



Mildura Rural City Council

CEO Employment & Remuneration Policy

Policy – CP001

Prepared	Reviewed	Approved	Date	Council Minute No.
Manager Governance & Performance	Executive Leadership Team	Council	November 2021	2021/0275
EDMS: 18/02/01		To be reviewed: June 2025		
Document Owner: General Manager Corporate		Review Frequency: Each term		

1. The purpose of this policy is

This Policy reflects the Mildura Rural City Council's (Council's) commitment to good governance principles in relation to the employment and remuneration of the Chief Executive Officer (CEO).

The employment cycle of a CEO is a core responsibility of the elected Council. This policy outlines the mechanisms which will support the Council in fulfilling its obligations regarding CEO employment and remuneration.

This Policy has been prepared in accordance with section 45 of the *Local Government Act 2020*.

2. Policy statement

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 when relevant;

- 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.

3. Execution of this Policy

The aims of Council (including via the CEO Employment and Remuneration Committee) in relation to this Policy are to:

- a) Establish the CEO Employment Committee;
- b) Provide processes for the recruitment of a natural person, and their appointment, to the position of CEO;
- c) Draft and approve the Contract of Employment entered into between Council and the CEO;
- d) Seek and be guided by independent professional advice in relation to the matters dealt with in this Policy;
- e) Provide processes for determining and reviewing the CEO's Remuneration Package;
- f) Provide processes for the monitoring of the CEO's performance including setting the Performance Plan and conducting an annual review;
- g) Determine, as required, whether any variations to the Remuneration Package and terms and conditions of employment of the CEO; and
- h) Provide processes for the appointment of an Acting Chief Executive Officer when relevant

4. CEO Employment and Remuneration Committee

The establishment of the CEO Employment and Remuneration Committee will assist Council in fulfilling its obligations of this policy. For the purpose of this Policy, the CEO Employment and Remuneration Committee will be referred to as 'Committee'.

- a) Council will establish the Committee in accordance with section 45(2) of the Act.
- b) The Terms of Reference (ToR) for the Committee are set out in Appendix A to this policy.
- c) The Committee will be an advisory committee to Council.

- d) The purposes of the Committee are to consider, and make recommendations to Council with respect to, the:
 - i. appointment of the Independent Advisor;
 - ii. independent advice received from time to time from the Independent Advisor;
 - iii. performance monitoring of the CEO, including with respect to achievement of the KPIs;
 - iv. annual review of the CEO's performance, including against the KPIs;
 - v. CEO's remuneration;
 - vi. recruitment and appointment of a CEO, if required;
 - vii. provisions to be included in the Contract of Employment from time to time;
 - viii. appointment of an Acting CEO; and
 - ix. implementation of this Policy.
- e) The Committee must include at least the Mayor and two Councillors but can include all councillors.
- f) The Mayor will be responsible for initiating the convening of the Committee to perform the above functions.
- g) The Committee will provide a confidential report to Council following each meeting describing its activities and making recommendations about any action to be taken by Council.
- h) For the avoidance of doubt, nothing in this Policy requires Council to accept any or all of the Committee's recommendations.

5. **Independent advice**

- a) 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.
- b) The Independent Advisor will be appointed on the recommendation of the Committee following a process to seek experienced and suitably qualified persons but must not be the Executive Search Consultant appointed by Council to assist in the recruitment process. The General Manager Corporate will provide support to the committee in identifying an Independent Advisor. This is achieved through the provision of recommendations with the Council deciding by resolution on who will be the Independent Advisor.

- c) The Committee will ensure that the terms of the Independent Advisor's engagement has the inclusion to keep confidential all information which the Independent Advisor acquires by virtue of the engagement.
- d) The Committee will ensure that it utilises independent legal advice to prepare the CEO Contract of Employment.
- e) Council will determine the:
 - i. term of appointment of the Independent Advisor; and
 - ii. remuneration of the Independent Advisor,
- f) 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.
- g) The Independent Advisor Agreement will include:
 - i. remuneration of the Independent Advisor,
 - ii. 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.
 - iii. The Chairperson Fee will be paid immediately following the scheduled committee meetings and upon receipt of invoice.

