

CEO EMPLOYMENT AND REMUNERATION POLICY

Policy Number:	2.4.11 (Wellington Shire Council Employee Policy 4.1)
Approved by:	Council
Date Approved:	March 2023
Date of Next Review:	March 2024
Applicable to:	Organisation
Responsible Officer:	General Manager Corporate Services
Statutory Reference:	<i>Local Government Act 2020 - Section 45</i> <i>The Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019 - section 21</i> <i>Victorian Charter of Human Rights and Responsibilities Act 2006</i> <i>Fair Work Act 2009</i> <i>Charter of Human Rights Act 2008</i> <i>Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth)</i>

AUTHORISATION

This Policy was endorsed by resolution of Council at a Council Meeting on 21 March 2023.

1. Purpose of Policy

This is the Chief Executive Officer Employment and Remuneration Policy (**Policy**) of Wellington Shire Council (**Council**), made in accordance with section 45 of the Act.

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

- (a) the recruitment and appointment of the Chief Executive 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 CEO will appoint the Acting CEO from one of the General Managers under advice to all councillors, and if this period of appointment is to exceed 2 weeks, it must be approved by the Mayor, and if it exceeds 4 weeks by all of Council.
- (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 21 March 2023.

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 clause 12.1.

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

Committee means the CEO Employment and Remuneration Committee established under this Policy.

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

Council means Wellington Shire Council.

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

Council meeting has the same meaning as in the Act.

Executive Search Consultant means an independent consultant with specialist expertise in sourcing and evaluating candidates for senior executive roles.

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.

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.

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

5. **CEO Employment and Remuneration Committee**

- 5.1 Council will establish a CEO Employment and Remuneration Committee (**Committee**).
- 5.2 The Committee will be an advisory committee to Council.
- 5.3 The purposes of the Committee are to consider, and make recommendations to Council with respect to, the:
 - 5.3.1 selection and appointment of the Independent Advisor;
 - 5.3.2 independent advice received from time to time from the Independent Advisor;
 - 5.3.3 performance monitoring of the CEO, including with respect to achievement of the KPIs;
 - 5.3.4 annual review of the CEO's performance, including against the KPIs;
 - 5.3.5 CEO's remuneration;
 - 5.3.6 recruitment and appointment of a CEO, if required;
 - 5.3.7 provisions to be included in the Contract of Employment from time to time;
 - 5.3.8 appointment of an Acting CEO; and
 - 5.3.9 implementation of this Policy.
- 5.4 The Committee must include at least the Mayor, previous Mayor or Chair of Remuneration Committee. Or in event of a new Council being elected, the Committee will include the Mayor, Deputy Mayor and Remuneration Chair.
- 5.5 The Committee is to hold meetings as often as is necessary to:
 - 5.5.1 prepare documentation relevant to the CEO's employment and remuneration, including Council reports and contractual documents, for the approval of Council;
 - 5.5.2 conduct and maintain appropriate records regarding performance reviews of the CEO; and
 - 5.5.3 review the Remuneration Package and conditions of employment of the CEO,

provided that the Committee meets at least twice in each year.

5.6 The Committee will provide a report to Council following each meeting describing its activities and making recommendations about any action to be taken by Council.

5.7 The Committee will determine its procedures at its first meeting, which will include:

- 5.7.1 the rules for its meetings, noting that meetings should be conducted with as little formality and technicality as appropriate to fulfil the Committee's purposes;
 - 5.7.2 how often the Committee will meet, provided that the Committee meets at least twice in each year;
 - 5.7.3 quorum, provided that the quorum is not less than the Mayor and two Councillors or, if the Mayor is absent, three Councillors;
 - 5.7.4 means of attendance at Committee meetings (e.g. in person or electronically); and
 - 5.7.5 the taking of the minutes of the Committee meetings,
- and will communicate the procedures to Council.

5.8 For the avoidance of doubt, nothing in this Policy requires Council to accept any or all of the Committee's recommendations.

6. Recruitment of CEO

6.1 The Committee will establish and manage the process to recruit the CEO, designed to ensure that Council can select the best available candidate from a short list of preferred candidates (with or without a recommendation from the Committee).

6.2 The Committee will determine, and make a recommendation to Council, as to:

- 6.2.1 whether there is a need to engage an Executive Search Consultant to run the recruitment process; and, if so
- 6.2.2 the Executive Search Consultant to be appointed to run the recruitment process.

6.3 If an Executive Search Consultant is engaged, the Committee, the Chair of the Committee or a member of Council staff nominated by the Committee must liaise with the Executive Search Consultant in connection with the recruitment process.

