



Council Policy

Policy Title:	Payment of Expenses and Provision of Facilities to Councillors
Policy Number:	1.7
Focus Area:	Governance and Process
Responsibility:	Governance and Risk
Meeting Adopted:	15 November 2016 - 151116/8

OBJECTIVE

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

POLICY

1. Legislative provisions

The Local Government Act 1993 provides:

Section 252

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

Section 253

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.

- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:
 - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
 - (b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
 - (c) a copy of the notice given under subsection (1).
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

Section 254

The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended or at which any proposal concerning those matters is discussed or considered.

2. Reporting requirements

Clause 217 of the Local Government (General) Regulations 2005 requires the following details in relation to mayoral and councillor fees, expenses and facilities to be included in Council's annual report.

- Details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:
 - the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),
 - telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,
 - the attendance of councillors at conferences and seminars,
 - the training of councillors and the provision of skill development for councillors,

- interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- the expenses of any spouse, partner (whether of the same or the opposite sex) or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the *Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW* prepared by the Director-General from time to time,
- expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions.

3. Other Government policy provisions

- Office of Local Government Circular 09/36 "Revised Guidelines for Payment of Expenses and Provision of Facilities to Mayors and Councillors in NSW".
- Richmond Valley Council's Code of Conduct.

4. Travelling expenses

(a) Within the Local Government Area

Councillors will be entitled to be reimbursed for travel from their home whilst on Council business at the rate per kilometre as set out in the Local Government State Award.

The travelling expense is payable for Council Meetings, Committee Meetings, formal and social functions where representing Council, consultation with the Mayor, General Manager, or staff or other meetings involving the general community and attendance is approved for the purpose of this policy by the Mayor or General Manager.

(b) Outside the Local Government Area

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.

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

(c) Overseas

Overseas travel must be approved by resolution of the council following receipt of a written report. Council will not assist overseas travel unless direct and tangible benefits can be established for the Council and local community.

The following will apply in relation to the payment of expenses and provision of facilities to Councillors (in relation to Council business):

5. Attendance at Seminars, conferences and courses

Councillors may attend conferences, seminars and similar functions that will assist in the professional development of a Councillor, or have an identifiable benefit to the local area by the association of a Councillor with a Council activity or function and within the budget framework and approved by the General Manager.

6. Expenses incurred at conferences, seminars and courses

The following costs will be paid for by Council in advance or reimbursement for attendance at Conferences, Seminars and courses by Councillors:

Registration

Including official luncheons, dinners and tours relevant to the Conference.

Travel

By Council vehicle, private vehicle, hire vehicle, rail or air. Persons using private vehicles to be reimbursed according to the relevant kilometre rate in the staff award (subject to the costs not exceeding the economy class air fare as applicable). With all travel arrangements, due consideration is to be given to the physical capacity of the Councillor and any variation to these arrangements be with the approval of the Mayor and the General Manager. All travel by Councillors will be undertaken by utilising the most practicable and economical mode of transport.

Accommodation

Accommodation for other Council business will be as follows:

- (i) At a standard of up to four star rating;
- (ii) Booked and paid for by Council in advance or, where this is not possible, a claim for reimbursement made not later than three months after the expenses were incurred and submitted on the standard claim form, with receipts attached.

Meals and other expenses

Reasonable costs (including sustenance, telephone charges, taxi fares and incidental expenses) including the night before and after the conference where necessary to be met by the Council and submitted on the standard claim form, with receipts attached. Costs of meals not included in the costs of the registration for the conference, seminar or course will be reimbursed in accordance with the most recent Australian

Taxation Office Determination, Table 2, as outlined on the Claim for Cash Advance Form.

7. Costs of Councillors' spouses, partners and accompanying persons

Council will meet the costs of Councillors' spouses, partners and accompanying persons in the following circumstances:

- Cost of registration and official conference dinner at the Local Government NSW Annual Conference. (Cost of accommodation and travel are to be met by the Councillor.)
- Payment of expenses at official Council functions that are of a formal or ceremonial nature within the Council's area, e.g. Australia Day Award Ceremonies, Civic Receptions.
- Payment of expenses for the spouse, partner or accompanying person of a Mayor, or a Councillor when they are representing the Mayor, when they are called upon to attend an official function of Council or carry out an official duty while accompanying the Mayor outside Council's area, but within the State. This is to be restricted to direct costs associated with the function.

8. Provision of Facilities

Mayor

Council will provide the Mayor with the following facilities:

- An office in the Council's Administration Building. Council's Meeting Rooms are also available for use by the Mayor.
- Access to telephone, email and photocopy facilities for Council business purposes.
- Executive Assistant and administrative services for Council business as required.
- Private use of the mayoral vehicle from the range of vehicles available to Managers and Senior Staff in accordance with Council's Motor Vehicle Lease agreement with a payment equivalent of 25% of the staff contribution, or as approved by the General Manager.
- An allocated parking space at Council's Administration Offices, Casino.
- Identification badge and business cards.
- Ceremonial clothing including mayoral robes and/or chain of office.