6. Recruitment of CEO

- a) 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).
- b) The Committee will determine, and make a recommendation to Council, as to the Executive Search Consultant to be appointed to run the recruitment process.
- c) When the 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.
- d) When considering the recruitment of the position of CEO to, the Committee must:
 - i. ensure that the recruitment decision is based on merit;
 - ii. support transparency in the recruitment process and the public advertising of the position; and

- iii. ensure that regard is had to gender equity, diversity and inclusiveness.
- e) The Committee must ensure that the Executive Search Consultant publicly advertises the CEO role.
- f) The Committee must direct the Executive Search Consultant to prepare, and provide to Council, a schedule of dates for key decisions to be made by resolution of Council throughout the recruitment process.
- g) The Committee must provide a report and recommendation to Council so that each key decision identified in the schedule prepared under paragraph 5(f) can, if necessary, be made by resolution of Council.

7. Appointment of the CEO

- a) 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.
- b) The Committee will provide a recommendation to Council on the provisions to be contained in the proposed Contract of Employment.
- c) The appointment of the CEO must be made by a resolution of Council.

8. Appointment Timing

- a) In order to avoid significant disruption to Council services, instances where general elections and CEO appointments occur within six months of each other should be avoided, wherever possible. The appointment of an interim CEO may be appropriate in such circumstances.

In addition (where possible), Council should ensure that the expiry dates specified in the CEO employment contract are six months either side of the expected Council election period¹ where practicable.

9. Reappointment of the CEO

- a) Within 6 months prior to the expiry of the current CEO's Contract of Employment, the Committee will provide a recommendation to Council on:
 - i. whether the CEO should be reappointed under a new Contract of Employment; and

¹ NOTE: election period means the period that—
 (a) starts at the time that nominations close on nomination day; and
 (b) ends at 6 p.m. on election day;

- ii. if the recommendation is to reappoint the CEO, the proposed provisions of the further Contract of Employment.
- b) Any reappointment of the current CEO must be made by a resolution of Council.

10. Contract of Employment

- a) The 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).
- b) The Contract of Employment will, at a minimum, outline the following:
 - i. the employment term, which must not exceed 5 years in accordance with section 44(2) of the Act;
 - ii. the responsibilities and duties of the position, including compliance with the Act and the Code of Conduct for Council staff;
 - iii. how conflicts of interest will be managed;
 - iv. the CEO's Remuneration Package and other entitlements;
 - v. any legislative and contractual obligations, including those during and continuing after appointment;
 - vi. the CEO's leave entitlements;
 - vii. dispute resolution procedures;
 - viii. processes for managing unsatisfactory performance;
 - ix. processes for early termination, including notice of termination provisions with notice of termination by Council being restricted to a maximum of six [6] months; and
 - x. any other matters required to be contained in the Contract of Employment by the Regulations.
- c) 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.

11. Remuneration and Expenses

- a) 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):

- i. any statement of policy issued by the Government of Victoria which is in force with respect to its wages policy (or equivalent);² and
 - ii. any Public Sector Wages Determination.³
- b) Remuneration will be reviewed on an annual basis, in accordance with the CEO's Performance Plan and contractual requirements.
- c) Council will meet expenses incurred by the CEO in relation to:
 - i. membership and subscription fees payable to professional associations which are reasonably necessary in order to carry out duties;
 - ii. reasonable costs incurred where attending conferences, seminars or other networking functions; and
 - iii. reasonable costs incurred in performance of required duties.

