Council Policy Manual

PAYMENT AND RE-IMBURSMENT OF EXPENSES INCURRED BY, AND PROVISION OF FACILITIES TO, THE MAYOR, DEPUTY MAYOR AND COUNCILLORS

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1. INTRODUCTION

1.1 Purpose of the Policy

1.1.1 This policy is made under the Local Government Act 1993 (the Act) including Sections 252 to 254A. The Act requires that the Council must adopt a policy concerning the payment of expenses incurred by, and the provision of facilities to the Mayor, the Deputy Mayor and other Councillors.

1.1.2 The Council's Policy on the payment of expenses and the provision of facilities to the Mayor, Deputy Mayor and Councillors shall apply in the event that an Administrator is appointed to the Council's area.

1.2 Policy Objectives

1.2.1 To provide for the fair and equitable payment and reimbursement of certain expenses not considered to be included in the annual fees payable under Sections 248-254A of the Local Government Act, where such expenses are incurred by the Mayor, Deputy Mayor and Councillors in discharging the functions of civic office.

1.2.2 To provide adequate facilities for use by the Mayor, Deputy Mayor and Councillors to enable them to discharge the functions of civic office.

1.2.3 To consolidate the existing Council Policies dealing with payment and expenses into a single Policy Statement.

1.3 Implementation

1.3.1 All staff should be made aware of the details that are allowed to be given to members of the general public under this policy.

1.4 Legislation and References

1.4.1 This Policy has been prepared and adopted in accordance with sections 23A, 252, 253, 254 and 403 of the Local Government Act 1993 and clause 403 of the Local Government (General) Regulation 2005.

1.4.2 In accordance with clause (1)(h) of Schedule 1 of the Government Information (Public Access) Regulation 2009, this policy forms part of Council's open access information and is available to the public. Council provides access to the Policy through publication on Council's website or by obtaining a copy form Council's administration.

1.4.3 Council reports on this Policy in accordance with section 428 of the Local Government Act 1193 and clause 217 of the Local Government (General) Regulation 2005.

1.4.4 The following documents have also been taken into account during development of this Policy:

a.) Council's Code of Conduct

b.) Division of Local Government – *Guidelines for the Payment of Expenses and the Provision of Facilities for Mayors and Councillors NSW – October 2009*

c.) Division of Local Government Circular 05/08- *Legal Assistance for Councillors and Council Employees.*

d.) Division of Local Government Circular 02/34- *Unauthorised Use of Council Resources*

e.) Division of Local Government Circular 09/36- *Release of Revised Councillor Expenses and Facilities Guidelines.*

f.) ICAC Publication- *No Excuse for Misuse, Preventing the Misuse of Council Resource*

1.4.5 Section 428 (2) (1) of the Act requires the Council to include in its Annual report:

a.) The total amount of money expended during the year on Mayoral fees and Councillor fees

b.) The Council's policy on the provision of facilities for use by Councillors and the payment of Councillor's expenses

c.) A statement as to the total amount of money expended during the year on the provision of such facilities and the payment of such expenses.

1.5 Reference

1.5.1 This policy is in accordance with the requirements of the Local Government Act 1993 and may be cited as the "Policy – Councillors Payment and Re-imbursement of Expenses."

1.6 Policy Objectives

1.6.1 To provide for the fair and equitable payment and re-imbursement of certain expenses not considered to be included in the annual fees payable under Sections 248 - 254A of the Local Government Act, where such expenses are incurred by the Mayor, Deputy Mayor and Councillors in discharging the functions of civic office.

1.6.2 To provide adequate facilities for use by the Mayor, Deputy Mayor and Councillors to enable them to discharge the functions of civic office.

1.7 Commencement

1.7.1 This Council policy commences on 28 November 2014

1.8 General Provisions

1.8.1 General Allowances:

General Allowances will not be paid to Councillors. Any expenses payable to Councillors are specifically listed in this policy, together with the procedures for payment/reimbursement.

