



# Chief Executive Officer Employment and Remuneration Policy

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# 1 Purpose and Scope

This is the Chief Executive Officer Employment and Remuneration Policy (**Policy**) of East Gippsland Shire Council (**Council**), made in accordance with section 45 of the *Local Government Act 2020* (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 Officer (**CEO**) 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 CEO;
- (c) the appointment of an Acting CEO in accordance with section 11(3) of the Act;
- (d) the provision of independent professional advice in relation to the matters dealt with in the Policy;
- (e) the monitoring of the CEO's performance;
- (f) an annual review of the CEO's performance; and
- (g) determining the CEO's remuneration.

## 2 Policy Context

Under the provisions of the Act, Council is responsible for the appointment of the CEO (section 44(1) of the Act) and at least once each year a Council must review the performance of its CEO (section 45(2)(b)(iv) of the Act).

Council is also responsible for determining the remuneration of the CEO.

This Policy has been developed to support the requirements of the Act (section 45) through the establishment of an advisory committee known as the CEO Employment and Remuneration Committee (**Committee**). The Committee will assist Council to fulfil its responsibilities relating to CEO employment, performance and remuneration matters.

## 3 Policy Statement

This Policy outlines the mechanisms which support Council in fulfilling its obligations regarding the CEO's employment and under the Act.

The aims of the CEO in relation to this Policy are to:

- work collaboratively with the Committee in determining the Performance Plan on an annual basis;
- actively participate in the performance appraisal process as required by the Committee;
- make use of constructive feedback from Councillors and Committee Members in relation to performance appraisals;
- undertake professional development on an as needed basis, and/or as part of the Performance Plan; and
- 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.

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

- establish the Committee;
- provide processes for the recruitment of a natural person, and their appointment, to the position of CEO;
- draft and approve the Contract of Employment entered into between Council and the CEO;
- seek and be guided by independent professional advice (Independent Member) in relation to the matters dealt with in this Policy;
- provide processes for determining and reviewing the Remuneration Package;
- provide processes for the monitoring of the CEO's performance including setting the Performance Plan and conducting an annual review;
- determine, as required, any variations to the Remuneration Package and terms and conditions of employment of the CEO; and
- provide processes for the appointment of an Acting CEO.

### 3.1 CEO Employment and Remuneration Committee

Council will maintain a CEO Employment and Remuneration Committee (**Committee**) for the purposes of this Policy.

The Committee will be an advisory committee to Council.

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

- selection and appointment of the Independent Member;
- independent advice received from the Independent Member;
- performance monitoring of the CEO, including with respect to achievement of the KPIs;
- annual review of the CEO's performance, including against the KPIs;
- CEO's remuneration;
- recruitment and appointment (or reappointment) of a CEO, if required;

- provisions to be included in the Contract of Employment from time to time;
- appointment of an Acting CEO as per section 11(3) of the Act; and
- implementation of this Policy.

The Committee will consist of the Mayor, Deputy Mayor, two Councillors and an Independent Member appointed by Council.

The Independent Member will chair all meetings of the Committee; during the period in which there is no Independent Member, the Mayor will chair the meeting.

A quorum will be achieved when three (3) people including the Mayor or deputy Mayor and at least two other members of the Committee are in attendance.

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

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

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

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.

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

- 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;
- how often the Committee will meet, provided that the Committee meets at least twice in each year;
- means of attendance at Committee meetings (eg in person or electronically); and
- the taking of the minutes of the Committee meetings,

and will communicate the procedures to Council.

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

### **3.2 Recruitment of CEO**

#### **Where Council makes the decision to go to or test the market for a CEO**

The Committee will establish and lead 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).

The Committee shall, in accordance with Council's Procurement Policy and Procedures, seek and appoint an independent Executive Search Consultant/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 the administration of the process.

If an Executive Search Consultant/Provider 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/Provider in connection with the recruitment process.

