

## Policy

# Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors

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# Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors

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# **Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors**

## **Part 1 - INTRODUCTION**

### **1.1 Purpose**

The purpose of the policy is to ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors. The policy also ensures that the facilities provided to assist Councillors to carry out their civic duties are reasonable.

The terminology of Councillor contained in this policy also applies to an Administrator/s of Council, where applicable and with any legislative modification.

### **1.2 Objectives and coverage of the Policy**

In accordance with Section 439 of the Local Government Act 1993, Councillors must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions under this Act or any other Act.

Furthermore, it is to ensure that the Councillors would not be financially or otherwise disadvantaged in undertaking their civic responsibilities.

### **1.3 Legislative Compliance**

The Local Government Act 1993 has statutory requirements which describe what fees, expenses and facilities may be paid or provided to Councillors.

Information on the pertinent sections applicable to this policy is contained in the Division of Local Government's Circular 06-57 - Guidelines for the Payment of Expenses and the Provision of Facilities to Mayors and Councillors *and* Circular 09-36 Release of Revised Councillor Expenses and Facilities Guidelines.

### **1.4 Other NSW Government policy provisions**

There are a number of publications which provide assistance to Councillors in complying with the provisions of this policy.

### **1.5 Division of Local Government Guidelines for payment of expenses and provisions of facilities**

Section 252(5) of the Local Government 1993, the Council expenses policy must comply with these guidelines issued under Section 23A of the Act.

### **1.6 Model Code of Conduct**

This policy is consistent with the Model Code of Conduct for Local Councils in NSW in particular with the use of Council resources.

### **1.7 Division of Local Government Circulars to Councils**

Circular 05/08 Legal assistance for Councillors and Council employees

## **1.8 ICAC publications**

No Excuse for Misuse, preventing the misuse of Council resources.

## **1.9 Definitions**

Civic duties are defined as:

- Council and Committee Meetings;
- Community Meetings approved by the Mayor or General Manager;
- Meetings with the staff approved by the General Manager; and
- Conferences, seminars, training courses, formal and social functions where representing Council, approved by the Council, Mayor or General Manager;
- Meeting with constituents in the course of discharging duties as Mayor and Councillor.

## **Part 2 - PAYMENT OF EXPENSES**

### **2.1 General Provisions**

#### **2.1.1 Mayor and Councillors Annual Remuneration:**

The Annual Remuneration for Mayor and Councillors, adopted by Council do not fall within the scope of this policy

#### **2.1.2 No general expenses allowance**

No annual, monthly or daily allowance or expenses type allowance payment shall be payable in any circumstances.

#### **2.1.3 Monetary limits for all expenses**

Monetary limits applying to this policy include:

- Telecommunications/Internet

Councillors will be provided with a mobile telephone or smart phone with email to assist in undertaking civic duties.

Council will meet the cost of providing the mobile telephone, maintenance, monthly service and access fees, and call charges from this mobile or landline, up to a maximum of \$400 per month for the Mayor and \$200 per month for other Councillors made in the conduct of their civic duties.

Individual Councillors must meet the cost of all non-business calls and any additional Council calls above the limits.

Council will meet the cost of Internet charges involved in the conduct of the Mayor and Councillors civic duties, up to a maximum of \$90.00 per month.

Council will meet the cost of providing the fax machine, maintenance and rental charges for one (1) home facsimile line, together with fax paper.

- Care and other related expenses

Councillors are entitled to the reimbursement of carer expenses, including childcare expenses and care of the elderly, disabled and/or sick immediate family members of Councillors that were necessary to enable Councillors to undertake their civic duties.

The reimbursement of expenses will be subject of a separate application by the affected Councillor in each instance, for the determination by the Mayor and General Manager.

Child/dependant care expenses are not to be reimbursed if the care is provided by a relative who ordinarily resides with the Councillor. A 'relative' is defined as a spouse, de-facto partner, parent, son, daughter, brother, sister or grandparent.