1.8.2 Private Benefit:

The facilities provided to Councillors under this policy are made available to assist them in undertaking their civic duties. Accordingly, and unless otherwise provided for in this policy, Councillors should ensure that there is no more than incidental private use of these facilities.

1.8.3 Political Purposes:

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

1.8.4 Political Fundraising:

The fundraising activities of political parties, including political fundraising events, are considered to be personal interests. Council will not pay expenses or provide facilities to Councillors under this Policy in relation to supporting and/ or attending such activities and events.

1.8.5 Approvals:
All enquiries in relation to expenses and facilities under this policy are to be directed to Council's General Manager.
This policy defines approval arrangement, and requires more than one person as decision maker in order to prevent potential conflicts.

1.8.6 **Dispute Resolution:**
Any disputes in relation to expenses and / or facilities provided under this policy should be referred in the first instance to the General Manager.

1.8.7 **Accessibility:**
Where a Councillor has specific needs in relation to accessibility to Council facilities and the functions of civic office, additional assistance may be provided under this policy to ensure equity of access.

1.8.8 **Gifts & Benefits:**
Council has a "No gifts and benefits" policy. All gifts and benefits offered to Councillors, even if of token value, will be declined or returned.

1.9 No Deduction from Section 248 & 249 Fees

1.9.1 Unless otherwise provided, the payment of, or reimbursement of expenses and the facilities which may be provided to the Mayor, Deputy Mayor and Councillors under this policy, shall be provided without reduction of the annual fees payable to the Mayor and Councillors, as determined by the Council, under Section 24S-254A inclusive of the Act.

1.10 Claiming of Expenses

1.10.1 Reimbursement of expenses will be paid monthly in arrears, must be claimed within 3 months of being incurred by the Mayor or a Councillor. Any claim must be submitted on the approved form and must include receipts and tax invoices relating to the claim.

1.10.2 Reconciliation of the reimbursement of expenses under this policy will be undertaken on a monthly basis by appropriate Council staff.

1.11 Reasonable and Relevant Expenses

1.11.1 This policy provides for the provision of reasonable and relevant expenses in relation to the role as a councillor and which are in proportion to the size and extent of the operations of Brewarrina Shire Council.

1.12 Approval of Expenses

1.12.1 Approval of Councillor expenses will be made using the following principles:

a.) No one person is the sole decision maker in giving approvals;

b.) Travel proposals are wherever possible, to be included in the council business papers;

c.) Approval for discretionary trips and attendances at conferences and the like should, where possible, be approved by a full meeting of the Council. If this not possible then the approval should be given jointly by the Mayor and the General Manager. If the Mayor requires approval to travel outside of Council meetings it should be given jointly by the Deputy Mayor and General Manger;

d.) Travel involving overnight stay will require prior approval with full details of the travel. This should include the itinerary, costs and reasons for the travel.

e.) Approval to meet expenses will only be given when the function is relevant to the Council's interest. No approval will be given for any cost component that is additional, or not relevant to, the service cost of the function.

1.13 Monetary limits for expenses

1.13.1 Council will determine an annual Budget allocation to fund attendance at conference, seminars, workshops and similar functions.

1.13.2 For 2016/17 the Budget allocation for Councillor travelling and sustenance was $21,630.

1.13.3 However, Council may agree to allocate additional funds in specific cases where it is decided that there is a benefit to Council from the attendance.

1.13.4 Councillors need to be mindful that the budget is limited and should limit their claims to reasonable out-of-pocket expenses.

1.13.5 The reimbursement of expenses and the provision of facilities for Councillors is subject to the budget provisions and authorisations.

2. FEES - MAYOR, DEPUTY MAYOR AND COUNCILLORS

2.1 Annual Fees

2.1.1 That Councillors' annual fees are paid independent of whether or not a Councillor attends Ordinary meetings of Council.

