

8.7 APPOINTMENT OF INDEPENDENT HR ADVISOR

Author: Chief People and Culture Officer

Reviewed By: General Manager, Governance and Engagement

EXECUTIVE SUMMARY

At its meeting on 15 December 2021, the CEO Employment and Remuneration Policy was adopted by Council. This Policy aligns to the Local Government Act 2020 and requires that independent professional HR advice be made available. Through the report presented to Council at this meeting it was noted that implementation would require a process to appoint independent professional HR advice.

Previous requirement for advice has been minimal in recent times and has been secured for discreet pieces of support only. This report outlines an approach to appoint an independent HR advisor for a 12 month period to provide consistency and flexibility based on the CEO Employment Matters Committee requirements.

Following discussion and subsequent review of the quotations, the CEO Employment Matters Committee provided a recommendation to Council to appoint for a period of 12 months.

Officer Recommendation

That Council:

- (1) Note the recommendation of the CEO Employment Matters Committee to appoint to provide independent professional HR advice for the next 12 months, following a quotation process in accordance with Councils Social and Sustainable Procurement Policy.
- (2) Endorse the appointment of to provide independent professional HR advice for the next 12 months and delegate the General Manager Governance and Engagement to do all things necessary to confirm this appointment.

BACKGROUND / KEY INFORMATION

Council adopted the CEO Employment and Remuneration Policy at its meeting on 15 December 2021. The Policy (shown at **Appendix A**) was established to align with matters which Council is responsible for under the Local Government Act 2020 (the Act) relating to the employment and remuneration of the CEO. In accordance with the Act, Council is required to be provided access to independent professional advice in relation to the matters dealt within the Policy. Through the report presented to Council at this meeting it was noted that implementation would require a process to appoint independent professional HR advice.

The CEO Employment Matters Committee is an Advisory Committee appointed for the purpose of assisting Council in fulfilling its responsibilities relating to CEO employment matters.

Previous Council Resolution

At the Council meeting on 15 December 2021, it was resolved:

That Council:

- (1) *Note that the draft CEO Employment and Remuneration Policy was considered by the CEO Employment Matters Committee at its meeting on 8 December 2021 and is recommended to Council for adoption by the Committee.*
- (2) *Adopt the CEO Employment and Remuneration Policy in **Appendix A** to come into effect on 31 December 2021 in accordance with the Local Government Act 2020, with the following change:*

Page 1. Under 'Definitions and Abbreviations' in the Independent Chair' section insert after 'Committee and' the following words "in collaboration with the Committee"

ALIGNMENT TO 2041 DAREBIN COMMUNITY VISION

Strategic Direction 1: Vibrant, Respectful and Connected

Strategic Direction 2: Prosperous, Liveable and Flourishing

Strategic Direction 3: Climate, Green and Sustainable

ALIGNMENT TO 2021-25 COUNCIL PLAN

Strategic Direction 4 Responsible, Transparent and Responsive

ALIGNMENT TO COUNCIL PLAN STRATEGIC OBJECTIVES

4.3 We will transform our services and service delivery models to ensure they meet the current, emerging and future needs of our community

DISCUSSION

Previous requirement for independent professional HR advice has been minimal in recent times and has been secured for discreet pieces of support only. This report outlines an approach to appoint an independent HR advisor for a 12 month period to provide consistency and flexibility based on the CEO Employment Matters Committee requirements and in accordance with the CEO Employment and Remuneration Policy adopted on 15 December 2021.

At its meeting on 24 January 2022, the CEO Employment Matters Committee considered the appointment of independent professional HR advice in accordance with the CEO Employment and Remuneration Policy and the Local Government Act 2020.

Three quotes were sought and received from:

- McArthur (**Confidential Appendix B**)
- SAL Resources and Management Consultants (**Confidential Appendix B**)
- CogNative Solutions (**Confidential Appendix B**)

Following discussion and subsequent review of the quotations, the CEO Employment Matters Committee provided a recommendation to Council to appoint for a period of 12 months.