Facilities/services will not be provided for candidature to Federal, State or Local Government or any political party.

Councillors

Council will provide the Councillors with the following facilities:

- Use of Council's meeting rooms and areas of Council's Administrative Building as required.
- Access to telephone, email and photocopy facilities for Council business as required.
- Secretarial/administrative services relating to the preparation of reports for Council.
- Identification badge and business cards.

Facilities/services will not be provided for candidature to Federal, State or Local Government of any political party.

Council clothing/protective clothing and equipment

- Council purchase and issue to Councillors corporate business shirts, corporate tie or scarf and corporate style jacket.
- Councillors' access to protective clothing, accessories and equipment where required in accordance with WH&S requirements and when considered appropriate by the General Manager.

9. Legal expenses

Council may consider reimbursement of a Councillor's legal costs under certain circumstances on a solicitor/client basis (but shall not reimburse any Councillor for any costs incurred by Senior Counsel). Reasonable legal expenses of a Councillor may only be met for legal proceedings being taken against a Councillor in defending an action arising from the performance in good faith of a function under the Local Government Act (section 731 refers) or defending an action in defamation, provided that the outcome of the legal proceedings is favourable to the councillor.

Reasonable legal costs may also be available for an inquiry, investigation or hearing into a Councillor's conduct by an appropriate investigative or review body including:

- (i) Local Government Pecuniary Interest and Disciplinary Tribunal
- (ii) Independent Commission Against Corruption;
- (iii) Office of the NSW Ombudsman;
- (iv) Office of Local Government;
- (v) NSW Police Force;
- (vi) Director of Public Prosecutions;
- (vii) Council's Conduct Review Committee/Reviewer.

This is provided that the subject of the inquiry, investigation or hearing arises from the performance in good faith of a Councillor's functions under the Act and the matter before the investigative or review body has proceeded past any initial assessment phase to a formal investigation or review. In the case of a conduct complaint made against a Councillor, legal costs may only be made available where a matter has

been referred by the General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in the Model code of Conduct. In the case of a pecuniary interest or misbehaviour matter legal costs may only be made available where a formal investigation has been commenced by the Office of Local Government.

In addition, legal costs may only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a Councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach had occurred may not necessarily be considered a substantially unfavourable outcome.

Council will not meet the legal costs of legal proceedings initiated by a Councillor under any circumstances or 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 will not be met for legal proceedings that do not involve a Councillor performing their role as a Councillor.

Council may lawfully obtain insurance cover against the risk of having to meet the reasonable legal costs of a Councillor, or to reimburse those costs, provided that the costs or reimbursements are ones that the Council is authorised to meet.

10. Insurance

Section 382 of the Act requires a council to make arrangements for its adequate insurance against public liability and professional liability and Councillors are to receive the benefit of insurance cover for:

- Public liability (for matters arising out of Councillors' performance of their civic duties and/or exercise of their council functions).
- Professional indemnity (for matters arising out of Councillors' performance of their civic duties and/or exercise of their council functions).
- Personal injury while on council business. (This cover does not cover workers' compensation payments or arrangements.)

All insurances are subject to any limitations or conditions set out in Council's policy of insurance.

11. General

- Light meals and/or refreshments are to be provided to the Mayor and Councillors in conjunction with Council/Committee Meetings and other functions/meetings, where considered appropriate by the General Manager.
- Council will provide Councillors with appropriate electronic equipment for communication purposes.
- Council will reimburse child care costs when provided by a registered provider if a Councillor is required to arrange such care while on Council business.

- Council will provide a filing cabinet up to a four drawer capacity while Councillors are in office.
- Council will reimburse costs for mobile telephone calls equal to fifty percent (50%) of the total cost of the mobile telephone account claimed up to a maximum of \$100.00 per quarter.
- Council will reimburse reasonable out of pocket or incidental expenses that are incurred whilst conducting Council business.
- Council will provide a non-dedicated motor vehicle drawn from Council's pool to attend conferences/seminars/training and other functions/meetings when available and considered appropriate by the General Manager.
- Council will provide the optional ability for Councillors to substitute part or all of their Councillor fee to be paid as contributions to a complying superannuation fund of their choice. Any Councillor undertaking this option is on the basis they have either received independent financial advice or understand this decision. A signed declaration to this effect will be required before commencement of superannuation contributions to a complying superannuation fund.

12. Return of equipment

Upon completion of the term of a Councillor's Office, extended leave of absence or cessation of their civic duties, all equipment previously provided must be returned to the Council.

Councillors will also have the option of purchasing the equipment previously allocated at an agreed fair market price or written down price value.

REVIEW

This policy will be reviewed by Council annually.