2.2 Fees Payable to Councillors

2.2.1 The Council shall, prior to 30th June each year, set by resolution, the annual fees to be paid, monthly in arrears, to a Councillor for the following year commencing 1st July, provided that such fee shall be within the range for the Council determined annually by the Local Government Remuneration Tribunal. Such a payment shall be subject to Section 254A of the Local Government Act 1993 and any specific resolution of the Council under the above Section of the Act.

2.3 Fees Payable to the Mayor

2.3.1 The Council shall set by resolution, prior to 30th June each year, the annual fee to be paid to the Mayor for the following year commencing 1st July provided that such fee shall be within the range for the Council determined annually by the Local Government Remuneration Tribunal.

2.4 Fees Payable to the Deputy Mayor

2.4.1 The Deputy Mayor shall be paid a monthly pro-rata fee equivalent to the monthly Mayoral Fee calculated under Clause 6, if the Deputy Mayor officially acts as the Mayor for the period of more than one month when the Mayor is prevented by absence, illness or otherwise from acting in the Mayoral capacity, or when the Mayor requests the Deputy to act in the office of Mayor. The amount of the fee so paid to the Deputy Mayor shall be deducted from the Mayor's annual fee.

3 EXPENSES AND REIMBURSEMENT COST.

3.1 Mayor

3.1.1 The Mayor shall be entitled to receive the benefit of the following facilities, and payment of and reimbursement of expenses, without reduction of the fees payable under Section 248 and/or 249 of the Act:

3.1.2 Transport

a.) Provision of a suitable and appropriate Council vehicle, fully maintained, insured and registered by the Council, for use by the Mayor for all official, executive and social duties connected with the Office of Mayor.

b.) Where the Mayor elects to provide his/her own vehicle for all functions related to the Office of Mayor for the Mayoral term and not require the provision of a Council vehicle as in above, the Mayor is entitled to claim payment of a car allowance in accordance with Part 4 of this Policy.

c.) Office accommodation within the Shire Office with Executive Assistant/Secretarial support including typing, photocopying, printing, postage, facsimile, computer and telephone facilities.

d.) Administrative assistance and reception refreshments associated with any Council functions, meetings, publications and the like.

e.) Where the Deputy Mayor, at any time, is required to act in the Office of Mayor in accordance with Section 231 of the Act. The provisions of Part 5 of this Policy apply.

f.) Councillor's access to a suitable vehicle or vehicles (if available) provided by the Council for use on official duties connected with the office of Councillor. When a Council vehicle is not reasonably available to provide such transport, or the provision of a vehicle would not be economical in the circumstances, the General Manager may agree for the Councillor to use the Councillor's Vehicle then the Councillor is entitled to claim payment of a car allowance in accordance with Part 5 of this Policy. Any traffic or parking fines incurred while travelling in private or council vehicles on Council business is the responsibility of the Councillor or the driver incurring the fine.

3.2 Councillors (Including the Mayor and Deputy Mayor) administration support.

3.2.1 To assist the Councillors in carrying out the duties of their civic office and without reduction (unless otherwise stated) of the fees payable under Section 248 of the Act. Councillors are, if they request such, entitled to payment of expenses or re-imbursement of the following expenses, and to receive the benefit of the following facilities:

a.) Councillors, to have access to a suitable office with telephone, computer terminal, access to Internet and E-mail, facsimile and printer facilities for work directly related the duties of their office as Councillor. Councillors will be subject to the requirements of Council's Internet and Email policy where access is through Council's corporate computer system.

b.) Secretarial services including typing, photocopying, printing and postage for the purposes of Responding to correspondence received from:

Residents/ratepayers. Members of Parliament, Government Departments, statutory authorities/bodies, other local authorities, other Councillors, local government related bodies and organisations, the media or the general public in relation to the business of the Council or local government, subject to a response to petitions received by the Councillors only being made to the principal person who lodges the petition and not all signatories.

c.) Replying to invitations to attend functions/gatherings received in their capacity as a Councillor;

d.) Communications to Councillors and Council's staff on official business; provided that under no circumstances will the Council permit the facilities to be provided to be used for the initiation or issue of circular type letters or election material/letters without the prior authority of the Council being obtained.

