

Severance Policy

Policy Type: Council Policy

**Policy Owner: Employee Services
Coordinator**

Policy No. CP- 027

Last Review Date: 19 June 2018

Policy Objectives

This Severance Policy outlines the circumstances and manner of assessment upon which the City of Melville will pay an employee an amount (**severance payment**) in addition to any amount to which they are entitled under a contract of employment, award, enterprise bargaining agreement or order by a Court or Tribunal. This policy shall not be considered as a contractual entitlement under the employment relationship.

Policy Scope

This policy relates to all City of Melville employees and should be read in conjunction with section 5.50 of the *Local Government Act 1995* and *Local Government (Administration Regulations) 1996* (19A) as to the maximum value of payment that can be approved for an employee whose employment is finishing with the City of Melville.

Definitions / Abbreviations Used In Policy

“Redundant” will be taken to mean that an employees employment is terminated at the City of Melville’s initiative because the City no longer requires the job done by the employee to be done by anyone, except where this is due to the ordinary and customary turnover of labour or in the event the City becomes insolvent or bankrupt.

Policy Statement

1. Determinations

This policy applies to all employees of the City of Melville.

Decisions under this policy are to be made -

- (a) by the Council – where the decision involves a severance payment to the Chief Executive Officer (CEO); or
- (b) by the CEO – where the decision involves a severance payment to any other employee of the City of Melville

2. Circumstances for severance payment

The City of Melville may pay a severance payment in circumstances whereby an employee is made redundant or accepts voluntary severance by resigning from the organisation in settlement of a claim under current and relevant employment legislation.

(a) Exclusions

A severance payment will not be made to an employee who-

- (a) is redeployed within the City of Melville;
- (b) accepts or rejects an offer of employment with a successful tenderer;
- (c) is dismissed for serious misconduct;
- (d) is employed on either a temporary fixed term or casual basis;
- (e) has less than one year's service with the City of Melville; or
- (f) is classified as a trainee or apprentice or is under probation.

3. Determination of severance payment

3.1 Severance Payment

The City of Melville is to refer to the *Local Government (Administration) Regulations 1996 19A*.

3.2 Settlement and other terminations

For the purpose of determining the amount of a severance payment in respect of settling a matter under clause 2, the CEO may take into account;

- (a) the advice of an industrial advocate or legal practitioner on the strength of the cases of the respective parties in any litigation or claim in an industrial tribunal;
- (b) the costs of any industrial advocate or legal advice and support;
- (c) the general costs associated with the hearing including witness fees, travel costs and accommodation charges; and
- (d) the disruption to operations.

4. Public notice

Under section 5.50 (2) of the *Local Government Act 1995*, the City of Melville –

“may make a payment –

- (a) to an employee whose employment with the [City] is finishing; and
- (b) that is more than the additional amount set out in [this Policy] and adopted by the City of Melville,

but local public notice is to be given in relation to the payment made”.

5. Financial Liability for Taxation

The employee accepts full responsibility for any taxation payable on the severance payment and agrees to fully indemnify the City of Melville in relation to any claims or liabilities for taxation in relation to the payment.

References that may be applicable to this Policy

Legislative Requirements: *Local Government Act 1995, Local Government (Administration) Regulations 1996, Fair Work Act 2009* (Commonwealth), The National Employment Standards, City of Melville Enterprise Bargaining Agreements, Local Government Industry Award 2010

Procedure, Process Maps, Work Instructions: City of Melville Severance Payment Procedure

Other Plans, Frameworks, Documents Applicable to Policy: City of Melville People Framework,

Delegated Authority No: DA-088 Severance Payment to Employee

ORIGIN/AUTHORITY

ITEM NO.

REVIEWS

Ordinary Meeting of Council	17/08/10	C10/5123
Ordinary Meeting of Council	10/02/09	C09/5039
Ordinary Meeting of Council	15/12/09	C09/5097
Ordinary Meeting of Council	16/10/12	C12/5249
Ordinary Meeting of Council	17/06/2014	M14/5370
Ordinary Meeting of Council	17/05/2016	C16/5484
Ordinary Meeting of Council	19/06/2018	C18/5617