In making the recommendation to appoint, the Committee considered the ability of each provider to deliver requirements of independent advice, including:

- Attendance at CEO Employment and Remuneration Committee meetings
- Guidance on contractual matters
- Facilitation of the annual performance review of the CEO

Also considered was the flexibility to meet Committee needs, quality of service offering and cost.

CONSIDERATION OF LOCAL GOVERNMENT ACT (2020) PRINCIPLES

Financial Management

The budget associated with this appointment is provided for in the operational budget.

Community Engagement

Community engagement is not required for this decision.

Other Principles for consideration

Overarching Governance Principles and Supporting Principles

- (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;

Public Transparency Principles

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;

Strategic Planning Principles

- (a) an integrated approach to planning, monitoring and performance reporting is to be adopted;

Service Performance Principles

- (a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;

COUNCIL POLICY CONSIDERATIONS

Environmental Sustainability Considerations (including Climate Emergency)

There are no considerations relevant to this decision.

Equity, Inclusion, Wellbeing and Human Rights Considerations:

There are no considerations relevant to this decision.

Economic Development and Cultural Considerations

There are limitations in local availability of providers to provide these services to Council.

Operational Impacts

The coordination of the independent advice will be supported by the Chief People and Culture Officer and the General Manager Governance and Engagement.

Legal and Risk Implications

In accordance with the Local Government Act 2020, the CEO Employment and Remuneration Policy provides for Council to obtain independent professional advice in relation to the matters dealt with in the Chief Executive Officer Employment and Remuneration Policy.

RELATED DOCUMENTS

Local Government Act 2020

CEO Employment and Remuneration Policy

Attachments

- CEO Employment and Remuneration Policy (adopted 15 December 2021) (**Appendix A**)
- Confidential - Quotations Received (**Appendix B**) Confidential - enclosed under separate cover

DISCLOSURE OF INTEREST

Section 130 of the *Local Government Act 2020* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of interest in a matter to which the advice relates.

The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no other disclosable interests have been raised in relation to this report.

The Chief Executive Officer Sue Wilkinson has declared a conflict of interest in this report as she has a direct interest in this matter. Ms Wilkinson has not been a decision maker in the process or reviewer of this report.



CEO Employment and Remuneration Policy

<p>Purpose</p>	<p>This policy sets out the way in which Council will manage the recruitment and appointment of its Chief Executive Officer, providing principles for meeting the requirements of Section 45 of the <i>Local Government Act 2020 (The Act)</i>.</p> <p>This policy must have regard to the State Government's wages policy and any recent or relevant Victorian <i>Independent Remuneration Tribunal Determination</i>.¹ ²</p>
<p>Scope</p>	<p>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.</p> <p>This policy sets out the framework and process for managing CEO employment matters, including employment, remuneration and review.</p> <p>In the event of any inconsistency between this policy and the CEO's Contract of Employment, subject to the Act, the provisions of the Contract of Employment shall prevail to the extent of the inconsistency.</p>
<p>Definitions and Abbreviations</p>	<p>Act - Local Government Act 2020.</p> <p>Chief Executive Officer (CEO) - Person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office.</p> <p>Committee - CEO Employment Matters Committee, an advisory Committee to Council.</p> <p>Council - Darebin City Council, being a body corporate constituted as a municipal Council under the Local Government Act 1989 and the Local Government Act 2020.</p> <p>Councillors - Individuals holding the office of a member of Darebin City Council</p> <p>Independent Chair - The independent chairperson will provide advice to the CEO Employment Matters Committee and in collaboration with the Committee, annually develop the draft performance criteria and performance review methodology for consideration by the Committee and Council.</p>
<p>Policy Statements</p>	<p>This policy has been developed to support the requirements of the Local Government Act 2020 relating to CEO employment and remuneration.</p> <p>The Policy has been developed in accordance with the requirements of section 45 of the Local Government Act 2020 (The Act) and provides guidance on management of CEO employment, including:</p> <ul style="list-style-type: none"> • Recruitment • Contract of employment

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>

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-vos-executive-remuneration-bands>