6.4 When considering the recruitment of the position of CEO to, the Committee must:

- 6.4.1 ensure that the recruitment decision is based on merit;
- 6.4.2 support transparency in the recruitment process and the public advertising of the position; and
- 6.4.3 ensure that regard is had to gender equity, diversity and inclusiveness.

6.5 The Committee must ensure that the Executive Search Consultant publicly advertises the CEO role.

6.6 The Executive Search Consultant will be appointed on the terms agreed by Council, including that the Executive Search Consultant will prepare, and provide to Council, a schedule of dates for key decisions to be made by Resolution throughout the recruitment process.

6.7 The Committee must provide a report and recommendation to Council so that each key decision identified in the schedule prepared under clause 6.6 can, if necessary, be made by Resolution. This may include recommendations as to:

- 6.7.1 the preferred candidate; and
- 6.7.2 the proposed high level contract terms (including the term of employment and Remuneration Package).

7. Appointment of the CEO

- 7.1 Council will receive a report from the Committee on the completion of its role in the recruitment process, and Council will proceed to decide on a preferred candidate with the support of the Committee to negotiate and finalise the Contract of Employment.
- 7.2 The Committee will provide a recommendation to Council on the provisions to be contained in the proposed Contract of Employment.
- 7.3 The appointment of the CEO must be made by Resolution.

8. Reappointment of the CEO

- 8.1 Within 9 months and not less than 6 months prior to the expiry of the current CEO's Contract of Employment, the Committee will provide a recommendation to Council on:
 - 8.1.1 whether the CEO should be reappointed under a new Contract of Employment; and
 - 8.1.2 if the recommendation is to reappoint the CEO, the proposed provisions of the further Contract of Employment.
- 8.2 Any reappointment of the current CEO must be made by Resolution.
- 8.3 Where the Contract of Employment is for a term of 12 months or less, the period of months referred to in clause 8.1 shall be 2 months.

9. Contract of Employment

- 9.1 The Contract of Employment is to be read in conjunction with this Policy (but the terms of this Policy are not incorporated into the Contract of Employment).
- 9.2 The Contract of Employment will, at a minimum, outline the following:
 - 9.2.1 the employment term, which must not exceed 5 years in accordance with section 44(2) of the Act;
 - 9.2.2 the responsibilities and duties of the position, including compliance with the Act and the Code of Conduct for Council staff;
 - 9.2.3 how conflicts of interest will be managed;
 - 9.2.4 the CEO's Remuneration Package and other entitlements;
 - 9.2.5 legislative and contractual obligations, including those during and continuing after appointment;
 - 9.2.6 the CEO's leave entitlements;
 - 9.2.7 processes for managing unsatisfactory performance;
 - 9.2.8 This policy recognises the CEO's current contract's provisions for termination notice and this policy does not override this clause. However, in the absence of this current contract, the following applies. A notice of a minimum 4 months with notice of termination by Council will apply with a maximum of up to 6 months; and
 - 9.2.9 any other matters required to be contained in the Contract of Employment by the Regulations.
- 9.3 The Contract of Employment may only be varied by a Resolution with the CEO's acceptance, with such variation to be recorded in a deed of variation.

10. Remuneration and Expenses

- 10.1 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):

- 10.1.1 any statement of policy issued by the Government of Victoria which is in force with respect to its wages policy (or equivalent);¹ and
 - 10.1.2 any Public Sector Wages Determination.²
- 10.2 Remuneration will be reviewed on an annual basis, in accordance with the CEO's Performance Plan and contractual requirements.
- 10.3 Council will meet expenses incurred by the CEO in relation to:
 - 10.3.1 membership and subscription fees payable to professional associations which are reasonably necessary in order to carry out duties;
 - 10.3.2 reasonable costs incurred where attending conferences, seminars or other networking functions; and
 - 10.3.3 reasonable costs incurred in performance of required duties.

11. Performance monitoring

- 11.1 Council will adopt an annual Performance Plan for the CEO, which will include KPIs. The Performance Plan must be developed by the Committee in consultation with the CEO.
- 11.2 The CEO is to provide progress reports against the Performance Plan to the Committee on a quarterly basis.
- 11.3 The Committee may meet with the CEO following each progress report to discuss the matters contained in the progress report and any feedback from Council.
- 11.4 Following the initial 6 months of the CEO's term, a workshop with Councillors and the CEO should be arranged quarterly so that:
 - 11.4.1 the CEO can prepare and present their views formed since their appointment on any related matters, and highlight any projections or forecasts of relevance to Council during their tenure;
 - 11.4.2 Councillors can provide feedback to the CEO on their perspective of the CEO's performance during the initial period of the CEO's employment; and
 - 11.4.3 Council and the CEO can consider projects and priorities for inclusion in the CEO's Performance Plan and KPIs.
- 11.5 Nothing in this Policy prevents the Committee and/or Council from monitoring the CEO's performance on an ongoing basis.

