

REDEPLOYMENT, REDUNDANCY OR TERMINATION POLICY

POLICY

- a. The Shire of Quairading reserves the right to redeploy positions or make positions redundant on genuine business grounds.
- b. Shire of Quairading will notify and discuss any organisational changes as required by applicable industrial instruments and legislation.
- c. Where a position is identified by the Shire of Quairading as being surplus to business needs, the Executive Team will first attempt to find the worker, whose position is redundant, an alternative position within the organisation. Suitable positions will be identified with reference to the skills and experience of the worker whose position is being considered for redundancy. The worker will be given the opportunity and adequate time to consider the alternatives and respond accordingly.
- d. Where a redundancy arises as a result of a transfer of business, a worker who accepts an offer, that recognises their service for redundancy purposes, or rejects an offer of employment in a new role, that is on terms and conditions substantially similar to and (considered on an overall basis) no less favourable than the worker's previous terms and conditions of employment, will not be entitled to redundancy pay.
- e. Where redeployment is not possible, a worker whose position is made redundant will receive the appropriate severance pay and other entitlements in accordance with an industrial instrument or a contract of employment (whichever is applicable).

DEFINITIONS

Abandonment of Employment

Abandonment of employment means a worker is absent from work without a reasonable excuse for an unreasonable period of time without having communicated to the employer any reason for the absence.

A worker who has abandoned employment has demonstrated an intention to no longer be bound by the terms of the contract of employment.

Redeployment

Redeployment means the transfer of a worker to another job within the same organisation or an 'associated entity'. It is not sufficient for the employer to find another position (e.g. a lower-level or lower-paid position) in the organisation for a worker in danger of retrenchment, unless the worker agrees to this arrangement.

Without this agreement, a demotion or employment conditions that are substantially less favourable to the worker will amount to a breach of the employment contract, and therefore be either an unfair dismissal or a genuine redundancy (the latter meaning that redundancy entitlements will be payable).

Redundancy

Redundancy means a worker is no longer required for work through no fault of their own, usually because the employer no longer needs or requires the position to be performed by anyone (i.e. the position has become redundant, not the worker). There is no personal act or default by the worker.

Repudiation

Repudiation means a refusal to perform a duty or obligation in a contract (including an employment contract).

Termination

Termination of employment means the voluntary or involuntary end of a contract of employment by giving proper notice (e.g. resignation of worker, dismissal or retrenchment by the employer).

This is usually because of the worker's misconduct, repudiation or abandonment of employment.

PROCEDURE

1. Redeployment and Redundancy

- a. Executive Managers will ensure that:
 - i. Shire of Quairading consults with workers where redundancies are being considered;
 - ii. All avenues for worker redeployment are exhausted prior to seeking approval for redundancies from the CEO or for arranging for the issue of any final termination advice;
 - iii. Affected workers are allowed to identify potentially suitable positions from within the organisation as possible options for redeployment;
 - iv. All instances of redundancy follow the appropriate process, including open communication with the workers concerned;
 - v. Communication regarding redundancy is delivered in an appropriate, confidential and sensitive manner;
 - vi. If a worker's employment is terminated for redundancy, the worker is provided with a statement of service and payment of all accrued but unused entitlements, including notice and (if applicable), redundancy pay;
 - vii. All documentation relating to worker entitlements upon termination of employment for redundancy is completed and issued to payroll for timely processing;
 - viii. LGIS is able to provide confidential counselling to affected workers, where considered appropriate; and
 - ix. Exit interviews are conducted with affected workers.
- b. The CEO is responsible for:
 - i. Ensuring any decision made in relation to the retrenchment of workers is based on sound and objective operational criteria and that the positions selected for redundancy are the most appropriate; and
 - ii. Providing final authorisation for any redundancies.

- c. Workers will ensure that:
 - i. Full consideration is given to any options or alternatives offered by the organisation; and
 - ii. Normal work is continued during the process of communication and notice period if applicable.

2. Termination

a. Misconduct

Shire of Quairading may (but is not compelled to) terminate a worker's contract of employment for reasons of misconduct (please refer to the *Underperformance & Misconduct Policy & Procedures*).

b. Underperformance

Where a line manager considers a worker is underperforming in the position, the line manager is to initiate the *Underperformance & Misconduct Policy & Procedures*.