3.3 Councillors (Including the Mayor and Deputy Mayor) Meals

3.3.1 Meals to be provided at meetings associated with Council.

3.4 Councillors (Including the Mayor and Deputy Mayor) Stationery Package and Name Badge.

a.) Stationery Package, with an annual mayoral term limit for the Mayor of $500 and Councillor of $250, such a package to comprise business cards, letterheads, envelopes, with compliments slips, postage stamps and diary.

b.) Name badge on election to office.

3.5 Safety Equipment and Councillor Uniforms

3.5.1 Councillors will be provided with personal protective equipment when required for a relevant site inspection.

3.5.2 Councillors will be provided a uniform (shirt and tie / scarf) for their term of office.

4. TRAVEL COSTS - USE OF MAYOR'S AND COUNCILLORS' PRIVATE VEHICLES

4.1 For Mayor and Councillors

4.1.1 When applicable

The Mayor and Councillors, subject to their private vehicle being currently registered and covered by Compulsory Third Party Insurance, may claim a kilometre allowance for use of private vehicles when used by the most direct route to travel between their place of residence within the Brewarrina Shire Council local government area, and return, to:

a.) Attend meetings of the Council, Committees, Sub Committees, Working Parties, Taskforce, Forums or the like, as a Councillor or delegate of the Council; to attend any briefing, community consultation, appointments and engagements associated with the business of the Council, and attend to the transaction of Council business at the Civic Centre;

b.) Attend inspections or business within or outside the Council area undertaken in accordance with a resolution of the Council;

c.) Attend public meetings and civic functions convened by the Council or other community meetings where the Councillor has been invited to attend;

d.) Attend any conference as defined in the policy, where use of the private vehicle is authorised by the Mayor.

4.1.2 Provided that the Council shall not make any claim for travel or costs associated with attendance at fund raising activities or rallies held by registered political parties or groups.

4.2 Applicable rate.

4.2.1 Kilometre rates for such travel will be paid at the rate set by the Local Government (State) Award, as at the date of travel. Such a rate shall be deemed to cover and include any claims for accidental damage or repairs to the Mayor or Councillor's own vehicle, and any loss of no claim bonus and any excess not covered by insurance.

4.3 Payment.

4.3.1 Payment is subject to a formal monthly claim on the prescribed claim form being lodged by the Mayor or Councillor, and such a claim must be made no later than three (3) months after the travel occurred. Claims lodged for travel occurring more than (3) months before the claim is lodged shall not be paid.

5. CONFERENCES HELD IN AUSTRALIA

5.1 Definition

5.1.1 In this part Conference means any conference, seminar, congress, forum, workshop, course, meeting, deputation, information and training session, or event, related to the industry of local government and held within Australia.

5.2 Who May Attend Conferences

5.2.1 The Mayor and Councillors may be nominated and authorised to attend conferences by:

a.) The Council, through resolution duly passed at a Council Meeting;

b.) The Mayor, acting within any delegated authority during Council recess;

c.) The Mayor and the General Manager jointly, where such a conference is for one day or less or does not involve an overnight stay (or, where the applicant is the Mayor, the Deputy Mayor/ one other Councillor and the General Manager jointly).

5.2.2 By the adoption of this Policy, authority is hereby delegated to the Mayor to nominate and authorise a substitute Councillor to attend any conference in lieu of the Mayor or a nominated and authorised Councillor.

5.2.3 The application for approval shall include full details of the travel, including itinerary, costs and reasons for the travel.