12. Performance monitoring

- a) 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 at the time of the recruitment and laid out in the Contract of Employment. The Performance Plan and KPIs may reviewed and amended by the Council, in consultation with the CEO, from time to time.
- b) The CEO is to provide progress reports against the Performance Plan to the Committee on at least an annual basis.
- c) The Committee may meet with the CEO following each progress report to discuss the matters contained in the progress report.
- d) Following the initial 6 months of the CEO's term, a workshop with Councillors and the CEO should be coordinated so that:
 - i. 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;
 - ii. Councillors can provide feedback to the CEO on their perspective of the CEO's performance during the initial period; and

² 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>

³ 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>

- iii. Council and CEO can agree to projects and priorities for inclusion in the CEO's Performance Plan and KPIs.
- e) Nothing in this Policy prevents the Committee and/or Council from monitoring the CEO's performance on an ongoing basis.

13. Annual review

- a) 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:
 - i. whether, and to what extent, the CEO has met the KPIs under the Performance Plan;
 - ii. whether, and to what extent or in what respect, any KPIs or other criteria ought to be varied under the Performance Plan;
 - iii. whether, and to what extent, the Remuneration Package ought to be varied; and
 - iv. any other necessary matters.
- b) The Committee will submit the Annual Review Report to Council only after meeting with the CEO to discuss the Committee's proposed recommendations.
- c) Council shall, after receipt of the Annual Review Report, review the recommendations in the Annual Review Report, resolve upon the matters described in paragraph 13 (a) and advise the CEO of the terms or effect of the resolution.

14. Acting CEO

- a) 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.
- b) 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.
- c) The Committee may advise Council on the selection and appointment of an Acting CEO.

15. Administrative Support

- a) 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. The Manager Governance & Performance will facilitate the arrangement of this support.

- b) 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.

16. Interaction with Act and Regulations

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

17. Integrity of the process

- a) Failure to maintain and comply with this policy may constitute a breach of section 45 of the *Local Government Act 2020* and accordingly be subject to review by the Local Government Inspectorate.
- b) All information relating to the recruitment, selection and performance review process must be kept strictly confidential. Councillors and staff involved in the process must take all reasonable steps to maintain confidentiality and respect the privacy of all persons involved. A breach of confidentiality may constitute a breach of the Councillor Code of Conduct or Staff Code of Conduct.
- c) The Independent Chair of the Committee shall report on any non-compliance matters to the Council.

18. Confidentiality

- a) 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

- a) 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).
- b) 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).
- c) The Manager Governance & Performance can be delegated appropriate responsibilities and act as a resource for Council pertaining to the CEO recruitment. This provides for adequate separation of reporting lines and responsibilities.

20. Legislative requirements

This policy is made in accordance with section 45 of the Act.

21. Legislation and other references

a) Legislation

For further information related to this policy see:

- *Local Government Act 2020*

b) Documents

This policy is implemented in conjunction with the following documents:

- Terms of Reference – CEO Employment & Remuneration Committee
- CEO Contract of Employment, including requirements of the position
- CEO Performance assessment/KPIs
- CEO Employment process deployment flowchart – ProMapp

c) Risk assessment reference

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

Terms of Reference – CEO Employment and Remuneration Committee

1. Purpose

The CEO Remuneration & Employment Committee (Committee) is an advisory committee appointed, pursuant to the Local Government Act to assist Council in fulfilling its responsibilities relating to Chief Executive Officer (CEO) remuneration and employment.

2. Term

These Terms of Reference are effective as of 24 November 2021 and will be ongoing until otherwise modified and readopted by Council

3. Membership

The Committee will comprise of:

- Appointed Independent Person (Chair)
- A minimum of the Mayor, Deputy Mayor and two Councillors, with all Councillors able to form the committee
- Persons other than Councillors cannot be appointed to the Committee other than that of the Independent Advisor

4. Roles and Responsibilities

4.1 The purposes of the Committee are to consider, and make recommendations to Council with respect to, the:

- i) selection and appointment of the Independent Advisor;
- ii) independent advice received from time to time from the Independent Advisor;
- iii) performance monitoring of the CEO, including with respect to achievement of the Key Performance Indicators (KPIs);
- iv) annual review of the CEO's performance, including against the KPIs;
- v) CEO's remuneration;
- vi) recruitment and appointment of a CEO, if required;
- vii) provisions to be included in the Contract of Employment from time to time;
- viii) appointment of an Acting CEO; and
- ix) implementation of the CEO Employment & Remuneration Policy with administrative support of the Manager Governance & Performance.

