

Policy Title: Payments to Employees Upon Cessation of Employment Policy

Policy Statement:

Section 5.50 of the *Local Government Act 1995* provides that a local government must prepare and adopt a Policy for Payments to Employees in addition to contract or award to employees upon cessation of employment with the Mindarie Regional Council (MRC). The Policy must address the following:

- (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.

Statutory Requirements:

Local Government Act 1995 s5.50

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.

(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.

(5) The CEO must publish the policy prepared under subsection (1) and adopted by the local government on the local government's official website

Objective:

The objective of this Policy is to ensure compliance with Section 5.50 of the *Local Government Act 1995* to set out the circumstances when an employee who is ceasing employment with the MRC may be paid an amount in addition to their entitlements under an award or contract of employment.

Section 5.50(5) of the Act requires the Policy to be published and prepared under subsection (1), and adopted by the local government on the local government's official website.

Scope:

This Policy applies to all MRC employees, except those defined by the Council as 'Senior Employees'. Any cessation payments to Senior Employees must be approved by Council.

The CEO is responsible for implementation, and compliance with this Policy, and for providing interpretation in the event of the need for clarification or a dispute.

This policy does not allow for the disposition of MRC property to employees upon cessation of employment.

Implications (Strategic, Financial, Human Resources):

1. When a payment in accordance with this policy is permissible

Subject to the Chief Executive Officer's approval, and the employee agreeing to sign a Confidential Deed of Settlement by resigning as an employee, the MRC may initiate a settlement payment in accordance with the following circumstances.

• Settlement of a Claim

In settlement of a claim or dispute where the employee has or proposes to take action under industrial relations legislation, up to a maximum of 52 week's pay.

• Illness or Impairment

To facilitate a situation where an employee is unable to perform their role due to illness or impairment and there has been mutual agreement that the employment must end, up to 26 week's pay.

• Poor Performance / Conduct

To facilitate a situation where the MRC determines an employee is not performing to the satisfaction of the MRC, and the MRC proposes that it is beneficial (to the MRC) to end the employment relationship by paying a settlement, up to 12 week's pay.

Manner of Assessment of the Payment

Where the settlement payment is based on the weekly pay, this is the normal ordinary pay (excluding overtime, vehicle or any other allowance, or superannuation).

In assessing the payment, the following will be considered:

- The amount recommended by a Court or Tribunal to settle a matter
- The exposure to litigation and the strength of the respective cases
- The cost of legal services
- Disruption to operations
- Length of service and personal circumstances of the employee
- Position held by the employee.

2. Other Circumstances When a Payment in accordance with this Policy is Permissible:

Employees who have worked for the MRC for a minimum of ten (10) years, and who have confirmed their intent to retire permanently from the workforce may receive a corporate gift to a maximum value of up to \$500, subject to there being no recent performance or conduct concerns.

Legislation	Local Government Act 1995 s5.50
Responsible Officer	Chief Executive Officer
Council Meeting Date	21 September 2023
Created	01/08/2022
Next Review Date	01/08/2024
Revision History	
Delegation to the Chief Executive Officer	Nil