

Council Member Allowances and Benefits Policy

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1 Purpose

- 1.1 The Elected Members Allowances and Benefits Policy (the Policy) documents the setting of allowances and benefits for Elected Members.

2 Scope

- 2.1 The Policy ensures accountability and transparency of payments to Elected Members in accordance with relevant legislation.

3 Definitions

- 3.1 **The Act** - the *Local Government Act 1999*.
- 3.2 **The Regulations** - the *Local Government (Members Allowances and Benefits) Regulations 2010*.
- 3.3 **Eligible Journey** - a journey (in either direction) between the principal place of residence or a place of work of a member of council, and the place of a prescribed meeting.
- 3.4 **Prescribed Meeting** - a meeting of council or council committee, or an informal gathering or discussion involving members of council or council committee (including where council staff are also involved).
- 3.5 **Principal Member** - Mayor.

4 Legislative & Corporate Requirements

- 4.1 The Policy has been developed and adopted to accommodate Section 77(1)(b) of the Act, by specifying the types of expenses that will be reimbursed without the need for specific approval of Council each time a claim is made.
- 4.2 Section 77(1)(a) of the Act prescribes that Elected Members are *entitled* to receive:
 - 4.2.1 an annual allowance for performing and discharging official functions and duties; and
 - 4.2.2 reimbursement for expenses actually and necessarily incurred in travelling to or from a Council or a prescribed meeting within the Council area, and for the care of a dependent or a child of the Elected member as a consequence of the Elected Member's attendance at the meeting.
- 4.3 The Act also makes provision for Councils to resolve, on a *discretionary* basis, to reimburse Elected Members for a range of additional expenses incurred in performing or discharging official functions and duties. These are in addition to the entitlement to reimbursement of expenses associated with attending Council and prescribed meetings. It includes travel outside the Council area and attendance at training and conferences.

- 4.4 These discretionary expenses can only be reimbursed with specific Council approval either by establishing a formal policy, commonly referred to as Elected Members Allowances and Benefits Policy, or alternatively by Council approving each claim for reimbursement on a case-by-case basis by resolution. It is not possible to delegate power to approve these reimbursements unless Council has adopted a formal policy and a specific financial provision has been made in the budget.
- 4.5 Council may exercise its discretion to resolve to provide Elected Members with facilities and support; for example in the form of mobile devices and/or stationery, where it is necessary or expedient to the performance or discharge of their official functions or duties.
- 4.6 The Chief Executive Officer has responsibility to:
- 4.6.1 maintain the Register of Allowances and Benefits;
 - 4.6.2 initiate an annual review of allowances paid to Elected Members; and
 - 4.6.3 ensure copies of the Policy are available for inspection and purchase by the public at the principal office of Council.
 - 4.6.4 implement and monitor expense reimbursement procedures in accordance with the Act and the Policy; and
 - 4.6.5 ensure a copy of the Policy is provided to Elected Members.
- 4.7 The Policy, in its entirety, will automatically lapse at the next general election of Council.

5 Policy Statement

- 5.1 Council will ensure timely payment of Elected Member allowances, reimbursement of expenses and the provision of facilities and support is accountable and transparent, in accordance with Chapter 5, Part 5 of the Act and the Regulations.
- 5.2 Elected Members should not be out-of-pocket as a result of performing and discharging their council functions and duties.
- 5.3 Reimbursements claimed by Elected Members must be for expenses actually and necessarily incurred in performing and discharging their official Council functions and duties, which will be assessed according to the role of an Elected Member under the Act.
- 5.4 Council encourages continued professional and legal training for Elected Members. This is seen as being essential in terms of good governance and to the improved performance in conduct of their functions and duties.

6 Allowances and Reimbursements (Entitlements under Section 76 and 77 of the Act)

Allowances (Section 76)

- 6.1 Subject to this section, a member of a council is entitled to the allowance determined by the Remuneration Tribunal in relation to the member's office and indexed in accordance with this section.