Childcare will only be provided to children of the Councillor up to and including the age of 16 years.

The maximum entitlement for such expenses is \$2,000 per annum.

Incidental expenses incurred in attending related Council business, approved conferences, seminars, training and educational courses:

Facsimile	to and from Council Office or residence only
Internet Charges	maximum daily limit \$5.00
Laundry and Dry Cleaning	maximum daily limit \$10.00
Newspapers	maximum daily limit \$2.00
Taxi Fares	from transport destination to accommodation and/or conference venue
Parking Fees	include airport parking when plane travel is being used

Any other costs incurred by a Councillor in addition to the daily limits, are the responsibility of the individual Councillor.

Councillors are to use their mobile telephones for all calls including business and private. Special circumstances will be permitted, when mobile telephone reception does not allow the use of a mobile telephone.

- Meal Allowances

The daily limit for meals (including refreshments) when attending approved conferences, seminars, training and education courses will be in accordance with Australian Taxation Office allowance Guidelines.

#### 2.1.4 No private benefit unless payment made

Councillors should not obtain a private benefit from the provision of equipment and facilities, nor from travel bonuses such as "frequent flyer" schemes or any other such loyalty programs whilst on council business.

#### 2.1.5 No use of council resources for political purposes

Councillors are not to use facilities, equipment and services to produce election material or for any other political purposes.

#### 2.1.6 Gifts and benefits given to be of token value

In circumstances where it is appropriate for councillors to give a gift or benefit (for example on a council business related trip or when receiving visitors), these gifts and benefits should be of token value and in accordance with Council's Code of Conduct (clause 8.1).

#### 2.1.7 Approval and dispute resolution processes

This policy sets out in various areas the approval arrangements for all expenses. In particular, the attendance at seminars and conferences, training and educational courses, dinners and other non – council functions.

Should a dispute arise about the provision of expenses and facilities, or when an expense claim is not approved by the Mayor **and General Manager or nominee for Councillors, or the Deputy Mayor and General Manager or nominee for the Mayor**, then the disputed decision should be reviewed by the Chair of the Audit Committee, with a report to the full council meeting.

#### 2.1.8 Reimbursement and reconciliation of expenses

Reimbursement of expenses shall only be made upon the production of appropriate receipts and tax invoices and the completion of the required claim forms.

All reimbursement of expenses must be approved by the General Manager.

All expenses being reimbursed must be in accordance with the provisions of this policy.

A Councillor seeking reimbursement of expenses must lodge a claim within three months of the expense being incurred.

#### 2.1.9 Payment in advance

This policy does not provide for cash payments being advanced to Councillors in anticipation of expenses being incurred in the conduct of their civic duties.



## **2.2 Specific Expenses for Councillors (including limits)**

### **2.2.1 Attendance at seminars and conferences**

Attendance at conferences and seminars by Councillors must be authorised in advance by a Council Resolution. An exception may occur in an emergency, then such attendance must be authorised by the Mayor and General Manager.

The exception will only apply to short term (1 day) events and be organised within the local region.

Council will be responsible for the following expenses to be incurred by a Councillor in attending an approved conference or seminar.

- **Registration Expenses**

Including official luncheons, dinners and tours relevant to the conference, seminar or training course.

- **Travel Expenses - Local or Outside Local Government area**

As detailed within this policy.

- **Accommodation Expenses**

Accommodation for attendance at approved conferences, seminars and training courses will only be authorised on the following basis:

- venue where the conference, seminar and training course is being conducted;
- where venue is unavailable, then the alternative venue is up to a standard of four star NRMA rating;
- night before and after depending on the event and travel circumstance, such approval must be obtained in advance from the General Manager;
- Council to make the relevant accommodation booking.

- **Meals and Other Incidental Expenses**

Outlined in the establishment of monetary limits and standard provisions contained in this policy.

