

# Severance and Redundancy Policy

## 1. Objectives

For the purpose of Section 5.50 (1) of the *Local Government Act 1995*, this policy set down circumstances and manner of assessment upon which the Town of Cottesloe will pay an employee an amount (severance payment) in addition to any amount to which the employee is entitled under a contract of employment, award, industrial agreement, or order by a Court or Tribunal.

## 2. Principles

Terminating employees are entitled to severance pay and benefits in accordance with:

- a. Any federal or state award or industrial agreement applicable to that employee.
- b. Any applicable provisions within the employee's contract of employment.
- c. Any applicable award or order made by a federal or state industrial tribunal arising from the circumstances of that employee being specifically brought before that tribunal, subject to any right of appeal.
- d. Where Council so agrees, any recommendation made by a federal or state industrial commissioner arising from the circumstances of that employee being specifically brought before that Commissioner.

That where a dismissed employee has taken or proposes to take litigation for alleged unfair dismissal, Council may decide to settle in order to avoid expensive litigation.

Council will initiate a consultation process with affected employees should it be necessary to implement a redundancy scheme.

Where possible and practicable employees will be offered a transfer to other positions within the enterprise and be offered sufficient training to effect a successful transfer.

Council will make up the difference between the pay for the incumbent's position and the pay for the new position for an agreed period should the pay for the new position be less than the pay for the previous position.

Appropriate award provisions will apply and this policy is to be read in conjunction with those award provisions.

### **3. Issues**

In determining severance pay and benefits, matters to be taken into account include:

- length of service
- conscientiousness of the employee during their employment
- value of the employee's service
- length of time to retirement
- personal circumstances of the employee
- possible exposure to litigation
- circumstances of severance
- National Competition Policy
- accountability for service delivery
- cost of service delivery
- competitive tendering
- contracting out
- amalgamation of local governments
- local government boundary changes

### **4. Policy**

#### **4.1 Consultation**

- a. Council will consult employees likely to be affected by any proposed change as to the need for and/or reason for the change and no definite decision will be made until this process has been followed.
- b. Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone and this is not due to the ordinary and customary turnover of labour and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with their union or unions.
- c. The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of paragraph (b) hereof, and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the employees concerned.
- d. For the purposes of the discussion, the employer shall as soon as practicable, provide in writing to the employees concerned and their union(s) all relevant information about the proposed terminations, including the reasons for the proposed terminations, the number and categories of employees likely to be affected and the number of workers normally employed and the period over which the terminations are likely to be carried out.
- e. Provided that any employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interests.

## **4.2 Transfers Within the Organisation**

Wherever possible and practical, appropriate employees should be offered a transfer to other positions within the enterprise and also offered the necessary and reasonable training to effect a successful transition.

Where an employee is transferred to other duties for the purpose of avoiding retrenchment and those duties attract a lesser rate of pay than the incumbent's previous position, the Council will make up the difference between the two rates of pay for a period of twelve months (or two years in the case of employees covered by clause 4.4 below). After this time, the lesser rate will apply.

## **4.3 Legislative Requirement**

- *Local Government Act 1995*
- *Local Government Industry Award 2010*
- *National Employment Standards (Division 11, Subdivision B and C, Clause 123)*
- *Town of Cottesloe Enterprise Agreement 2011*

## **4.4 Circumstances for Severance Payment**

The Town of Cottesloe may pay a severance payment in the following circumstances:

### **4.4.1 Redundancy**

Redundant will be taken to mean that the duties of a position will no longer be performed by an employee of the Town of Cottesloe

### **4.4.2 Local Government Boundary Changes, Amalgamations and Break-Ups.**

Where a restructuring of Local Government boundaries (such as a break up of a Local Government or an amalgamation of Local Governments) results in a surplus of employees, Schedule 2.1 clause 11 (4) of the *Local Government Act 1995* provides for two years guaranteed employment except where employer and employee are able to agree to a mutually acceptable severance package.

### **4.4.3 Termination by Agreement**

The Chief Executive Officer may decide to settle in a situation where an employee, due to illness or impairment, is unable to perform his/her job and there has been mutual agreement that employment must end.

### **4.4.4 Termination – Special Circumstances**

Nothing in this policy prevents the Chief Executive Officer from determining that in special circumstances terminating employees may be paid additional monies or provided additional benefits where justified. If so determined, details of the severance pay and benefits shall be published in accordance with Section 5.50(2) of the Act.

#### **4.5 Decision**

This policy applies to all employees of the Town of Cottesloe. The decision to consider a severance package is at the absolute discretion of the Chief Executive Officer, except in where the decision involves a severance payment for the Chief Executive Officer then the decision will be made by Council.

#### **4.6 Notice of Termination**

The Town of Cottesloe is to refer to the National Employment Standards, Division 11, Subdivision A to specify day of termination.

#### **4.7 Counselling**

Counselling by a professional counselling service shall be available for any employee who has been or is to be retrenched.

In appropriate circumstances an outplacement service may also be offered. In this event no payment in lieu of such service will be made.

#### **4.8 Payment of Severance and Redundancy**

The Town of Cottesloe is to refer to the National Employment Standards, Division 11, Subdivision B to determine the amount payable in respect to a redundancy.

#### **4.9 Limitation and Exclusions**

The Town of Cottesloe is to refer to the National Employment Standards, Division 11, Subdivision C, Clause 123 to determine employee excluded on this policy.

#### **4.10 Re-employment**

Terminating employees shall not be re-employed by the local government, as an employee, contractor or consultant for a period of two years after the termination date unless the re-employment is approved by Council.

Adopted	25 August 2014
Expected date of review	