- 6.2 The Remuneration Tribunal must make determinations under this section on a 4 yearly basis before the designated day in relation to each set of periodic elections held under the *Local Government (Elections) Act 1999*.
- 6.3 The Remuneration Tribunal must, in making a determination under this section, have regard to the following:
- (a) the role of members of council as members of the council's governing body and as representatives of their area;
 - (b) the size, population and revenue of the council, and any relevant economic, social, demographic and regional factors in the council area;
 - (c) the fact that an allowance under this section is not intended to amount to a salary for a member;
 - (d) the fact that an allowance under this section should reflect the nature of a member's office;
 - (e) the provisions of this Act providing for the reimbursement of expenses of members.
- 6.4 For the purposes of the proceedings before the Remuneration Tribunal but without derogating from the operation of subsection (3), the allowances to be determined under this section will be taken to be in the nature of a fee under the definition of **remuneration** in the *Remuneration Act 1990*.
- 6.5 Without limiting section 10 of the *Remuneration Act 1990*, the Remuneration Tribunal must—
- (a) allow persons who are entitled to be enrolled on the voters roll for an area a reasonable opportunity to make submissions orally or in writing to the Tribunal in relation to a determination under this section that relates to the members of the council for that area; and
 - (b) allow the Local Government Association (LGA) a reasonable opportunity to make submissions orally or in writing to the Tribunal in relation to any determination under this section.
- 6.6 Nothing in subsection (5) requires the Remuneration Tribunal, for the purposes of making all determinations required under this section in any 4 year period, to hold more than 1 hearing to receive any oral submissions that persons may care to make (and the Tribunal is not required to hold any hearing if it appears to the Tribunal that no one is seeking to make oral submissions).
- 6.7 The rates of allowances may vary from office to office, and from council to council.
- 6.8 An allowance determined under this section will, in relation to the members of a particular council, take effect from the first ordinary meeting of the council held after the conclusion of the relevant periodic election.
- 6.9 An allowance determined under this section is to be adjusted on the first, second and third anniversaries of the relevant periodic elections to reflect changes in the Consumer Price Index under a scheme prescribed by the regulations.
- 6.10 Sections 17 and 19 of the *Remuneration Act 1990* do not apply in relation to a determination under this section.

- 6.11 A member of a council who holds an office for part only of the period in respect of which an allowance is payable is entitled to the proportion of the allowance that the period for which the member held the office bears to the total period.
- 6.12 An allowance under this section is to be paid in accordance with any requirement set out in the regulations (unless the member declines to accept payment of an allowance).
- 6.13 Despite any other Act or law, the reasonable costs of the Remuneration Tribunal in making a determination under this section are to be paid by the LGA under an arrangement established by the Minister from time to time after consultation with the President of the LGA and the President of the Tribunal.
- 6.14 Regulations made for the purposes of this section may make different provision according to the offices or classes of council to which they are expressed to apply.
- 6.15 In this section—

Consumer Price Index means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics;

designated day, in relation to particular periodic elections, means the day that is 14 days before the day on which nominations close for those elections.

Travel and Child/Dependent Care (entitled under Section 77 of the Act)

- 6.16 In addition to the allowance paid under Section 76 of the Act, Elected Members are entitled to receive reimbursement for travelling within the area of Council and child/dependant care expenses associated with attendance at Council and prescribed meetings, in accordance with the requirements of Section 77(1) (a) of the Act, and as detailed below:
- 6.16.1 reimbursement is restricted to ‘eligible journeys’ (as defined in Regulation 3) by the shortest or most practicable route and to that part of the journey within the Council area i.e. any travelling outside the Council area in order to attend prescribed meetings is not reimbursable under Section 77(1)(a) of the Act. For reimbursement for travel outside the Council area refer to “Additional Reimbursement, Facilities and Support” below.
- 6.16.2 where an Elected Member travels by private motor vehicle, the rate of reimbursement is as prescribed in Chapter 2, Part 2-5, Division 28C of the Income Tax Assessment Act 1997. Travel by taxi, bus or other means of public transport is reimbursed on the basis of expenses ‘actually and necessarily incurred’, but is still limited to ‘eligible journeys’ by the shortest or most practicable route and to the part of the journey that is within the Council area.
- 6.16.3 where child/dependant care expenses are actually or necessarily incurred by the Elected Member as a consequence of the Elected Member’s attendance at a prescribed meeting. Child/dependent care is not reimbursed if a relative of the Elected Member who ordinarily resides with the Elected Member provides the care. A definition of “relative” is contained in Section 4 of the Act.
- 6.17 To receive reimbursement for these entitled expenses (travel and child/dependant care) each Elected Member is required to complete a Form 1 and submit it to Director Corporate Services. For the purposes of administrative efficiency Elected Members are requested to submit these forms on a quarterly basis.