The Committee shall, in conjunction with the Executive Search Consultant/Provider engage, develop and agree upon:

- a search and selection process and timeframe
- setting the Remuneration Package 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

When considering the recruitment of the position of CEO, the Committee shall, in conjunction with the Executive Search Consultant/Provider:

- ensure that the recruitment decision is based on merit;
- support transparency in the recruitment process and the public advertising of the position;
- ensure that regard is had to gender equity, diversity and inclusiveness;
- ensure that the CEO role is publicly advertised;
- oversee the development of the candidate pool by the Executive Search Consultant/Provider, providing feedback on the quality and diversity of candidates being identified;
- review the Executive Search Consultant/Provider report on the final candidate pool and determine which candidates will be long-listed for consideration by the Consultant/Provider and/or the Committee; and
- prepare a report for Council on all applications received and recommend the candidates that should be short-listed for interview by the full Council. All Councillors will be provided with the opportunity to be part of the interview process.

The Executive Search Consultant/Provider will prepare, and provide to Council, a schedule of dates for key decisions to be made by Resolution throughout the recruitment process.

The Committee must provide a report and recommendation to Council so that each key decision identified in the schedule of dates for key decisions identified above can, if necessary, be made by Resolution of Council.

### **3.3 Appointment of CEO**

The Council's role is to appoint the CEO, on the advice of the Committee.

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.

Once the preferred candidate is determined by the full Council, with the support of the Executive Search Consultant/Provider, the Committee will provide a recommendation to Council on the provisions to be contained in the proposed Contract of Employment.

The appointment of the CEO must be made by a Resolution.

The Committee shall then:

- ensure, through the Executive Search Consultant/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.

### **3.4 Reappointment of CEO**

Any reappointment of the current CEO must be made by Resolution.

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.

#### **Where the reappointment of the current CEO is under consideration:**

3.4.1 subject to paragraph 3.4.3, at least nine months prior to the expiration of the period of employment, Council and the CEO will confer about whether the CEO shall be reappointed for a further period and, if so, on what terms;

3.4.2 subject to paragraph 3.4.3, 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

3.4.3 where the Contract of Employment is 12 months or less, the period of months referred to in paragraph 3.4.1 shall be three months and the period of months referred to in paragraph 3.4.2 shall be two months.

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 reappointment 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.

### **3.5 Contract of Employment**

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).

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;
- how conflicts of interest will be managed;
- the CEO's Remuneration Package and other entitlements;
- legislative and contractual obligations, including those during and continuing after appointment;

- the CEO's leave entitlements;
- processes for managing unsatisfactory performance;
- processes for early termination, including notice of termination (or payment in lieu) provisions; and
- any other matters required to be contained in the Contract of Employment by the Regulations.

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.

### 3.6 Remuneration and Expenses

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):

- any statement of policy issued by the Government of Victoria which is in force with respect to its wages policy (or equivalent);<sup>1</sup> and
- any Public Sector Wages Determination.<sup>2</sup>

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

Council will meet expenses incurred by the CEO in relation to:

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

### 3.7 Performance monitoring

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 and accepted by a Resolution.

To assist Council to fulfil its obligations in this respect, each year the Committee will develop a framework for Council's consideration through which the CEO's performance and Remuneration Package will be reviewed. As a minimum, the framework will provide for the following:

- in consultation with the CEO, identify and agree on performance criteria that will be used to measure the CEO's performance for the next 12-month financial year period;

<sup>1</sup> 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>

<sup>2</sup> 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>



- in consultation with the CEO, determine a personal and professional development plan (if required) for the CEO for the next 12-month financial year period;
- review of the CEO's performance against the performance criteria;
- review of the CEO's Remuneration Package as a component of the annual review, having regard to paragraph 3.6 above, expert advice on remuneration benchmarks from a recognised recruitment consultant and the provisions of the CEO's Contract of Employment;
- an annual report (see paragraph 3.8 below referring to the Annual Review Report) to Council on the CEO's performance review to determine outcomes of the review process in relation to:
  - the CEO's performance against the performance criteria;
  - the performance criteria for the next 12-month financial year review period; and
  - whether the Remuneration Package should be varied.