If, after following the *Underperformance & Misconduct Policy & Procedures*, the worker is proven to be underperforming in the position and all opportunity has been provided to enable the worker to reverse this position, termination of employment will be considered.

c. Capacity

Capacity relates to the worker's ability to perform the inherent requirements of the position. The 'inherent requirements' are the main components of the position.

Where a line manager considers a worker does not have the 'inherent requirements' of the position, the line manager is to initiate the *Underperformance & Misconduct Policy & Procedures*.

If, after following the *Underperformance & Misconduct Policy & Procedures*, the worker is proven to lack the 'inherent requirements' of the position and all opportunity has been provided to enable the worker to reverse this position, termination of employment will be considered.

d. Abandonment of Employment

When a worker is absent from work without a reasonable excuse for an unreasonable period of time without having communicated to their direct line manager any reason for the absence, the line manager will:

- i. Attempt to contact the worker via home telephone, mobile phone, email, work colleagues and any other reasonable means possible; and
- ii. Post a letter by registered mail to the worker's home address appearing on the organisation's records asking the worker to contact the organisation as soon as possible.

A worker will be deemed to have abandoned employment if:

- i. The worker is absent from work for more than five consecutive working days without the line manager's consent and without notification to Shire of Quairading; and/or
- ii. The worker is absent for an additional 14-day period without satisfying the Shire of Quairading that there is reasonable cause.

A worker's absence for up to five days will not be construed as abandonment.

If the worker makes no attempt to contact the Shire of Quairading as to continuing employment, or the excuse for the absence is unsatisfactory, the organisation will assume that the worker has abandoned employment from the date the worker last attended work and terminate the employment accordingly.

e. Total Incapacity

A worker who has a medical certificate confirming that they are totally incapacitated for work will not be deemed to be abandoning employment.

f. Industrial Instruments

Where a worker is covered by an Industrial Instrument or employment contract that provides for abandonment of employment, these provisions will prevail.

g. Unreasonable withholding of leave by employer

Where permission for leave of absence is unreasonably withheld by Shire of Quairading and the worker proceeds on such unauthorised leave, abandonment of employment will not apply.

h. Unlawful termination

The relevant Commonwealth workplace laws prohibit a worker from being terminated on certain grounds, including those that are discriminatory. Workers have protection from unlawful termination.

Unlawful termination is when a worker is dismissed by the employer for reasons including:

- i. A person's race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin (some exceptions apply, such as where it's based on the inherent requirements of the job) (Refer to the *Equal Opportunity Policy*);
- ii. Temporary absence from work because of illness or injury;
- iii. Trade union membership or non-membership;
- iv. Participation in trade union activities outside working hours or (with the employer's consent) during working hours;
- v. Seeking office as (or acting as) a representative of workers;
- vi. Being absent from work during maternity leave or other parental leave;
- vii. Temporary absence from work to engage in a voluntary emergency management activity, and;

viii. Filing a complaint or participating in proceedings against an employer.

i. Worker Recourse

A worker can have another person present to assist them in discussions in circumstances where dismissal is possible. However, the other person cannot be a lawyer acting in a professional capacity.

The West Australian Industrial Relations Commission can investigate unlawful termination complaints.

Workers who want to seek redress for what is alleged to be an unlawful termination should apply to the West Australian Industrial Relations Commission. Unlawful termination applications must be made to the West Australian Industrial Relations Commission within 21 days of the termination.

ACCOUNTABILITIES & RESPONSIBILITIES

a. The Council is accountable for:

- i. Ensuring the organisation has in place a lawful, transparent, and accountable policy framework, supported by a suite of compliant and appropriate policies and procedures.
- ii. Endorsing (or not) each organisational policy document in a timely and effective manner; and
- iii. Delegating implementation of each policy document to the CEO.

b. The CEO is accountable for ensuring the development, implementation, monitoring and review of this policy document, in accord with governing legislation and Council directives.

c. The Executive Management Team and Managers are responsible for:

- i. Ensuring that all workers under their direction comply with this policy document; and
- ii. Enacting process to redress non-compliance with this policy document.

d. All workers are individually responsible for complying with this policy document.

STATUTORY ENVIRONMENT

Equal Opportunity Act 1984

Industrial Relations Act 1979

Minimum Conditions Act 1993

Local Government Act 1995

Record of Policy Review

Version	Author	Council Adoption	Resolution	Reason for Review	Review Date	CEO Signature
01	Nicole Gibbs Tricia Brown	25 May 2023	247 - 22/23	New Policy	May 2025	