

PAYMENTS TO EMPLOYEES IN ADDITION TO A CONTRACT OR AWARD POLICY

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| CATEGORY: | City Policy |
| RESPONSIBLE DIRECTORATE: | Office of the CEO |
| OBJECTIVE: | To give effect to section 5.50 of the <i>Local Government Act 1995</i> in relation to the payment of employees in addition to a contract or award upon leaving the organisation. |

1. AUTHORITY

This policy has been prepared pursuant to section 5.50 of the *Local Government Act 1995*.

2. APPLICATION

This policy applies to all employees except those designated as senior employees, in which case the terms of the Contract of Employment and relevant legislation shall apply.

3. DEFINITIONS

“**redundancy**” means a situation where the employer no longer requires a specific position to be performed by a person/s because of changes in the operational requirements of the organisation.

“**voluntary severance**” means a financial payment made to a person who voluntarily chooses to end their employment in a situation where surplus positions within the organisation are identified.

“**senior employee**” means all employees holding the position of Chief Executive Officer and/or Director in accordance with section 5.37 of the *Local Government Act 1995* (as amended).

4. STATEMENT

In order to give effect to section 5.50 of the *Local Government Act 1995*, the following shall apply:

5. DETAILS

5.1 General Legislative Compliance

When finalising redundancy or voluntary severance packages, the consideration of payments in addition to existing entitlements under a contract, award or agreement will be determined by the Chief Executive Officer in accordance with *Regulation 19A* of the *Local Government (Administration) Regulations 1996*.

This would establish:

- a maximum additional entitlement of \$5,000 for circumstances relating to a redundancy; and
- a maximum entitlement of a person's annual remuneration at the time of termination for circumstances relating to a voluntary severance.

5.2 Eligibility Criteria

A person's eligibility for such payments will be based on the following criteria:

- The person has been in the employment of the organisation for a continuous period of over ten years; and
- Performance records demonstrate a commendable or outstanding level of performance throughout the duration of the person's employment to the satisfaction of the Chief Executive Officer.

5.3 Assessment Criteria

Additional payments will be calculated on the basis of:

- Two weeks pay for each completed year of service; and
- For an annual salary, the cash component will be adjusted to recognise motor vehicle usage in accordance with the current formula contained within the most recent Award.

5.4 Other Employment Related Court Actions and/or Matters

The City may pay a severance payment to an employee in settlement of a claim where an employee or former employee has or proposes to take action or make a claim under any relevant employment legislation. Any such decision will be made in accordance with Regulation 19A of the *Local Government (Administration) Regulations 1996*.

Creation Date: October 2005

Formerly:

- *Employment Policy*
- *Equal Employment Opportunity Policy*
- *Payment to Employees in Addition to Contract or Award Policy*
- *Selective Voluntary Severance Policy*
- *Staff Uniforms Policy*
- *Council Vehicles – Mayor and Council Offices Policy*

Amendments: CJ206-10/05, CJXXXX

Related Documentation:

Local Government Act 1995

Fair Work Act 2009

Equal Opportunity Act 1984

Workers Compensation and Injury Management Act 1981



EMPLOYMENT

STATUS: **City Policy** - *A policy that is developed for administrative and operational imperatives and has an internal focus.*

Developed by the Policy Committee and/or the administration and adopted by Council.

RESPONSIBLE DIRECTORATE: Office of the CEO

OBJECTIVE: To support the City's role as an employer of quality staff and the provision of a quality working environment.

STATEMENT:

The City recognises the importance of an effective staff in meeting its community's expectations, the City's strategic objectives, and statutory obligations of the Council.

In achieving this, the following will apply:

Recognition of Legislative Requirements

- 1 The City recognises its legal obligations under the Equal Employment Opportunity Act 1984 (as amended) and will actively promote equal employment opportunity based solely on merit to ensure that discrimination does not occur on any grounds.
- 2 The City recognises its responsibility to ensure the occupational health and safety of all employees and others affected by the City's activities, including contractors, Councillors and volunteers. The City will work with its employees through an OHS consultative committee to ensure that this occurs.

Payments on Severance or Redundancy

Finalisation of voluntary severance and redundancy (involuntary or voluntary) packages is at the absolute discretion of the Chief Executive Officer, except in the case of any officer on an employment contract, in which case the terms of the contract will apply.

- 1 In the event of redundancy, the City may pay a member of staff a payment up to a maximum of 20% over the agreed level according to the relevant Award, Enterprise Bargaining Agreement or other document current at the time of redundancy.

