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COUNCIL

POLICY NO: 1.11

POLICY: Redundancy Policy

1 Redundancy Policy

All positions and functions in the Local Government are continually reviewed as part of Local Government ongoing service provision. The review results may vary and the Local Government may decide to make certain positions redundant where a position no longer exists.

Any decision to make a position redundant shall adhere to the provisions in the relevant Local Government Awards or any Workplace Agreements covering the employment.

2 Objective

To establish guidelines for carrying out redundancies within the workplace and to outline processes for reducing the significant effect of such redundancies upon employees.

3 Consultation

- 3.1 The Local Government 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.
- 3.2 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 representative.

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- 3.3 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.
- 3.4 For the purposes of the discussion the employer shall as soon as practicable provide in writing to the employees concerned and their representative, 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.

Provided that the employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interests.

(NOTE: Paragraphs (b), (c) and (d) have been taken directly from the awards and reflect the requirements as to discussion prior to termination)

4. Transfers within the Organisation

- 4.1 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.
- 4.2 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 incumbents previous position, the Local Government will make up the difference between the two rates of pay for a period of twelve months (or 2 years in the case of employees covered by clause 7 below). After this time, the lesser rate will apply.

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5. Severance Benefits

Where a position has been made redundant and a suitable transfer has not been possible, an employee maybe retrenched on the following basis:

- a) A maximum period of notice possible but in any event no less than 4 weeks or payment in lieu of notice to a maximum of 4 weeks;
- b) Payment of 2 weeks pay;
- c) Plus 2 weeks pay for each completed year of service with the Local Government;
- d) The maximum payable under (b) and (c) shall be 26 weeks pay provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date;
- e) Where an employee has been employed with the Local Government for a minimum of 5 years, pro rata long service leave shall be provided if the employee is not otherwise entitled to pro rata long service leave under the Local Government Long Service Leave Regulations;
- f) All other pro rata entitlements payable under the appropriate award or agreement to a terminating employee will be paid;
- g) During the notice period the employee shall be allowed reasonable time off from the job without loss of pay to attend employment interviews or other similar activities to assist the employee find employment;
- h) The term "weeks pay" means the normal weekly salary or wage payable to the employee including any penalty rates normally paid but excluding overtime or intermittent payments. The term also includes salary or wages specifically sacrificed for additional non-award benefits but does not include the value of any non-award benefit normally provided for the employee's position (such as a vehicle in the case of a senior position, the normal superannuation contribution provided to all employees etc).

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6. Discretionary Payment Where Employment Ends

6.1 Additional Payment

In situations other than those covered by clause 7, the Shire may pay to an employee whose employment with the Shire is finishing an amount not exceeding the prescribed minimum amount.

6.2 Prescribed Maximum Amount

The prescribed maximum amount payable under this Policy for an employee whose employment with the Shire is finishing must not exceed in total, including any amount payable under clause 5 (a), (b) and (c).

- (a) if the employee accepts voluntary severance by resigning as an employee, 50% of the value of the employee's final annual remuneration; or
- (b) in all other cases, \$5,000. (See regulation 19A of the Local Government (Administration) Regulations 1996).

(NOTE – “final annual remuneration” means the value of the annum remuneration paid, or payable ... [by the Shire] immediately before the person’s employment with the [Shire] finished).

6.3 Exercise of Discretion

- (1) A payment under this clause is to be at the discretion of:
 - a) the Council, if the employee is the CEO; or
 - b) the CEO, if the employee is not the CEO
- (2) In determining whether a payment to a particular employee should be made under this clause, and if so, the amount of that payment:
 - a) the Council, if the employee is the CEO; or
 - b) the CEO, if the employee is not the CEO,

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is to take into account the length of service to the Shire of that employee, the performance of that employee, the Shire's financial circumstances and any other relevant factors.

7 **Redundancies Resulting from Local Government Boundary Changes, Amalgamations and Break-Ups**

7.1 **Additional Payment**

If, as a result of an amalgamation of the Shire with one or more other local governments, or any other order made under section 2.1 of the *Local Government Act 1995*:

- a) either –
 - i) an employee's position becomes redundant, or in the Shire's view is likely to become redundant; or
 - ii) if the employee is the CEO, the Council considered that the CEO's position is likely to become redundant or if the employee is not the CEO, the CEO considers that the employee's position is likely to become redundant; and
- b) the employee accepts voluntary severance by resigning as an employee, the Shire may pay to the employee – at the discretion of the Council, if the employee is the CEO, or at the discretion of the CEO, if the employee is not the CEO – an amount not exceeding the prescribed maximum amount.

7.2 **Prescribed Maximum Amount**

At the date of the last review of this Policy, the prescribed maximum payment or payments under this Policy for an employee whose employment with the Shire finishes after 1 January 2010 must not exceed in total –

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- a) if the employee accepts voluntary severance by resigning as an employee, the value of the employee's final annual remuneration; or
- b) in all other cases, \$5,000. (See regulation 19A of the Local Government (Administration) Regulations 1996).

(NOTE – “final annual remuneration” means the value of the annum remuneration paid, or payable ... [by the Shire] immediately before the person’s employment with the [Shire] finished).

7.3 Exercise of Discretion

In determining whether a payment to a particular employee should be made under this clause, and if so, the amount of that payment:

- a) the Council, if the employee is the CEO; or
- b) the CEO, if the employee is not the CEO,

is to take into account the length of service to the Shire of that employee, the performance of that employee, the Shire's financial circumstances and any other relevant factors.

(Note – in the event of an amalgamation or other order made under section 2.1 of the Local Government Act 1995, the statutory provisions that apply include clause 11(4) and (5) of Schedule 2.1 of the Act which state –

“

(4) A contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 so as to make it less favourable to that person unless –

- a) *compensation acceptable to the person is made; or*
- b) *a period of a least 2 years has elapsed since the order had effect.*

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- (5) *The rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government."*

8. Counselling

- 8.1 Counselling by a professional counselling service shall be available for any employee who has been or is to be retrenched.
- 8.2 In appropriate circumstances an outplacement service may also be offered. In this event no payment in lieu of such service will be made.

9. Termination During Notice

An employee who has been given notice of retrenchment in accordance with clause 5 may terminate during the period of notice and shall be entitled to the same benefits and payments as if he/she had remained until the expiry of the notice. Provided that in such circumstances, the employee shall not be entitled to payments in lieu of notice.

10. Alternative Work

- 10.1 Should the Local Government have made suitable arrangements for alternative employment and the employee is not consequently unduly prejudiced, the additional benefits over and above the appropriate award arising from this Policy shall not apply.
- 10.2 In addition the Local Government may make application to the Commission to have the award severance pay prescription varied in the case of such an employee according to the particular circumstances.

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11. Exclusions

- 11.1 Benefits provided under this Policy which go beyond the appropriate award shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty.
- 11.2 This Policy does not apply in the case of casual or temporary employees who were engaged for a specific time period or for a specific reason or specific task, project or program.
- 11.3 This Policy also does not apply to an employee engaged on a fixed term contract where the term of the contract expires.

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