5.3 What Conferences May Be Attended

5.3.1 The conferences to which this policy applies shall generally be confined to:

a.) Local Government Association of NSW (LGA).

b.) Local Government Women's Association (LGWA).

c.) Australian Local Government Association (ALGA) Conferences.

d.) Special "one-off' conferences called for or sponsored by the LGA. LGWA. LGMA and ALGA on important issues.

e.) Annual conferences of the Local Government Managers Association (LGMA) and the major Professions in Local Government.

f.) Australian Sister Cities Conference.

g.) Regional Organisation of Councils Conferences.

h.) Conferences, which further training and development of the Council and of Councillors, or which relate to or impact upon the Council's functions.

i.) Meetings or Conferences of Organisations or Bodies to which a Councillor of the Council has been elected, or appointed as a delegate or member of the Council, or the LGA, LGWA, or ALGA.

5.3.2 After returning from an approved conference. Councillors shall submit a written report to a full meeting of the Council on the aspects of the conference relevant to Council business and/or the local community.

5.4 Conference Costs

The following shall apply to the Mayor and Councillors who are authorised and/or appointed as delegates under this policy to attend Conferences:

5.4.1. <u>Registration</u>

The Council will pay all normal registration costs for the Mayor or Councillors / delegates which are charged by organisers, including those relating to official luncheons, dinners and tours/inspections which are relevant to the interests of the Council.

5.4.2. Accommodation

The Council will pay reasonable single accommodation costs for the Mayor or Councillors including the night before and/or after the conference where this is necessary because of travel and/or conference timetables.

5.4.3. Travel

The Council will meet all reasonable travel costs for the Mayor, or authorised Councillors or delegates, to and from the conference location and venue.

a.) Where appropriate, travel will be provided by Council Vehicle and air if required (economy class). Depending upon the location or circumstances, it may be more appropriate for travel to be undertaken by car or train and Bus.

b.) Where trains and bus are used the Council will provide first class travel, including sleeping berths where available.

c.) Where travel is by motor vehicle it should be undertaken by Council vehicle where available, or by private vehicle subject to prior approval of the Mayor.

d.) Where the Mayor or a Councillor uses their private vehicle, they may claim the "kilometre" allowance at the date of travel as per Part 5, subject to such a cost not exceeding economy class air fares to and from the particular destination, and subject to the travel being undertaken with all due expedition, by the shortest most practical route, to and from the conference.

e.) Where hire cars, taxi fares and parking costs are reasonably required and incurred in attending conferences, the cost of such will be reimbursed by the Council to the Councillor upon presentation of a claim and receipt,

5.4.4 Out of Pocket Expenses

Out-of-pocket expenses incurred by the Mayor or a Councillor associated with attendance at a conference shall be reimbursed to the Mayor or Councillor upon presentation of a claim and receipts for the following:

a.) Any hotel/motel conference related charges associated with the Conference, other than accommodation (in line with NSW Treasury rates).

b.) All telephone, internet or facsimile calls related to Council business (Council provide full office facilities for the Mayor and can provide a mobile telephone for Mayor use on request).

c.) Reasonable lunches, dinners and other meals incurred whilst travelling to or from the Conference and other lunches, dinners or meals occurring during the Conference but not included in the conference registration fee (in line with NSW Treasury rates).

d.) Incidental expenses, e.g. bridge tolls on presentation of a Tax Invoice

e.) Any optional activity in a conference program, but excluding any pre or post conference activities, on presentation of a Tax Invoice.

5.4.5 Frequent Flyer and Loyalty Points

The Mayor and Councillors shall not be entitled to claim frequent flyer or other loyalty points relating to air travel or other expenses incurred by them under this policy. In circumstances where the Mayor or a Councillor has no option but to incur any expenditure for which loyalty points accrue to his/her personal account, the Mayor or Councillor must surrender the points to the airline or service provider before reimbursement of the expense by the Council.

5.4.6 Conference Costs - Payment In Advance

a.) The Council will normally pay registration fees, accommodation costs and airline/train tickets direct to conference organisers/travel agents in advance. Where this is not appropriate or possible a cash allowance or cheque equivalent thereto may be paid in advance to the attendee for payment to the appropriate party.

b.) Any advance payments must be properly accounted for with receipts, on the prescribed voucher form within one (1) month after such a conference.

