

POLICY NAME: COUNCILLOR EXPENSES AND FACILITIES
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PART 1 - INTRODUCTION

OBJECTIVE

The objective of this policy is to ensure that there is accountability and transparency in the reimbursement of reasonable and appropriate expenses incurred or to be incurred by Councillors in the performance of their role.

The policy also ensures that a range of facilities are provided to Councillors to assist in discharging the function of civic office.

BACKGROUND

In accordance with the Local Government Act (LGA s.252) a council is required to adopt a policy concerning the payment of expenses incurred by, and the provision of facilities to, the Councillors in relation to their roles as elected persons and members of the governing body of the Council. This policy complies with the LGA.

The LGA (s.428(2)(f)) requires councils to include in their annual report a copy of this policy. This information must be submitted to the Office of Local Government by 30 November each year.

DEFINITIONS

In the Councillor Expenses and Facilities Policy the following definitions apply:

Council	Ballina Shire Council
Policy	Councillor Expenses & Facilities Policy
LGA	Local Government Act 1993 (NSW)
ATO	Australian Taxation Office
OLG	Office of Local Government
Region	The region encompasses the Richmond, Tweed and Clarence Valleys (i.e. Kyogle, Tweed, Byron, Lismore, Ballina, Richmond and Clarence council areas)

SCOPE OF POLICY

The Councillor Expenses and Facilities Policy applies to Councillors.

RELATED DOCUMENTATION

This policy has been prepared with reference to the following publications:

- Council's Code of Conduct

- OLG Code of Conduct – Administrative Procedures
- Council's Councillor Training and Development Policy
- Local Government Act 1993 (NSW)
- Local Government (General) Regulation 2005
- OLG Circulars:
 - 08/62 Councillor Induction and Professional Development Guide
 - 08/24 Misuse of Council Resources
 - 09/36 OLG Revised Guidelines for the Payment of Expenses and Provision of Facilities for Mayors and Councillors for Local Councils in NSW (October 2009)
 - 11-27 Findings from the Review of Councillor Expenses and Facilities Policy
- ICAC Publication - No Excuse for Misuse, preventing the misuse of Council resources

As a minimum this Policy should be read in conjunction with

- Council's Code of Conduct
- Council's Councillor Training and Development Policy

APPROVAL ARRANGEMENTS

The General Manager, in consultation with the Mayor, is responsible for authorising the payment of expenses or the provision of facilities in accordance with this policy. In the case of the Mayor's expenses, authorisation shall be provided by the General Manager and one other Councillor. If agreement cannot be reached on any particular matter the matter will be reported to Council for determination.

PART 2 - PAYMENT OF EXPENSES

2.1 GENERAL PROVISIONS

2.1.1 Payment of Expenses Generally

Councillors must provide a certified claim in the form provided by the General Manager for all travel and out of pocket expenses incurred.

Payment will only be made for expenses covered under this policy that are accompanied by appropriate tax invoices and receipts. To ensure claims are submitted promptly and accurately any claims submitted in excess of three months of the time of expenditure will not be approved.

2.1.2 Establishment of Monetary Limits and Standards

The following limits will apply in the operation of this policy:

Accommodation and Meals

The maximum payable for accommodation and meals will be the maximum reasonable travel and meal expense amounts determined by the ATO. The current rates are:

<i>Place</i>	<i>Accommodation \$</i>	<i>Food and Drink (1) \$</i>	<i>Incidentals \$</i>	<i>Total \$</i>
Adelaide	209.00	146.20	26.80	382.00
Brisbane	257.00	146.20	26.80	430.00
Canberra	246.00	146.20	26.80	419.00
Darwin	287.00	146.20	26.80	460.00
Hobart	195.00	146.20	26.80	368.00
Melbourne	265.00	146.20	26.80	438.00
Perth	299.00	146.20	26.80	472.00
Sydney	265.00	146.20	26.80	438.00
Country	195.00	146.20	26.80	360.00

(1) This figure is dissected between - breakfast \$33.25, lunch \$47.00, dinner \$65.95. Over-expenditure for one meal can be offset by under-expenditure for another.

Travel

The reimbursement rate for use of a Councillors' vehicle shall be in accordance with the rate issued by the ATO. From 1 July 2016, the ATO has one fixed rate of **66 cents per km for all cars** regardless of engine size.

This reimbursement will be considered to cover all costs associated with the vehicle use, including tyres, insurance, repairs, petrol, oil and associated incidental costs.

Telephone and Tablets

Councillors will be reimbursed for Council related telecommunication charges (ie landline, mobile phone, internet etc) up to a maximum figure of \$80 per calendar month (with the line rental and connection charges to be provided as additional reimbursements), upon receipt of a copy of the tax invoice(s) and a declaration by that Councillor that the amount claimed relates to Council related activities.

If the cost of calls made from a Council provided phone are less than \$5 for any one month, that cost will **not** be deducted from the Councillor's allowance as the administrative cost of deducting that charge more than offsets the return to Council.

Where Council provides a telephone service to Councillors, that number will be available for publication in Council documents and media.

Any excess data charges incurred on smart phones or tablets shall be deducted from a councillor's allowance.

2.2 SPECIFIC PROVISIONS FOR MAYORS AND COUNCILLORS

2.2.1 Travel Arrangements

Councillors will receive reimbursement for the cost of using their private vehicle for travelling in accordance with rates set by the ATO (refer 2.1.2), for attendance at:

- Meetings of Council
- Meetings of committees of Council (whether a committee member or not)
- Council inspections
- Council business
- Civic functions where representing the Mayor
- Meetings with Council staff within the shire
- Meetings at the Council Chambers with constituents and
- Other approved functions

The General Manager, in consultation with the Mayor, shall prepare a weekly list of approved meetings / events / functions for which travel by Councillors shall be reimbursed. This travel will not be subject to the \$5,000 (excl GST) limit as per clause 2.2.2.

Councillors who wish an event to be included on this list should forward details to the General Manager a minimum of one week in advance.

2.2.2 Councillor Training and Development

The General Manager and / or Mayor will approve attendance by Councillors at training and development activities, such as seminars, conferences and other meetings not approved under clause 2.2.1, subject to an annual allowance of \$5,000, exclusive of GST.

The exception to this is the Mayor who is not subject to the \$5,000 limit, **however travel outside the region, must be reported to Council at the next available Ordinary Meeting.**

The class of air travel to be used by a Councillor will be economy travel for journeys not exceeding five hours, and business class for continuous journeys (not including overnight stopovers) in excess of five hours.

Personal Frequent Flyer membership is not to be linked to Council travel in accordance with recommendations from ICAC publications.

Should a Councillor elect to use their vehicle to undertake such travel, or to travel via a non-direct route, travel expenses will be paid equivalent to the most cost effective airfare, available at that time, to the destination or payment at the ATO rate per kilometre, whichever is the lower (refer 2.1.2).

Council will pay actual costs of overnight accommodation and the costs of all meals where those meals are not provided as part of the meeting, conference, seminar or engagement fee, subject to the limits identified within this policy (refer 2.1.2 and 2.2.2).

2.2.3 Attendance at Functions and Events not organised by Council

To assist the Mayor in undertaking his / her responsibilities Council will provide reimbursement of travel and entrance expenses where the Mayor is invited, in his / her official capacity as Mayor, to attend functions and events that are not organised by Council. For a function / event to be approved the Mayor must be invited to attend in his / her official capacity as Mayor.

A Councillor, invited by the Mayor to attend an event on behalf of the Mayor, will also be eligible for reimbursement of travel and entrance expenses.

Approval will only be provided for events within the region.

Consideration will be also given to meeting the cost of Councillors' attending, including travel and entrance fees, at non-Council functions / events etc which provide briefings to Councillors from key members of the community, politicians and business organisations.

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

Any approvals provided will be circulated weekly to Councillors. Attendance at these activities will not be subject to the expenditure limits identified in clause 2.2.2.

2.2.4 Spouse and Partner Expenses

Where the Mayor and / or Councillor is required to attend a function / event etc on behalf of Council, and the nature of the function is such that the person's spouse, partner or accompanying person could reasonably be expected to attend, Council will meet their reasonable expenses, eg ticket, meal and or direct cost of attending the function.

If a service is shared between a Councillor and spouse / partner, the expense associated with that service will be reimbursed as long as the expense did not increase due to the attendance of the spouse / partner. An example of this may be accommodation where the cost of the room is the same with or without the attendance of the spouse / partner.

2.2.5 Training and Development Allocation

Council will make an annual allocation within the budget for training and development expenses for Councillors. This allocation will be treated as a lump sum figure able to be accessed by all Councillors. There will not be a specific allocation per Councillor, subject to the limitations in clause 2.2.2

Approved training and development programs must be consistent with Council's Councillor Training and Development Policy. Refer to that policy for further details.

Reimbursement of expenses relating to a Councillor's attendance at training and education programs will be made in accordance with the provisions of this policy.

2.2.6 Telephone costs and expenses

Each Councillor shall be entitled to:

- Payment of monthly rental of a Council approved telephone line
- Call charges up to the monthly limit as determined within this policy (refer 2.1.2).

2.2.7 Carer and other related expenses

a) Councillor as a carer

Where a Councillor has to act as a primary carer Council will reimburse any reasonable costs incurred for alternative carer arrangements required whilst that Councillor is attending a Council approved activity (ie meeting, training, event etc). This includes items such as child care expenses and costs related to the care of the elderly, disabled and/or sick immediate family members.

b) Councillor requiring care

Where a Councillor requires a primary carer, Council will reimburse any reasonable costs related to that primary carer, incurred whilst that Councillor is attending a Council approved activity (ie meeting, training, event etc), where the reimbursed costs would not normally have been incurred except due to the Councillor's attendance at that activity. This includes items such as travel, meals or carer wages, where those wages would not normally have been incurred.

2.2.8 Miscellaneous Expenses

Each Councillor is entitled to have one Northern Star newspaper delivered to their home each day or made available at a mutually convenient point should a home delivery service not be available, or an on-line subscription to the Northern Star, whichever method is chosen.

2.2.9 Insurance expenses and obligations

As a minimum Council will provide the following insurance cover in respect to Councillors for matters arising out of Councillors' performance of their civic duties and / or exercise of their Council functions:

- Public liability (covers councillors for negligence arising from day to day Council activities)
- Professional Indemnity (covers Councillors for errors and omissions relating to their Council activities)
- Personal Accident (covers Councillors and partners for bodily injury whilst travelling to and from any local government activity or business)

- Councillors and Officers (covers Councillors for any civil claims arising out of their normal actions as a Councillor)
- Statutory Liability (covers Councillors for their liability to pay fines which may arise out of innocent breaches of the many Acts which control Council's operations)

All these insurances are subject to the limitations and conditions set out in each respective policy.

2.2.10 Legal expenses and obligations

Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her functions under the Act are to be distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during his or her term in office. An example of the latter is expenses arising from an investigation as to whether a Councillor acted corruptly by using knowledge of a proposed rezoning for private gain.

Council may disburse money only if the disbursement is authorised by the Local Government Act 1993. Therefore, if a Councillor has a legal matter that they believe merits assistance, then that matter is to be reported to Council for determination.

In considering such a matter Council will be guided by the contents of Department of Local Government circular 05/08 "*Legal assistance for councillors and council employees*".

2.2.11 Representation on Joint Regional Planning Panel

Council will pay the NSW Department of Planning's maximum recommended fee per meeting for Councillor representation on the Northern Region – Joint Regional Planning Panel (currently \$600 per meeting).

2.2.12 Use of Staff Resources to Assist Councillors at their Private Residence

The General Manager is entitled to authorise Council staff to attend a Councillor's residence to assist in resolving a Council related matter. However this approval can only be given in the following circumstances:

- The Councillor must declare that the matter is directly related to Council business; and
- It has been assessed by the General Manager that the issue can be resolved relatively quickly; and
- There will be no additional expense incurred by Council in providing that assistance; and
- The work environment must be considered safe from work health and safety perspective; and

- The General Manager is of the opinion that the use of the Council staff resource is the quickest and most effective method to resolve the matter.

2.3 ADDITIONAL MAYORAL EXPENSES

The Mayor is not entitled to the reimbursement of any additional expenses, other than being able to undertake certain levels of travel and attendance at seminars, conferences, training courses and meetings, without prior approval, as per clause 2.2.

PART 3 - PROVISION OF FACILITIES

3.1 GENERAL PROVISIONS

3.1.1 Provision of Facilities Generally

Facilities provided to the Mayor and Councillors will generally relate to telecommunications to ensure that all Councillors are readily accessible to the community and Council.

3.1.2 Private use of Equipment and Facilities

In accordance with Council's Code of Conduct, any resources provided, under this policy, or otherwise, shall not be used for private purposes. Nor shall such resources be used for political purposes, i.e. Council elections and the like.

3.2 PROVISION OF EQUIPMENT AND FACILITIES FOR COUNCILLORS

3.2.1 Telecommunications and Auxiliary Equipment

Each Councillor shall be entitled to:

- Provision of a smart phone (1GB limit per month) including a suitable hands free device for the Councillor's private vehicle (one only)
- Provision of tablet technology (ie IPAD or similar with a 3GB limit per month)
- Installation of one home telephone line
- Provision of a laser multi-function centre device that allows scanning, copying, printing, telephone and answering machine (excluding facsimile) along with consumables such as cartridges and paper for printing.

The above equipment will be provided to a standard as determined by the General Manager in accordance with Council approved budgets and the communication needs of Council. Internet services, in accordance with the Council's corporate internet service provider plan, will be available to Councillors through the provision of the Council supplied smart phone and/or tablet computer.

3.2.2 Miscellaneous Items

Miscellaneous items each Councillor may receive are:

- Council business cards up to a maximum of 500 per annum
- Support of the General Manager's Personal Assistant on an as-available basis
- Access to a shared office space within the Council Chambers, including availability of photocopier, telephone etc during Council office hours
- A Council name badge
- A Council blazer
- Standard stationery items on an as required basis

3.3 PROVISION OF ADDITIONAL EQUIPMENT AND FACILITIES FOR MAYOR

In recognition of the duties and responsibilities undertaken by the Mayor, Council will provide the following additional equipment and facilities:

3.3.1 Office Space and Support

Council will provide the Mayor with a dedicated office along with all support services such as phone, facsimile and consumables. The Mayor will also have access to the General Manager's Personal Assistant for secretarial services.

3.3.2 Motor Vehicle

Council will provide the Mayor with a Council motor vehicle for Council and private use. In the event of the vehicle being used for private use Council shall set any contribution level from time to time. The current contribution rate is nil, subject to the following clause:

A fuel card is provided for refuelling from Council authorised facilities, however, during periods of private use any refuelling occurring outside a 200km radius from the Council administrative centre, must be paid for by the Mayor.

The maximum standard of the motor vehicle will be that of a Holden Caprice or equivalent.

3.3.3 Telecommunications

Council will provide the Mayor an additional home telephone line, and rental thereon, if requested.

3.3.4 Qantas Club Membership

Council will provide the Mayor with an annual Qantas Club Membership.

3.3.5 Car Park

Council will provide the Mayor with a dedicated car park at the Council Customer Service Centre.

PART 4 - OTHER MATTERS

4.1 ACQUISITION AND RETURNING OF FACILITIES & EQUIPMENT BY COUNCILLORS

All items provided to Councillors in accordance with the policy shall remain the property of Council. Items shall be returned to Council:

- Upon request of the General Manager for repair, replacement, maintenance or upgrade
- Immediately upon the Councillor ceasing to hold office for any reason.

Items will be replaced when uneconomical to repair, or in accordance with any Council policy or resolution from time to time.

At the end of the Council term, if a Councillor wishes to purchase an item of equipment, the General Manager shall consider each request and set an appropriate selling price, which will not be less than the written down value of the equipment.

