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Job Retention Allowance Subsidy Guidelines



Office of Local Government

Introduction

Financial assistance for councils to save local jobs

The NSW Government is providing a \$395 million economic stimulus package (Stimulus Package) to assist local councils in responding to the impact of COVID-19.

The centrepiece of the package is the *Council Job Retention Allowance Subsidy Scheme* (JRA Subsidy).

The JRA Subsidy is targeted at those councils in financial distress. It will help those councils fund the cost of the job retention allowance (JRA) paid pursuant to the *Local Government (Covid-19) Splinter (Interim) Award 2020* (Splinter Award) or an equivalent instrument.

The JRA Subsidy is to subsidise the cost of payments made by *eligible councils* to *eligible employees* who have been stood down as a consequence of the COVID 19 pandemic.

The funding is administered by the Office of Local Government (OLG) with councils being paid monthly in arrears.

How much is the subsidy?

The JRA Subsidy provides a maximum of \$9750 for each *eligible employee*, based on a weekly amount of \$750 over a 13-week period. Any costs above that amount must be met by the council.

The full cost of the JRA for a council will generally be \$858.20 per week for full-time employees whose normal ordinary earnings equal or exceed that amount. Where work is available for part of the week, the amount of the allowance, and the subsidy payable, will be reduced on a pro-rata basis. However, this will extend the time over which the JRA and subsidy is available for such an employee.

Where an eligible employee is not entitled to receive the full rate of the JRA, because their normal ordinary earnings are less than that amount, the council is to pay the employee at the rate of \$750 per week (the Award JRA entitlement plus a supplementary payment), if it intends claiming the subsidy for those employees i.e. councils must pass on the full subsidy to all eligible employees.

Eligibility

Eligible employees are those entitled to be paid the JRA pursuant to, and in accordance with, the Splinter Award or *equivalent agreement*, with the exception of any such employees who were, prior to being stood down, performing a role that is deemed to be a *key function*, as defined by OLG.

The Splinter Award stipulates, in effect, that only full-time employees and permanent part-time employees are entitled to receive the JRA.

To access the subsidy for an *eligible employee*, councils need to:

- enter into a duly executed *COVID-19 Economic Stimulus Package Funding Agreement* (Funding Agreement) with OLG
- satisfy *COVID-19 Financial Stimulus Eligibility Criteria*, as varied from time and published on the OLG website
- be a party to the Splinter Award or *equivalent agreement*
- have paid the eligible employee four weeks paid *COVID-19 Special Leave* under the Splinter Award or *equivalent agreement*
- have paid the eligible employee the JRA pursuant to the Splinter Award or *equivalent agreement* and any required *supplementary payment*.

What are key functions?

Key functions are areas of council and staff which are continuing to deliver the core council and utility services the local community requires to remain functioning during the COVID-19 pandemic.

This includes services related to waste, water, sewerage, and planning or where care is provided to a vulnerable person, for example, aged, health, childcare and social services.

Councils cannot redeploy these staff to make them eligible for the JRA Subsidy.

COVID-19 Economic Stimulus Package Funding Agreement

All councils must enter into funding a funding agreement to participate in the any or all elements of the Stimulus Package. A standardised funding agreement covering all components of the funding, including the JRA Subsidy and Emergency Services Levy payments, will be sent to all councils. The terms of the agreement will be consistent with the announcements made by the NSW Government

No subsidy payments will be made until a duly executed agreement has been received and accepted by OLG.

Application process

Councils that wish to apply for the JRA Subsidy must submit a *Financial Stimulus Eligibility Return* (FSER) to OLG.

Initial assessment of eligibility

OLG will undertake an initial assessment of a council's eligibility and advise councils of the outcome of this assessment.

Councils who are not a party to the Splinter Award will need to provide additional information and supporting documentation to allow the equivalency of the applicable agreement to be assessed. The determination of equivalency will be a matter for OLG, in its absolute discretion.

Ongoing assessment of eligibility

Councils will need to submit an updated FSER to OLG before the end of any quarter, following a quarter for which they have claimed an entitlement to the subsidy.

This return will need to provide details of the revenue received in the previous quarter and forecasted figures for the current quarter. The FSER will be used by OLG in verifying a council's eligibility for the subsidy claimed by it in the preceding quarter and assist council in assessing its on-going eligibility for the current quarter.

A failure to supply the FSER, and any other information considered by OLG as being reasonably necessary to verify the council's eligibility, may lead to eligibility being lost.

Ongoing claim processes

Lodgement of monthly claims and calculation methodology

Eligible councils are to make a monthly claim, in arrears for payment of their subsidy entitlement, as calculated by them in accordance with these guidelines. A pro-forma claim form will be provided to councils.

The claim form will require councils to provide the following information:

- total number of permanent employees
- the number of permanent employees who have been stood down
- the number of stood down employees being paid the JRA
- the number of eligible employees for the purposes of the JRA Subsidy
- the total JRA paid to eligible employees in the claim period
- the total *supplementary payments* paid in the period

Councils will need to provide a general description of the functions eligible employees were undertaking prior to being stood down. Where a group or category of eligible employees has been stood down, it will be sufficient to provide a generic description for the group.

Claims should be accompanied by any required certification and supporting information about nature of work that was being performed by employees before being stood down.

Calculation of the subsidy payable

Councils are responsible for accurately calculating their subsidy entitlement.