5.4.7 Conference Costs - Mayor's and Councillors'/Delegates and Accompanying Person

a.) Where the Mayor or Councillor is accompanied at a conference all costs for, or incurred by, the accompanying person, including travel, any additional accommodation costs, breakfast, meals, registration and/or participation in any conference programs, are to be borne by the Mayor/Councillor/accompanying person and not by the Council.

b.) Accompanying person's registration, or accompanying person's program fees, are to be paid to the conference organiser, etc. and paid at time of registration. The Council is prepared to receive such registration and payments and to forward them on to the conference organiser, etc. with any Council delegates' registration.

c.) Where the Council meets, on account, any expenditure or cost on behalf of an accompanying person attending a conference, such expenditure must be repaid to the Council by the Councillor/accompanying person within fourteen (14) days of being invoiced for such expenditure following the conclusion of the conference.

6. CONFERENCES OVERSEAS

6.1 Attendance at Overseas Conferences

6.1.1 Attendance by the Mayor or a Councillor at any conference, seminar, congress, forum, workshop, course, meeting, deputation, information or training sessions, events, etc. related to the industry of local government which are held overseas, must be authorised prior to departure by specific resolution of the Council and such a resolution shall specify and detail the conditions of attendance.

6.1.2 Attendance will only be approved where direct and tangible benefits can be established for the Council and the local community.

6.1.3 Requests for attendance for overseas travel must be submitted by a report to Council, included on the Council agenda (not by mayoral minute) and shall include the names of Councillors nominated to attend, purpose, expected benefits, duration, itinerary and approximate total costs.

6.1.4 After returning from an overseas conference Councillors attending shall submit to a full meeting of Council a detailed written report on the aspects of the trip relevant to Council business and/or the local community.

6.1.5 Details of overseas travel must be included in Council's annual report, including any details of trips for Sister City relationships.

7. LEGAL ASSISTANCE FOR MAYOR AND COUNCILLORS

7.1 Legal and Representation Costs - Enquiries, Investigations. Hearings, etc.

7.1.1 In the event of

a) any inquiry, investigation or hearing by any of:
- The Independent Commission against Corruption,
- The Office of the NSW Ombudsman,
- The Division of Local Government, Department of Premier and Cabinet,
- The NSW Police Force.
- The Director of Public Prosecutions, or
- The Local Government Pecuniary Interest and Disciplinary Tribunal, or
- Council's Conduct Review Committee Reviewer

into the conduct of the Mayor or a Councillor in discharging their civic office duties;
or

b) Legal proceedings being taken against the Mayor or a Councillor arising out of or in connection with the performance of his or her civic duties or exercise of his or her functions as a Mayor or Councillor.

7.1.2 The Council, after the conclusion of such an inquiry, investigation, hearing or proceeding, may resolve to reimburse the Mayor or such Councillor for all legal expenses properly and reasonably incurred, given the nature of the inquiry, investigation, hearing or proceeding, on a solicitor/client basis.

7.1.3 Provided that:

a) 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 investigative phase to a formal investigation or review;

b) In the case of a conduct complaint made against a councillor, legal costs may only be made available where the matter has been referred by the General Manager to the Conduct Review Committee/ Conduct Reviewer to make formal inquiries into the matter;

c) In the case of pecuniary interest or misbehaviour matters, legal costs may only be made available where a formal investigation has been commenced by the Office of Local Government;

d) The amount of such reimbursement shall be reduced by the amount of any moneys that may be or are recouped by the Mayor or Councillor on any basis; and

e) That the inquiry investigation, hearing or proceeding results in a finding substantially favourable to The Mayor or Councillor.

7.1.4 Where an outcome of an action or investigation against the Mayor or Councillor is substantially unfavourable to that Councillor any legal expenses must be reimbursed by the Councillor.

7.1.5 This policy specifically excludes the payment of legal expenses for the Mayor or Councillors where:

a) The Mayor or Councillor initiates a legal action;

b) The outcome of an action or investigation against the Mayor or Councillor is substantially unfavourable to that Councillor;

c) The Mayor or Councillor seeks advice in respect of possible defamation, or is seeking non-litigious remedy for possible defamation.