4.2 COUNCILLORS CONTRIBUTING INTO SUPERANNUATION

In accordance with the ATO Interpretative Decision 2007/205, 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.

PART 5 - REVIEW

The LGA (s.252) requires Council to review this policy within five months of the end of each financial year.



Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW

**Division of Local Government
Department of Premier and Cabinet**

October 2009

Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW
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Part One

The Guidelines

Acknowledgements

The Division of Local Government, Department of Premier and Cabinet would like to thank the Local Government and Shires Associations of NSW for their contribution to the review of these guidelines.

1.1 Purpose

These guidelines have been prepared for use by NSW councils to develop, implement and review their policies on the payment of expenses and the provision of facilities to mayors and councillors ('councillor expenses and facilities policies').

Councillor expenses and facilities policies should allow for councillors to receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties as elected representatives of their local communities.

The preparation and review of these policies on an annual basis by councils is a mandatory requirement to ensure accountability and transparency in the reasonable and appropriate provision of expenses and facilities to mayors and councillors in NSW.

1.2 Background

A review by the then Department of Local Government in 2005 of a number of councillor expenses and facilities policies revealed a high level of variability in format and content, the scope of expenses and facilities provided and the level of payment. Many councils did not set a limit to the payment of a number of types of expenses.

To address these issues, amendments were made to the *Local Government Act 1993 (Local Government Amendment Act 2005)* and the Local Government Regulation 2005. In addition the first version of these guidelines was developed.

A further review of a number of councillor expenses and facilities policies in 2007 (Director General's Circular to Councils 08/03 refers) and feedback received from councils using the guidelines identified the need for clarification of a number of areas. The result is the release of this revised version of the guidelines.

1.3 Legislative Context

These guidelines have been prepared under the provisions of section 23A of the *Local Government Act 1993* ('the Act') as Director General's Guidelines. They replace any previous versions of the guidelines issued.

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.

Further details of relevant legislative provisions and policy documents are in Appendix I to these guidelines.

1.4 Scope

Policies prepared under these guidelines provide for the payment or reimbursement of expenses and the provision of facilities by councils to mayors and councillors in NSW. They are also relevant to NSW council administrators where applicable and with necessary modifications.

The guidelines contain:

Discussion of principles and clarification of relevant issues in regard to the scope and extent of expenses and facilities that may be reasonably and appropriately provided for in councils' policies (Part One)

Notes and/or model clauses on specific expenses and facilities to assist councils to prepare their policies (Part Two)

Details of the relevant legislative and policy requirements ([Appendix I](#))

Suggested outline structure or format for a policy, which councils may use or adapt as necessary to suit their needs ([Appendix II](#)).

These guidelines do not deal with matters associated with the setting and payment of councillors' annual fees, which are a matter for the Local Government Remuneration Tribunal. Accordingly, policies prepared under these guidelines should not deal with councillors' annual fees.

1.5 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 be either 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*

1.6 Key Principles and Issues

Below are a number of key principles and issues that councils must consider and integrate within their councillor expenses and facilities policies where appropriate.

1.6.1 General Conduct

Councillors must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions under the Local Government Act or any other Act. This is required under section 439 of the Local Government Act and reinforced in the Model Code of Conduct made under section 440.

1.6.2 Use of council resources

Councils should be mindful of the provisions in the Model Code of Conduct about the use of council resources to ensure that councillor expenses and facilities are not used inappropriately.

The Model Code of Conduct provides that council resources must be used ethically, effectively, efficiently and carefully. Council property including intellectual property, official services and facilities must not be misused by any person or body for private benefit or gain. Councillors must also avoid any action or situation that could create the appearance that council resources are being used inappropriately (clauses 10.12-10.14 and 10.15 refer).

A person's re-election is considered to be a personal interest. Official council material such as letterhead, publications, websites as well as council services and forums must not be used for such personal interests. Situations in which the appearance may be given that these are being used for such purposes are also to be avoided (clause 10.16 refers).

The fundraising activities of political parties, including political fundraising events, are considered to be personal interests. Councils should not pay expenses or provide facilities to councillors in relation to supporting and/or attending such activities and events.

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 a policy developed by the council. For clarification on what token gifts and benefits are see the Model Code of Conduct (clause 8.1)

Further discussion in relation to the use of council resources for communication expenses is in Part Two.

Excerpts from the Model Code of Conduct in relation to use of council resources are in Appendix I.

1.6.3 Accountability and transparency

Councillor expenses and facilities policies must include all of the specific expenses for which councillors are entitled to receive reimbursement and all of the specific facilities councillors are entitled to use. Councillors can only receive reimbursement for expenses and the use of facilities when these are clearly identified in the policy.

The overriding principle to be addressed in the development of a council expenses policy is that the details and range of expenses paid and facilities provided to councillors by the council must be clearly and specifically stated and be fully transparent and acceptable to the local community. Policies must include clear limits and processes for approval, reconciliation and reimbursement for all expenses and facilities to maximise accountability and transparency.

Comprehensive reporting requirements of the Regulation, as outlined in Appendix I of these guidelines, further reinforce accountability and transparency.

1.6.4 Private benefit

Councillors should not obtain private benefit from the provision of equipment and facilities, nor from travel bonuses such as 'frequent flyer' schemes or any other such loyalty programs while on council business. However it is acknowledged that incidental use of council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment back to council.

Where more substantial private use does occur the Act provides that a payment may be made to cover the level of that private use (refer s252 (2)).

Councils are encouraged to include a statement in their councillor expenses and facilities policies clarifying that councillors should not obtain more than incidental private use of facilities. In situations where private use occurs, councils should also establish a suitable rate and/or mechanism for the reconciliation and reimbursement by councillors of that private use and include this in their policies.

1.6.5 General expense allowances

In accordance with clause 403 of the Regulation councillor expenses and facilities policies must not include provision for a general expense allowance. A general expense allowance is a sum of money paid by a council to a councillor to expend on an item or a service that is not required to be receipted and/or otherwise reconciled according to a set procedure and within a specific timeframe.

It is not appropriate or lawful for councils to pay general allowances unrelated to actual expenses incurred and which are designed to supplement councillors' annual fees.

Councils are encouraged to include a statement in their policies clarifying that general expense allowances will not be paid.

1.6.6 Limits

The payment of expenses and the provision of equipment and facilities to councillors must not be open-ended. However, these guidelines do not specify particular monetary limits. Rather, councils must agree and set monetary limits to all expense provisions in their policy, where practicable and where appropriate, as well as standards for the provision of equipment and facilities provided to councillors. In doing so, councils need to consider what is a reasonable and acceptable level of provision.

Limits need to be clearly stated and, where appropriate, justified within councillor expenses and facilities policies. The duration for which the limits apply to should also be clearly set out, for example one financial year. For periods less than a full year, for example, after a local government general election, a council may choose to apply a limit for each expense worked out on a pro rata basis.

Identifying and publishing monetary limits allows members of the public to know the expected cost of providing services to councillors and to make comment during the public consultation phase of making or amending the policy. Having clear limits also avoids situations where councillors incur costs that are unforeseen or considered unreasonable by other councillors and the public.

1.6.7 Approval

The policy must set out approval arrangements for all expenses and facilities provided. It should ensure that, where possible, approval is sought and gained prior to expenses being incurred. In particular it should avoid any one person from being the sole decision maker.

Approval for discretionary trips, attendance at conferences and/or for other significant expenses and facilities should occur, where possible, at a full meeting of the council.

Where approval at a full council meeting is not possible or appropriate then approval should be given jointly by the mayor and the general manager. If the mayor requires approval it should be given jointly by the deputy mayor or another councillor and the general manager.

Councils should establish and document an appropriate process to resolve any disputes that arise about the provision of expenses and facilities. This could

include a mechanism for disputed decisions to be reviewed by an independent person and/or by a full council meeting.

1.6.8 Reconciliation and reimbursement

Council expenses and facilities policies must include processes for the reconciliation and reimbursement of expenses, including a time limit for councillors to seek reimbursement for their expenses.

However, it is up to individual councils to determine the most appropriate procedure for reconciling and reimbursing costs and expenses taking into consideration issues of accountability and transparency as well as internal systems and resourcing.

Incidental expenses may not require specific receipts provided it can be demonstrated that expenditure was incurred and is not general in nature. Where receipts are not required it would be appropriate for councillors to certify that the expenditure was for the purpose intended. The level of supporting documentation should be commensurate with the nature of expenditure. For example expenditure on parking, tolls, refreshments and the like may only require a signed statement listing the payments.

1.6.9 Advance payments

When requested by a councillor, consideration should be given to the provision of an advance payment for the cost of a service associated with a civic duty. Advance payments can help ensure that councillors are able to fully participate in their civic duties without financial disadvantage.

Advance payments must always be reconciled at a future date within a timeframe stated in the policy. It is up to individual councils to determine the most appropriate means of reconciling such advance payments taking into account issues of accountability and transparency as well as internal systems and resourcing.

1.6.10 Recognising local differences

Individual policies should be sufficiently flexible and tailored to allow individual councils to determine what they can afford to pay and what is acceptable to their communities. They need to recognise the differences between councils in terms of levels of complexity of their governance, population size, the local economic and development environment, proximity to state borders and so on. These differences are broadly reflected in the various categorisations of councils, which have been determined by the Local Government Remuneration Tribunal to derive the level of annual fees paid to mayors and councillors.

1.6.11 Reasonable expenses, rates and facilities

These guidelines do not specify specific levels, rates or standards for the provision of expenses and facilities to councillors.

It is the responsibility of councils to define and establish in their policies what is reasonable, appropriate, responsible and acceptable based on considerations of what is required to enable councillors to effectively carry out their civic duties and what is acceptable to their communities.

Policies must adequately provide for councillors to be reimbursed for actual expenses incurred, or to be incurred, in the performance of their civic duties. Examples of appropriate expenses include training and development, conferences and seminars, travel, childcare, legal expenses and insurance.

Facilities, equipment and services should be provided that are appropriate to support mayors and councillors in undertaking their role as elected members of the council. Facilities should be provided to ensure the safety of councillors, for example the allocation of a safe and secure designated parking space at or near the council premises.

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

Policies should also specify appropriate rates. For example, rates for childcare may be based on an appropriate employment award and rates for mileage or meals may be based on Australian Tax Office determinations. These should be clearly provided for and, where appropriate, justified in councils' policies.

It is expected that the needs of different councils would be reflected in the scale, scope and nature of expenses and facilities provided. It is expected that councils of an equivalent Local Government Remuneration Tribunal category would generally make similar provisions for expenses and facilities.

1.6.12 Participation, equity and access

Councillor expenses and facilities policies should be non-discriminatory, equitable and encourage participation on council of people from diverse backgrounds that represent the demographics of the local community. They should allow councillors to represent the community in different ways and take account of, as much as possible, individual differences.

Policies should encourage all members of the community from different walks of life, particularly under-represented groups such as those in primary caregiver roles, to seek election to council by ensuring that they would not be financially or otherwise disadvantaged in undertaking the civic duties of a councillor.

Policies should also take account of and make reasonable provision for the special needs of councillors to allow appropriate access to council premises

and facilities, and to maximise participation in the civic duties and business of council. Policies should include, for example, provision for sight or hearing impaired councillors and those with other disabilities. They should also make reasonable transportation provisions for those unable or unwilling to drive.

1.6.13 Relationship between annual fees and expenses

Policies prepared under these guidelines are not required to deal with councillors' annual fees. However, it is acknowledged that there is likely to be some correlation between the annual fees paid to mayors and councillors and the level and scope of expenses and facilities required and provided for in a councillor expenses and facilities policy.

Councillor expenses and facilities policies should set levels of expenses and facilities to realistically account for costs incurred by councillors independent of the level of their annual fees. This is consistent with the Local Government Remuneration Tribunal position that expenses reasonably incurred by councillors are outside provisions made under the annual fee determinations.

It is noted that some small country councils have in the past set a policy that requires councillors to pay for some or all of their expenses from their annual fee. This practice is strongly discouraged as it can have the effect of financially disadvantaging councillors. It may also have the effect of discouraging potential candidates from standing for election to councils.

In relation to annual fees, it should be noted that councils may only pay a deputy mayor part of the mayor's annual fee where a deputy mayor demonstrably acts in the role of the mayor. Such payment must only be done at the direction of the council and any amount paid to the deputy mayor must be deducted from the mayor's annual fee (section 249 of the Local Government Act).

Notes about specific expenses and facilities to assist councils in the development of a councillor expenses policy follow in Part Two. These notes do not form part of the mandatory guidelines.

1.7 Development, implementation, review and reporting requirements

1.7.1 Development and adoption of the policy

In accordance with section 253 of the Local Government Act, councils must give public notice of its intention to adopt or amend a councillor expenses and facilities policy and allow at least 28 days for public submissions.

Councils must consider any submissions received and make any appropriate changes to the policy. Councils do not need to give public notice of a proposed amendment to the policy, if the amendment is not substantial.

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Within 28 days of adopting or amending the policy, the policy and details of submissions must be forwarded to the Deputy Director General (Local Government), Division of Local Government, Department of Premier and Cabinet.

Councils must submit their current, adopted policies to the Division by 30 November each year.

1.7.2 Implementation

Consistent with the principles outlined in these guidelines, councillor expenses and facilities policies should include clear provisions that assist in the equitable, transparent and accountable implementation of the policy.

The policy should clarify that the payment of general expense allowances is not allowed. The policy should also disallow, other than incidental, private benefit to councillors for expenses and facilities, unless a reasonable and clear mechanism for reconciliation and reimbursement of the private benefit gained is expressly outlined in the policy.

The policy should include clear limits for all expenses and facilities, where practicable.

It is particularly important that the policy includes a clear approval process for all expenses and facilities, where practicable, to avoid situations in which a councillor incurs and makes a claim for an expense considered to be outside the scope of the policy by the council.

1.7.3 Promotion and availability of the policy

Councils should promote their policies on the payment of expenses and the provision of facilities to councillors and to the community by placing these policies on their websites and making them readily accessible. Councils should ensure that the policy is easy to locate for viewing by the public.

1.7.4 Review

Councils are required to review their councillor expenses and facilities policies on an annual basis. Public notice must be given prior to the annual policy adoption process, even if the proposed amendments are not substantial.

Policies must also be submitted to the Deputy Director General (Local Government), Division of Local Government, Department of Premier and Cabinet within 28 days of adoption by a council, even if the policy remains unchanged.

Councils need not give public notice of a proposed amendment to their policies at other times if the council is of the opinion that the proposed amendments are

not substantial. The term 'not substantial' should be taken to mean minor changes to wording of the policy or changes to monetary provisions or rates that are less than 5%. It also means minor changes to the standard of the provision of equipment and facilities. Substantial amendments to the policy that could include larger changes to monetary limits than the limit noted above, and/or major changes to the standard of provision of equipment and facilities, will require public notice of the amendment. Any new category of expenses, facilities and equipment included in the policy will also require public notice.

1.7.5 Annual Reporting

In accordance with clause 217 of the Regulation and for the purposes of transparency and accountability, councils are required to include detailed information in their annual reports about the payment of expenses and facilities to councillors. This should not be seen as a disincentive for the payment of appropriate expenses and the provision of appropriate facilities to councillors.

Councils are required to report separately on:

General

- the total cost of expenses and the provision of facilities for the mayor and all councillors, as well as:

Provision of facilities

- the cost of the provision of dedicated office equipment allocated to councillors on a personal basis such as laptop computers, mobile phones, telephones and facsimile machines and Internet installed in the councillors' homes (including line rental and internet access). This item does not include the costs of using this equipment, such as calls.