The basis for calculating the subsidy entitlement for an eligible employee who has been stood down on a full time basis is 100% of the actual JRA paid (plus any required *supplementary payments*) during the monthly claim period, up to a maximum claim of \$750 per week per eligible employee.

The formula for calculating the subsidy for an employee who receives the JRA for 100% of the time (i.e. they have been stood down for all of their hours) is:

$$\text{Subsidy} = \left(\frac{750}{\text{JRA paid}} \right) \times \text{JRA paid} = \$750 \text{ per week}$$

The subsidy for any given employee is \$750 per week. Councils must ensure that where the JRA paid is less than \$750 for an eligible employee, that the difference between the JRA and the subsidy is passed on to such employees.

Where the employee is working for part of the week and being paid the JRA for the other part of the week, it will be necessary to calculate a pro-rata entitlement to the subsidy:

$$\text{Subsidy} = \left(\frac{750}{\text{JRA paid}} \times \text{JRA paid} \right) \times \frac{\text{JRA hours}}{\text{Worked hours} + \text{JRA hours}}$$

Again, councils must ensure that where the subsidy is greater than the JRA paid, any additional amount must be passed on to the employee.

Alternative method:

In order to simplify the administration of the scheme, councils can calculate their entitlement as 87% of the total JRA paid to eligible employees during the monthly claim period.

This method may result in a council receiving less than its full entitlement but may be easier for the council to administer.

Acquittal and verification of claims

Councils are accountable for the validity of any JRA Subsidy claimed by them.

Councils are required to certify the validity of the claim. This certification is to include a declaration that key functions are continuing to be performed and that no claim has been made for an employee who was performing a key function before being stood down.

In addition to the certification of monthly claims, the scheme requires councils to submit evidence on a quarterly basis that demonstrates, to OLG's satisfaction, that the council was eligible in the preceding quarter to claim the subsidy.

Any calculation discrepancy resulting in an overpayment to the council is repayable to OLG upon demand. OLG may determine the amount of the reimbursement and may serve a notice on the council requiring the amount so determined be paid in recovery of the overpayment.

Repayment of paid subsidies if deemed to be ineligible

If councils have claimed funding for a quarter and subsequently exceed the maximum allowable revenue to be entitled to the subsidy, they will be required to repay any subsidies received for that quarter. However, this provision is not intended to create a perverse incentive for councils trying to apply prudent fiscal management.

There is however a discretion available to the OLG to waive repayment in cases where the excess revenue is not considered to be significantly different to the forecasted revenue or where a council can demonstrate, to OLG's satisfaction, that it has acted in good faith in claiming the subsidy. One example of when this may be applicable is where the improved outcome was not reasonably foreseeable at the time of the council making the claim for the subsidy.

Record keeping

Councils are required keep and retain records sufficient to allow an independent audit or review to form an opinion on the validity of any claim for a subsidy under this scheme.

Council is to make the required records available for inspection by the OLG or its nominee at all times subject to reasonable notice having been provided.

Audit certificate

OLG may require a council to provide, at its cost, a certificate from an independent auditor as to their opinion on the validity of claims made under this scheme. This can be required at any time but will generally be stipulated if the council's claims under the subsidy exceed \$250,000 in total.

Contacts

Council can contact their Council Engagement Manager for general information about the operation of the scheme and eligibility criteria.

Enquires about assessment of applications that have already been lodged and the payment of claims should be directed to OLG's Program Delivery Team on 02 4428 4100 or emailed to olg@olg.nsw.gov.au.

Glossary of key terms

<i>Eligible council</i>	A council that satisfies the eligibility criteria in these guidelines
<i>Eligible employee</i>	An employee entitled to be paid the JRA pursuant to, and in accordance with, the Splinter Award or equivalent agreement, with the exception of any such employees who were, prior to being stood down, performing a role that is deemed to be a key function as defined by OLG
<i>Equivalent agreement</i>	An industrial award or agreement deemed by OLG to be equivalent to the Splinter Award
<i>Financial Stimulus Eligibility Criteria</i>	The criteria published by OLG, as varied from time to time.
<i>Financial Stimulus Eligibility Return</i>	A return from councils to OLG that supplies information about the impact of COVID-19 on revenue and to be used in assessing eligibility for the JRA subsidy
<i>Funding agreement</i>	COVID-19 Economic Stimulus Package Funding Agreement
<i>JRA</i>	The allowance payable by a council pursuant to clause 13.10 of the Splinter Award or equivalent agreement
<i>JRA Subsidy</i>	The subsidy paid in accordance with these guidelines to eligible councils, to assist them with the cost of paying the JRA to eligible employee
<i>Key functions</i>	<p>Key functions are areas of council and staff which are continuing to deliver the core council and utility services the local community requires to remain functioning during the COVID-19 pandemic.</p> <p>This includes services related to waste, water, sewerage, and planning or where care is provided to a vulnerable person, for example, aged, health, childcare and social services.</p>
<i>OLG</i>	Office of Local Government, Department of Planning, Industry and Environment
<i>Splinter Award</i>	<i>Local Government (Covid-19) Splinter (Interim) Award 2020</i>

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Office of Local Government

<i>Stimulus Package</i>	Financial assistance as provided for in the funding agreement
<i>Supplementary Payment</i>	A payment made by a council to an eligible employee to pass on the amount of the JRA subsidy, where the JRA paid to the employee is less than the subsidy amount, being the difference between the JRA and the subsidy claimed by the council.