### **2.2.2 Attendance at training and educational courses**

Attendance at training and educational courses by Councillors must be authorised in advance by a Council Resolution. An exception may occur in an emergency, then such attendance must be authorised by the Mayor and General Manager.

The exception will only apply to short term (1 day) events and be organised within the local region and facilitated by the Local Government & Shires Association, Independent Commission against Corruption or Division of Local Government.

Council will be responsible for the following expenses to be incurred by a Councillor in attending an approved training or educational courses.

- Registration Expenses

Including official luncheons, dinners and tours relevant to the training or educational course.

- Travel Expenses - Local or Outside Local Government area

As detailed within this policy.

- Accommodation Expenses

As detailed within this policy under attendance at seminars and conferences.

- Meals and Other Incidental Expenses

Outlined in the establishment of monetary limits and standards provisions contained in this policy.

### 2.2.3 Local travel arrangements and expenses

Councillors will be entitled to be reimbursed for travel from their home whilst undertaking civic duties at the rate per kilometre as set out in the State Award, Local Government (State) Award.

Where a Councillor must use a form of transport other than own vehicle for travel within the local government area, then such approval must be obtained in advance from the Mayor or General Manager.

### 2.2.4 Travel outside local government area including interstate travel

Councillors must obtain approval from Council for all travel outside of the Local Government Area, including interstate travel.

Councillors will be entitled to travel to official engagements at Council's expense by the most practical method, i.e. aircraft, Council vehicle or private vehicle.

Councillors when travelling by air will travel Economy Class or as determined by the General Manager.

All "Frequent Flyer" points accrued are to remain the property of Council.

A Councillor who travels in his/her own vehicle will be reimbursed at the appropriate per kilometre rate or airfare whichever is the lower.

### 2.2.5 Legal expenses and obligations

Legal expenses for a Councillor may be either paid or reimbursed by the Council only if the matter is authorised by the Local Government Act 1993 either expressly or because it is supplemental or incidental to or consequential upon the exercise of its functions.

Council may therefore indemnify or reimburse the reasonable expenses of:

- a Councillor defending an action arising from the performance in good faith of a function under the Local Government Act (Section 731) ; or
- a Councillor defending an action in defamation provided the statements complained of were made in good faith in the course of exercising a function under the Act ;
- A Councillor for proceedings before the Local Government Pecuniary Interest and Disciplinary Tribunal or investigative body and where the finding is not substantially unfavourable to the Councillor; or
- In the case of a conduct complaint made against a Councillor, legal costs will only be made available where a matter has been referred by a General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in Council's Code of Conduct.

Council will not indemnify or reimburse the legal expenses of a Councillor arising merely from something that a Councillor has initiated or done or did not involve the performance of their role as a Councillor during his or her term in office.

Council will not meet the costs of an action in defamation taken by a Councillor as a plaintiff in any circumstances.

Council will not meet the costs of a Councillor seeking advice in respect of possible defamation or in seeking a non-litigious remedy for possible defamation.

### 2.2.6 Insurance expenses and obligations

Councillors are to receive the benefit of insurance cover for:

- Personal Injury

Whilst on Council business, covering bodily injury caused by accidental, violent, external and visible means up to a sub-limit for death and capital limits as specified in the Councillors and Officers Liability Insurance Policy. Also covering permanent disablement, temporary total disability and temporary partial disability.

- Professional Indemnity

For matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors provided the performance or exercise of the relevant civic duty or function in the opinion of Council is bona fide and/or

proper and is carried out in good faith, as required under Section 731 of the Local Government Act.

- Public Liability

For matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors, being carried out in good faith.

#### 2.2.7 Attendance at dinners and other non-council functions

Consideration may be given to meeting the cost of Councillors attendance at dinners and other non-Council functions which provide briefings to Councillors from key members of the community, politicians and business.

Approval to meet expenses will only be given when the function is relevant to Council's interest and attendance at the function is open to all Councillors.