Expenses

- the cost of phone calls including mobiles, home located landlines, facsimile and internet services
- spouse/ partner/ accompanying person expenses (limited to circumstances outlined in Part Two of these Guidelines)
- conference and seminar expenses
- training and skill development expenses
- interstate travel expenses (including subsistence and out-of-pocket expenses)
- overseas travel expenses (including subsistence and out-of-pocket expenses)
- care and other related expenses (of dependants to enable a councillor to undertake his or her civic functions).

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Whether the above information is reported for each councillor or all councillors as a group is a matter for council to determine. This may be based on considerations of what is appropriate and what the community expects.

1.7.6 Reporting of additional expenses and facilities

In addition to the statutory reporting requirements, councils should report other costs where these are significant.

For example, councils should report the cost of any additional significant expenses and/or facilities provided for in their policy.

Further details of relevant legislative provisions for development, implementation, review and reporting of councillor expenses and facilities policies are in Appendix I to these guidelines.

Part Two

Notes to assist councils to develop a councillor expenses and facilities policy

The following notes do not form part of the guidelines. They are provided to clarify various issues and provide examples in relation to specific expenses and facilities to assist councils to prepare their councillor expenses and facilities policies. Councils should use these notes as appropriate to need and circumstances.

2.1 Policy control information

As for any council policy, standard information about the date the policy was adopted, amendment date/s and the responsible council division should be included to make it easy to track changes and to ensure good policy version control.

Related policies, procedures or other documents should also be clearly identified, where appropriate.

2.2 General provisions for inclusion

Consistent with the principles outlined in these guidelines, councillor expenses and facilities policies should include:

statement disallowing the payment of general expense allowances

statement disallowing, other than incidental, private benefit from expenses and facilities - unless the policy expressly allows this and there is a reasonable and clearly outlined mechanism for reimbursement of the private benefit gained

clear limits for all expenses and facilities, where practicable

clear processes for approval, reconciliation and reimbursement for all expenses and facilities, where practicable.

2.3 Provisions for specific expenses

2.3.1 Attendance at seminars and conferences

Councils may provide specific guidance in their policies in regard to the type of seminars and conferences that may be attended, the number of councillors who may attend and approval arrangements.

Requests for attending conferences should generally be in writing outlining the benefits for council. After returning from the conference the councillor/s, or a member of council staff accompanying the councillor/s, should provide a written report to council on the aspects of the conference relevant to council business and/or the local community. No written report should be required for the Annual Conferences of the Local Government and Shires Associations.

Councils should pay conference registration fees charged by the conference organisers including the costs of related official lunches and dinners, and associated tours where they are relevant to the business and interests of the council.

Councils should meet the reasonable cost of transportation and accommodation associated with attendance at the conference, and meals when they are not included in the conference fees.

2.3.2 Training and development

Councils should provide for training and development in their policies and make separate provision in their budgets for the payment of training and development expenses for councillors.

This is in accordance with NSW Government policy, which aims to ensure that councillors have adequate training and skills development to ensure they carry out their functions effectively. The Division of Local Government is currently implementing a Councillor Development Strategy to ensure that councillors have access to the training and resources needed to understand and undertake their role effectively and to facilitate continuing professional development opportunities.

Councils are also being encouraged to develop, fund and implement a councillor training and development program based on a systematic skills analysis and assessment of professional development needs of their councillors. The nature of this program will vary from council to council depending on resources and need. Guidance on the preparation of professional development programs for councillors may be found in the Division's *Councillor Induction and Professional Development Guide* on our website at www.dlg.nsw.gov.au.

Councillor expenses and facilities policies should support and encourage an active learning process and skills development in addition to providing for

attendance at seminars and conferences related to council functions. It is essential where council is paying these expenses that the training or educational course is directly related to the councillor's civic functions and responsibilities.

2.3.3 Travel

General travel

The policy should clarify that all travel by councillors should be undertaken by utilising the most direct route and the most practicable and economical mode of transport subject to any personal medical considerations.

Local travel

The policy should provide for the payment of reasonable travel expenses for local travel relating to defined council business.

For example, the policy could include arrangements for the use of a private vehicle and provisions for the use of public transport, taxis, hire cars, travel using a council vehicle and associated other costs such as parking and road tolls. The policy should clarify that the driver is personally responsible for all traffic or parking fines incurred while travelling in private or council vehicles on council business.

Intrastate travel

Councils should decide whether it is reasonable to require prior approval for intrastate travel depending on factors such as the purpose, travel distance and whether flights and/or overnight accommodation is required. For example, travel to a conference in a distant local government area may require an application for approval including full details of the travel, such as itinerary, costs and reasons for the travel. Travel to a neighbouring local government area may generally be treated as local travel.

Interstate travel

Prior approval of travel should generally be required for interstate travel. The application for approval should include full details of the travel, including itinerary, costs and reasons for the travel. An exception would be for situations in which border councils travel to meetings or forums in neighbouring councils across the border. In such cases this may be treated as local travel.

Overseas travel

It is strongly recommended that councils scrutinise the value and need for councillors to undertake overseas travel. Councils should avoid international visits unless direct and tangible benefits can be established for the council and the local community.

Detailed proposals for overseas travel should be developed, including nomination of the councillors undertaking the trip, purpose of the trip and expected benefits. The duration, itinerary and approximate total costs of each proposed visit, should also be provided.

Overseas travel must be approved by a meeting of the full council prior to a councillor undertaking the trip. Travel must be approved on an individual trip basis. Councils should not allow the retrospective reimbursement of overseas travel expenses unless prior authorisation of the travel has been obtained.

Travel proposals should be included in the council business papers. The use of a mayoral minute to obtain council approval for travel is not appropriate as it is not consistent with principles of openness and transparency.

After returning from overseas, councillors, or an accompanying member of council staff, should provide a detailed written report to council on the aspects of the trip relevant to council business and/or the local community. Councillors are also strongly encouraged to report back on their overseas travel to a full meeting of the council.

Details of overseas travel must also be included in councils' annual reports. Councils are also required to report on the benefits of any proposed overseas sister city relationships.

2.3.4 Accommodation costs

Councils may make specific provision in the policy in regard to an appropriate standard of accommodation for councillors attending conferences, seminars and other functions.

2.3.5 Incidental expenses

Reasonable out of pocket or incidental expenses associated with councillors attending conferences, seminars or training courses may be reimbursed provided that it can be demonstrated that the expenses were actually incurred and that established reconciliation procedures are followed, for example, the completion of a claim form. A claim form must include an itemised account of expenditure and should not be general in nature.

Incidental expenses could reasonably include telephone or facsimile calls, refreshments, internet charges, laundry and dry cleaning, newspapers, taxi fares and parking fees. In addition, the cost of meals not included in the registration fees for conferences or similar functions may be reimbursed after reconciliation. It is expected that councils would specify daily limits to these out of pocket or incidental expenses in their policy. All advanced payments are required to be reconciled.

2.3.6 Legal expenses

Where a council decides to include provisions in its councillor expenses and facilities policy to indemnify or reimburse a councillor's reasonable legal costs properly incurred, the policy should specify that the 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) Division of Local Government, Department of Premier and Cabinet
- (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 should 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 the Model Code of Conduct. In the case of a pecuniary interest or misbehaviour matter legal costs should only be made available where a formal investigation has been commenced by the Division of Local Government.

In addition, legal costs must 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.

A council must not meet the legal costs of legal proceedings initiated by a councillor under any circumstance.

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 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.

It is important that council has a clear approvals process in place to ensure approval is sought and gained, where possible, prior to legal expenses being incurred.

The above information is in accordance with and replaces the provisions in relation to legal expenses for councillors in Circular to Councils 05/08 *Legal assistance for councillors and council employees* and of the model policy set out in the *Local Government Law Guide*, Sly and Weigall in association with Deacons, Graham & James (June 1994) p 322, point 252.3(6).

2.3.7 Insurance

Section 382 of the Act requires a council to make arrangements for its adequate insurance against public liability and professional liability.

The policy should include a section outlining insurance provisions for councillors and as a minimum these insurances should cover:

- 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 functions).

Councils could also give consideration to providing additional insurance for councillors to cover:

- Personal injury while on council business. Note that councillors are not covered by workers' compensation payments or arrangements.
- Travel insurance for approved interstate and overseas travel on council business.

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

2.3.8 Communication expenses

The Division advises against councils including provision in their policies for expenses for individual councillors or groups of councillors to produce and disseminate personalised pamphlets, newsletters and the like.

Regardless of intention such activities may be perceived as using council resources for private political benefit and would therefore be contrary to the spirit of the Local Government Act and the Model Code of Conduct.

This is particularly the case in the lead up to local government elections. Not only is it likely that the community would perceive pamphlets and newsletters by individual councillors at this time to be a misuse of resources for private re-election benefit, but the use of council resources for such a purpose inequitably raises the profile of current councillors over other prospective candidates.

While the facilitation of communication between the community and the council is acknowledged as an important role of a councillor, there are many other more appropriate ways that councils do this effectively, including via corporate publications and community newsletters, surveys, focus groups, websites and public meetings.

However, if communication expenses are to be provided to individual councillors, policies should include strict limits, guidelines and controls to manage the content, format and approval process for any publications produced, not least because such materials will appear to be council endorsed. Councils should also consider setting a reasonable and appropriate timeframe for ceasing payment of expenses for communication activities by individual councillors prior to their ordinary elections until after the elections.

2.3.9 Telecommunications

Councils should establish a monthly monetary limit for the cost of official mobile, landline and facsimile calls made by councillors. A system should also be established to reconcile all telephone call costs claimed with account statements. Councils should also consider limiting expenses for internet use.

2.3.10 Attendance at dinners and other non-council functions

The policy may address the issue of councillors' attendance at formal dinners and other non-council functions.

Consideration may be given to meeting the cost of councillors' attendance at dinners and other non-council functions that provide briefings to councillors from key members of the community, politicians and business. Approval to meet expenses should only be given when the function is relevant to the council's interest. Only the cost of the service provided should be met.

No payment should be made by a council for attendance by a councillor at any political fundraising event, for any donation to a political party or candidate's electoral fund, or for some other private benefit. Councils should ascertain whether any expenses to be incurred would be directed towards such events and activities prior to approving expenditure.

2.3.11 Care and other related expenses

Councils are strongly encouraged to make provision for the reimbursement of the reasonable cost of care 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. This is in accordance with the principles of participation, access and equity outlined earlier in these guidelines. This is considered by the Division of Local Government to be a legitimate expense and councillors claiming the care expense should not be subject to criticism for doing so.

Consideration should be given to the payment of other related expenses associated with the special requirements of councillors such as disability and access needs to allow performance of normal civic duties and responsibilities.

2.3.12 Expenses for spouses, partners and accompanying persons

There may be limited instances 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. An accompanying person is a person who has a close personal relationship with the councillor and/or provides carer support to the councillor.

Meeting the reasonable costs of spouses and 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. Such functions would be those that a councillor's spouse, partner or accompanying person could be reasonably expected to attend. Examples could include but not be limited to Australia Day award ceremonies, citizenship ceremonies, civic receptions and charitable functions for charities formally supported by the council.

Limited expenses of spouses, partners or accompanying persons associated with attendance at the Local Government and Shires Associations' annual conferences could be met by councils. These expenses should be limited to the cost of registration and official conference dinners. Travel expenses, any additional accommodation expenses, and the cost of partner/accompanying person tours etc would be the personal responsibility of individual councillors.

Consideration should also be given to the 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 on to attend an official function of council or carry out an official ceremonial duty while accompanying the mayor outside the council's area, but within the State. Examples could 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.

The above circumstances should be distinguished from spouses, partners or accompanying persons who accompany a councillor at any event or function

outside the council area, including interstate and overseas, where the costs and expenses of the spouse or partner or accompanying person should not be paid by council (with the exception of attendance at the Local Government and Shires Associations annual conferences, as noted above).

The above examples should also be distinguished from circumstances where spouses, partners or accompanying persons accompany councillors at seminars and conferences and the like. In these situations all costs, including any additional accommodation costs, must be met by the councillor or the spouse/partner/accompanying person.

The payment of expenses for spouses, partners or accompanying persons for attending appropriate functions as permitted above should be 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.

2.4 Provision of facilities, equipment and services

2.4.1 Provision of facilities, equipment and services for councillors

The following are examples of equipment, facilities and services that could be included in the policy and provided to mayors and councillors. The provision of facilities, equipment and services is not limited to this list:

- Office equipment (phones, fax, photocopier)
- Mobile phone
- Internet
- Dedicated computer equipment including a desktop and/or laptop, printer, scanner and software
- Furnished councillors' room
- Secretarial and administrative support
- Stationery, office supplies, postage, business cards and other consumables
- Non-dedicated council vehicle
- Car parking set aside for the sole use of councillors
- Meals and refreshments
- Meals on evenings of council meetings and official dinners, light refreshments at committee and working party meetings
- Corporate clothing and protective clothing and equipment.

2.4.2 Provision of additional facilities, equipment and services for mayors

In addition to the facilities, equipment and services provided to councillors, certain additional facilities may be provided to a mayor to recognise the special

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role, responsibilities and duties of the position both in the council and in the community.

Provision of a motor vehicle

Generally, a fully serviced and maintained vehicle, including a fuel card, should be provided for the sole use of the mayor. The type of motor vehicle and all conditions of use should be specified in the policy.

Councillors, including the mayor, should only obtain incidental private benefit from the provision of a motor vehicle for official use unless the policy specifically provides for private use and has a mechanism in place for a payment to be made for that private use. This mechanism should be outlined in a council's expenses and facilities policy. For an example of an appropriate method of reconciling private usage see 1.6.11.

Other equipment, facilities and services

Other equipment to be provided for the use of the mayor may include, but is not be limited to:

- Ceremonial clothing including mayoral robes, chains of office
- Dedicated staff support, including secretarial services
- Furnished mayoral office
- Allotted parking space at the council premises.

2.4.3 Acquisition and return of equipment and facilities by councillors

Councils should provide details of arrangements for councillors to return equipment and other facilities to the council after the completion of their term of office, extended leave of absence or at the cessation of their civic duties.

The policy should provide the option for councillors to purchase council equipment previously allocated to them at the cessation of their duties. If the item is for sale it should be purchased at an agreed fair market price or written down value.

Appendix I Legislative and policy requirements

3.1 Provisions under the Local Government Act 1993

3.1.1 General policy-making requirements

Section 252 of the Local Government Act requires councils to adopt or amend a policy annually for the payment of expenses and the provision of facilities to mayors, deputy mayors and other councillors. Mayors and councillors can only be reimbursed for expenses and provided with facilities in accordance with this policy.

Section 252 also makes provision for a council to reduce the amount payable to mayors and councillors (under sections 248-251 of the Act) by the amount representing any private benefit of a facility provided by the council to them. It also requires that the policy be made under the provisions of this Act, the Regulation and any relevant guidelines issued under section 23A of the Act (these guidelines).

Section 252 (Payment of expenses and provision of facilities) states:

(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.

3.1.2 Policy development, review and submission requirements

Section 253 of the Act specifies actions that council must undertake before a policy concerning expenses and facilities can be adopted or amended. It requires councils to make and submit their expenses and provision of facilities policies annually to the Division of Local Government.

Section 253 (Public notice of proposed policy or amendments concerning expenses and facilities) states:

(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 of the Act requires that a part of a council or committee meeting which considers the adopting or amending of such a policy must not be closed to the public.

3.1.3 The role of a councillor

Section 232 of the Local Government Act defines the role of a councillor. It provides that councillors have two distinct roles; as a member of the governing body of the council; and as an elected person. Councils as members of the governing body should work as part of a team to make decisions and policies that guide the activities of the council. The role as an elected person requires councillors to represent the interests of the community and provide leadership. Councillor expenses and facilities policies should facilitate and assist councillors to carry out their role.

