

Ex-Gratia Payments Policy

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| Policy No: | GOV – 017 |
| Council Resolution Ref: | 011/25 |
| Date Adopted: | 23/01/25 |
| Review Date: | 23/01/28 |
| Version No: | 1.0 |
| Responsible Officer: | Chief Executive Officer |

Purpose

The purpose of the Policy is to establish protocols for facilitating ex-gratia payment, or special payments.

Commencement of Policy

This Policy will commence on adoption by Council. It replaces all other policies (whether written or not). Council may amend this policy by resolution.

Application

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

Policy

This policy outlines the process under which Murweh Shire Council may offer ex-gratia payments to individuals, groups, or organisations in situations where there is no legal obligation to provide compensation, but it is deemed appropriate as a goodwill gesture and meets the reasonable person test.

Council must ensure special payments are appropriate, defensible, and transparent. Council supports alternative strategies to be employed to orchestrate a mutually agreed outcome, prior to considering progressing with an ex-gratia payment.

Each ex-gratia payment is voluntary and made based on specific circumstances and does not create a precedent for future claims or payments. An ex-gratia payment does not constitute an admission of liability.

This policy does not imply that similar payments will be made in future situations.

Process and Payment amount

The amount of the ex-gratia payment will be determined on a case-by-case basis and, where applicable and appropriate, based on independent legal advice.

Ex-gratia payments must be reasonable and proportionate to the situation, and they must not create a precedent for future claims.

Approval

The Chief Executive Officer (CEO) can approve ex-gratia payments, within their financial delegation, having received authorisation from Council, authorisation to approve an ex-gratia payment will need to be created by Council resolution. If the ex-gratia payment relates to the CEO, Council must determine, unless council delegates to the mayor to negotiate and authorise the payment.

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Record-Keeping

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

A formal record of all ex-gratia payments will be maintained by the Chief Executive Office.

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 advice was obtained to support the basis and amount 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.

Confidentiality / Non-Disclosure Agreement

While Council must ensure special payments are appropriate, defensible, and transparent, there may be aspects of the payments that are to 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 of sensitive information for both parties. NDA's will not be utilised to contravene any legislative requirements or obligations, such as the *Public Interest Disclosure Act 2010* or the *Crime and Corruption Act 2021*.

Audit and Review

This policy shall be reviewed every **three years** or as required due to changes to in legislation.

Definitions

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| Chief Executive Officer | Chief Executive Officer – appointment held under section 194 of the Act. This includes any person acting in this position. |
| Council | Murweh Shire Council |
| Councillor | All elected representatives who hold (current) office with Council, including the Mayor |
| Employee/s | includes a person who carries out work in any capacity for Council (i.e. permanent employee, temporary employment contract. <i>*for the purposes of this policy, employee does not include volunteers, labour hire, casual employees or contractors and subcontractors.</i> |
| Ex-Gratia Payments | 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. <i>*These payments are separate, and should not be confused with, donations, grants or other general payments related to such incidents as floods or natural disasters.</i> |

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| Terminated Employee | An employee who has either resigned or their employment has been terminated. |
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References

- *Public Sector Ethics Act 1994*
- *Information Privacy Act 2009*
- *Local Government Act 2009*
- *Local Government Regulations 2012*

Version Control

| Version No. | Date | Approved | Amendment |
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| 1.0 | 23/01/2025 | CEO | [brief description] |
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Approval

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| Chief Executive Officer | | | |
| Date: | 23/01/2025 | Signature: | Bruce Scott |