No payment will be reimbursed for any component of a ticket to support attendance by councillors at political fund raising functions.

An additional payment to a registered charity may be acceptable as part of the cost of the function.

Councillors seeking reimbursement for this type of expense must have it approved by Council and not the General Manager.

#### 2.2.8 Spouse and partner expenses

Council will not normally reimburse the expenses of spouses, partners and accompanying persons for attendance at any Council function.

Council may reimburse expenses of spouse, partners and accompanying persons in certain and special circumstances at any official Council function, with prior approval being sought from the Mayor and General Manager.

Accommodation (shared basis) will be met by Council, provided that there are no additional costs incurred by Council.

Mayor and Councillors must make separate arrangements for the payment of expenses incurred by a spouse or partner.

#### 2.2.9 Councillors Contributing into Superannuation

In accordance with the Australian Taxation Office Interpretative Decision of 2007/205, provides that Council may enter into an arrangement with a Councillor under which the Councillor agrees to forego all or part of their annual fee in exchange for the Council making contributions to a complying superannuation fund on their behalf.

## **2.3 Additional Mayoral Expenses**

Additional expenses provided:-

### **2.3.1 Provision of a dedicated motor vehicle**

A motor vehicle bearing no markings or identification will be provided for the sole use of the Mayor.

The motor vehicle is and shall remain the property of Council and shall be surrendered to Council by the Mayor in the event that the person is no longer the Mayor.

The Mayor is to be given unrestricted use of such vehicle including private use, with the Council servicing and maintaining such vehicle, paying registration and insurance (including full comprehensive cover) and providing fuel. Private use means that the Mayor and his/her spouse or other licensed driver (provided the Mayor or Mayor's spouse is in the car) or any other Council employee are allowed to drive the vehicle.

The type of vehicle that will be provided is to be at a standard in accordance with Council's Motor Vehicle Lease Policy, and sets a standard for energy efficiency.

The vehicle is to be replaced at the most economically beneficial time as determined by the Works Manager.

### **2.3.2 Provision of Credit Card**

Provision of a Mastercard with a limit of \$5,000.

## **Part 3 - PROVISION OF FACILITIES**

### **3.1 General Provisions**

#### **3.1.1 Provision of facilities generally**

Council will provide facilities and equipment to each Councillor to ensure that they can undertake their civic duties in an appropriate manner. The facilities and equipment include:

#### **3.1.2 Telephone costs and expenses**

Councillors will be provided with a fax machine to assist in undertaking civic duties.

#### **3.1.3 Computer Facilities**

Councillors will be provided with computer facilities to assist in undertaking civic duties.

#### **3.1.4 Postage of Official Councillor Correspondence**

Councillors will be reimbursed for official postage, provided expenses can be verified and where it is impractical to use the Council's own mail system.

Applications for reimbursement of postage expenses must contain verification information and be authorised by the General Manager.

#### 3.1.5 Stationery

Provision of personalised Councillor letterhead and envelopes exclusively for Council related business

#### 3.1.6 Business cards

Provision of 250 business cards (replacement on request)

#### 3.1.7 Christmas cards

Maximum of 100 per year

#### 3.1.8 Name badges

Councillors to be provided with a name badge

#### 3.1.9 Filing cabinet

Councillors to be provided with a home filing cabinet if required.

Filing cabinet is to be returned if the person ceases to be a Councillor

#### 3.1.10 Meetings meals and refreshments

Provision of meals and refreshments associated with Council, committee and working party meetings where appropriate

#### 3.1.11 Meeting rooms/ Councillor Room

Provision of meeting room facilities, including telephone, computer network facilities and access to a photocopier in the Administration Centre for the purpose of Council, committee and working party meetings and for meeting with constituents.

#### 3.1.12 Secretarial support

Provision of secretarial support, as necessary for Councillors to undertake their civic duties.

#### 3.1.13 Private use of equipment and facilities

A Councillor must not use any of the facilities allocated by Council for their private use.