Section 232 (What is the role of a councillor?) states:

(1) *The role of a councillor is, as a member of the governing body of the council:*

- *to direct and control the affairs of the council in accordance with this Act*
- *to participate in the optimum allocation of the council's resources for the benefit of the area*
- *to play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions*
- *to review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.*

(2) *The role of a councillor is, as an elected person:*

- *to represent the interests of the residents and ratepayers*
- *to provide leadership and guidance to the community*
- *to facilitate communication between the community and the council.*

3.1.4 Other requirements

Section 12 provides that the public is able to inspect during office hours at the council, and at no charge, the current version and the immediately preceding version of the council's expenses and facilities policy. The public are also entitled to a copy of the policy either free of charge or on payment of a reasonable copying charge.

Section 23A makes provision for the Director General of the former Department of Local Government to prepare, adopt or vary guidelines that relate to the exercise by a council of any of its functions. It also requires that a council must take the relevant guidelines into consideration before exercising any of its functions.

3.2 Provisions under the Local Government (General) Regulation 2005

Clause 217 of the Regulation requires councils to include detailed information in their annual reports about the payment of expenses and facilities to councillors.

Clause 217 (Additional information for inclusion in annual reports) states in part:

(1) *For the purposes of section 428 (2) (r) of the Act, an annual report of a council is to include the following information:*

- (a) *details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),*

(a1) 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:

(i) 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),

(ii) 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,

(iii) the attendance of councillors at conferences and seminars,

(iv) the training of councillors and the provision of skill development for councillors,

(v) 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,

(vi) 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,

(vii) the expenses of any spouse, partner 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,

(viii) 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.

Clause 403 disallows the payment of a general expense allowance and for a vehicle to be made available for the exclusive use of a councillor other than the mayor.

Clause 403 (Payment of expenses and provision of facilities) states:

A policy under section 252 of the Local Government Act 1993 must not include any provision enabling a council:

(a) to pay any councillor an allowance in the nature of a general expense allowance, or

(b) to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.

3.3 Other NSW Government policy provisions

3.3.1 Division of Local Government Guidelines

As noted above under section 252(5) of the *Local Government Act 1993* the council expenses policy must comply with these guidelines issued under section 23A of the Act.

3.3.2 Circulars to Councils

The policy must take into account the following Circulars.

- Circular 08/24 *Misuse of council resources.*
- Circular 08/37 *Council decision making prior to ordinary elections*

As previously stated, these guidelines replace any previous versions of these Guidelines and Circular 04/60 *Policy on payment of facilities to the mayor, deputy mayor and other councillors.*

3.3.3 The Model Code of Conduct for Local Councils in NSW (DLG)

The policy should be consistent with the *Model Code of Conduct for Local Councils in NSW, Department of Local Government – June 2008*. The following parts of the code are particularly relevant to s252 policies:

Use of council resources (pp 23-24)

10.12 You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.

10.14 You must be scrupulous in your use of council property, including intellectual property, official services and facilities and should not permit their misuse by any other person or body.

10.15 You must avoid any action or situation, which could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

10.16 The interests of a councillor in their re-election is considered to be a personal interest and as such the reimbursement of travel expenses incurred

on election matters is not appropriate. Council letterhead, council crests and other information that could give the impression it is official council material must not be used for these purposes.

10.17 You must not convert any property of the council to your own use unless properly authorised.

3.3.4 Councillor Induction and Professional Development Guide (DLG)

The policy provisions on training and development should integrate with any training and development policy, plan or program developed by the council. The Division has produced a *Councillor Induction and Professional Development Guide* (September 2008) to assist councils to develop these programs.

3.3.5 No Excuse for Misuse, preventing the misuse of council resources (ICAC)

Councils should also be aware of and take account of the Independent Commission Against Corruption (ICAC) publication *No Excuse for Misuse, preventing the misuse of council resources (Guidelines 2)* November 2002. This publication is available on the ICAC website in at www.icac.nsw.gov.au.

Appendix II

A suggested format for a policy for the payment of expenses and the provision of facilities for mayors and councillors

Part 1 INTRODUCTION

- **Title and commencement of the Policy**
- **Purpose of the Policy**
The purpose of the policy is 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.
- **Objectives and scope of the Policy**
- **Making and adoption of the Policy**
- **Legislative provisions**
Local Government Act 1993 and Local Government (General) Regulation 2005
- **Other Government policy provisions**
*DLG Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors, Model Code of Conduct for Local Councils in NSW and Circulars to Councils
ICAC publications*

Part 2 PAYMENT OF EXPENSES

GENERAL PROVISIONS

- **Payment of expenses generally (principles and processes)**
No general expense allowance
Monetary limits for all expenses
No private benefit unless payment made
No use of council resources for political purposes
Gifts and benefits to be of token value
Participation, equity and access
Approval and dispute resolution processes
Reimbursement and reconciliation of expenses processes
Payment in advance process

SPECIFIC EXPENSES FOR COUNCILLORS (including limits)

- Attendance at seminars and conferences
- Training and educational expenses
- Local travel arrangements and expenses
- Travel outside the LGA including interstate travel, accommodation and incidental expenses
- Legal expenses
- Insurance expenses
- Telecommunications/internet
- Care and other related expenses
- Spouse and partner expenses

ADDITIONAL EXPENSES FOR MAYORS

- Additional expenses provided

Part 3 PROVISION OF FACILITIES

GENERAL PROVISIONS

- Provision of facilities generally (principles and processes)
Private use of facilities and mechanism for reimbursement

PROVISION OF EQUIPMENT AND FACILITIES FOR COUNCILLORS

- Equipment and facilities provided

PROVISION OF ADDITIONAL EQUIPMENT AND FACILITIES FOR MAYORS

- Additional equipment and facilities provided

Part 4 OTHER MATTERS

- Acquisition and returning of facilities and equipment by Councillors
- Status of the Policy

Circular No. 11-27
Date 21 September 2011
Doc ID. A254432

Contact Leonie Luke
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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.

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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, Warringham, 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, appearing to read 'Ross Woodward', is positioned above the typed name and title.

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



Circular Details	17-17 / 27 June 2017 / A548300
Previous Circular	N/A
Who should read this	Councillors / General Managers / Governance Staff
Contact	Council Governance Team / 02 4428 4100
Action required	Information
Attachment	Councillor Expenses and Facilities Policy Template

Councillor Expenses and Facilities Policy – Better Practice Template

What's new or changing

- A better practice Councillor Expenses and Facilities Policy template (the Policy template) has been developed and is being made available for use by all councils.

What this will mean for your council

- The Policy template is provided as a suggested format for councils.
- The Policy template has been prepared to be consistent with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation) and the Office of Local Government's (OLG) *Guidelines for the payment of expenses and provision of facilities for mayors and councillors in NSW* (the Guidelines).
- If there are any inconsistencies, the Act, Regulations and Guidelines take precedence.

Key points

- The Policy template has been designed to be amended to suit local needs and circumstances. It is recognised that the provisions in the Policy template will not all be appropriate for every council.
- Areas where councils will need to incorporate specific direction are highlighted in yellow and indicated in [square brackets]. The note to users and all highlighted sections should be deleted during preparation of the draft policy.
- Councils using the Policy template will need to include maximum expenditure limits for specific expenses and facilities. Councils should tailor these limits to their own context and community expectations. Councils may wish to benchmark against similar councils to determine these limits.
- Under section 252 of the Act, councillor expenses and facilities policies must be adopted within 12 months of the commencement of the new council term.
- Once exhibited and adopted, the policy must be made publicly available on the council website.
- Copies of the policy are no longer required to be provided to OLG.

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Councillor Expenses and Facilities Policy

Suggested template

Notes for users

This template for a Councillor Expenses and Facilities Policy is provided as a suggested format for councils in response to requests for guidance on better practice. The template has been prepared to be consistent with the Local Government Act 1993 and Local Government (General) Regulations 2005. If there are any inconsistencies, the Act and Regulations take precedence.

The template has been designed to be amended to suit local needs and circumstances. It is recognised that the provisions in the policy template will not all be appropriate for every council.

Areas where councils will need to incorporate specific direction are highlighted and indicated in [square brackets]. This note to users and all highlighted sections should be deleted during preparation of the draft policy.

Councils using this template will need to include maximum expenditure limits for specific expenses and facilities. Councils will tailor these limits to their own context and community expectations. Councils may wish to benchmark against similar councils to determine these limits.

Once exhibited and adopted, the policy should be made publicly available on the council website.

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Policy summary

This policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to councillors to help them undertake their civic duties.

It ensures accountability and transparency, and seeks to align councillor expenses and facilities with community expectations. Councillors must not obtain private or political benefit from any expense or facility provided under this policy.

The policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.

The policy sets out the maximum amounts council will pay for specific expenses and facilities. Expenses not explicitly addressed in this policy will not be paid or reimbursed.

The main expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.

Expense or facility	Maximum amount	Frequency
General travel expenses	\$[insert] per councillor \$[insert] for the Mayor	Per year
Interstate, overseas and long distance intrastate travel expenses	\$[insert] total for all councillors	Per year
Accommodation and meals	As per the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, adjusted annually	Per meal/night
Professional development	\$[insert] per councillor	Per year
Conferences and seminars	\$[insert] total for all councillors	Per year
ICT expenses	\$[insert] per councillor	Per year
Carer expenses	\$[insert] per councillor	Per year
Home office expenses	\$[insert] per councillor	Per year
Postage stamps	[insert]	Per year
Christmas or festive cards	[insert] per councillor [insert] for the mayor	Per year
Access to facilities in a Councillor common room [where applicable Clause 9.1]	Provided to all councillors	Not relevant
Council vehicle and fuel card [where applicable Clause 10]	Provided to the mayor	Not relevant
Reserved parking space at Council offices	Provided to the mayor	Not relevant
Furnished office [where applicable Clause 10]	Provided to the mayor	Not relevant
Number of exclusive staff supporting Mayor and Councillors [where applicable Clause 10]	Provided to the mayor and councillors	Not relevant

Additional costs incurred by a councillor in excess of these limits are considered a personal expense that is the responsibility of the councillor.

Councillors must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual councillor and as a total for all councillors.

Part A – Introduction

1. Introduction

- 1.1. The provision of expenses and facilities enables councillors to fulfil their civic duties as the elected representatives of [insert name] council.
- 1.2. The community is entitled to know the extent of expenses paid to councillors, as well as the facilities provided.
- 1.3. The purpose of this policy is to clearly state the facilities and support that are available to councillors to assist them in fulfilling their civic duties.
- 1.4. Council staff are empowered to question or refuse a request for payment from a councillor when it does not accord with this policy.
- 1.5. Expenses and facilities provided by this policy are in addition to fees paid to councillors. The minimum and maximum fees a council may pay each councillor are set by the Local Government Remuneration Tribunal as per Section 241 of the Act and reviewed annually. Council must adopt its annual fees within this set range.

2. Policy objectives

- 2.1. The objectives of this policy are to:
 - enable the reasonable and appropriate reimbursement of expenses incurred by councillors while undertaking their civic duties
 - enable facilities of a reasonable and appropriate standard to be provided to councillors to support them in undertaking their civic duties
 - ensure accountability and transparency in reimbursement of expenses and provision of facilities to councillors
 - ensure facilities and expenses provided to councillors meet community expectations
 - support a diversity of representation
 - fulfil the council's statutory responsibilities.

3. Principles

- 3.1. Council commits to the following principles:
 - **Proper conduct:** councillors and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions
 - **Reasonable expenses:** providing for councillors to be reimbursed for expenses reasonably incurred as part of their role as councillor
 - **Participation and access:** enabling people from diverse backgrounds, underrepresented groups, those in carer roles and those with special needs to serve as acCouncillor
 - **Equity:** there must be equitable access to expenses and facilities for all councillors
 - **Appropriate use of resources:** providing clear direction on the appropriate use of council resources in accordance with legal requirements and community expectations
 - **Accountability and transparency:** clearly stating and reporting on the expenses and facilities provided to councillors.

4. Private or political benefit

- 4.1. Councillors must not obtain private or political benefit from any expense or facility provided under this policy.
- 4.2. Private use of council equipment and facilities by councillors may occur from time to time. For example, telephoning home to advise that a council meeting will run later than expected.
- 4.3. Such incidental private use does not require a compensatory payment back to council.
- 4.4. Councillors should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of council facilities does occur, councillors must reimburse the council.
- 4.5. Campaigns for re-election are considered to be a political benefit. The following are examples of what is considered to be a political interest during a re-election campaign:
 - production of election material
 - use of council resources and equipment for campaigning
 - use of official council letterhead, publications, websites or services for political benefit
 - fundraising activities of political parties or individuals, including political fundraising events.

Part B – Expenses

5. General expenses

- 5.1. All expenses provided under this policy will be for a purpose specific to the functions of holding civic office. Allowances for general expenses are not permitted under this policy.
- 5.2. Expenses not explicitly addressed in this policy will not be paid or reimbursed.

6. Specific expenses

General travel arrangements and expenses

- 6.1. All travel by councillors should be undertaken using the most direct route and the most practicable and economical mode of transport.
- 6.2. Each councillor may be reimbursed up to a total of **\$(insert)** per year, and the mayor may be reimbursed up to a total of **\$(insert)** per year, for travel expenses incurred while undertaking official business or professional development or attending approved conferences and seminars within NSW. This includes reimbursement:
 - for public transport fares
 - for the use of a private vehicle or hire car
 - for parking costs for Council and other meetings
 - for tolls
 - by Cabcharge card or equivalent
 - for documented ride-share programs, such as Uber, where tax invoices can be issued.
- 6.3. Allowances for the use of a private vehicle will be reimbursed by kilometre at the rate contained in the Local Government (State) Award.
- 6.4. Councillors seeking to be reimbursed for use of a private vehicle must keep a log book recording the date, distance and purpose of travel being claimed. Copies of the relevant log book contents must be provided with the claim.

Interstate, overseas and long distance intrastate travel expenses

[For councils in metropolitan areas, this section includes reference to long distance intrastate travel. Councils in regional, rural and remote areas may wish to delete these references].

- 6.5. [Councils located on state borders may wish to include the following clause: Given Council's location [on or near] an interstate border, travel to [insert state name] will be considered as general travel. Arrangements and expenses for this travel will be governed by Clauses 6.1-6.4].
- 6.6. In accordance with Section 4, Council will scrutinise the value and need for councillors to undertake overseas travel. Councils should avoid interstate, overseas and long distance intrastate trips unless direct and tangible benefits can be established for the council and the local community. This includes travel to sister and friendship cities.
- 6.7. Total interstate, overseas and long distance intrastate travel expenses for all councillors will be capped at a maximum of \$[insert] per year. This amount will be set aside in Council's annual budget.
- 6.8. Councillors seeking approval for any interstate and long distance intrastate travel must submit a case to, and obtain the approval of, the general manager prior to travel.
- 6.9. Councillors seeking approval for any overseas travel must submit a case to, and obtain the approval of, a full council meeting prior to travel.
- 6.10. The case should include:
- objectives to be achieved in travel, including an explanation of how the travel aligns with current council priorities and business, the community benefits which will accrue as a result, and its relevance to the exercise of the councillor's civic duties
 - who is to take part in the travel
 - duration and itinerary of travel
 - a detailed budget including a statement of any amounts expected to be reimbursed by the participant/s.
- 6.11. For interstate and long distance intrastate journeys by air of less than three hours, the class of air travel is to be economy class.
- 6.12. For interstate journeys by air of more than three hours, the class of air travel may be premium economy.
- 6.13. For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.
- 6.14. Bookings for approved air travel are to be made through the general manager's office.
- 6.15. For air travel that is reimbursed as council business, councillors will not accrue points from the airline's frequent flyer program. This is considered a private benefit.