Facilities and Support (entitled under Section 77 of the Act)

- 6.18 Additional prescribed expenses incurred by Elected Members that are capable of being reimbursed by Council are expenses that do not fall into the type of prescribed reimbursement outlined above, yet are expenses incurred in performing or discharging official functions and duties.
- 6.19 Section 77(1)(b) of the Act provides that Council (meaning the Elected Member body) may approve the reimbursement of additional prescribed expenses incurred by Elected Members, either on a case-by-case basis or under a policy adopted by Council.
- 6.20 These additional types of reimbursed expenses can be distinguished from the payment of the allowances by the fact that the allowance is paid each quarter in advance (monthly for Mayor) without the Elected Member needing to make a claim. They can also be distinguished from the reimbursement of entitled travel and child/dependant care expenses associated with attendance at Council and prescribed meetings upon the basis that claims for those types of expenses do not require Council approval, either by resolution or under a policy.
- 6.21 Regulation 6 of the Regulations sets out the types of additional prescribed expenses that may be reimbursed under Section 77(1)(b) of the Act, being:
- 6.21.1 an expense incurred in the use of a telephone, facsimile or other telecommunications device, or in the use of a form of electronic communication, on the business of Council;
 - 6.21.2 travelling expenses incurred by the Elected Member as a consequence of the member's attendance at a function or activity on the business of Council (other than for which the member is reimbursed under section 77(1)(a) of the Act.);
 - 6.21.3 travelling expenses incurred by the Elected Member in undertaking an eligible journey to the extent that those expenses are attributable to travel outside the area of Council;
 - 6.21.4 expenses for the care of:
 - (a) a child of the member; or
 - (2) a dependant of the member requiring full-time care,incurred by the Elected Member as a consequence of attendance at a function or activity on the business of Council (other than for which the member is reimbursed under section 77(1)(a) of the Act.); and
 - 6.21.5 expenses incurred by the Elected Member as a consequence of attendance at a conference, seminar, training course or other similar activity which is directly or closely related to the performance or discharge of the roles and duties of an Elected Member.
- 6.22 For the purposes of the Policy, and pursuant to Section 77(1)(b) of the Act, Council approves the reimbursement of additional expenses of Elected Members as described in the following section, Additional Allowances and Reimbursements.

7 Additional Allowances and Reimbursements (Entitlements under Council Policy)

- 7.1 Elected Members will receive reimbursement for expenses incurred in travelling to a function or activity on Council business. The following conditions apply to these expenses:
- 7.1.1 travel both within and outside the Council area must be incurred by the Elected Member as a consequence of attendance at a function or activity on the business of Council. A 'function or activity on the business of the Council includes official Council functions including Mayoral/Chairperson receptions, opening ceremonies, dinners, citizenship ceremonies and official visits etc; inspection of sites within the Council area which relate to Council or Committee/Workshop agenda items; meetings of community groups and organisations as a Council appointed representative – but not to attend meetings of community groups or organisations when fulfilling the role of a local representative, and not as a member of the Board of any such community group or organisation.
 - 7.1.2 Reimbursement is restricted to the shortest or most practicable route.
 - 7.1.3 Where an Elected Member travels by private motor vehicle, the rate of reimbursement is as prescribed in *section 28.25 of the Income Tax Assessment Act 1997 of the Commonwealth*.
 - 7.1.4 Car parking fees will be reimbursed (where they are a consequence of an Elected Member attending a function or activity on the business of Council).
 - 7.1.5 Travel by taxi, bus, plane or other means of public transport will be reimbursed on the basis of being expenses where they are incurred as a consequence of the member(s) (pre approved) attendance at a function or activity on the business of Council.
 - 7.1.6 All claims are to be supported by the relevant receipts or other evidence of expenditure.
- 7.2 Pursuant to Section 77(1)(b) of the Act Council approves reimbursement of:
- 7.2.1 Expenses incurred for the care of a child of an Elected Member or a dependent of an Elected Member requiring full time care as a consequence of an Elected Member's attendance at a function or activity on the business of Council.
 - 7.2.2 Expenses incurred by an Elected Member as a consequence of an Elected Member's attendance at a conference, seminar, training course or other similar activity that is directly or closely related to the performance or discharge of the roles or duties of an Elected Member as follows:
 - 7.2.2.1 Expenses will only be reimbursed for attendance at conferences, seminars, etc which have been approved by Council or under delegation/policy.
 - 7.2.2.2 Where attendance at a conference, seminar etc is approved the following types of expenses are capable of being reimbursed: airfares, registration fees, accommodation, meals, taxi fares, and car parking.

