviewed within 12 months of its adoption by Council, and in conjunction with the Committee Terms of Reference.
- 17.2 This Policy will thereafter be reviewed at least every 2 years by the Committee and within 6 months of each Council election, and the Committee will make a recommendation to Council with respect to any suggested changes.