Travel expenses not paid by Council

- 6.16. Council will not pay any traffic or parking fines or administrative charges for road toll accounts.

Accommodation and meals

- 6.17. [Rural and regional councils may wish to include the following clause:] In circumstances where it would introduce undue risk for a councillor to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the general manager. This includes where a meeting finishes later than 9.00pm or starts earlier than 7.00am and the councillor lives more than 50 kilometres from the meeting location.
- 6.18. Council will reimburse costs for accommodation and meals while councillors are undertaking prior approved travel or professional development outside [insert relevant region e.g. metropolitan Sydney/the Hunter/the Murray].

- 6.19. The daily limits for accommodation and meal expenses within Australia are to be consistent with those set out in Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually.
- 6.20. The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the general manager, being mindful of Clause 6.19.
- 6.21. Councillors will not be reimbursed for alcoholic beverages.

Refreshments for council related meetings

- 6.22. Appropriate refreshments will be available for council meetings, council committee meetings, councillor briefings, approved meetings and engagements, and official council functions as approved by the general manager.
- 6.23. As an indicative guide for the standard of refreshments to be provided at council related meetings, the general manager must be mindful of Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually.

Professional development

- 6.24. Council will set aside **\$(insert)** per councillor annually in its budget to facilitate professional development of councillors through programs, training, education courses and membership of professional bodies.
- 6.25. In the first year of a new council term, Council will provide a comprehensive induction program for all councillors which considers any guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.
- 6.26. Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the councillor's civic duties, the councillor actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.
- 6.27. Approval for professional development activities is subject to a prior written request to the general manager outlining the:
- details of the proposed professional development
 - relevance to council priorities and business
 - relevance to the exercise of the councillor's civic duties.
- 6.28. In assessing a councillor request for a professional development activity, the general manager must consider the factors set out in Clause 6.27, as well as the cost of the professional development in relation to the councillor's remaining budget.

Conferences and seminars

- 6.29. Council is committed to ensuring its councillors are up to date with contemporary issues facing council and the community, and local government in NSW.
- 6.30. Council will set aside a total amount of **\$(insert)** annually in its budget to facilitate councillor attendance at conferences and seminars. This allocation is for all councillors. The general manager will ensure that access to expenses relating to conferences and seminars is distributed equitably.
- 6.31. Approval to attend a conference or seminar is subject to a written request to the general manager. In assessing a councillor request, the general manager must consider factors including the:
- relevance of the topics and presenters to current council priorities and business and the exercise of the councillor's civic duties
 - cost of the conference or seminar in relation to the total remaining budget.
- 6.32. Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved by the general manager. Council will also meet the reasonable cost of meals when they are not included in the conference fees.

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Reimbursement for accommodation and meals not included in the conference fees will be subject to Clauses 6.18-6.21.

Information and communications technology (ICT) expenses

[Clauses 6.35-6.37 relate to the contemporary practice of providing a total expenses cap which each councillor can use flexibly to meet the ICT needs associated with his or her civic duties. Where a council prefers to provide ICT devices directly to councillors, alternative clauses can be substituted.]

- 6.33. Council will provide or reimburse councillors for expenses associated with appropriate ICT devices and services up to a limit of **[\$insert]** per annum for each councillor. This may include mobile phones and tablets, mobile phone and tablet services and data, and home internet costs.
- 6.34. Reimbursements will be made only for communications devices and services used for councillors to undertake their civic duties, such as:
- receiving and reading council business papers
 - relevant phone calls and correspondence
 - diary and appointment management.
- 6.35. Councillors may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as a councillor, within the maximum limit.

Special requirement and carer expenses

- 6.36. Council encourages wide participation and interest in civic office. It will seek to ensure council premises and associated facilities are accessible, including provision for sight or hearing impaired councillors and those with other disabilities.
- 6.37. Transportation provisions outlined in this policy will also assist councillors who may be unable to drive a vehicle.
- 6.38. In addition to the provisions above, the general manager may authorise the provision of reasonable additional facilities and expenses in order to allow a councillor with a disability to perform their civic duties.
- 6.39. Councillors who are the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of **[\$insert]** per annum for attendance at official business, plus reasonable travel from the principal place of residence.
- 6.40. Child care expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.
- 6.41. In the event of caring for an adult person, councillors will need to provide suitable evidence to the general manager that reimbursement is applicable. This may take the form of advice from a medical practitioner.

Home office expenses

- 6.42. Each councillor may be reimbursed up to **[\$insert]** per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.

7. Insurances

[Council to insert relevant and accurate text reflecting their own policy. Some wording is suggested below and may be used if it fits with council's policy]

- 7.1. In accordance with Section 382 of the Local Government Act, Council is insured against public liability and professional indemnity claims. Councillors are included as a named insured on this Policy.

- 7.2. Insurance protection is only provided if a claim arises out of or in connection with the councillor's performance of his or her civic duties, or exercise of his or her functions as a councillor. All insurances are subject to any limitations or conditions set out in the policies of insurance.
- 7.3. Council shall pay the insurance policy excess in respect of any claim accepted by council's insurers, whether defended or not.
- 7.4. Appropriate travel insurances will be provided for any councillors travelling on approved interstate and overseas travel on council business.

8. Legal assistance

- 8.1. Council may, if requested, indemnify or reimburse the reasonable legal expenses of:
 - a councillor defending an action arising from the performance in good faith of a function under the Local Government Act provided that the outcome of the legal proceedings is favourable to the councillor
 - 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 and the outcome of the legal proceedings is favourable to the councillor
 - a councillor for proceedings before an appropriate investigative or review body, provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the matter has proceeded past any initial assessment phase to a formal investigation or review and the investigative or review body makes a finding substantially favourable to the councillor.
- 8.2. In the case of a code of conduct complaint made against a councillor, legal costs will only be made available where the matter has been referred by the general manager to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the councillor.
- 8.3. Legal expenses incurred in relation to proceedings arising out of the performance by a councillor of his or her functions under the Act are distinguished from expenses incurred in relation to proceedings arising merely from something that a councillor has done during his or her term in office. For example, expenses arising from an investigation as to whether a councillor acted corruptly would not be covered by this section.
- 8.4. Council will not meet the legal costs:
 - of legal proceedings initiated by a councillor under any circumstances
 - of a councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation
 - for legal proceedings that do not involve a councillor performing their role as a councillor.
- 8.5. Reimbursement of expenses for reasonable legal expenses must have Council approval by way of a resolution at a council meeting prior to costs being incurred.

Part C – Facilities

9. General facilities for all councillors

Facilities

- 9.1. Council will provide the following facilities to councillors to assist them to effectively discharge their civic duties:

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- [where relevant, include the following point:] a councillor common room appropriately furnished to include telephone, photocopier, printer, desks, computer terminals, pigeon holes and appropriate refreshments (excluding alcohol)
 - access to shared car parking spaces while attending council offices on official business
 - personal protective equipment for use during site visits
 - a name badge which may be worn at official functions, indicating that the wearer holds the office of a councillor and/or mayor or deputy mayor.
- 9.2. Councillors may book meeting rooms for official business in a specified council building at no cost. Rooms may be booked through a specified officer in the mayor's office or other specified staff member.
- 9.3. The provision of facilities will be of a standard deemed by the general manager as appropriate for the purpose.

Stationery

- 9.4. Council will provide the following stationery to councillors each year:
- letterhead, to be used only for correspondence associated with civic duties
 - business cards
 - up to [insert] ordinary postage stamps
 - up to [insert] Christmas or festive cards per year for councillors and [insert] for the mayor.
- 9.5. As per Section 4, stamps shall only be used to support a councillor's civic duties. Councillor mail will only be posted using the stamps provided. Any stamps not used will not be carried over to the next year's allocation.

Administrative support

- 9.6. Council will provide administrative support to councillors to assist them with their civic duties only. Administrative support may be provided by staff in the mayor's office or by a member of council's administrative staff as arranged by the general manager or their delegate.
- 9.7. As per Section 4, council staff are expected to assist councillors with civic duties only, and not assist with matters of personal or political interest, including campaigning.

10. Additional facilities for the mayor

- 10.1. [Where a vehicle is provided to the mayor, include Clauses 10.1-10.4] Council will provide to the mayor a maintained vehicle to a similar standard of other council vehicles, with a fuel card. The vehicle will be supplied for use on business, professional development and attendance at the mayor's office.
- 10.2. The mayor must keep a log book setting out the date, distance and purpose of all travel. This must include any travel for private benefit. The log book must be submitted to council on a monthly basis.
- 10.3. The mayoral allowance will be reduced to cover the cost of any private travel recorded in the log book, calculated on a per kilometre basis by the rate set by the Local Government (State) Award.
- 10.4. A parking space at council's offices will be reserved for the mayor's council-issued vehicle for use on official business, professional development and attendance at the mayor's office.
- 10.5. [Where relevant, include the following clause] Council will provide the mayor with a furnished office incorporating a computer configured to council's standard operating environment, telephone and meeting space.
- 10.6. In performing his or her civic duties, the mayor will be assisted by a small number of staff providing administrative and secretarial support, as determined by the general manager.
- 10.7. The number of exclusive staff provided to support the mayor and councillors will not exceed [insert number] full time equivalents.

- 10.8. As per Section 4, staff in the mayor's office are expected to work on official business only, and not for matters of personal or political interest, including campaigning.

Part D – Processes

11. Approval, payment and reimbursement arrangements

- 11.1. Expenses should only be incurred by councillors in accordance with the provisions of this policy.
- 11.2. Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.
- 11.3. Up to the maximum limits specified in this policy, approval for the following may be sought after the expense is incurred:
- local travel relating to the conduct of official business
 - carer costs
 - [where councils have a total expenses cap for ICT devices and services, insert the following point:] ICT expenditure.
- 11.4. Final approval for payments made under this policy will be granted by the general manager or their delegate.

Direct payment

- 11.5. Council may approve and directly pay expenses. Requests for direct payment must be submitted to the manager [insert relevant council division] for assessment against this policy using the prescribed form, with sufficient information and time to allow for the claim to be assessed and processed.

Reimbursement

- 11.6. All claims for reimbursement of expenses incurred must be made on the prescribed form, supported by appropriate receipts and/or tax invoices and be submitted to the manager [insert relevant council division].

Advance payment

- 11.7. Council may pay a cash advance for councillors attending approved conferences, seminars or professional development.
- 11.8. The maximum value of a cash advance is \$[insert] per day of the conference, seminar or professional development to a maximum of \$[insert].
- 11.9. Requests for advance payment must be submitted to the manager [insert relevant council division] for assessment against this policy using the prescribed form with sufficient information and time to allow for the claim to be assessed and processed.
- 11.10. Councillors must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. This includes providing to council:
- a full reconciliation of all expenses including appropriate receipts and/or tax invoices
 - reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

Notification

- 11.11. If a claim is approved, council will make payment directly or reimburse the councillor through accounts payable.
- 11.12. If a claim is refused, council will inform the councillor in writing that the claim has been refused and the reason for the refusal.

Reimbursement to council

- 11.13. If council has incurred an expense on behalf of a councillor that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this policy:
- council will invoice the councillor for the expense
 - the councillor will reimburse council for that expense within 14 days of the invoice date.
- 11.14. If the councillor cannot reimburse council within 14 days of the invoice date, they are to submit a written explanation to the general manager. The general manager may elect to deduct the amount from the councillor's allowance.

Timeframe for reimbursement

- 11.15. Unless otherwise specified in this policy, councillors must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

12. Disputes

- 12.1. If a councillor disputes a determination under this policy, the councillor should discuss the matter with the general manager.
- 12.2. If the councillor and the general manager cannot resolve the dispute, the councillor may submit a notice of motion to a council meeting seeking to have the dispute resolved.

13. Return or retention of facilities

- 13.1. All unexpended facilities or equipment supplied under this policy are to be relinquished immediately upon a councillor or mayor ceasing to hold office or at the cessation of their civic duties.
- 13.2. 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.
- 13.3. The prices for all equipment purchased by councillors under Clause 13.2 will be recorded in Council's annual report.

14. Publication

- 14.1. This policy will be published on council's website.

15. Reporting

- 15.1. Council will report on the provision of expenses and facilities to councillors as required in the Act and Regulations.
- 15.2. Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual councillor and as a total for all councillors.

16. Auditing

- 16.1. The operation of this policy, including claims made under the policy, will be included in council's audit program and an audit undertaken at least every two years.

17. Breaches

- 17.1. Suspected breaches of this policy are to be reported to the general manager.
- 17.2. Alleged breaches of this policy shall be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.

PART E – Appendices

Appendix I: Related legislation, guidance and policies

Relevant legislation and guidance:

- Local Government Act 1993, Sections 252 and 253
- Local Government (General) Regulation 2005, Clauses 217 and 403
- Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities
- Local Government Circular 05-08 legal assistance for Councillors and Council Employees.

Related Council policies:

- Code of Conduct
- [insert others as relevant]


Appendix II: Definitions

The following definitions apply throughout this policy.

Term	Definition
accompanying person	Means a spouse, partner or de facto or other person who has a close personal relationship with or provides carer support to a councillor
appropriate refreshments	Means food and beverages, excluding alcohol, provided by council to support councillors undertaking official business
Act	Means the <i>Local Government Act 1993</i> (NSW)
clause	Unless stated otherwise, a reference to a clause is a reference to a clause of this policy
Code of Conduct	Means the Code of Conduct adopted by Council or the Model Code if none is adopted
Councillor	Means a person elected or appointed to civic office as a member of the governing body of council who is not suspended, including the mayor
General Manager	Means the general manager of Council and includes their delegate or authorised representative
incidental personal use	Means use that is infrequent and brief and use that does not breach this policy or the Code of Conduct
long distance intrastate travel	Means travel to other parts of NSW of more than three hours duration by private vehicle
maximum limit	Means the maximum limit for an expense or facility provided in the text and summarised in Appendix 1
NSW	New South Wales
official business	Means functions that the mayor or councillors are required or invited to attend to fulfil their legislated role and responsibilities for council or result in a direct benefit for council and/or for the local government area, and includes: <ul style="list-style-type: none"> • meetings of council and committees of the whole • meetings of committees facilitated by council • civic receptions hosted or sponsored by council • meetings, functions, workshops and other events to which attendance by a councillor has been requested or approved by council
professional development	Means a seminar, conference, training course or other development opportunity relevant to the role of a councillor or the mayor
Regulation	Means the <i>Local Government (General) Regulation 2005</i> (NSW)
year	Means the financial year, that is the 12 month period commencing on 1 July each year

Where to go for further information

- A Word version of the Policy template is available under 'Related Downloads' on the Councillor Expenses and Facilities page in the Directory of Policy Advice for Councils section of OLG's website www.olg.nsw.gov.au
- For further information, contact OLG's Council Governance Team on 02 4428 4100 or by email to olg@olg.nsw.gov.au



Tim Hurst
Acting Chief Executive

POLICY NAME: COUNCILLOR EXPENSES AND FACILITIES

POLICY REF: C04

MEETING ADOPTED: Resolution No.

POLICY HISTORY: 250816/21; 270815/19; 250914/14; 260913/28; 280313/17; 281112/20



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POLICY SUMMARY

This policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to councillors to help them undertake their civic duties. It ensures accountability and transparency, and seeks to align councillor expenses and facilities with community expectations. Councillors must not obtain private or political benefit from any expense or facility provided under this policy.

The policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.

The policy sets out the maximum amounts council will pay for specific expenses and facilities. Expenses not explicitly addressed in this policy will not be paid or reimbursed. The main expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.

