



# COUNCILLORS – EXPENSES AND PROVISION OF FACILITIES

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## **PART 1**

## **INTRODUCTION**

### 1. Preliminary

#### 1.1 Introduction

This policy is in accordance with the requirements of the Local Government Act 1993 and may be cited as the "Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy".

#### 1.2 Purpose

To ensure that Councillors receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties. It ensures that these are provided in an accountable and transparent manner.

#### 1.3 Policy Objectives

This policy is made under the Local Government Act 1993 including Sections 252 to 254. The Act requires that the Council must adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and other Councillors. This policy also applies to Administrators of councils should one be appointed.

The purpose of the policy is:

1. To ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors
2. To provide adequate and reasonable facilities for use by the Councillors, Mayor and Deputy Mayor to enable them to discharge the functions of civic office
3. To provide clear details of benefits available to Councillors

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To fulfil the statutory responsibilities of Section 252 of the Local Government Act and the Local Government (General) Regulations, having regard to The Department of Local Government publication "Guidelines for the Payment of Expenses and Provision of Facilities for Mayors and Councillors for Local Councils in NSW" – September 2006

- Department of Local Government Circular No. 05/08 – Legal Assistance for Councillors and Council Employees and No. 02/34 – Unauthorised Use of Council Resources

- Council's Code of Conduct and ICAC Publication – No Excuse for Misuse, Preventing the Misuse of Council Resources
- Other relevant publications.

#### 1.4 Reporting

Section 428(2)(f) requires a Council to include in its Annual Report:

1. Council's policy on the provision of facilities for, and the payment of expenses to Councillors, and
2. Total amount of money expended during the year on providing those facilities and paying those expenses.
3. Amendments to Clause 217 of the Local Government (General Regulations 2005 now require Council to include additional reporting information in the Annual Report, including:
  - Cost of phone calls including mobiles, home located landlines, facsimile and internet services,
  - Spouse/partner/accompanying person expenses,
  - Conference and seminar expenses,
  - Interstate travel expenses,
  - Overseas travel expenses,
  - Care and other related expenses

#### 1.5 Legislative Provision

This policy is made under Section 248-254A of the Local Government Act 1993 (NSW) and Clause 403 of the Local Government (General) Regulation 2005.

#### 1.6 Definitions

The Act: The Local Government Act 1993

Councillor expenses and facilities policies: policies prepared under these guidelines on the payment of expenses and the provision of facilities to mayors and councillors.

Expenses: Payments made by the council to reimburse councillors for reasonable costs or charges incurred or to be incurred for discharging their civic functions. Expenses must be outlined in a council's policy and may either be reimbursed to a councillor or paid directly by a council for something that is deemed to be a necessary expense to enable them to perform their civic functions. Expenses are separate and additional to annual fees.

Facilities: Equipment and services that are provided by councils to councillors to enable them to perform their civic functions with relative ease and at a standard appropriate to their professional role as councillors.

Functions of civic office/civic functions: Functions that councillors are required to undertake to fulfil their legislated role and responsibilities for the council that should result in a direct benefit for the council and/or for the local government area.

The Regulation: The Local Government (General) Regulation 2005.

### 1.7 Legislative Context

This policy has been prepared under the provisions of Section 23A of the Local Government Act 1993 ('the Act') as Director General's Guidelines.

Councillor expenses and facilities policies are made under the Act and in accordance with Sections 252 and 253 of the Act as well as Clause 403 of the Local Government (General) Regulation 2005 ('the Regulation').

Under Section 252(5) of the Act councillor expenses and facilities policies must comply with the provisions of the Act, the Regulation, these guidelines and other policies nominated in these guidelines.

Under Section 439 of the Act every councillor must act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions. Under Section 440 each council must adopt a code of conduct that incorporates the provisions of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

Other policy documents to be considered during the development and review of councillor expenses and facilities policies include relevant Circulars to Councils the Model Code of conduct for Local Councils in NSW and the Independent Commission against Corruption publication No Excuse for Misuse.

A council may disburse money only if the disbursement is authorised by the Local Government Act, either expressly or because it is supplemental, incidental to or consequential upon the exercise of its functions.

