



Chief Executive Officer Employment Matters Advisory Committee

Terms of Reference

Version 4

Adopted at 28 April 2021 Council Meeting

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1. Establishment of the Committee

The Chief Executive Officer Employment Matters Advisory Committee (Committee), is an Advisory Committee of the Colac Otway Shire Council for the purposes of the *Local Government Act 2020* (Act).

The membership of this Committee and these Terms of Reference will be adopted by resolution of the Colac Otway Shire Council at an Ordinary Council Meeting.

2. Objectives

The Committee's role is to report to the Council and provide recommendations, appropriate advice, information and feedback on matters relevant to these Terms of Reference in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.

The Committee is an Advisory Committee only and has no delegated authority to make decisions binding Council.

2.1. The Committee is established to:

- 2.1.1. Assist the Council in fulfilling its responsibilities concerning Chief Executive Officer employment matters, being:
 - 2.1.1.1. The recruitment and appointment of the Chief Executive Officer.
 - 2.1.1.2. Determining the Chief Executive Officer's Performance Plan (Plan).
 - 2.1.1.3. Assessing the Chief Executive Officer's performance against set criteria in the Plan.
 - 2.1.1.4. Determining the remuneration of the Chief Executive Officer.

2.2. The Committee will carry out the following in order to achieve the objectives set:

- 2.2.1. Conduct the process to appoint the CEO with the assistance of a suitably qualified independent person (Independent Person). The Independent Person will be appointed as follows:
 - 2.2.1.1. A number of prospective Independent Persons will be recommended by the Manager People and Culture to the Committee;
 - 2.2.1.2. Each Independent Person recommended by the Manager People and Culture will be a neutral person with appropriate experience and not a Councillor or member of Council staff;
 - 2.2.1.3. The Committee will consider the recommendations made by the Manager People and Culture and make a recommendation to Council for appointment; and
 - 2.2.1.4. Council will consider the Committee's recommendation and resolve to appoint an Independent Person to assist the Committee.
- 2.2.2. Provide a recommendation to Council on the remuneration and conditions of appointment of the CEO;
- 2.2.3. Provide a recommendation on any extension of the appointment of the CEO;
- 2.2.4. Conduct the process for the CEO's regular performance reviews as follows:
 - 2.2.4.1. Engage in and undertake a developmental process to determine, in conjunction with the CEO, relevant Key Performance criteria for the CEO;

- 2.2.4.2. Make recommendations to Council for the adoption of appropriate Key Performance criteria;
- 2.2.4.3. Undertake the formal review process of the performance of the CEO against the agreed Key Performance criteria in accordance with these Terms of Reference and the CEO contract; and
- 2.2.4.4. Make recommendations to Council about the CEO's performance against the Key Performance criteria for the relevant period.
- 2.2.5. Assist in the development of the Chief Executive Officer Employment and Remuneration Policy as prescribed in the Act (required within 6 months of 1 July 2021).
- 2.2.6. Undertake any other functions or responsibilities prescribed by the Act and make any other recommendations to Council relevant to the employment and performance of the CEO in accordance with the CEO's employment contract and the Act.

3. Role and Responsibilities of the Chief Executive Officer

The CEO has roles and responsibilities that are determined by Statute, including the Act, by resolution of Council, and by the CEO's adopted position description and performance criteria and plan.

3.1. Statutory Functions

The legislative functions of the CEO are provided for in the *Local Government Act 2020* and come into effect on 1 July 2021.

A Chief Executive Officer is responsible for:

- Supporting the Mayor and the Councillors in the performance of their roles, including:
 - ensuring that the decisions of the Council are implemented without undue delay;
 - ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act;
 - supporting the Mayor in the performance of his or her role as Mayor;
 - setting the agenda for Council meetings after consulting with the Mayor;
 - when requested by the Mayor, reporting to the Council in respect of the implementation of a Council decision;
 - Carrying out the responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the *Workplace Injury Rehabilitation and Compensation Act 2013* (note: refer clause 15 of Schedule 1).
- Ensuring the effective and efficient management of the day to day operation of the Council, including:
 - establishing and maintaining an organisational structure for the Council, including:
 - developing and maintaining a workforce plan that-
 - describes the organisational structure of the Council; and
 - specifies the projected staffing requirements for a period of at least 4 years; and
 - sets out measures to seek to ensure gender equality, diversity and inclusiveness.
 - informing the Council before implementing an organisational restructure that will affect the capacity of the Council to deliver the Council Plan;

- consulting members of Council staff affected by a proposed organisational restructure, before implementing the organisational restructure;
 - being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff;
 - managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between members of Council staff and Councillors are developed and implemented;
 - performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act.
- Giving effect to gender equality, diversity and inclusiveness, comply with any processes and requirements prescribed by the regulations for the purposes of this section.
 - Ensuring that the Mayor, Deputy Mayor, Councillors and members of Council staff have access to the workforce plan.
 - Developing the first workforce plan under this part within 6 months of 1 July 2021.

A reference to Council staff in this section does not include a reference to the Chief Executive Officer.

4. Independent Person on the CEO Employment Matters Advisory Committee

4.1. Qualities and Qualifications:

The Independent Person will have the following key competencies:

- 4.1.1. Demonstrated human resource management skills, senior business experience and/or local government experience and/or employment law background
- 4.1.2. Demonstrated ability in relation to performance management and development of Executive level staff; and
- 4.1.3. Previous experience or facilitation experience working with Executive, Governance bodies or Board Members in membership and or/facilitation roles.

4.2. Appointment Timeframe

The appointment of the Independent Person will be made for two (2) years. The Independent Person can be re-appointed by Council.