Expense or facility	Maximum amount	Frequency
General travel expenses	\$3,000 per councillor \$6,000 for the mayor	Per year
Interstate, overseas and long distance intrastate travel expenses	Included in general travel expenses	Per year
Accommodation and meals	As per the Australian Taxation Office reasonable travel allowances, adjusted annually, based on the top salary threshold. Refer to Appendix III	Per meal/night
Professional development	\$5,000 per councillor inclusive of travel expenses	Per year
Conferences and seminars		Per year
ICT expenses	\$80 per councillor, excluding hardware provided by Council, as determined by the general manager	Per month
Carer expenses	\$2,000 per councillor	Per year
Home office expenses	\$1,000 per councillor	Per year
Postage stamps	\$100 per councillor	Per year
Christmas or festive cards	Nil per councillor \$100 for the mayor	Per year
Access to facilities in a Councillor common room	Provided to all councillors	Not relevant
Council vehicle and fuel card	Provided to the mayor	Not relevant
Reserved parking space at Council offices	Provided to the mayor	Not relevant
Furnished office	Provided to the mayor	Not relevant
Number of exclusive staff supporting Mayor and Councillors	Provided to the mayor and councillors	Not relevant
Joint Regional Planning Panel	\$600 per councillor	Per meeting

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Additional costs incurred by a councillor in excess of these limits are considered a personal expense that is the responsibility of the councillor.

Councillors must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual councillor and as a total for all councillors.

PART A – INTRODUCTION

1. Introduction

- 1.1. The provision of expenses and facilities enables councillors to fulfil their civic duties as the elected representatives of Ballina Shire Council.
- 1.2. The community is entitled to know the extent of expenses paid to councillors, as well as the facilities provided.
- 1.3. The purpose of this policy is to clearly state the facilities and support that are available to councillors to assist them in fulfilling their civic duties.
- 1.4. Council staff are empowered to question or refuse a request for payment from a councillor when it does not accord with this policy.
- 1.5. Expenses and facilities provided by this policy are in addition to fees paid to councillors. The minimum and maximum fees a council may pay each councillor are set by the Local Government Remuneration Tribunal as per Section 241 of the Act and reviewed annually. Council must adopt its annual fees within this set range.

2. Policy Objectives

- 2.1 The objectives of this policy are to:
 - enable the reasonable and appropriate reimbursement of expenses incurred by councillors while undertaking their civic duties
 - enable facilities of a reasonable and appropriate standard to be provided to councillors to support them in undertaking their civic duties
 - ensure accountability and transparency in reimbursement of expenses and provision of facilities to councillors
 - ensure facilities and expenses provided to councillors meet community expectations
 - support a diversity of representation
 - fulfil the council's statutory responsibilities.

3. Principles

- 3.1 Council commits to the following principles:
 - **Proper conduct:** councillors and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions
 - **Reasonable expenses:** providing for councillors to be reimbursed for expenses reasonably incurred as part of their role as councillor
 - **Participation and access:** enabling people from diverse backgrounds, underrepresented groups, those in carer roles and those with special needs to serve as a Councillor
 - **Equity:** there must be equitable access to expenses and facilities for all councillors
 - **Appropriate use of resources:** providing clear direction on the appropriate use of council resources in accordance with legal requirements and community expectations
 - **Accountability and transparency:** clearly stating and reporting on the expenses and facilities provided to councillors.

4. Private or political benefit

- 4.1 Councillors must not obtain private or political benefit from any expense or facility provided under this policy.
- 4.2 Private use of council equipment and facilities by councillors may occur from time to time. For example, telephoning home to advise that a council meeting will run later than expected.
- 4.3 Such incidental private use does not require a compensatory payment back to council.
- 4.4 Councillors should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of council facilities does occur, councillors must reimburse the council.
- 4.5 Campaigns for re-election are considered to be a political benefit. The following are examples of what is considered to be a political interest during a re-election campaign:
 - production of election material
 - use of council resources and equipment for campaigning
 - use of official council letterhead, publications, websites or services for political benefit
 - fundraising activities of political parties or individuals, including political fundraising events.

PART B – EXPENSES

5. General expenses

- 5.1 All expenses provided under this policy will be for a purpose specific to the functions of holding civic office. Allowances for general expenses are not permitted under this policy.
- 5.2 Expenses not explicitly addressed in this policy will not be paid or reimbursed.

6. Specific Expenses

General travel arrangements and expenses

- 6.1 All travel by councillors should be undertaken using the most direct route and the most practicable and economical mode of transport.
- 6.2 Each councillor may be reimbursed up to a total of \$3,000 per year, and the mayor may be reimbursed up to a total of \$6,000 per year, for travel expenses incurred while undertaking official business. This includes reimbursement:
- for public transport fares
 - for the use of a private vehicle or hire car
 - for parking costs for Council and other meetings
 - for tolls
 - by Cabcharge card or equivalent
 - for documented ride-share programs, such as Uber, where tax invoices can be issued.

- for entry fees or cover charges

- where a partner or accompanying person could reasonably be expected to attend, Council will meet their reasonable expenses such as the entry fee or cover charge.

The general manager, in consultation with the mayor, shall prepare a weekly list of approved meetings / events / functions for which travel by councillors shall be reimbursed. Councillors who wish an event to be included on this list should forward details to the general manager a minimum of one week in advance.

This general travel arrangements and expenses limit of \$3,000 and \$6,000 is separate to the \$5,000 limits as per Clauses 6.24 and 6.30.

- 6.3 Allowances for the use of a private vehicle will be reimbursed by kilometre at the rate approved by the Australian Taxation Office.
- 6.4 Councillors seeking to be reimbursed for use of a private vehicle must submit a claim to Council that records the date, distance and purpose of travel being claimed. The claim must be in the form provided by the General Manger for all travel expenses incurred.

Interstate, overseas and long distance intrastate travel expenses

- 6.5 Given Council's location near an interstate border, travel to south-east Queensland will be considered as general travel. Arrangements and expenses for this travel will be governed by Clauses 6.1-6.4.
- 6.6 In accordance with Section 4, Council will scrutinise the value and need for councillors to undertake overseas travel. Councils should avoid interstate, overseas and long distance intrastate trips unless direct and tangible benefits can be

established for the council and the local community. This includes travel to sister and friendship cities.

- 6.7 Total interstate, overseas and long distance intrastate travel expenses for all councillors will be capped at a maximum of \$3,000 per year, per councillor, which is inclusive of the \$3,000 councillor allowance and \$6,000 for the mayor in Clause 6.2. This means a total of \$3,000 per councillor and \$6,000 for the mayor is available per annum for general travel and other expenses.
- 6.8 Councillors seeking approval for any interstate and long distance intrastate travel must submit a case to, and obtain the approval of, the general manager prior to travel.
- 6.9 Councillors seeking approval for any overseas travel must submit a case to, and obtain the approval of, a full council meeting prior to travel.
- 6.10 The case should include:
- objectives to be achieved in travel, including an explanation of how the travel aligns with current council priorities and business, the community benefits which will accrue as a result, and its relevance to the exercise of the councillor's civic duties
 - who is to take part in the travel
 - duration and itinerary of travel
 - a detailed budget including a statement of any amounts expected to be reimbursed by the participant/s.
- 6.11 For interstate and long distance intrastate journeys by air of less than three hours, the class of air travel is to be economy class.
- 6.12 For interstate journeys by air of more than three hours, the class of air travel may be premium economy.
- 6.13 For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.
- 6.14 Bookings for approved air travel are to be made through the general manager's office.
- 6.15 For air travel that is reimbursed as council business, councillors will not accrue points from the airline's frequent flyer program. This is considered a private benefit.

Travel expenses not paid by Council

- 6.16 Council will not pay any traffic or parking fines or administrative charges for road toll accounts.

Accommodation and meals

- 6.17 In circumstances where it would introduce undue risk for a councillor to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the general manager. This includes where a meeting finishes later than 9.00pm or starts earlier than 7.00am and the councillor lives more than 50 kilometres from the meeting location.
- 6.18 Council will reimburse costs for accommodation and meals while councillors are attending approved professional development activities and conferences.
- 6.19 The daily limits for accommodation and meal expenses within Australia are to be consistent with those set out by the Australian Taxation Office in their annual Taxation Determination in respect to reasonable travel allowances, as adjusted annually.
- 6.20 The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the elected council, being mindful of Clause 6.19.
- 6.21 Councillors will not be reimbursed for alcoholic beverages.

Refreshments for council related meetings

- 6.22 Appropriate refreshments will be available for council meetings, council committee meetings, councillor briefings, approved meetings and engagements, and official council functions as approved by the general manager.
- 6.23 As an indicative guide for the standard of refreshments to be provided at council related meetings, the general manager must be mindful of Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually.

Professional development

- 6.24 Council will allow a total of \$5,000 (which includes funding provided for professional development, conferences and seminars as per point 6.30) per councillor annually to facilitate professional development of councillors through programs, training, education courses and membership of professional bodies.
- 6.25 In the first year of a new council term, Council will provide a comprehensive induction program for all councillors, as determined by the general manager, which considers any guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.
- 6.26 Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the councillor's civic duties, the councillor actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.
- 6.27 Approval for professional development activities is subject to a prior written request to the general manager outlining the:
- details of the proposed professional development
 - relevance to council priorities and business
 - relevance to the exercise of the councillor's civic duties.
- 6.28 In assessing a councillor request for a professional development activity, the general manager must consider the factors set out in Clause 6.27, as well as the cost of the professional development in relation to the councillor's remaining budget.

Conferences and seminars

- 6.29 Council is committed to ensuring its councillors are up to date with contemporary issues facing council and the community, and local government in NSW.
- 6.30 Council will allow \$5,000 (which includes funding provided for professional development, conferences and seminars as per point 6.24) per councillor annually to facilitate councillor attendance at conferences and seminars.
- 6.31 Approval to attend a conference or seminar is subject to a written request to the general manager. In assessing a councillor request, the general manager must consider factors including the:
- relevance of the topics and presenters to current council priorities and business and the exercise of the councillor's civic duties
 - cost of the conference or seminar in relation to the total remaining allowance per Councillor.
- 6.32 Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved by the general manager. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for accommodation and meals not included in the conference fees will be subject to Clauses 6.18-6.21.

Information and communications technology (ICT) expenses

- 6.33 Council will provide or reimburse councillors for expenses associated with appropriate ICT devices and services up to a limit of \$80 per month annum for each councillor. This may include mobile phones and tablets, mobile phone and tablet services and data, and home internet costs.
- 6.34 Reimbursements will be made only for communications devices and services used for councillors to undertake their civic duties, such as:
- receiving and reading council business papers
 - relevant phone calls and correspondence
 - diary and appointment management.
- 6.35 Councillors may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as a councillor, within the maximum limit.

Special requirement and carer expenses

- 6.36 Council encourages wide participation and interest in civic office. It will seek to ensure council premises and associated facilities are accessible, including provision for sight or hearing impaired councillors and those with other disabilities.
- 6.37 Transportation provisions outlined in this policy will also assist councillors who may be unable to drive a vehicle.
- 6.38 In addition to the provisions above, the general manager may authorise the provision of reasonable additional facilities and expenses in order to allow a councillor with a disability to perform their civic duties.
- 6.39 Councillors who are the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of \$2,000 per annum for attendance at official business, plus reasonable travel from the principal place of residence.
- 6.40 Child care expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.

- 6.41 In the event of caring for an adult person, councillors will need to provide suitable evidence to the general manager that reimbursement is applicable. This may take the form of advice from a medical practitioner.

Home office expenses

- 6.42 Each councillor may be reimbursed up to \$1,000 per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.
- 6.43 The general manager is entitled to authorise council staff to attend a councillor's residence to assist in resolving a council related matter. However this approval can only to be given in the following circumstances:
- the councillor must declare that the matter is directly related to council business; and
 - the general manager has assessed that the issue can be resolved relatively quickly; and
 - there will be no additional expense incurred by council in providing that assistance; and
 - the work environment must be considered safe from work health and safety perspective; and
 - the general manager is of the opinion that the use of the council staff resource is the quickest and most effective method to resolve the matter.

7. Insurances

- 7.1 In accordance with Section 382 of the Local Government Act, Council is insured against public liability and professional indemnity claims. Councillors are included as a named insured on this Policy.
- 7.2 Insurance protection is only provided if a claim arises out of or in connection with the councillor's performance of his or her civic duties, or exercise of his or her functions as a councillor. All insurances are subject to any limitations or conditions set out in the policies of insurance.
- 7.3 Council shall pay the insurance policy excess in respect of any claim accepted by council's insurers, whether defended or not.
- 7.4 Appropriate travel insurances will be provided for any councillors travelling on approved interstate and overseas travel on council business.

8. Legal assistance

- 8.1 Council may, if requested, indemnify or reimburse the reasonable legal expenses of:
- a councillor defending an action arising from the performance in good faith of a function under the Local Government Act provided that the outcome of the legal proceedings is favourable to the councillor
 - 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 and the outcome of the legal proceedings is favourable to the councillor
 - a councillor for proceedings before an appropriate investigative or review body, provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the matter has proceeded past any initial assessment phase to a formal investigation or review and the investigative or review body makes a finding substantially favourable to the councillor.

10.3 Policy (Review) - Councillor Expenses and Facilities.DOC

- 8.2 In the case of a code of conduct complaint made against a councillor, legal costs will only be made available where the matter has been referred by the general manager to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the councillor.
- 8.3 Legal expenses incurred in relation to proceedings arising out of the performance by a councillor of his or her functions under the Act are distinguished from expenses incurred in relation to proceedings arising merely from something that a councillor has done during his or her term in office. For example, expenses arising from an investigation as to whether a councillor acted corruptly would not be covered by this section.
- 8.4 Council will not meet the legal costs:
- of legal proceedings initiated by a councillor under any circumstances
 - of a councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation
 - for legal proceedings that do not involve a councillor performing their role as a councillor.
- 8.5 Reimbursement of expenses for reasonable legal expenses must have Council approval by way of a resolution at a council meeting prior to costs being incurred.

PART C – FACILITIES

9. General facilities for all councillors

Facilities

- 9.1 Council will provide the following facilities to councillors to assist them to effectively discharge their civic duties:
- a councillor meeting room appropriately furnished to include telephone, computer terminal and pigeon holes and appropriate refreshments (excluding alcohol)
 - a smart phone (1GB limit per month) including a suitable hands free device for the Councillor's private vehicle (one only)
 - tablet technology (ie IPAD or similar with a 3GB limit per month)
 - installation of one home telephone line
 - a laser multi-function centre device that allows scanning, copying, printing, telephone and answering machine (excluding facsimile)
 - access to shared car parking spaces while attending council offices on official business
 - personal protective equipment for use during site visits
 - a name badge which may be worn at official functions, indicating that the wearer holds the office of a councillor and/or mayor or deputy mayor
 - a council blazer
 - Northern Star newspaper delivered to their home each day or made available at a mutually convenient point should a home delivery service not be available, or an on-line subscription to the Northern Star, whichever method is chosen.
- 9.2 Councillors may book meeting rooms for official business in a specified council building at no cost. Rooms may be booked through a specified officer in the mayor's office or other specified staff member.
- 9.3 The provision of facilities will be of a standard deemed by the general manager as appropriate for the purpose.

Stationery

- 9.4 Council will provide the following stationery to councillors each year:
- letterhead, to be used only for correspondence associated with civic duties
 - business cards
 - Nil for ordinary postage stamps
 - Nil for Christmas or festive cards per year for councillors and up to \$100 for the mayor.
- 9.5 As per Section 4, stamps shall only be used to support a councillor's civic duties. Councillor mail will only be posted using the stamps provided. Any stamps not used will not be carried over to the next year's allocation.