## **PART 2**

## **FACILITIES FOR MAYOR AND COUNCILLORS**

### 2.1 Mayor

In addition to those facilities provided to the Councillors below, the Mayor is entitled to receive the benefit of:

- use of the Mayoral office,
- access to a Council pool vehicle for Council business
- Computer and Email
- a mobile telephone and suitable car kit for use in relation to official duties,
- secretarial services associated with office of the Mayor,
- cost of transport to official functions (if required),
- access to Council meeting rooms as provided by the General Manager
- catering services as provided by the General Manager, and
- Credit Card to be used in accordance with Council Credit Card procedures

### 2.2 Councillors

The Councillors, including the Mayor and Deputy Mayor, are to receive the benefit of:

- Use of the Councillors Room
- use of official Council stationery,
- postage of official correspondence – all mail is to be directed through the Council's own mailing system,
- meals/refreshments on evenings of Council meetings and official dinners. Light refreshments at Committee and working party meetings.
- cost of transport to official functions (if required) when deputising for the Mayor,
- access to the Councillors' meeting room, computer access and photocopier,

- minor secretarial services associated with duties of Councillors,
- Business Cards and name badges
- Security Name Tag for access to the Council building
- reimbursement of costs for attendance at a council endorsed civic function where the event is ticketed.
- access to appropriate training programs for Councillors, and
- provision of journals and publications relevant to Councillor's duties and local government responsibilities.
- I pads with annual allowance of 12gb data
- I pad compatible Printers and all consumables

### 2.3 Private Use of Equipment and Facilities

Council acknowledges that incidental private use of equipment and facilities may occur from time to time and such use is not subject to compensatory payment. The General Manager shall determine the standard and quality of equipment provided.

Councillors must use council resources ethically, effectively, efficiently and carefully in the course of their official duties, and must not use them for private purposes unless this use is lawfully authorised and proper payment is made where appropriate.

Council facilities, equipment and services are not to be used to produce election material or for any other political purpose.

### 2.4 Return of Equipment and Facilities by Councillors

Councillors are required to return all Council issued equipment to Council after the completion of the Councillors term of office or at the cessation of their civic duties.

Councillors may choose to purchase Council equipment previously allocated to them at the cessation of their duties. Items will be offered at the written down value at the time of purchase.

### 2.5 Spouses, Partners and Accompanying Persons Expenses

An accompanying person is a person who provides carer support to the Councillor.

Where certain costs incurred by the Councillor on behalf of their spouse, partner or accompanying person are properly those of the Councillor in the performance of his or her functions, then those costs will be reimbursed to the Councillor:

1. Reimbursement of the reasonable costs of spouses, partners or an accompanying person for attendance at official Council functions that are of a formal and ceremonial nature, is considered appropriate when accompanying Councillors within the local government area.

2. Reimbursement for the payment of expenses for the spouse, partner or accompanying person of the Mayor (or a Councillor when they are representing the Mayor) for attendance at an official function of Council or an official ceremonial duty while accompanying the Mayor outside the local government area, but within the State and ACT, is considered appropriate. Examples include charitable functions to which the Mayor has been invited and award ceremonies and other functions to which the Mayor is invited to represent the Council.
3. Reimbursement of expenses, limited to the cost of registration and the official conference dinner, of spouses, partners or accompanying persons associated with attendance at the Local Government Association's annual conference is considered appropriate. Travel expenses, any additional accommodation expenses, and the cost of partner/accompanying person tours etc. would be the personal responsibility of individual Councillors.

Councillors' spouse, partner or accompanying person may attend seminars, conferences or the like with Councillors (any event or function outside the Council area, including interstate and overseas), subject to any additional travel, accommodation, partner/accompanying person tours sustenance costs, and the like being met by the individual Councillor concerned by his/her partner (with the exception of attendance at Local Government Association Annual Conferences).

The payment of expenses for spouses, partners or accompanying persons for attending appropriate functions, as permitted above, is confined specifically to the ticket, meal and/or the direct cost of attending the function. Peripheral expenses incurred by spouses, partners or accompanying persons such as grooming, special clothing and transport are not considered reimbursable expenses.

In the event of a Councillor seeking an advanced payment or reimbursement of expenses for attendance at any seminar, conference or the like, a written claim is to be submitted to the General Manager providing appropriate details with official receipts for expenditure. Councillors must fully reconcile all expenses against the cost of the advance within two (2) weeks of their return.

## 2.6 Mayoral Vehicle

Not Applicable.

## 2.7 Presenting a Gift or Benefit

Where it is appropriate for Councillors to give a gift or benefit for example, on a council business trip or when receiving visitors these gifts and benefits are to be of a value and be less than \$100 and must be authorised by the Mayor and

General Manager. For amounts in excess of this council must consider the matter formally.