In the case of a voluntary severance pay package, the offer will be based on a maximum amount of \$50 for each year of service to a total maximum of \$1,000.

Such payments will be based on the following criteria:

- (a) The employee has been in the employment of the City or its predecessors for a continuous period of over ten years; and
 - (b) in the preceding three years the employee's annual performance reviews record that the employee has performed at a level considered commendable or outstanding;
- 2 Where voluntary severance applies, a payment additional to ordinary entitlements will be made of two weeks pay for each completed year of services and pro-rata long service leave for employees who have worked in excess of 5 years.
 - 3 For the purposes of calculating annual salary, the cash component will be adjusted to recognise motor vehicle usage in accordance with the Mercer Cullen Egan Dell formula, where this applies.

Organisational Requirements

- 1 All staff holding the position of Director are considered to be senior employees in accordance with S 5.37 of the Local Government Act 1995 (as amended).
- 2 A corporate staff uniform will be worn by all staff who have direct and frequent contact with the public and any other staff as the Chief Executive Officer may from time to time nominate. The specific details of the uniform and uniform requirements will be as determined in the corporate procedures manual.. The uniforms will comply with the Australian Taxation Office's requirements in relation to Fringe Benefits Tax.

Provision of Vehicles

The City may provide vehicles as part of a salary package in order to provide for more effective service to the community and to assist in the recruitment process.

This policy should be read in conjunction with the City's Asset Management Strategy, as approved by the Chief Executive Officer from time to time, which determines the procedures and operating guidelines covering vehicle purchase and usage.

The provision of vehicles to officers for private use as outlined in this policy is not intended to affect pre-existing contracts.

Notwithstanding the specific contracts negotiated with individual officers, the City reserves the right to use its vehicles as it deems appropriate to meet its obligations. If any action is taken which alters the contractual agreement between an officer and the City, in relation to the use of a vehicle, suitable compensation may be negotiated.

The City retains the right to revoke the use of a vehicle if an officer fails to meet the terms and conditions of this policy and the operating guidelines and procedures set by the City.

The Council will incorporate a vehicle replacement fund within each year's annual budget sufficient to enable replacement of vehicles. The Chief Executive Officer may approve the trade of vehicles in accordance with the City's Vehicle Acquisition and Disposal Schedule.

Vehicle Standards

Staff vehicles will be provided in accordance with contractual arrangements.

Other officers to whom a vehicle is assigned will utilise a vehicle best suited for the purpose, as approved by the Chief Executive Officer.

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| Amendments: | CJ213-06/99, CJ001-02/01, CJ121-06/02, C212-09/03 CJ213-09/03, CJ206-10/05, CJ207-10/07 |
| Related Documentation: | Staff Induction Manual; Local Government Act 1995 Equal Employment Opportunities Plan Equal Opportunity Act 1984 Occupational Health & Safety Manual Asset Management Strategy |
| Issued: | October 2007 |

Relevant Legislative Provisions – Section 5.50 Local Government Act 1995

Local Government Act 1995

5.50 . Payments to employees in addition to contract or award

- (1) A local government is to prepare a policy in relation to employees whose employment with the local government is finishing, setting out —
 - (a) the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and
 - (b) the manner of assessment of the additional amount, and cause local public notice to be given in relation to the policy.
- (1a) A local government must not make any payment of the kind described in subsection (1)(a) unless the local government has adopted a policy prepared under subsection (1).
- (2) A local government may make a payment —
 - (a) to an employee whose employment with the local government is finishing; and
 - (b) that is more than the additional amount set out in the policy prepared under subsection (1) and adopted by the local government, but local public notice is to be given in relation to the payment made.
- (3) The value of a payment or payments made to a person under this section is not to exceed such amount as is prescribed or provided for by regulations.
- (4) In this section a reference to a payment to a person includes a reference to the disposition of property in favour of, or the conferral of any other financial benefit on, the person.

Local Government (Administration) Regulations 1996

19A . Payments in addition to contract or award, limits of (Act s. 5.50(3))

- (1) The value of a payment or payments made under section 5.50(1) and (2) to an employee whose employment with a local government finishes after 1 January 2010 is not to exceed in total —
 - (a) the value of the person's final annual remuneration, if the person —
 - (i) accepts voluntary severance by resigning as an employee; and
 - (ii) is not a CEO or a senior employee whose employment is governed by a written contract in accordance with section 5.39; or
 - (b) in all other cases, \$5 000.

(2) In this regulation —

final annual remuneration in respect of a person, means the value of the annual remuneration paid, or payable, to the person by the local government which employed that person immediately before the person's employment with the local government finished.