	<ul style="list-style-type: none"> • Remuneration • Setting annual performance objectives and measures • Managing performance and performance reviews • Other terms and conditions of employment, including an requirements prescribed in Regulations <p>Principles</p> <p>Council will carry out its functions relating to the selection, appointment remuneration and performance review of the CEO in accordance with the following principles:</p> <ul style="list-style-type: none"> • decision-making processes are fair, accessible and applied consistently; • decision-making criteria are relevant, objective and available to the CEO; • documentation is sufficiently clear and comprehensive to render decision: transparent and capable of effective review; • employment decisions are based on the proper assessment of the CEO' work-related qualities, abilities and potential against the genuine requirements of the role; and • decisions to appoint a new CEO that are based on competitive selection transparent processes and objective criteria.
Mandatory Contract Terms	<p>The mandatory contractual terms and conditions for the Chief Executive are:</p> <ul style="list-style-type: none"> • A contract of employment is to be offered for a period of up to five years; • A CEO is eligible to be reappointed under a new contract of employment; • If there is a vacancy in the office of the CEO or the CEO is unable to perform the duties of the office of the CEO, the Council must appoint a person to be the Acting CEO if it is for more than 28 days. • The total remuneration package (TRP) includes salary, superannuation, the cost of a motor vehicle to an employer and the cost of other employer benefits and associated fringe benefits tax, but excludes general business expenses such as laptop computers, mobile phones or study leave; • Superannuation (and the TRP) will increase if the charge percentage increases under superannuation guarantee legislation, in accordance with the VIRT Guidance that employers should bear the cost of increases to superannuation liabilities and the recent VIRT determination); and • Termination of contract provisions – the employer may terminate a contract by providing the executive with six months' notice in writing.
Mandatory Policy Criteria	<p>Section 45(2, a) of the Act requires the policy to provide for the Council to obtain professional advice in relation to the matters dealt with in the Chief Executive Officer Employment and Remuneration Policy.</p> <p>At Darebin, the responsibility for assisting the Council with its obligations regarding CEO employment, performance and remuneration matters shall be delivered through the establishment of a CEO Employment Matters Committee.</p> <p>Independent Professional Advice</p> <p>The CEO Employment Matters Committee (the Committee) may obtain independent advice in relation to any matters dealt with in the CEO Employment and Remuneration policy, including but not limited to, CEO performance review and CEO recruitment.</p> <p>CEO Performance Review</p> <p>An independent consultant will be appointed by the officers supporting the Committee to assist with the CEO's annual review process. The consultant will support the Committee with assessing the performance of the CEO against the current annual objectives, and the development of new objectives for the following performance year. If required, the consultant shall provide briefings to Councillors.</p>

	<p>Annual reviews will include the opportunity to provide the CEO with performance related feedback in person and input into the CEO's development plan. The CEO will also provide feedback on Council through a review process facilitated by the independent Chair in conjunction with the independent consultant.</p> <p>The performance review will be completed annually to coincide with the anniversary of the CEO's commencement date, unless an alternative date is agreed (in order to align to annual delivery requirements).</p> <p>An informal performance review will be conducted within 6 months of the formal annual review each year thereafter. The informal review will provide the CEO with feedback and the opportunity to adjust any of the objectives set in the formal performance review if required. The independent consultant will be available to provide support for this review at the request of the Committee.</p> <p>Outcomes of the performance review and future performance plans and KPI's will be recommended to Council through a confidential report and formal resolution.</p> <p>CEO Remuneration</p> <p>Following the annual formal performance review of the CEO the independent consultant will support the Committee to review the remuneration of the CEO.</p> <p>In determining the CEO's Total Remuneration Package, on appointment and in subsequent reviews, the Council must have regard to:</p> <ul style="list-style-type: none"> • Any statement of policy issued by Government of Victoria which is in force with respect to its wages policy (or equivalent) • Any Determination that is currently in effect under section 21 of the <i>Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019</i> relating to remuneration bands for executive employees employed in public service bodies <p>The Committee will make a recommendation to Council through a confidential report and formal resolution.</p> <p>CEO Recruitment</p> <p>Council will appoint a specialist recruitment consultant to manage the end to end process of CEO recruitment. This will include;</p> <ul style="list-style-type: none"> • Taking a brief from the Council on the role and the ideal candidate; • Preparing a detailed schedule outlining the recruitment process; • Developing an advertising strategy to attract suitable candidates; • Assisting the Council to conduct interviews to determine a shortlist of candidates; • Conducting the relevant psychometrics to be applied to the recruitment • Conducting reference checks on the preferred candidate; • Performing probity checks on the preferred candidate; • Working with the Manager People & Culture to issue the contract of employment for the new CEO; • Working with the General Manager Governance and Engagement and the Manager People and Culture to induct the new CEO. <p>Council must resolve to execute the contract of employment.</p> <p>Appointment of a recruitment consultant, appointment of an acting CEO in excess of 28 days, re-appointment or appointment of a substantive CEO will be recommended to Council through a confidential report and formal resolution.</p> <p>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).</p>
--	--