## 2.8 Training and Education Program

Councillors will be encouraged to attend at least one relevant training and development course each year offered by the NSW Local Government Association. Additional courses may be attended subject to approval by the Mayor or General Manager and budgeting constraints.

## **PART 3      ANNUAL FEES**

### **3.1      Mayor and Councillors**

Mayoral Fee - Council will determine annually the fee paid to the Mayor in accordance with Section 249 of the Local Government Act 1993 (NSW). This fee, while is in addition to the Councillors fee, will be paid to the Mayor monthly in arrears.

Deputy Mayor Fee - Council may determine that a fee to be paid to the Deputy Mayor in accordance with Section 249 (5) of the Local Government Act 1993 (NSW). Such fee shall be deducted from the Mayoral fee, and is in addition to the Councillors fee. This fee will be paid to the Deputy Mayor monthly in arrears.

Councillors Fee - Council will determine annually the fee to be paid to Councillors in accordance with Section 248 of the Local Government Act 1993 (NSW). This fee will be paid to Councillors monthly in arrears as provided by Section 250 of the Act in accordance with the determination of the Local Government Remuneration Tribunal.

## **PART 4 PAYMENT OF EXPENSES FOR MAYOR AND COUNCILLORS**

### 4.1 Transport

In addition to the payment of annual fees in accordance with sections 248 and 249 of the Act, Councillors are entitled to claim “mileage” allowance for use of private vehicles in relation to the following;

- Council meetings
- Council committee meetings
- Working group which the Councillor is the nominated delegate
- Section 355 Committee meetings
- External Organisation/Committee Meetings which the Councillor is the nominated delegate, except where \_\_\_ are paid to the Councillor by the external organisation
- Workshop convened by Council
- Public meeting convened by Council
- Training programs relating to the role of the Council
- Inspections within the area of the Council undertaken according to a resolution of Council and
- To attend a formal function or meeting where a formal invitation to attend arises only as a result of the position of Councillor.

A per kilometre allowance for the use of a Councillors private vehicle shall be paid to each Councillor when attending a function authorised by this policy, subject to this being the most effective mode of transport available.

The “per kilometre allowance” will be in accordance with the rates applicable under the Local Government (State) Award.

All claims for reimbursement must be made on the prescribed form and must be sufficiently detailed and/or accompanied by appropriate documentary evidence if available

Other out of pocket expenses associated with travel by motor vehicle such as parking fees and road toll charges may be claimed, noting that the driver is personally liable for all traffic or parking fines while travelling in private or Council vehicle on Council business.

Reimbursement is subject to a formal claim being lodged no later than two (2) weeks after the expense was incurred.

### 4.2 Conferences and Seminars

#### 4.2.1 Who May Attend Conferences and Seminars

Council will meet the costs associated with the Councillors attending conferences/seminars/ meetings that are the business functions of Council, namely:

- The attendance at Council/Committee/Community meetings where the Councillor is a Council representative or delegate or has been authorised to attend by the Council or the Mayor.
- Attendance at conferences, seminars, workshops or inspections where authorisation has been given by the Council or under the authority of the Mayor or delegated authority of the General Manager.
- Attendance at meetings, seminars, conferences, functions by the Mayor where the Mayor deems it necessary and/or appropriate that Council be represented within NSW and ACT. Otherwise Council approval must be obtained.
- Attending training, seminars and conferences are to provide a detailed report to Council on the outcome and issues.
- Attendance at specific onsite meetings at the request of community members.

#### 4.2.2 What Conferences and Seminars May be Attended

The conferences, seminars, workshops, courses and similar to which this policy applies shall generally be confined to:

1. Local Government Association Annual Conferences (Federal and State),
2. Local Government and Shire Conference (State),
3. Special “one-off” conferences called by Local Government Association on important issues,
4. NSW Country Mayors’ Association,
5. Annual conferences and congresses of the major industry associations and professions in local government, and
6. Seminars which further the training and development efforts of the Council and within the budget framework.

#### Overseas Travel

The cost of overseas travel for purposes such as conferences and delegations to Council’s Sister City shall not be met by Council unless Council determines otherwise for specific visits. In extenuating circumstances, any agreement to meet the costs of overseas travel either in whole or in part, shall be specifically resolved by a meeting of Council and subject to a detailed report to Council on all aspects of

the trip relevant to Council business within three (3) months of the completion of the travel.