- 7.2.2.3 A fixed daily incidental allowance will be paid to an Elected Member in advance up to a daily maximum of \$40.
- 7.2.2.4 Expenses incurred in the use of a telephone, internet, facsimile or other communication device on the business of Council.
- 7.2.3 Supporting receipts must be provided in order to validate the claimed reimbursement (excluding the daily incidental allowance for which no acquittal is required).
- 7.3 Section 78 of the Act provides that Council can provide facilities and forms of support for use by its Elected Members to assist them to perform or discharge their official functions and duties.
- 7.4 Council must consider and approve that the provision of facilities and level of support is necessary or expedient to the performance or discharge of Elected Members official functions or duties. In approving the provision of facilities and support Section 78 of the Act requires that any such services and facilities must be made available to Elected Members on a uniform basis, other than those facilities or support specifically provided to the Principal Member set out below (if any).
- 7.5 Pursuant to Section 78 of the Act, Council has considered and is satisfied that the following facilities and support are necessary or expedient for Elected Members to assist them in performing or discharging official functions and duties:
 - 7.5.1 Business cards
 - 7.5.2 Use of Council Chambers/Reception Room and Other meeting facilities
 - 7.5.3 Tablet and associated costs, including data plan not exceeding \$45 per month. Any charges incurred over this amount to be recovered from the Elected Member.
 - 7.5.4 General Administrative Support
- 7.6 In addition to the above, Council has resolved to make available to the Principal Member the following additional facilities and support to assist them in performing and discharging their official functions and duties:
 - 7.6.1 Mayoral Office (also available to any acting Principal Member appointed during the Principal Member's absence)
 - 7.6.2 Support of Executive Assistant (also available to any acting Principal Member appointed during the Principal Member's absence)
 - 7.6.3 Wifi (NBN) service at place of residence – not exceeding \$100 per month. Any charges incurred over this amount to be recovered from the Principal Member
 - 7.6.3.1 If a higher service level is required by the Principal Member, the Principal Member may request an upgrade of the service and Council will invoice the Principal Member the difference between the Council Plan and the upgraded service.
- 7.7 The provision of these facilities and support are required to be made available to Elected Members (including the Principal Member) under the Act on the following basis:

- 7.7.1 they are necessary or expedient for an Elected Member to perform or discharge their official functions or duties;
 - 7.7.2 the facilities remain Council property regardless of whether they are used off site or not; and
 - 7.7.3 they are not used for a private purpose or any other purpose unrelated to official Council functions and duties, unless such usage has been specifically pre-approved by Council and the Elected Member has agreed to reimburse Council for any cost or expense associated with that usage.
- 7.8 In addition, although not required by the Act, Council has determined that the provision of these facilities and support are made available to Elected Members (including the Principal Member) on the following basis:
- 7.8.1 an Elected Member is solely responsible for those facilities released into their care and/or control for the duration of their term of office;
 - 7.8.2 facilities must be returned to Council at the end of each term of office upon the office of a member of a Council becoming vacant, or earlier at the request of the Chief Executive Officer;
 - 7.8.3 if the facilities provided to the Elected Member are damaged or lost the Elected Member must lodge a written report with the Chief Executive Officer.
- 7.9 The use of Council facilities, support and/or services by Elected Members for campaign or election purposes is not permitted under any circumstances on the basis it is not necessary or expedient to the performance or discharge of an Elected Member's official functions or duties under the Act.

8 Expenses and Support Requiring Council Approval

- 8.1 Expenses, additional reimbursements and facilities and support not detailed in the Policy will require the specific approval of Council prior to expenses being incurred, additional reimbursements being paid, benefits being received and facilities and/or support being provided.

9 Claims for Reimbursement

- 9.1 Elected Members are required to provide details of kilometres travelled and/or evidence of expenses incurred for reimbursements claimed.
- 9.2 Claims for reimbursement must be submitted to the Chief Executive Officer on the form provided for this purpose on a quarterly basis for the purposes of maintaining the Register of Allowances and Benefits.
- 9.3 Reimbursement of expenses will only be paid to an Elected Member upon presentation of the form and adequate evidence supporting the claims.

10 Register of Allowances and Benefits

- 10.1 Pursuant to Section 79 of the Act, the Chief Executive Officer will maintain a Register in which a record will be kept of:
- 10.1.1 the annual allowance paid or payable to each Elected Member under Section 76 of the Act;
 - 10.1.2 any expenses reimbursed to an Elected Member under Section 77(1)(b) of the Act; and
 - 10.1.3 the details of any other benefits paid or payable to or provided for the benefit of an Elected Member by Council.
- 10.2 Those entitled reimbursements paid under Section 77(1)(a) of the Act are not required to be recorded in the Register.
- 10.3 The Chief Executive Officer will update the Register each quarter. Elected Members must provide a claim form for reimbursement to the Director Corporate Services on the last business day of each quarter.

11 Review

- 11.1 The Policy will be reviewed at the commencement of each Council term or more frequently as required.

12 Access to the Policy

- 12.1 The Policy is available for public inspection on Council's website www.prospect.sa.gov.au and from Customer Service at the Civic Centre, 128 Prospect Road, Prospect SA 5082.

13 Further Information

13.1 For further information about the Policy please contact:

Director Corporate Services
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128 Prospect Road
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