	<p>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).</p> <p>A Council resolution is required for the appointment of the CEO, the reappointment of the current CEO or any variation to the contract of employment.</p> <p>CEO Expenses</p> <p>The Chief Executive Officer will be provided with a Corporate Card to use. Corporate card expenditure will be reviewed and approved by the Chief Financial Officer, in conjunction with the General Manager Governance & Engagement for payment purposes. The independent Audit & Risk Committee will receive twice annual reporting on all CEO corporate card transactions for oversight.</p> <p>Council will receive a report on credit card transactions and any claim for reimbursements for approval twice annually. Credit card transactions not approved by Council will be reimbursed by the CEO to Council.</p> <p>Council will meet expenses incurred by the CEO including:</p> <ul style="list-style-type: none"> • Membership and subscription fees payable to professional association which are necessary or desirable in performance of duties; • Reasonable costs incurred where attending conferences, seminars or undertaking professional development activities; and • Reasonable costs incurred in performance of duties. <p>Contract Expiry</p> <p>The Committee must make recommendations to Council six months prior to the expiry of the CEO contract and with regards to current legislation to:</p> <ul style="list-style-type: none"> • reappoint the CEO; and/or • advertise for recruitment the role of CEO. <p>Such recommendations will be made through a confidential report to Council with a resolution outlining the recommended course of action.</p>
<p>Responsibilities</p>	<p>How is Council responsible for the success of the policy?</p> <p>The Council is responsible for the success of the policy by:</p> <ul style="list-style-type: none"> • The recruitment, appointment, reappointment and management of the CEO including an Acting CEO, where required • Appointing the members of the Committee – including the Mayor, Deputy Mayor and some or all of the Councillors • Appointing the Independent member(s) of the Committee • Appointing independent consultants when required • Adopting, overseeing and monitoring the implementation of this Policy • Undertaking a review of the Policy within six (6) months of each Council election. <p>The Council must also have regard to:</p> <ul style="list-style-type: none"> • any statement of policy issued by the Government of Victoria which is in force with respect to its wages policy (or equivalent); and • any determination that is currently in effect under section 21 of the <i>Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019</i> in relation to remuneration bands for executives employed in public service bodies, in the implementation of the