#### 4.2.3 Registration

The Council will pay all normal registration costs which are charged by organisations, including the costs of related official luncheons, dinners and tours which are relevant to the interests of the Council or assist Councillors to discharge the functions of their civic office.

#### 4.3 Expenses Incurred and Reimbursement

Payment or reimbursement of expenses incurred or to be incurred shall be subject to the requirements that:

- (a) Travel expenses relate to travel that is on Council business, being to and from the periodical conferences and seminars of local government related organisations (generally as listed above) at which attendance has been approved.
- (b) The travel is undertaken with all due expedition, and by the shortest route and the most practicable and economical transport.
- (c) Only reasonable amounts are claimed or accepted towards necessary out-of-pocket expenses.
- (d) Out-of-pocket expenses for which amounts are claimed relate only to the verified costs of meals, travel, registration fees, accommodation, stationery and the like.
- (e) Any time occupied or travel incurred in other than Council business is not included in the calculation of expenses to be paid.
- (f) The claim is made not later than two (2) weeks after the expenses were incurred, and upon an approved claim form, supported by appropriate receipts and tax invoices.
- (g) Any expenses in relation to Council related business should only be incurred by Councillors in accordance with the provisions of this policy. All claims shall be submitted for approval by the General Manager or his delegate, and
- (h) Council considers, however, that the setting of monetary limits for the reimbursement of expenses is not practicable.
- (i) Councillor expenses may not be used to support attendance by Councillors at political fund-raising functions.

#### 4.4 Payment in Advance

The Council will only pay registration fees, accommodation deposits and airline tickets direct in advance and where possible Council Staff shall make all arrangements and bookings.

#### 4.5 Categories of Payment or Reimbursement

The categories of payment or reimbursement are as follows:

##### 4.5.1 Travel

- All reasonable travel costs will be met by the Council. Where appropriate, travel will be provided by air (economy class). Depending upon the circumstances, it may be more appropriate for travel to be undertaken by car. However, car travel should not be encouraged for long distance travel.\
- Travel by motor vehicle may be undertaken by Council vehicle (where available) or by private vehicle subject to prior approval from the General Manager. Persons using private vehicles will be paid the “mileage” allowance as detailed in 4.1, but subject to any such payment not exceeding economy class air fares to and from the particular destination.
- Costs of vehicle hire parking and toll costs and/or taxi fares which are reasonably incurred while attending conferences will be reimbursed by Council.

##### 4.5.2 Accommodation

Reasonable accommodation costs (including meals), including the night before and/or after the conference where this is necessary, will be met by the Council. Accommodation is to be restricted to a maximum of NRMA 4 ½ Star rating unless otherwise approved by the General manager as necessary to enable accommodation at the function venue and avoid the costs/inconvenience.

##### 4.5.3 Out-of-Pocket Expenses

Reasonable out-of-pocket expenses will be reimbursed for costs associated with attending the conference, seminar, meeting or function including meals but excluding expenses of a normal private nature.

##### 4.5.4 Spouse/Partner

Council will meet the reasonable costs of Councillors spouses and partners or an accompanying person for the following:

- a) Attendance at official Council functions within the Young Shire area. Such functions would be those that a Councillors spouse, partner or accompanying person could be reasonably expected to attend.

- b) Attendance at the Local Government and Shires Association annual conference and/or functions as approved by Council. Cost to be limited to registration and the official conference dinner. Travel expenses and any other costs would be the personal responsibility of the individual Councillors.

#### 4.5.5 Expense Allowance

Where it is likely that a Councillor will incur expenses, as a result of attending to business outside the Shire, as approved, a sustenance allowance of \$150.00 per night will be drawn in advance. Any expenses paid from this allowance shall be fully substantiated with receipts and the unexpended balance of the allowance repaid to Council.

Where a Councillor incurs sustenance expenses that arise from attending to business, as approved, but does not involve an overnight stay and/or absence from the Shire, reimbursement of actual costs incurred will be paid provided adequate substantiation of expenditure is provided.

#### 4.5.6 Carer and other related Expenses

Council will reimburse reasonable costs of carer arrangements, including childcare expenses and the care of elderly, disabled and/or sick immediate family members of Councillors, to allow Councillors to undertake their Council business obligations.

Councillors will be reimbursed for expenses associated with child/dependant care paid to providers other than immediate family members, spouse or partner up to 1 hour before and after such meetings (based on advertised commencement times) subject to the production of appropriate documentation/receipts.