The framework will also observe the following principles:

- the CEO is aware of the performance review process to be undertaken;
- the CEO has an opportunity to submit a self-assessment performance report and to present that report to both the Committee and the full Councillor group;
- all Councillors are invited to provide feedback to the Committee in respect of the CEO's performance as measured against the performance criteria approved by Council;
- the CEO is provided with timely feedback on the outcomes of the Committee's review of his/her performance.

The CEO is to provide progress reports against the Performance Plan to the Committee on a quarterly basis.

The Committee may meet with the CEO following each progress report to discuss the matters contained in the progress report.

Following the initial 4 to 6 months of the CEO's term, a workshop with Councillors and the CEO should be arranged so that:

- 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;
- 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
- Council and the CEO can consider projects and priorities for inclusion in the CEO's Performance Plan and KPIs.

Nothing in this Policy prevents the Committee and/or Council from monitoring the CEO's performance on an ongoing basis.

### 3.8 Annual review

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:

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

The Committee will submit the Annual Review Report to Council only after meeting with the CEO to discuss the Committee's proposed recommendations.

The CEO may request the opportunity to address Council as part of this process.

Council shall, after receipt of the Annual Review Report, review the recommendations in the Annual Review Report, resolve upon the matters described in paragraph 3.8 and advise the CEO of the terms or effect of the Resolution.

### 3.9 Acting CEO

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 calendar days.

The appointment of the Acting CEO must be made by a Resolution unless the Acting CEO is appointed for a period not exceeding 28 calendar days, in which case the CEO may appoint an Acting CEO under delegation from Council pursuant to section 11(3) of the Act.

Where applicable, the Committee may advise Council on the selection and appointment of an Acting CEO.

### 3.10 Independent advice

The Independent Member 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.

The Independent Member 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/Provider appointed by Council to assist in the recruitment process.

The term of appointment will be two years, with the option of a further two, one-year terms or one, two-year term extension at the discretion of the Council.

Duties of the Independent Member include:

- actively participate in the Committee's annual review of the CEO's performance and development of a draft performance plan for the next 12-month period for consideration by Council; and
- provide advice and guidance to the Committee on any matter pertaining to the CEO's employment with Council.

The role of Independent Member will be remunerated as follows:

- (1) a sitting fee per meeting, together with reimbursement of travel costs (where applicable) in line with the ATO amount, will be paid to the independent member. The fee to be paid has regard for the specific roles and responsibilities of the Independent Member as set out in this policy;
- (2) the fee will be paid to the Independent Member immediately following his/her attendance at each of the four scheduled committee meetings; and
- (3) an additional fee will be paid to the Independent Member for every meeting of the Committee attended over and above the four meetings required each year.

Council will ensure that it is a term of the Independent Member's engagement that the Independent Member keep confidential all information which the Independent Member acquires by virtue of the engagement.

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.

### **3.11 Dispute resolution**

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:

- give written notice to each other of the particulars of any matter in dispute, and
- within 14 days of receiving a notice specified above, a meeting will be convened between the Committee and the CEO in an attempt to resolve the dispute.

The independent member of the Committee will be responsible to organise the meeting between the Committee and the CEO and will also act as the chairperson of the convened meeting.

If the dispute is not resolved, Council (in consultation with the CEO and on the recommendation of the Committee) will either, within 14 days:

- refer the dispute to an independent mediator (as agreed by the CEO and Committee, or if they cannot agree a mediator appointed by the Executive Director of Local Government Victoria) and the Committee agree to participate in any mediation process in good faith with the Mayor and other Committee members as required in attendance on behalf of Council; or
- nominate one or more external persons for the purpose of conducting further investigation and discussion and making a recommendation to Council (in consultation with the CEO). Persons nominated for this purpose will have had no prior involvement in the dispute.

The independent member of the Committee will facilitate the dispute resolution process on behalf of the Committee.

The cost of any mediation or investigation will be met by Council.

Having regard to any proposed outcome from any mediation or the recommendation made in accordance with the above paragraphs, Council will make a final decision regarding the dispute which shall be binding on the parties.

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.

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.

Neither the Committee nor the Mayor can make any binding decision under any dispute resolution process, without a Council Resolution.

### 3.12 Administrative Support

Council acknowledges that, in implementing this Policy, it, the Committee and/or the Independent Member 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.