	<p>Policy.</p> <p>Councillors must also have regard to the Councillor Code of Conduct (January 2021), specifically:</p> <ul style="list-style-type: none"> - Section 3 Roles and Responsibilities - Section 4 Standards of Conduct - Section 5 Working Together <p>How is the Audit & Risk Committee responsible for the success of the policy?</p> <p>The Audit and Risk Committee is responsible for the success of the policy by:</p> <ul style="list-style-type: none"> • Overseeing adherence to the CEO Employment and Remuneration Policy • Overseeing adherence to the Credit Card Policy for expenses incurred by the CEO. <p>How is the Chief Executive Officer responsible for the success of the policy?</p> <p>The Chief Executive Officer is responsible for the success of the policy by:</p> <ul style="list-style-type: none"> • Providing secretariat support independent of influence to support the Committee in its functions <p>How are the General Manager Governance and Engagement and the Manager People & Culture responsible for the success of the policy?</p> <p>The General Manager Governance and Engagement and Manager People & Culture is responsible for the success of the policy by:</p> <ul style="list-style-type: none"> • Providing secretariat and logistical functions to Council which facilitate the reports and documentation required under this policy. <p>The GM Governance & Engagement will:</p> <ul style="list-style-type: none"> • Lead the relationship with the Committee Independent Chair • Coordinate the calling of the CEO Employment Matters Committee • Act as Secretariat for the Committee (primary) • Council Reporting on performance and contract reviews. <p>The Manager People & Culture</p> <ul style="list-style-type: none"> • Supports the Committee Independent Chair as required • Act as Secretariat for the Committee (secondary) • Supports the preparation of Council Reports relating to performance and contract reviews and assists in presenting as required • Prepares the Committee meeting agenda • Support professional development opportunities for the CEO. <p>How is the CEO Employment Matters Committee responsible for the success of the policy?</p> <p>The CEO Employment Matters Committee is responsible for the success of the policy by undertaking the responsibilities of the Committee as set out in this Policy, the Committee Charter and the Act, including:</p> <ul style="list-style-type: none"> • Developing and recommending performance criteria and undertaking; • the annual review of the CEO • Identifying and recommending appropriate development opportunities for
--	--

	<p>the CEO</p> <ul style="list-style-type: none"> • Making recommendations on the CEO's Total Remuneration Package and remuneration reviews • Advising of conflicts of interest • Performing any other prescribed functions or responsibilities stipulated under the Local Government Act 2020 or Regulations. • Adhering to the principles of this policy, and any other relevant Council policy <p>How is the Independent Chair responsible for the success of the policy?</p> <ul style="list-style-type: none"> • Attending meetings of the Committee • Assisting in developing performance criteria and undertaking the annual review of the CEO • Performing other functions as required in supporting the CEO's performance reviews and performance development, providing advice on appropriate development opportunities for the CEO • Providing independent advice on the CEO's Total Remuneration Package and remuneration reviews • Ensuring that the Committee adheres to the principles of this policy, and any other relevant Council policy • Advising of any conflict of interest <p>How is the Independent advisor responsible for the success of the policy?</p> <ul style="list-style-type: none"> • Provide independent professional advice in relation to the matters dealt with in the Chief Executive Officer Employment and Remuneration Policy, and providing independent advice and services towards which may be one or more of the below actions: <ul style="list-style-type: none"> ○ the recruitment and appointment process ○ provisions to be included in the contract of employment ○ performance monitoring ○ annual review <p>Integrity of the Processes</p> <p>All information relating to the recruitment, selection and review processes must be kept confidential. Councillors, independent chair and advisors, and staff involved in the processes must take all reasonable steps to maintain confidentiality and respect the privacy of all persons involved.</p> <p>Any breaches of confidentiality may constitute a breach of the Councillor or Employee Code of Conduct.</p> <p>Reporting</p> <p>Disclosure of the CEO's Total Remuneration Package will only be by way of information included in Council's Annual Report and in accordance with any other legislative requirements.</p>
Breach of Policy	Breaches of policies are treated seriously. Any concerns about non-compliance should be reported immediately to the owner of this policy.

GOVERNANCE

Parent Strategy/ Plan	Council Plan
------------------------------	--------------

Supporting Procedures and Guidelines	This policy is enabled and supported by: <ul style="list-style-type: none"> • Victorian Independent Remuneration Tribunal (VIRT) Determination • CEO Employment Matters Committee Charter • CEO Performance Plan • Councillor Code of Conduct 2021
Legislation/ Regulation	Local Government Act 2020 Local Government Planning and Reporting Regulations Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019
Author	Manager, People and Culture
Policy Owner/ Sponsor	General Manager, Governance and Engagement
Date Effective	31 December 2021
Review Date	December 2024; and this policy shall thereafter be reviewed, in consultation with the CEO Employment Matters Committee, after each election
Version Number	1.0
Document ID	A6255519
Content enquiries	Manager, People and Culture