Administrative support

- 9.6 Council will provide administrative support to councillors to assist them with their civic duties only. Administrative support may be provided by staff in the mayor's office or by a member of council's administrative staff as arranged by the general manager or their delegate.

10.3 Policy (Review) - Councillor Expenses and Facilities.DOC

9.7 As per Section 4, council staff are expected to assist councillors with civic duties only, and not assist with matters of personal or political interest, including campaigning.

10. Additional facilities for the mayor

10.1. Council will provide to the mayor a maintained vehicle to a similar standard of other council vehicles, with a fuel card. The vehicle will be supplied for use on business, professional development and attendance at the mayor's office.

10.2. The mayor must keep a log book setting out the date, distance and purpose of all travel, when requested by the general manager. This must include any travel for private benefit.

10.3. The mayor must make a monetary contribution to cover the cost of any private travel either through the direct payment of fuel or calculated on a per kilometre basis by the rate set by the Australian Taxation Office.

10.4. A parking space at council's offices will be reserved for the mayor's council-issued vehicle for use on official business, professional development and attendance at the mayor's office.

10.5. Council will provide the mayor with a furnished office incorporating a computer configured to council's standard operating environment, telephone and meeting space.

10.6. In performing his or her civic duties, the mayor will be assisted by a small number of staff providing administrative and secretarial support, as determined by the general manager.

10.7. The number of exclusive staff provided to support the mayor and councillors will not exceed 0.2 full time equivalents.

10.8. As per Section 4, staff in the mayor's office are expected to work on official business only, and not for matters of personal or political interest, including campaigning.

10.9. Council will provide the mayor an additional home telephone line, and rental thereon, if requested.

10.10. Council will provide the mayor with an annual Qantas Club Membership.

PART D – PROCESSES

11. Approval, payment and reimbursement arrangements

- 11.1 Expenses should only be incurred by councillors in accordance with the provisions of this policy.
- 11.2 Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.
- 11.3 Up to the maximum limits specified in this policy, approval for the following may be sought after the expense is incurred:
- local travel relating to the conduct of official business
 - carer costs
 - ICT expenditure.
- 11.4 Final approval for payments made under this policy will be granted by the general manager or their delegate.

Direct payment

- 11.5 Council may approve and directly pay expenses. Requests for direct payment must be submitted to the general manager for assessment against this policy using the prescribed form, with sufficient information and time to allow for the claim to be assessed and processed.

Reimbursement

- 11.6 All claims for reimbursement of expenses incurred must be made on the prescribed form, supported by appropriate receipts and/or tax invoices and be submitted to the general manager.

Advance payment

- 11.7 Council may pay a cash advance for councillors attending approved conferences, seminars or professional development.
- 11.8 The maximum value of a cash advance is \$100 per day of the conference, seminar or professional development to a maximum of \$400.
- 11.9 Requests for advance payment must be submitted to the general manager for assessment against this policy using the prescribed form with sufficient information and time to allow for the claim to be assessed and processed.
- 11.10 Councillors must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. This includes providing to council:
- 11.11 a full reconciliation of all expenses including appropriate receipts and/or tax invoices
- 11.12 reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

Notification

- 11.13 If a claim is approved, council will make payment directly or reimburse the councillor through accounts payable.
- 11.14 If a claim is refused, council will inform the councillor in writing that the claim has been refused and the reason for the refusal.

Reimbursement to council

- 11.15 If council has incurred an expense on behalf of a councillor that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this policy:
- 11.16 council will invoice the councillor for the expense
- 11.17 the councillor will reimburse council for that expense within 14 days of the invoice date.
- 11.18 If the councillor cannot reimburse council within 14 days of the invoice date, they are to submit a written explanation to the general manager. The general manager may elect to deduct the amount from the councillor's allowance.

Timeframe for reimbursement

- 11.19 Unless otherwise specified in this policy, councillors must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

12. Disputes

- 12.1 If a councillor disputes a determination under this policy, the councillor should discuss the matter with the general manager.
- 12.2 If the councillor and the general manager cannot resolve the dispute, the councillor may submit a notice of motion to a council meeting seeking to have the dispute resolved.

13. Return or retention of facilities

- 13.1 All unexpended facilities or equipment supplied under this policy are to be relinquished immediately upon a councillor or mayor ceasing to hold office or at the cessation of their civic duties.
- 13.2 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.
- 13.3 The prices for all equipment purchased by councillors under Clause 13.2 will be recorded in Council's annual report.

14. Publication

- 14.1 This policy will be published on council's website.

15. Reporting

- 15.1 Council will report on the provision of expenses and facilities to councillors as required in the Act and Regulations.
- 15.2 Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual councillor and as a total for all councillors.

16. Auditing

- 16.1 The operation of this policy, including claims made under the policy, will be included in council's audit program and an audit undertaken at least every two years.

17. Breaches

- 17.1 Suspected breaches of this policy are to be reported to the general manager.
- 17.2 Alleged breaches of this policy shall be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.

PART E – APPENDICES

Appendix I: Related legislation, guidance and policies

Relevant legislation and guidance:

- Local Government Act 1993, Sections 252 and 253
- Local Government (General) Regulation 2005, Clauses 217 and 403
- Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities
- Local Government Circular 05-08 legal assistance for Councillors and Council Employees.

Related Council policies:

- Code of Conduct
- **Councillor Training and Development Policy**

Appendix II: Definitions

The following definitions apply throughout this policy.

Term	Definition
accompanying person	Means a spouse, partner or de facto or other person who has a close personal relationship with or provides carer support to a councillor
appropriate refreshments	Means food and beverages, excluding alcohol, provided by council to support councillors undertaking official business
Act	Means the <i>Local Government Act 1993</i> (NSW)
clause	Unless stated otherwise, a reference to a clause is a reference to a clause of this policy
Code of Conduct	Means the Code of Conduct adopted by Council or the Model Code if none is adopted
Councillor	Means a person elected or appointed to civic office as a member of the governing body of council who is not suspended, including the mayor
General Manager	Means the general manager of Council and includes their delegate or authorised representative
incidental personal use	Means use that is infrequent and brief and use that does not breach this policy or the Code of Conduct
long distance intrastate travel	Means travel to other parts of NSW of more than three hours duration by private vehicle
maximum limit	Means the maximum limit for an expense or facility provided in the text and summarised in Appendix 1
NSW	New South Wales
official business	Means functions that the mayor or councillors are required or invited to attend to fulfil their legislated role and responsibilities for council or result in a direct benefit for council and/or for the local government area, and includes: <ul style="list-style-type: none"> • meetings of council and committees of the whole • meetings of committees facilitated by council • civic receptions hosted or sponsored by council • council co-ordinated events (i.e. Australia day, Citizenship ceremonies) • meetings where a councillor is the appointed council delegate (excluding organisations where travel expenses are paid such as Rous County Council) / representative to an external organisation • civic functions and meetings where asked by the mayor to represent council • meetings with council staff • meetings at the Council Chambers with constituents and • meetings, functions, workshops and other events to which attendance by a councillor has been requested or approved by council

10.3 Policy (Review) - Councillor Expenses and Facilities.DOC

professional development	Means a seminar, conference, training course or other development opportunity relevant to the role of a councillor or the mayor
Regulation	Means the Local Government (General) Regulation 2005 (NSW)
year	Means the financial year, that is the 12 month period commencing on 1 July each year

Appendix III: Australian Taxation Office Reasonable Travel Allowances



Australian Government
Australian Taxation Office

Taxation Determination
TD 2017/19

Page status: **legally binding**

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Taxation Determination

Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2017-18 income year?

0: This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this determination, the Commissioner must apply the law to you in the way set out in the determination (unless the Commissioner is satisfied that the determination is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this determination if it turns out that it does not correctly state how the relevant provision applies to you.

Ruling

1. This Determination sets out the amounts that the Commissioner considers are reasonable (reasonable amounts) for the 'substantiation exception'¹ in Subdivision 900-B of the *Income Tax Assessment Act 1997* (ITAA 1997)² for the 2017-18 income year in relation to claims made by employees for:

- (a) overtime meal expenses – for food and drink when working overtime;
- (b) domestic travel expenses – for accommodation, food and drink, and incidentals when travelling away from home overnight for work (particular reasonable amounts are given for employee truck drivers, office holders covered by the Remuneration Tribunal and Federal Members of Parliament);
- (c) overseas travel expenses – for food and drink, and incidentals when travelling overseas for work.

2. The approach outlined can only be used where you receive an allowance to cover the particular expenses you are claiming – for example, you received an accommodation allowance and are claiming accommodation expenses. This Determination is not relevant to you where you do not receive an allowance to cover your expenses.

¹ This Determination should be read together with Taxation Ruling TR 2004/6 *Income tax: substantiation exception for reasonable travel and overtime meal allowance expenses* which explains the substantiation exception and the way in which these expenses are able to be claimed.

² All legislative references in this Determination are to this Act, unless otherwise specified.

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Status: **legally binding**

3. The reasonable amounts only provide the maximum amount you can claim without being required to substantiate your expenditure (refer to paragraph 33 of TR 2004/6). If you rely on the reasonable amounts and the ATO checks your income tax return, you will still be required to show:

- you spent the money in performing your work duties (for example, in travelling away from home overnight on a work trip)
- how you worked out your claim (for example, you kept a diary)
- you spent the money yourself (for example, using your credit card statement or other banking records) and were not reimbursed (for example, a letter from your employer); and
- you correctly declared your allowance as income in your tax return.

Reasonable amount for overtime meal expenses

4. For the 2017-18 income year the reasonable amount for overtime meal expenses is \$30.05.

Example 1

5. *Samantha works for the local government. She is asked to work overtime one night to complete an urgent task. Samantha works her 8 hour day followed by 4 hours of overtime. Samantha receives an overtime meal allowance of \$14.98 pursuant to her agreement which is shown on her payment summary. During the overtime Samantha takes a rest break to get a meal and returns to continue her overtime. Samantha spends \$20 on her meal.*

6. *Because Samantha has spent less than the reasonable amount for overtime meal expenses, she can claim a deduction for the \$20 she spends and she is not required to substantiate the expenditure (for example, get and keep the receipt for the meal).*

7. *If Samantha's tax return is checked by the ATO she may be asked to explain her claim for deduction. To do this, Samantha would show that she worked overtime, that she was paid an overtime meal allowance under an industrial instrument, that she correctly declared this allowance as income in her tax return, and that she costed her meal at \$20 based on the cost of the curry and drink she purchased from a nearby Thai restaurant.*

8. *If Samantha had spent more than the reasonable amount and wanted to claim the higher amount that she spent, she would need to get and keep the receipt for the meal.*

9. *If Samantha's overtime meal allowance was not shown on her payment summary and she fully spent the allowance, she can choose to leave it out of her tax return and not claim a deduction for the meal she purchases when working overtime.*

Reasonable amounts for domestic travel expenses

10. The following reasonable amounts do not apply to employee truck drivers³, office holders covered by the Remuneration Tribunal⁴, or Federal Members of Parliament.⁵

³ See paragraphs 23 to 30 for the rates for truck drivers.

⁴ Paragraphs 66 to 69 of TR 2004/6 says claims made by office holders covered by the Remuneration Tribunal are considered to be reasonable amounts if they do not exceed the rate of allowances set by the Remuneration Tribunal for that office holder.

11. Reasonable amounts are provided for 3 salary levels. Salary excludes any allowances received. Use Table 1 if your salary is \$119,650 and below. Use Table 2 if your salary is between \$119,651 and \$212,950. Use Table 3 if your salary is \$212,951 or more.

12. Reasonable amounts are given for:

- accommodation at daily rates (for domestic travel only);
- meals (showing breakfast, lunch and dinner), and
- expenses incidental to travel.

13. These amounts are shown for the following travel destinations:

- each Australian State and Territory capital city (see Tables 1 to 3)
- certain specified high cost regional and country centres (see Table 4 for individual amounts)
- other specified regional and country centres (a common amount is given for locations listed in Table 5), and
- all other regional and country centres (a common amount is given for all locations not listed in Tables 4 or 5).

14. The reasonable amount for accommodation applies only for short stays in commercial establishments like hotels, motels and serviced apartments. If a different type of accommodation is used (for example, a hostel or caravan park), the reasonable amount cannot be used even if you receive an allowance.

15. The reasonable amount for meals depends on the period and time of travel. That is, the reasonable amounts only apply to meals (that is breakfast, lunch, dinner) that fall within the time of day from the commencement of your travel to the end of your travel that is covered by the allowance. For example, if you leave at 10am on Monday and return home at 3pm on Tuesday you can apply the reasonable amounts for lunch and dinner on Monday and breakfast and lunch on Tuesday.

16. The reasonable amount for incidentals applies in full to each day of travel covered by the allowance, without the need to apportion for any part day travel on the first and last day.

17. The reasonable amounts for domestic travel expenses, according to salary levels and destinations, for the 2017-18 income year are shown in Tables 1 to 5 as follows:

Table 1: Employee's annual salary – \$119,650 and below				
Place	Accomm. (\$)	Food and drink (\$) breakfast 27.05 lunch 30.45 dinner 51.85 (total 109.35)	Incidentals (\$)	Daily total (\$)
Adelaide	157	as above	19.35	285.70
Brisbane	205	as above	19.35	333.70
Canberra	168	as above	19.35	296.70
Darwin	216	as above	19.35	344.70

⁴⁵ Paragraphs 70 and 71 of TR 2004/6 says travel allowances paid to Federal Members of Parliament and Federal Parliamentary Secretaries, under the arrangements that commenced on 14 April 1998, are considered reasonable amounts for the recipients of those allowances. This includes the Capital City and Canberra travel allowance rates for domestic travel, having regard to the circumstances under which those allowances are paid.