Council, the Committee and/or the Independent Member 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.

### 3.13 Interaction with Act and Regulations

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

### 3.14 Confidential Information

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

**Confidential information** has the meaning as provided in the Definitions section of this policy.

### 3.15 Delegations

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).

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).

### 3.16 Review of Policy

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

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.

## 4 Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
<b>Chief Executive Officer</b>	Responsible for ensuring the Committee is provided with: <ul style="list-style-type: none"><li>• information and any necessary training for Committee members in relation to their responsibilities under the Act and this Policy;</li><li>• independent advice in respect of matters before the CEO Employment and Remuneration Committee; and</li><li>• administration and logistical support.</li></ul>
<b>General Manager Business Excellence</b>	Responsible for ensuring compliance with the requirements of this Policy.  Required to review and update the Policy as required through the passing of time, changing circumstances or amendments to the Act or its successor legislation.
<b>Manager People and Capability</b>	Assist the Committee to discharge its responsibilities, as set out in this Policy.

## 5 References and Supporting Documents

CEO's Contract of Employment  
East Gippsland Shire Council Procurement Policy  
The Act and any successor Act  
Victorian Government Public Entity Executive Remuneration Policy

## 6 Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with any matter pertaining to the CEO's employment will be handled in accordance with all applicable privacy legislation and will be used only to assist Council to manage the recruitment, performance management and remuneration of the CEO.

The policy has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

## 7 Definitions

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

Term	Meaning / Responsibility
<b>Act</b>	<i>Local Government Act 2020.</i>
<b>Annual Review Report</b>	Has the meaning given clause 3.8.
<b>Chief Executive Officer or CEO</b>	Person appointed Chief Executive Officer of East Gippsland Shire Council.
<b>Committee</b>	The Chief Executive Officer Employment and Remuneration Committee established under this Policy.
<b>Confidential Information</b>	Confidential information has the meaning as provided by the <i>Local Government Act 2020</i> (section 3(1) <b>confidential information</b> (a), (f) and (h) and at section 66(2)(a) and section 66(5)).
<b>Contract of Employment</b>	The contract of employment between Council and the CEO, including any schedules.
<b>Council</b>	East Gippsland Shire Council.
<b>Councillors</b>	The individual holding the office of a member of East Gippsland Shire Council.
<b>Council meeting</b>	Has the same meaning as in the Act.
<b>Executive Search Consultant/Provider</b>	An independent consultant with specialist expertise in sourcing and evaluating candidates for senior executive roles.
<b>Independent member</b>	The consultant appointed by Council from time to time to provide independent advice in accordance with section 45(2)(a) of the Act.
<b>KPIs</b>	Key Performance Indicators or performance criteria however described.
<b>Mayor</b>	A Councillor elected by Council to perform the role of Mayor as defined in the Act.
<b>Performance Plan</b>	The annual performance plan setting out KPIs for the CEO.
<b>Policy</b>	This Chief Executive Officer Employment and Remuneration Policy adopted in accordance with section 45 of the Act.
<b>Public Sector Wages Determination</b>	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.
<b>Recruitment Policy</b>	The Recruitment Policy adopted by the CEO under section 48(2) of the Act.
<b>Regulations</b>	The Regulations made under Division 7 of Part 2 of the Act.
<b>Remuneration Package</b>	The total gross remuneration package paid to the CEO pursuant to the Contract of Employment.
<b>Resolution</b>	A resolution of Council made at a properly constituted Council meeting.

## 8 Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
DRAFT		July 2019	Director Corporate		
Final Draft		August 2019	Committee		Minor changes as per Committee discussion for finalisation and presentation to Council
1	Approved	10/09/2019	Council	8217685	
2	Approved	20/10/2020	GM Business Excellence	8706359	Administrative change 'Immediate Past Mayor' to 'Deputy Mayor',
3	Approved	16/11/2021	Council	9270651	Updated to reflect changes from <i>Local Government Act 1989</i> to <i>Local Government Act 2020</i> and insertion of the appropriate clauses
4	Approved	20/09/2022	Council	9659295	Updated to incorporate best practice recommendations