4.2 The Committee is to hold meetings as often as is necessary to:

- i) prepare documentation relevant to the CEO's employment and remuneration, including Council reports and contractual documents, for the approval of Council;
- ii) conduct and maintain appropriate records regarding performance reviews of the CEO; and
- iii) review the Remuneration Package and conditions of employment of the CEO,

5. Meetings

5.1 All meetings will be chaired by the Independent Advisor when available.

5.2 The Mayor will chair any meeting where the Independent Advisor is not in attendance or required. Where the Mayor is not in attendance or available, the Deputy Mayor (or alternate nominated of the Committee) will Chair.

5.3 A meeting quorum stands at half, plus one of the Committee.

5.4 The Chair will confirm the procedures of the meetings at the first meeting (of the series/term), noting that will be conducted with as little formality and technicality as appropriate to fulfil the Committee's purposes.

5.5 Consideration will be given to the means of attendance at Committee meetings (eg in person or electronically);

5.6 Decisions on recommendations are made by consensus (i.e. members are satisfied with the decision even though it may not be their first choice). If not possible, the chair makes final decision on the recommendation. Keeping in mind that the final decision based on these recommendations are to be resolved with Council

5.7 Meeting agendas and minutes will be provided by the Independent Advisor, this includes:

- preparing agendas and supporting papers - at least seventy-two (72) hours in advance
- preparing meeting notes and information- distributed within three (3) working days
- drafting of the Annual Review Report and methodology for measurements to contribute to this review

5.8 The Committee will maintain the authority to convene additional meetings, as circumstances require.

5.9 Meetings will be treated as confidential and all Committee Members /support administration required to complete confidentiality agreements.

5.10 For the purpose of removing all doubt, all decisions including the rules for the meetings will be communicated and decided on through Council Meetings.

6. Independent Advice

6.1 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.

6.2 The Independent Advisor will be appointed on the recommendation of the Committee but must not be the Executive Search Consultant appointed by Council to assist in the recruitment process.

6.3 The Independent Advisor is to be appointed for a two year term with an option for a further two year term by mutual consent.

6.4 The Independent Advisor cannot be a Councillor or member of Council staff, unless the person is also the designated acting CEO and this person was not a member of Council staff immediately prior to their appointment.

6.5 The person must declare in writing to all Councillors that he or she will not be a candidate for the permanent CEO role at Council.

6.6 The General Manager Corporate will make a recommendation to Council on the appointment of an independent chairperson. The independent chairperson appointed by Council will be a neutral person with appropriate experience.

6.7 Council will resolve the appointment and term of the Independent Advisor.

6.8 An Independent Advisor Agreement will be in place as per stipulated with the policy

7. Administrative Support

7.1 Council acknowledges that 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.

7.2 The Committee recognise 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.

7.3 To avoid conflicts of interest, administrative support will be organised through the Manager Governance & Performance.

8. Amendment, Modification or Variation

This Terms of Reference may be amended, varied or modified in writing after consultation and resolution through Council Meeting.

9. Key Performance Indicators

The performance of the CEO Employment & Remuneration Committee will include the successful recruitment and retention of a CEO that best suits the needs of the council and community

End of Terms of Reference

Definitions within Policy and Terms of Reference:

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 13(a).

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 Mildura Rural City Council.

Councillors means the individuals holding the office of a member of Mildura Rural City Council.

Council meeting has the same meaning as in the Act.

Executive Search Consultant means a 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.