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Place	Accomm. (\$)	Food and drink (\$) breakfast 27.05 lunch 30.45 dinner 51.85 (total 109.35)	Incidentals (\$)	Daily total (\$)
Hobart	138	as above	19.35	266.70
Melbourne	173	as above	19.35	301.70
Perth	203	as above	19.35	331.70
Sydney	185	as above	19.35	313.70
High cost country centres	see Table 4	as above	19.35	variable
Tier 2 country centres (see Table 5)	134	breakfast 24.25 lunch 27.65 dinner 47.70	19.35	252.95
Other country centres	110	breakfast 24.25 lunch 27.65 dinner 47.70	19.35	228.95

Place	Accomm. (\$)	Food and drink (\$) breakfast 29.45 lunch 41.70 dinner 58.35 (total 129.50)	Incidentals (\$)	Daily total (\$)
Adelaide	208	as above	27.65	365.15
Brisbane	257	as above	27.65	414.15
Canberra	246	as above	27.65	403.15
Darwin	287	as above	27.65	444.15
Hobart	184	as above	27.65	341.15
Melbourne	228	as above	27.65	385.15
Perth	245	as above	27.65	402.15
Sydney	247	as above	27.65	404.15
High cost country centres	see Table 4	as above	27.65	variable
Tier 2 country centres (see Table 5)	152	breakfast 27.05 lunch 27.65 dinner 53.90	27.65	288.25
Other country centres	134	breakfast 27.05 lunch 27.65 dinner 53.90	27.65	270.25

Place	Accomm. (\$)	Food and drink (\$) breakfast 34.75 lunch 49.20 dinner 68.85 (total 152.80)	Incidentals (\$)	Daily total (\$)
Adelaide	209	as above	27.65	389.45
Brisbane	257	as above	27.65	437.45
Canberra	246	as above	27.65	426.45
Darwin	287	as above	27.65	467.45
Hobart	195	as above	27.65	375.45
Melbourne	265	as above	27.65	445.45
Perth	265	as above	27.65	445.45
Sydney	265	as above	27.65	445.45
All country centres	\$195, or the relevant amount in Table 4 if higher	as above	27.65	variable

Country centre	\$	Country centre	\$
Albany (WA)	179	Horsham (VIC)	142
Alice Springs (NT)	150	Jabiru (NT)	216
Bordertown (SA)	140	Kalgoorlie (WA)	159
Bourke (NSW)	165	Karratha (WA)	250
Bright (VIC)	156	Katherine (NT)	138
Broome (WA)	260	Kununurra (WA)	195
Bunbury (WA)	155	Mackay (QLD)	161
Burnie (TAS)	160	Maitland (NSW)	152
Cairns (QLD)	153	Mount Isa (QLD)	160
Carnarvon (WA)	151	Mudgee (NSW)	135
Castlemaine (VIC)	146	Newcastle (NSW)	165
Chinchilla (QLD)	143	Newman (WA)	195
Christmas Island (WA)	180	Norfolk Island (NSW)	240
Cocos (Keeling) Islands (WA)	285	Northam (WA)	140
Colac (VIC)	138	Orange (NSW)	155
Dalby (QLD)	150	Port Hedland (WA)	200
Dampier (WA)	175	Port Lincoln (SA)	170
Derby (WA)	190	Port Macquarie (NSW)	152
Devonport (TAS)	145	Port Pirie (SA)	150
Emerald (QLD)	156	Roma (QLD)	139
Esperance (WA)	141	Thursday Island (QLD)	200
Exmouth (WA)	220	Townsville (QLD)	143
Geraldton (WA)	175	Wagga Wagga (NSW)	144

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Country centre	\$	Country centre	\$
Gladstone (QLD)	155	Weipa (QLD)	138
Gold Coast (QLD)	200	Whyalla (SA)	145
Gosford (NSW)	140	Wilpena-Pound (SA)	181
Halls Creek (WA)	170	Wollongong (NSW)	149
Hervey Bay (QLD)	157	Wonthaggi (VIC)	138
Horn Island (QLD)	200	Yulara (NT)	300

Country centre	Country centre
Albury (NSW)	Kingaroy (QLD)
Ararat (VIC)	Launceston (TAS)
Armidale (NSW)	Lismore (NSW)
Ayr (QLD)	Mildura (VIC)
Bairnsdale (VIC)	Mount Gambier (SA)
Ballarat (VIC)	Muswellbrook (NSW)
Bathurst (NSW)	Naracoorte (SA)
Bega (NSW)	Nowra (NSW)
Benalla (VIC)	Port Augusta (SA)
Bendigo (VIC)	Portland (VIC)
Broken Hill (NSW)	Queanbeyan (NSW)
Bundaberg (QLD)	Queenstown (TAS)
Ceduna (SA)	Renmark (SA)
Charters Towers (QLD)	Rockhampton (QLD)
Coffs Harbour (NSW)	Sale (VIC)
Cooma (NSW)	Seymour (VIC)
Dubbo (NSW)	Shepparton (VIC)
Echuca (VIC)	Swan Hill (VIC)
Geelong (VIC)	Tamworth (NSW)
Goulburn (NSW)	Tennant Creek (NT)
Griffith (NSW)	Toowoomba (QLD)
Gunnedah (NSW)	Tumut (NSW)
Hamilton (VIC)	Wangaratta (VIC)
Innisfail (QLD)	Warrnambool (VIC)
Kadina (SA)	Wodonga (VIC)

Example 2:

18. Michelle is an accountant earning \$120,000 a year. As part of her duties, she is required to travel to and work in Sale for 4 days/3 nights each month. Michelle's employer pays for her accommodation directly and gives her a meal and incidental allowance of \$80 per day for the 4 days of travel. This allowance is shown on her payment summary.

Michelle's usual pattern is to eat 3 times a day, spending \$20 on breakfast, \$25 on lunch and \$40 on dinner (that is, a total of \$85 per day). Michelle calculates the daily reasonable amount for meals and incidentals as follows:

- *Table 2 applies because Michelle's salary is between \$119,651 and \$212,950*
- *Salé is listed as a Tier 2 country in Table 5*
- *Table 2 provides reasonable amounts for Tier 2 country centres as \$108.60 per day for meals and \$27.65 per day for incidentals (that is a total of \$136.25 per day).*

19. *Because Michelle has spent less than the reasonable amount on meals and incidentals, she can claim a deduction for the \$85 per day that she spends and she is not required to substantiate the expenditure (for example, get and keep all of the receipts for the meals and incidentals). Michelle cannot claim anything for accommodation because her employer paid for it.*

20. *If Michelle's tax return is checked by the ATO she may be asked to explain her claim for deduction. To do this Michelle would show she travelled to and worked in Salé for 4 days each month, that she received an allowance for the meals and incidentals for each day she travelled, that she correctly declared this allowance as income in her tax return, and that she typically spent \$85 a day on meals and incidental expenses (for example, by reference to diary entries, bank records and receipts that she kept for some of the trips).*

21. *If Michelle had spent more than the reasonable amount on meals and incidentals and wanted to claim the higher amount that she spent, she would need to get and keep all of the receipts.*

22. *If Michelle's meal and incidental allowance was not shown on her payment summary and she fully spent the allowance, she can choose to leave it out of her tax return and not claim any deductions for the meals and incidentals that she purchases whilst travelling and working in Salé.*

Reasonable amount for domestic travel expenses for employee truck drivers⁶

23. *Employee truck drivers who do not receive a travel allowance and truck drivers who are owner-drivers must substantiate all travel expenses with written evidence (refer to paragraphs 76 to 80 of TR 2004/6).*

24. *For the 2017-18 income year the reasonable amount for travel expenses (excluding accommodation) of employee truck drivers who have received a travel allowance and who are required to sleep (take their major rest break) away from home is \$55.30 per day.*

25. *Employee truck drivers who receive a travel allowance and spend less than the reasonable amount on food and drink they consume while travelling do not have to keep detailed written evidence of expenditure (for example, all of the receipts). On review or audit, employee truck drivers will be required to show how they calculated the amount they claimed, including evidence that they travelled for work on the relevant days and were required to sleep or take their major rest break away from home. They will also be required to show that they received a travel allowance for the relevant days, and correctly returned this allowance as income in their tax return.*

⁶ For further information on truck drivers refer to paragraphs 72 to 75 of TR 2004/6 and to TR 95/18 *Income tax: employee truck drivers allowances, reimbursements and work-related deductions*.

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26. If an employee truck driver wants to claim more than the reasonable amount, the whole claim must be substantiated with written evidence, not just the amount in excess of the reasonable amount.

27. All accommodation expenses incurred by employee truck drivers as part of work-related travel must be substantiated with written evidence (refer to paragraph 72 of TR 2004/6).

Example 3:

28. *Kevin is required to travel regularly from Melbourne to Adelaide and sleep away from home in his truck cab, then return home to Melbourne the next day. Kevin is paid a travel allowance of \$40 per day for such trips. Kevin's usual pattern is to stop and eat four times at road houses over the two days. Kevin usually has a meal, a coffee and buys a drink for the road, and spends between \$25 and \$40 for each meal. In the 2017-18 income year, Kevin's records show that he made this trip 100 times, received an allowance of \$8,000, and spent \$14,000 on food and drink he consumed when travelling.*

29. *When completing his tax return, Kevin must correctly declare the travel allowance as income in his tax return. Because Kevin calculated that he spent more than the reasonable amount on food and drink when travelling, he has 2 choices, as follows:*

- *Kevin can claim \$14,000 as a travel expense if he got and kept all of his receipts for the food and drink he purchased and consumed when travelling; or*
- *Kevin can rely on the reasonable amount and claim \$11,060 (\$55.30 x 200 days) as a travel expense. If Kevin relies on the reasonable amount and his tax return is checked by the ATO, Kevin will be asked to show he travelled this route 100 times, that he received a travel allowance from his employer for the 200 days that he was required to travel, that he correctly declared this allowance as income in his tax return and that he typically spent \$55 or more a day on food and drink when making this trip (for example, by reference to diary entries, bank records and receipts that he kept for some of the trips).*

30. *If Kevin's travel allowance was not shown on his payment summary and he fully spent the allowance, he can choose to leave it out of his tax return and not claim any deductions for the meals and drinks he buys when travelling from Melbourne to Adelaide.*

Reasonable amounts for overseas travel expenses

31. If you are travelling overseas and are away from your usual residence for 6 or more nights in a row, you must still keep travel records even if you rely on the reasonable amounts and don't have to substantiate your expenses. Travel records may include ticketing information, diary entries or other information setting out the nature of your travel, the day and time it began, how long it lasted and where you travelled.

32. Reasonable amounts are provided for 3 salary levels. Salary excludes any allowances received. Use Table 6 if your salary is \$119,650 and below. Use Table 7 if your salary is between \$119,651 and \$212,950. Use Table 8 if your salary is \$212,951 or more.

33. Reasonable amounts are given for:

- meals (showing breakfast, lunch and dinner), and
- expenses incidental to travel.

Any expenditure on accommodation overseas must be fully substantiated.

34. Reasonable amounts are shown for cost groups to which a country has been allocated. Table 9 sets out the cost group to which a country has been allocated.
35. If you travel to a country that is not shown in Table 9, use the reasonable amount for Cost Group 1 in the Table relevant to your salary range.
36. If you travel to two or more countries in the same day, use the cost group of the country that is in the higher cost group in determining the reasonable amount for that day.
37. The reasonable amount for incidentals applies in full to each day of travel covered by the allowance, without the need to apportion for any part day travel on the first and last day.
38. The reasonable amounts for overseas travel expenses per day according to salary levels and cost groups for the 2017-18 income year are shown in Tables 6 to 9 as follows:

Table 6: Salary \$119,650 and below

Cost Group	Meals	Incidentals	Total
1	\$60	\$25	\$85
2	\$95	\$30	\$125
3	\$130	\$35	\$165
4	\$150	\$35	\$185
5	\$200	\$40	\$240
6	\$240	\$45	\$285

Table 7: \$119,651 and \$212,950

Cost Group	Meals	Incidentals	Total
1	\$75	\$25	\$100
2	\$110	\$35	\$145
3	\$150	\$40	\$190
4	\$170	\$45	\$215
5	\$240	\$50	\$290
6	\$295	\$50	\$345

Table 8: Salary \$212,951 and above

Cost Group	Meals	Incidentals	Total
1	\$95	\$30	\$125
2	\$140	\$40	\$180
3	\$185	\$45	\$230
4	\$215	\$50	\$265
5	\$295	\$60	\$355
6	\$340	\$60	\$400

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Table 9: Table of countries			
Country	Cost Group	Country	Cost Group
Albania	2	El Salvador	3
Algeria	3	Eritrea	3
Angola	6	Estonia	3
Antigua and Barbuda	5	Ethiopia	3
Argentina	3	Fiji	3
Armenia	3	Finland	5
Austria	5	France	5
Azerbaijan	3	French Polynesia	5
Bahamas	6	Gabon	5
Bahrain	5	Gambia	2
Bangladesh	4	Georgia	3
Barbados	5	Germany	5
Belarus	2	Ghana	4
Belgium	5	Gibraltar	4
Bermuda	6	Greece	4
Bolivia	2	Guatemala	3
Bosnia	2	Guyana	3
Brazil	4	Hong Kong	5
Brunei	2	Hungary	3
Bulgaria	2	Iceland	5
Burkina Faso	3	India	3
Cambodia	3	Indonesia	3
Cameroon	3	Iran	3
Canada	4	Ireland	5
Chile	3	Israel	5
China	5	Italy	5
Colombia	3	Jamaica	4
Congo Democratic Republic	4	Japan	5
Cook Islands	4	Jordan	5
Costa Rica	3	Kazakhstan	3
Cote D'Ivoire	5	Kenya	4
Croatia	3	Korea	6
Cuba	3	Kosovo	2
Cyprus	4	Kuwait	5
Czech Republic	3	Kyrgyzstan	2
Denmark	6	Laos	3
Dominican Republic	4	Latvia	3
East Timor	3	Lebanon	5
Ecuador	4	Lithuania	3
Egypt	3	Luxembourg	5

Table 9: Table of countries continued

Country	Cost Group	Country	Cost Group
Macau	5	Saint Lucia	4
Macedonia	2	Saint Vincent	3
Malawi	2	Samoa	5
Malaysia	3	Saudi Arabia	4
Mali	4	Senegal	4
Malta	3	Serbia	2
Mauritius	3	Sierra Leone	3
Mexico	3	Singapore	5
Monaco	6	Slovakia	3
Morocco	3	Slovenia	3
Mozambique	3	Solomon Islands	4
Myanmar	3	South Africa	2
Namibia	2	Spain	4
Nepal	2	Sri Lanka	3
Netherlands	5	Sudan	3
New Caledonia	5	Surinam	2
New Zealand	4	Sweden	5
Nicaragua	3	Switzerland	6
Nigeria	5	Taiwan	5
Norway	6	Tanzania	3
Oman	5	Thailand	4
Pakistan	2	Tonga	3
Panama	3	Trinidad and Tobago	5
Papua New Guinea	4	Tunisia	2
Paraguay	2	Turkey	3
Peru	4	Uganda	3
Philippines	3	Ukraine	2
Poland	3	United Arab Emirates	5
Portugal	3	United Kingdom	5
Puerto Rico	5	United States of America	5
Qatar	5	Uruguay	3
Romania	3	Vanuatu	5
Russia	5	Vietnam	3
Rwanda	3	Zambia	3

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Example 4:

39. *Toby travels to China on business for two weeks and is paid a travel allowance of \$500 per day (made up of \$250 for meals and incidentals and \$250 for accommodation). Toby's annual salary is \$191,000. Toby usually spends \$250 per day on meals and incidentals and \$300 per night on accommodation when travelling in China. Toby calculates the daily reasonable amount for his overseas travel as follows:*

- *Table 7 applies because Toby's salary is between \$119,651 and \$212,950*
- *Table 9 lists China as Cost Group 5*
- *Table 7 provides reasonable amounts for meals and incidental expenses for Cost Group 5 as \$240 per day for meals and \$50 per day for incidentals (that is a total of \$290 per day).*

40. *Because Toby has spent less than the reasonable amount on meals and incidentals, he can claim a deduction for the \$250 per day that he spends and he is not required to substantiate the expenditure (for example, get and keep all of the receipts for the meals and incidentals). Because he has spent more than 6 nights away in a row, Toby must keep travel records for the 2 weeks he is in China. Toby can claim a deduction for the \$300 per day he spends on accommodation but he must fully substantiate this expenditure (by getting and keeping a receipt or other documentary evidence of the expenditure).*

41. *If Toby's tax return is checked by the ATO he may be asked to explain his claim for deduction. To do this Toby would show he travelled to China for work, that he received an allowance for the meals and incidentals for each day he travelled, that he correctly declared this allowance as income in his tax return, and that he typically spent \$250 a day on meals and incidental expenses (for example, by reference to diary entries, bank records and some receipts that he kept).*

42. *If Toby's travel allowances were not shown on his payment summary and he fully spent the allowance, he can choose to leave them out of his tax return and not claim any deductions for the meals and incidentals he purchases when travelling and working in China.*

Date of effect

43. *This Determination applies to the 2017-18 income year only. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 75 to 76 of TR 2006/10).*

Commissioner of Taxation
3 July 2017

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References

Previous draft:

Not previously issued as a draft

Previous Rulings/Determinations:

TD 2012/17; TD 2013/16; TD 2014/19;
TD 2015/14; TD 2016/13

Related Rulings/Determinations:

TR 95/18; TR 2004/6; TR 2006/10

Legislative references:

- ITAA 1997
- ITAA 1997 Subdiv 900-B
- TAA 1953

ATO references

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