
EX-GRATIA (SPECIAL) PAYMENTS POLICY

INTENT

The purpose of this policy is to establish protocols for facilitating ex-gratia payments, or special payments, by Cook Shire Council. This policy ensures that ex-gratia payments are appropriate, defensible, and transparent, and are made only in extraordinary circumstances where there is no legal or contractual obligation to provide compensation, but where it is deemed appropriate as a goodwill gesture and is considered reasonable in all the circumstances.

SCOPE

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 contractual obligation, and should not be confused with donations, grants or other general payments related to such incidents as floods or natural disasters.

DEFINITIONS

TERM	DEFINITION
Chief Executive Officer	Chief Executive Officer – appointment held under section 194 of the Local Government Act 2009. This includes any person acting in this position.
Council	Cook Shire Council.
Elected Council	Elected Members as Council.
Employee/s	Includes a person who carries out work in any capacity for Council (i.e. permanent employee including those engaged through an employment contract). <i>For the purposes of this policy, employee does not include volunteers, labour hire, casual employees or contractors and subcontractors.</i>

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TERM	DEFINITION
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>
Terminated Employee	An employee who has either resigned or their employment has been terminated.

POLICY STATEMENT

This policy outlines the process under which Cook 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 is considered reasonable in all the circumstances.

Council must ensure special payments are 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 voluntary and made based on the facts and circumstances relevant to each particular 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.

The making of an ex-gratia payment under this policy also 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

Only the Chief Executive Officer (CEO) can negotiate and approve an ex-gratia payment within their financial delegation or they may approve an ex-gratia payment under a special delegation for a matter beyond their financial delegation.

The CEO is authorised to negotiate and authorise ex-gratia payments for Council staff and third party matters. If the ex-gratia payment relates to the CEO, Elected Council must

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

Record-Keeping

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

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

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.

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. NDAs are not to protect Council or Council staff from allegations of bullying or inappropriate conduct. Any agreement will make clear that departing employees are encouraged to raise, where appropriate, allegations of bullying or inappropriate conduct with the Crime and Corruption Commission, Officer of the Independent Assessor or the People and Culture section of Council. NDAs must 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*.

KEY RESPONSIBILITIES

RESPONSIBLE OFFICER	RESPONSIBILITY
Chief Executive Officer	Negotiate and approve ex-gratia payments within financial delegation or under special delegation for matters beyond their financial delegation, for Council staff and third party matters.
Council	Determine ex-gratia payments relating to the CEO and their value (unless delegated to the Mayor).

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RESPONSIBLE OFFICER	RESPONSIBILITY
Manager Office of the CEO	Maintain formal records of all ex-gratia payments.
All relevant officers	Ensure proper documentation and record-keeping in accordance with Council's records management procedures.

REFERENCES, LEGISLATION AND GUIDELINES

Local Government Act 2009

Local Government Regulations 2012

Public Interest Disclosure Act 2010

Crime and Corruption Act 2021

Records Management Admin Instruction

RELATED DOCUMENTS

Crime and Corruption Commission publication - *Prevention in focus: Use of non-disclosure agreements - what are the corruption risks? (2020)*

Queensland Audit Office reports on ex-gratia payments

IMPLEMENTATION/COMMUNICATION

This policy will be communicated to all relevant staff through internal communication channels and will be made available on Council's website.

APPROVED BY

Council Resolution 2025/169

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REVIEW

SPONSOR:	Manager Office of the CEO
OFFICER RESPONSIBLE FOR REVIEW:	Executive Support Officer
ADOPTION DATE:	26 August 2025
REVIEW DATE:	26 August 2029

THIS POLICY IS TO REMAIN IN FORCE UNTIL OTHERWISE DETERMINED BY COUNCIL

AMENDMENT HISTORY

VERSION	AMENDMENT DETAILS	AMENDMENT DATE	APPROVAL
1.0	New policy	26 August 2025	Council resolution 2025/169

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