



EX-GRATIA PAYMENTS POLICY

**POLICY /
PROCEDURE NO.**

COR-1050

1. Background and Context

The purpose of the Policy is to establish protocols for facilitating an ex-gratia payment.

2. Scope

This policy applies to all ex-gratia payments made by Council to employees. This policy does not cover payments required by law or contract.

3. Objectives

This policy outlines the process under which Council may offer ex-gratia payments to an employee in situations where there is no legal obligation to provide compensation, but it is deemed appropriate as a goodwill gesture and is considered reasonable in all the circumstances.

4. Definitions

In this policy:

Term	Definition
Chief Executive Officer	Chief Executive Officer – appointment held under section 194 of the <i>Local Government Act</i> 2009. This includes any person acting in this position.
Council	Cloncurry Shire Council
Councillor	All elected representatives who hold (current) office with Council, including the mayor.
Employee	<p>Includes a person who carries out work in any capacity for Council (i.e. permanent employee (including those engaged through an employment contract).</p> <p>For the purposes of this policy, employee does not include volunteers, labour hire, casual employees or contractors and subcontractors.</p>
Ex-Gratia Payment	<p>An ex-gratia payment is a discretionary, voluntary payment made by Council without any legal or contractual obligation. These payments are made as an act of goodwill and are not an admission of liability or wrongdoing by the organisation. Situations may include:</p> <ul style="list-style-type: none">• payments to employees on termination/resignation outside of their contractual and award entitlements• out-of-court settlements

5. Roles and Responsibilities

- a) Council: responsible for ensuring Policy is adhered to, including as the authoriser of any ex-gratia payment made in accordance with this Policy.
- b) CEO: responsible for ensuring Policy is adhered to, including as the authoriser of any ex-gratia payment made in accordance with this Policy.
- c) Manager HR & WHS: responsible for providing advice to the CEO and Council on this Policy.

6. Policy

This policy outlines the process under which Council may offer ex-gratia payments to an employee in situations where there is no legal obligation to provide compensation, but it is deemed appropriate as a goodwill gesture and is considered reasonable in all the circumstances.

Council and the Chief Executive Officer (CEO) acknowledge that an ex-gratia payment comprises public monies and ex-gratia payments should only occur in extraordinary circumstances.

Council must ensure an ex-gratia payment is appropriate, defensible, and transparent. Council supports the use of alternative strategies to achieve a mutually agreeable outcome, prior to considering progressing with an ex-gratia payment.

Each ex-gratia payment is made voluntarily and is based on the facts and circumstances relevant to each separate matter.

The making of an ex-gratia payment does not:

- create a precedent for other claims or payments and does not constitute an admission of liability on the part of either party; and
- does not imply that payments of a similar value will be made in other matters.

Process and Payment Amount

The decision to make an ex-gratia payment will be determined on a case-by-case basis and, where applicable and appropriate, based on independent legal advice to ensure it is not setting a precedent. The value of an ex-gratia payment must be reasonable and proportionate to the facts and circumstances of each matter.

Approval

The CEO is authorised to negotiate and approve ex-gratia payments to Council employees up to an individual amount of \$20,000.

Council, by resolution or via delegation to the Mayor, is to approve any proposed ex-gratia payment of more than \$20,000 before it is paid.

If the ex-gratia payment relates to the CEO, Council must determine whether an ex-gratia payment is to be made and its value, unless Council delegates the matter to the mayor to negotiate and authorise.

Record-Keeping

Council must keep proper records supporting each ex-gratia payment, including evidence of key decisions made and who they were made by. These records include:

- the payment date and the recipient of the payment;
- the reason for the payment and how the payment amount was determined;
- whether independent (legal) advice was obtained to support the basis and value of the payment;
- how the payment represents an appropriate use of public money;
- who approved the payment; and
- other payment details that Council consider relevant.

All documentation relating to the determination of an ex-gratia payment must be recorded and stored according to Council's records management policy and procedures.

A formal record of all payments will be maintained by the CEO. The CEO will provide a report to the next ordinary Council meeting following the payment of an ex-gratia payment.

Confidentiality/Non-Disclosure Agreement

While Council must ensure ex-gratia payments are appropriate, defensible, and transparent, there may be aspects of the payments that must be treated confidentially by both parties unless otherwise required by law.

Non-disclosure Agreements (NDA) (or Confidentiality Agreements) may be entered into for such payments, to ensure appropriate confidentiality obligations apply to both parties. NDA's are not to protect council or council staff from allegations of bullying or other inappropriate conduct including corrupt conduct.

NDA's must not be utilised to restrict any rights the other party may have under the *Public Interest Disclosure Act 2010* or the *Crime and Corruption Act 2021*.

7. References and Related Documents:

Public Sector Ethics Act 1994

Crime and Corruption Act 2001

Public Interest Disclosure Act 2010

Information Privacy Act 2009

Local Government Act 2009

Local Government Regulations 2012

Crime and Corruption Commission: "*Prevention in focus: Use of non-disclosure agreements. What are the corruption risks?*"

(<https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/Prevention-in-focus-Use-of-non-disclosure-agreements-what%20are-the-corruption-risks-2020.pdf>)

Queensland Audit Office: "*Ex-gratia payments – what those charged with governance need to consider*" (<https://www.qao.qld.gov.au/blog/ex-gratia-payments-what-those-charged-governance-need-consider>)

POLICY VERSION AND REVISION INFORMATION

Version No.	Approval	Date Approved	Review Date
1	Council Resolution	15.7.2025	July 2028

Policy / Procedure Endorsed / Approved by: Philip Keirle



Title: Chief Executive Officer