

Payment to Employees in Addition to a Contract or Award Provision



Responsible Division	Corporate & Strategy
Responsible Business Unit	People, Culture and Safety
Responsible Officer	Manager People, Culture and Safety
Affected Business Units	All business units
ECM Document Set ID	4457581

Purpose

This policy sets out the circumstances in which the City of Bayswater (the City) will pay an employee who is ceasing employment at the City, an amount in addition to any amount to which the employees is entitled to under a contract of employment, industrial instrument, or as ordered by a Court or Tribunal and the matter of assessment of the additional amount.

This Policy is to ensure compliance with Section 5.50 of the *Local Government Act 1995*, which requires all Local Governments to adopt a Policy relating to payment in addition to contract or award to employees who are leaving the Local Government.

Scope

This policy applies to all City of Bayswater employees except those defined as Senior Employees.

Definitions

For the purpose of this policy —

Industrial Instrument means an instrument that has legal application with respect to minimum entitlements to those covered within its scope, including modern awards, industrial agreements and any instrument made under the industrial relations system.

Industrial Tribunals means any jurisdiction that hears and determine claims relating to employment matters.

Senior Employee means employees holding the position of Chief Executive Officer in accordance with Section 5.37 of the *Local Government Act 1995*.

Policy Statement

1. When a payment made 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 and Release by resigning as an employee, the City 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 the relevant industrial relations legislation, up to a maximum of 26 weeks

- **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 weeks' pay.

- **Poor Performance/Conduct**

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

2. Manner of Assessment of the Payment

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

In assessing the payment, the following will be considered:

- The amount recommended by a Court or Tribunal to settle the 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

3. Other circumstances when a payment in accordance with this policy is permissible

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

4. Payment to Senior Employees

Any payments to Senior Employees under this Policy must be considered by Council.

5. Reporting

Payments made under this policy are to be reported to the Audit and Risk on a quarterly basis.

Statistics on the number of payments made under this Policy are to be included in the City's Annual Report.

Related Legislation

Local Government Act 1995 (WA).

Document details

Relevant delegations	Nil.		
Risk evaluation	High		
Strategic link	Goal L4: Communicate in a clear and transparent way. Provide the community with useful information about Council's policies, services and events and advise the community of engagement outcomes.		
Council adoption	28 March 2023	Resolution	10.6.4.1
Next review due	November 2025		