A Councillor may use their mobile telephone or facsimile machine for their private use however payment is to be made to Council for such use.

Any contravention of this policy will result in the matter being reviewed against the provisions of Council's Code of Conduct.

## **3.2 Additional Mayoral Equipment and Facilities**

### **3.2.1 Other equipment, facilities and services**

Other equipment, facilities and services that are to be provided by Council for the use of the Mayor are as follows:

- An experienced person suitably qualified to provide secretarial support to the Mayor.
- Mayoral letterhead, envelopes and stationery generally
- Where appropriate assistance with the organisation of functions, meetings and briefings to which the Mayor is invited to attend.
- A furnished office will be provided at the Council Administration Office, to enable the Mayor to undertake the civic duties appropriate to that position.
- Limited refreshments will be provided in the Mayoral Office for entertainment purposes.
- An allotted parking space will be provided at the Council Administration Offices for the parking of the Mayoral vehicle.

## **PART 4 - OTHER MATTERS**

### **4.1 Acquisition and returning of facilities and equipment by Councillors**

Councillors are to return to Council, where appropriately practicable, after the completion of their term of office or entering extended leave of absence or at the cessation of their civic duties all facilities and equipment that have been allocated by Council.

Should a Councillor desire to keep any equipment allocated by Council, then this policy enables the Councillor to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.

### **4.2 Status of the Policy**

The provisions of the Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors shall remain valid until revoked or amended by Council.



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Date 21 September 2011  
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## **FINDINGS FROM REVIEW OF COUNCILLOR EXPENSES AND FACILITIES POLICIES**

A sample of 47 councillor expenses and facilities policies, prepared under sections 252 and 253 of the *Local Government Act 1993* and the *Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW*, have been reviewed to assess compliance with the legislation and Guidelines.

The Guidelines were first released in September 2006 to promote accountability and transparency in the payment of expenses and provision of facilities to mayors and councillors to meet community expectations.

### **Review Findings**

Overall, the review found that approximately three-quarters of the policies reviewed adequately met the requirements of the legislation and the Guidelines. This represents an upward trend in the quality of the policies and policy compliance since a review of policies in 2007 (refer Circular to Councils 08-03). Most councils also complied with the subsequently introduced annual reporting requirements for councillor expenses and facilities.

A high level of compliance was found in relation to the exclusion of general allowances and inclusion of a process for reconciliation, reimbursement and dispute resolution. Compliance was also high in relation to provision for individual expenses. In particular, provision for legal expenses, carer expenses and spouse/partner or accompanying person expenses has significantly improved since the 2007 review.

It is pleasing to note the upward trend in the overall compliance and quality of councillor expenses and facilities policies.

### **Areas for Improvement**

A lower level of compliance and/or issues were found in the following areas, which councils are requested to consider in the development of their future policies on councillor expenses and facilities.



### Monetary limits

Nearly half of the policies reviewed lacked clear monetary limits and/or standards of provision for expenses and facilities provided to councillors.

Councils are reminded that the payment of expenses and the provision of facilities to councillors must not be open-ended. Monetary limits for all expenses and limits to the standard of provision for all facilities must be clearly stated and, where appropriate, justified within councils' policies (section 1.6.6 of the Guidelines refers).

Councils need to consider what a reasonable and acceptable level of provision is and include clear limits in their policies in relation to each expense and facility provided. Councils may choose to include a table of limits in an appendix to the policy. Referring to limits outlined in another document, such as council's annual budget, is not appropriate. It is a less transparent practice and contrary to the Guidelines.

### Policy review requirements

Approximately one-third of policies reviewed failed to appropriately review, adopt and submit their policy to the Division on time.

**Councils are reminded that it is a legislative requirement that they place their councillor expenses and facilities policy on public exhibition each year prior to annual adoption.**

The Local Government Act sets out the annual policy review and adoption processes that must be followed. These are outlined in section 1.7.4 of the Division's Guidelines and are summarised below.