Council agrees to provide or to reimburse other related expenses associated with the special requirements of Councillors such as disability and access needs, to allow them to perform their normal civic duties and responsibilities.

#### 4.6 Resolution of Disputes

If at any time a dispute arises about the provision of expenses and facilities that the matter be referred to Council's Internal Audit Committee for determination and recommendation to the General Manager

#### 4.7 Payment of Expenses Generally

All payments made to Council will be by direct deposit into their nominated bank account. Payment will be made on a monthly basis. It is not appropriate or lawful for Councils to pay general allowance unrelated to actual expenses incurred, therefore all claims for expenses must be reconciled on the approved form.

#### 4.8 Claim Forms

The General Manager will authorise all claims for travelling and expenses that are in accordance with this Policy. Claims must be in writing and on the approved forms.

## **PART 5 INSURANCE – COUNCILLORS**

Councillors are to receive the benefit of insurance cover for:

#### 5.1 Personal Injury

Whilst ever on Council business, world-wide covering bodily injury caused by accidental, violent, external and visible means up to a sub-limit of \$500,000. Also covering permanent disablement, temporary total disability and temporary partial disability. The cover does not include medical expenses. Full details of personal accident insurance are available in Council's Insurance Manual held by the Risk Manager.

#### 5.2 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 is authorised under the Act, was carried out in good faith and is in the opinion of Council, bona fide and/or proper; subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out. No such benefit, irrespective of insurance cover, shall be provided in relation to an action by one Councillor against another Councillor or a Councillor against a member of staff.

#### 5.3 Public Liability

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 is authorised under the Act, was carried out in good faith and is in the opinion of Council bona fide and/or proper; subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out. No such benefit, irrespective of insurance cover, shall be provided in relation to an action by one Councillor against another Councillor or a Councillor against a member of staff.

## **PART 6      LEGAL ASSISTANCE FOR COUNCILLORS**

### 6.1      Legal Expenses and Assistance

Council will indemnify or reimburse the reasonable legal expenses of:

- (a) A Councillor defending an action arising from the performance, in good faith, of a function under the Local Government Act, or
- (b) 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, or
- (c) A Councillor for proceedings before the Local Government Pecuniary Interest Tribunal or an investigative body provided the subject of the proceedings arises from the performance in good faith of a function of under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor. This would include also:
  - (i) Independent Commission Against Corruption
  - (ii) Office of the NSW Ombudsman
  - (iii) Division of Local Government, Department of Premier and Cabinet
  - (iv) NSW Police Force
  - (v) Director of Public Prosecutions
  - (vi) Council's Conduct Review Committee/Sole Reviewer.

Such payments are recommended for approval in accordance with Department of Local Government Circular No. 05/08 – Legal Assistance for Councillors and Council Employees.

Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her functions under the Act, should be distinguished from expenses incurred in relation to proceedings arising merely from something which a Councillor has done during his or her term of office.

In addition legal costs must only be provided where the investigation or review body makes a finding that is not substantially unfavourable to the councillor, this may include an inadvertent minor technical breach. Under no circumstances must a council reimburse the legal costs of legal proceedings initiated by a councillor. Also a council must not meet the legal costs of a councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.

Legal costs must not be met for legal proceedings that do not involve a councillor performing their role as a councillor.

A councillor who intends to seek legal advice must obtain the approval of the General Manager prior to any legal expenses being incurred. The General Manager may approve such a request or seek independent advice should that be necessary.

## 7.1 Status of Policy

The Councillors Expenses and Provision of Facilities Policy has been reviewed in accordance with the requirements of the Local Government Act 1993 (NSW). Amendments to the Policy have been undertaken in order to address the concerns of the Premier and Cabinet, Division of Local Government Notification.

### 7.1.1 Public Reporting of Expenditure

Expenditure by Mayor and Councillors for seminars, Conference, telephone and other facilities will be publicly reported in conjunction with the quarterly financial reviews and the annual Report.

### 7.1.2 Taxation Arrangement

It is each Councillor's responsibility to meet any taxation obligation. If necessary Councillors should seek their own taxation advise.

Date Adopted:	17.02.10	Resolution No.	15/10
Date Amended:	21.09.11	Resolution No.	381/11
Date Amended:	19.10.11	Resolution No.	427/11
Date Adopted:	22.11.11	Resolution No.	484/11
Date Adopted:	19.12.12	Resolution No.	492/12