Where the incumbent resigns from their position on the Committee or is not reappointed by the Council, the Committee will follow the process outlined in sections 2.2.1.1 to 2.2.1.4.

4.3. Remuneration

The Independent Person will be remunerated at a rate to be determined in accordance with Council's Procurement Policy.

5. Membership

5.1. Composition of the Committee

- 5.1.1. Subject to any revocation of membership under clause 4 of these Terms of Reference, the Committee shall comprise eight members, being:
 - 5.1.1.1. The Mayor, who will Chair the Committee;
 - 5.1.1.2. All other (six) Councillors; and
 - 5.1.1.3. The Independent Person.

5.2. Length of appointment

The Committee shall continue for as long as Council sees fit and the appointment of members shall be for a term determined by Council and set out in these Terms of Reference.

5.3. Support to the Committee

- 5.3.1. The Committee may request the Manager People and Culture to assist in, or provide advice on, any of its functions specified in these Terms of Reference.
- 5.3.2. The Committee may also request a suitably qualified independent expert to assist in, or provide advice on, any functions specified in these Terms of Reference where:
 - 5.3.2.1. The Committee considers it would benefit from the assistance or advice; and
 - 5.3.2.2. Where there is not a consensus on the person requested:
 - 5.3.2.3. The Manager People and Culture will recommend a suitably qualified independent expert for appointment; and
 - 5.3.2.4. Council will resolve to appoint the suitably qualified independent expert, who will be a neutral person with appropriate experience, after receiving recommendations from the Committee.

5.4. Attendance at meetings

- 5.4.1. All Committee members are expected to attend each meeting.
- 5.4.2. Attendance by teleconference or over the internet (eg. Skype, FaceTime) is acceptable.
- 5.4.3. An independent Committee member who misses two consecutive meetings without a formal apology may, at the discretion of Council, have their membership revoked.
- 5.4.4. An independent Committee member who is unable to attend the majority of meetings during the year may, at the discretion of Council, have their membership revoked.

6. Proceedings

6.1. Chair

- 6.1.1. The Mayor shall Chair the meetings of the Committee.
- 6.1.2. If the Mayor is unavailable, he/she shall delegate to another Committee member to Chair the meeting.

6.2. Meeting schedule

- 6.2.1. The Committee will meet at least six monthly, and report to Council (including by providing confirmed minutes of its meetings) on a six monthly basis.
- 6.2.2. Meetings of the Committee may be held more frequently if deemed necessary by the Committee to fulfil its objectives, taking into account the CEO Contract of Employment, Remuneration and Performance Review processes.
- 6.2.3. All meetings of the Committee will be set by the Mayor, with the aim of including all Councillors.

6.3. Meeting procedures

- 6.3.1. Meetings of the Committee will follow the standard meeting procedures established in any guidance material for Advisory Committees and outlined in these Terms of Reference.
- 6.3.2. All meetings of the Committee and its records are considered confidential and the information provided to the Committee will be designated as confidential in accordance with section 3(1)(f) of the *Local Government Act 2020* as it relates to personal information.
- 6.3.3. Consideration will be given to where the information referred by the Committee to Council can be released to the public following resolution by Council.
- 6.3.4. All recommendations, proposals and advice must be directed through the Chair.

6.4. Quorum

- 6.4.1. A majority of the councillors of the Committee constitute a quorum.
- 6.4.2. If at any meeting of the Committee a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting shall be deemed adjourned.

6.5. Voting

All councillors shall have equal voting rights and voting shall be by show of hands. **Note:** The Independent Person appointed to the Committee will not have voting rights.

6.6. Minutes of the Meeting

- 6.6.1. The Manager People and Culture will take the minutes for each meeting of the Committee.
- 6.6.2. The minutes shall be in a format determined by the Manager People and Culture, provided that they will include a record of:
 - 6.6.2.1. Committee members present;
 - 6.6.2.2. Apologies for absence;
 - 6.6.2.3. Adoption of previous minutes of meetings of the Committee; and
 - 6.6.2.4. All adopted actions and resolutions of the Committee.

- 6.6.3. The agenda for each meeting of the Committee shall be distributed at least five (5) working days in advance of the meeting to all Committee members, including alternative representatives, and a call for agenda items will be made prior to the issue of the agenda.
- 6.6.4. Questions of Committee members are to be put to the Manager People and Culture within 48 hours prior to meeting of the Committee at which they are to be asked.
- 6.6.5. A copy of the minutes shall be distributed to all Committee members within 10 working days of the meeting.

6.7. Report to Council

- 6.7.1. A report to Council will be tabled by the Chair as soon as practicable following a meeting.
- 6.7.2. Reports to Council will address the Committee's performance against its objectives and should reflect a consensus view. Where consensus cannot be reached, the report should clearly outline the differing points of view.

7. Review of the Committee and Duration of the Committee

These Terms of Reference will be reviewed by the Committee every two (2) years, unless otherwise determined by Council.

Input on the review will be sought from Council, the Manager People and Culture, all Committee members, other relevant staff and any other stakeholders, as determined by Council.

8. Authority and Compliance Requirements

The Committee is an Advisory Committee only and has no delegated authority to make decisions that bind Council.

A meeting of the Committee constitutes a meeting conducted under the auspices of the Council. The record of Informal Meetings of Councillors will be reported within the agenda of the next practicable Open Council Meeting.

Failure to comply with the provisions outlined in this Terms of Reference may result in termination of a Member's appointment.

9. Conflict of Interest

If a Committee Member has a conflict of interest relating to any item on the agenda, the member must verbally disclose the type and nature of the interest immediately before consideration of the agenda item in question and leave the room prior to the matter being discussed.