- Councils must annually **adopt** a councillor expenses and facilities policy by 30 November each year (s252(1))
- Councils must give public notice of the intention to **adopt** a policy and allow at least 28 days for public submissions (s253(1)) and consider submissions made (s253(2))
- Councils must publicly exhibit the draft councillor expenses and facilities policy before they annually **adopt** a policy, even if the policy is not amended or the amendments are not substantial (s253(5))
- Councils must forward the policy within 28 days of adoption to the Division of Local Government, together with a copy of the public notice and details of any submissions received (s253(4)).

Councils should note that section 253(3) of the Act, which provides that public notice need not be given of the intention to **amend** a policy if the council is of the opinion that proposed amendments are not substantial, does not relate to the annual policy adoption process. This subsection relates to minor amendments that a council may wish to make to the policy at other times during the year.

### Council approval process

Approximately one-third of policies reviewed lacked a clear approval process for all expenses and facilities requiring at least two people. A number of non-compliant policies set out an approval process for one or two specific expenses only (eg, travel).

Councils are reminded that policies must contain approval arrangements for all expenses and facilities that avoid any one person being the decision maker (section 1.6.7 of the Guidelines refers).

Councils should consider the nature and significance of the various expenses and facilities outlined in the policy when determining approval arrangements. Significant or potentially contentious expenses will require prior approval at a full meeting of the council (eg, legal expenses or discretionary trips). Less significant expenses may only require approval by two people, usually the mayor and the general manager, or in the case of the mayor's expenses, the deputy mayor and the general manager.

Generic approval arrangements should be outlined in an overarching 'approval arrangements' section in the policy that captures all expenses and facilities. Special approval arrangements that may apply in relation to a specific expense or facility may also be incorporated into relevant sections of the policy.

### Private benefits

Approximately one-third of policies reviewed did not disallow private benefit to councillors from facilities and lacked a clear mechanism to recoup the cost of any private benefit obtained.

Councils are reminded that policies are to include a statement clarifying that councillors should not obtain more than incidental private use of facilities (section 1.6.4 of the Guidelines refers). In situations where private use of a facility has been approved (eg, for private use of a council vehicle or telephone), council policies should clearly document the mechanism to determine and recoup the cost of private use of that facility from councillors. A number of councils whose policies were reviewed appropriately use declaration forms and/or log books to assist with this process.

### **Review feedback to councils**

The 47 councils whose policies were reviewed are:

Armidale-Dumaresq, Ashfield, Bankstown, Bathurst, Bega Valley, Bland, Boorowa, Botany Bay, Brewarrina, Broken Hill, Burwood, Camden, Canada Bay, Central Darling, Cessnock, Dubbo, Dungog, Gosford, Gundagai, The Hills, Hornsby, Jerilderie, Kiama, Kogarah, Ku-ring-gai, Leeton, Leichhardt, Manly, Marrickville, Murrumbidgee, Muswellbrook, Orange, Parramatta, Penrith, Pittwater, Rockdale, Strathfield, Temora, Tumbarumba, Tumut, Tweed, Warringah, Warrumbungle, Wellington, Wingecarribee, Woollahra, Young.

These councils are encouraged to contact the Division for further information and feedback on their individual councillor expenses and facilities policy.

### **Update to Guidelines**

Review findings will be incorporated into an update to the Guidelines, anticipated to commence later this year. Councils are requested to advise the Division about any issues they may have with the legislative framework guiding the payment of expenses and facilities to councillors, including the Guidelines, by **30 November 2011**.

Meanwhile, councils should continue to use the current Guidelines (dated October 2009) as they prepare their councillor expenses and facilities policies for the coming year.

A handwritten signature in blue ink that reads "Ross Woodward". The signature is written in a cursive, flowing style.

**Ross Woodward**  
**Chief Executive, Local Government**  
**A Division of the Department of Premier and Cabinet**