12. Annual review

- 12.1 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:
 - 12.1.1 whether, and to what extent, the CEO has met the KPIs under the Performance Plan;
 - 12.1.2 whether, and to what extent or in what respect, any KPIs or other criteria ought to be varied under the Performance Plan;
 - 12.1.3 whether, and to what extent, the Remuneration Package ought to be varied; and
 - 12.1.4 any other necessary matters.

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 from 1 January 2022. See: <https://www.vic.gov.au/moving-new-wages-policy-2022>.

² 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>

- 12.2 The Committee will submit the Annual Review Report to Council only after meeting with the CEO to discuss the Committee's proposed recommendations.
- 12.3 Council shall, after receipt of the Annual Review Report, review the recommendations in the Annual Review Report, resolve upon the matters described in clause 12.1 and advise the CEO of the terms or effect of the Resolution.
- 13. Acting CEO**
- 13.1 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 under the Contract of Employment for a period exceeding 28 days.
- 13.2 The appointment of the Acting CEO must be made by a Resolution 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.
- 13.3 Where applicable, the Committee may advise Council on the selection and appointment of an Acting CEO.
- 14. Independent advice**
- 14.1 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.
- 14.2 Council will determine the:
- 14.2.1 term of appointment of the Independent Advisor; and
- 14.2.2 remuneration of the Independent Advisor,
- and ensure that it is a term of the Independent Advisor's engagement that the Independent Advisor keep confidential all information which the Independent Advisor acquires by virtue of the engagement.
- 14.3 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.
- 15. Dispute Resolution**
- 15.1 In relation to any matter under this Policy or the CEO's Contract of Employment that may be in dispute, either the CEO or Council may:
- 15.1.1 give written notice to each other of the particulars of any matter in dispute, and
- 15.1.2 within 14 days of receiving a notice specified in clause 15.1.1, a meeting will be convened between the Committee and the CEO in an attempt to resolve the dispute.
- 15.2 If the dispute is not resolved, Council (in consultation with the CEO and on the recommendation of the Committee) will either within 14 days:
- 15.2.1 refer the dispute to an independent mediator (as agreed by the CEO and Council, or if they cannot agree a mediator appointed by the Executive Director of Local Government Victoria) and the Committee/Council agree to participate in any mediation process in good faith; or
- 15.2.2 nominate one or more external persons for the purpose of conducting further investigation and discussion (including any consultation with the CEO, as required) and making a recommendation to Council. Persons nominated for this purpose will have had no prior involvement in the dispute.
- 15.3 The cost of any mediation or investigation will be met by Council.

- 15.4 Having regard to any proposed outcome from any mediation under clause 15.2.1, or the recommendation made in accordance with clause 15.2.2, Council will make a final decision regarding the dispute which shall be binding on the parties.
- 15.5 During this process, no party shall be prejudiced as to the final resolution of the dispute. The parties will co-operate to ensure that the steps required to reach a resolution are carried out as expeditiously as possible for the benefit of all concerned.
- 15.6 Council and/or the CEO may nominate a representative (including a legal representative) to assist it and/or the CEO in this process. The CEO and/or Council will each be responsible for meeting the cost of any nominated representative used by them or it.
- 15.7 Neither the Committee nor the Mayor can make any binding decision under any dispute resolution process, without a Resolution.

16. Administrative Support

- 16.1 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, and (where relevant) procurement and contract management.
- 16.2 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 they are accountable to the CEO (or a person acting as CEO) and therefore requests for assistance need to be limited to no more than those which are reasonably necessary.
- 16.3 The CEO should be kept informed of any decisions made to utilise Council staff for the purposes outlined in this section.

17. Interaction with Act and Regulations

- 17.1 This Policy applies subject to any inconsistent obligations in the Act or the Regulations.

18. Confidentiality

- 18.1 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.

19. Delegations

- 19.1 As set out in clause 13.2, 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).
- 19.2 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).

20. Review of Policy

- 20.1 This Policy will be reviewed within 12 months of its adoption by Council.
- 20.2 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.

REVISION HISTORY

VERSION	MAJOR / MINOR UPDATE	SUMMARY OF CHANGES
1.0	Not applicable	No review required as this policy is still valid
2.0	Major update	Full review and rewrite of the policy to align with the legislative requirements as set out in the <i>Local Government Act 2020</i>