8. INSURANCES AND HEALTH MAINTENANCE AND ASSESSMENT PROGRAMS

8.1 Insurance - Mayor and Councillors

The Council will insure, or will provide for the insurance of the Mayor and Councillors for:

8.1.1. Personal Accident

Personal injury whilst ever engaged in or on any Council activity, worldwide covering bodily injury caused by accidental, violent, external and visible means up to a sub-limit for death determined by the Council and also covering permanent disablement, temporary total disability and temporary partial disability. The cover does not include medical expenses as medical expenses cannot be included due to the provisions set down in the Health Act. The Council shall determine the distribution of any benefits arising from such insurance to the Mayor or Councillor or his/her beneficiaries.

8.1.2. Professional Indemnity/Public Liability

a) General Liability

To indemnify the insured for all sums they shall become legally liable to pay, arising out of death, personal injury or illness or disease to persons or loss or damage to property arising out of the insured's business as a Councillor while performing their functions on Council's behalf.

b) Professional Indemnity

i. To indemnify the insured for all sums they shall become legally liable for, arising out of any negligent act, error or omissions in the conduct of their activities as Mayor or Councillors and arising out of the insured's business as a Council.

ii. But are subject to any limitations or conditions set out in the policy of insurance which is, taken out at the discretion of the Council.

iii. To indemnity each insured person(s) (Mayor/Councillors) for all costs, charges, expenses and defence costs but excluding fines and penalties incurred in relation to any prosecution (criminal or otherwise) of any insured person(s), attendance by any insured person(s) at any official investigation, examination, inquiry or other proceedings ordered or commissioned during the period of insurance by any official body or institution that is empowered to investigate the affairs of the Council by reason of any wrongful act wherever or whenever committed or allegedly committed by the insured person(s) in their capacity as insured person(s), but are subject to any limitations or conditions set out in the policy of insurance which is, taken out at the discretion of the Council.

9. CARER AND OTHER RELATED EXPENSES

9.1 Reimbursement of the cost of carer arrangements, including childcare expenses and the care of the elderly, disabled and/or sick immediate family expenses and the care of the elderly, disabled and/or sick immediate family members of councillors, to allow councillors to undertake their council business obligations. Reimbursement, less any government subsidy will be subject to the production of receipts, attached to the approved form and will be at a maximum of $1000 per annum.

9.2 Reimbursement of the cost of carer arrangements will require evidence that the carer nominated is accredited by the appropriate government department and any claim must be submitted on the approved form and must include receipts and tax invoices relating to the claim.

10. TRAINING AND EDUCATION

10.1 Council will provide training and education for Councillors as is appropriate for effective discharge of the function of civic office, functions and responsibilities. Such training will be at Council's expense and will be provided in-house or by outside providers as appropriate.

11. REPORTING

11.1 Council shall report separately, on an annual basis,

a.) On the total cost of expenses and the provision of facilities for the mayor and all councillors.

b.) Spouse/partner/accompanying person expenses

c.) Conference and seminar expenses

d.) Training and skill development expenses

e.) Interstate travel expenses

f.) Overseas travel expenses

g.) Care and other related expenses

h.) The provision of facilities and equipment where such provision is above what would normally be required for the day to day running of the council.

12. PROVISIONS OF LOCAL GOVERNMENT ACT 1993.

12.1. Annual fees are not paid during period of suspension
Section 248A.
A council must not pay an annual fee to a councillor for any period during which the councillor is suspended from office under section 482 or 485.

12.2. Payment of expenses and provision of facilities
Section 252.

a.) 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.

b.) 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.

c.) 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.

d.) A council may from time to time amend a policy under this section.

e.) A policy under this section must comply with the regulations.

12.3. Public notice of proposed policy concerning expenses and facilities
Section 253.

a) Before adopting or amending a policy for the payment of expenses or provision of facilities, the council must give at least 28 days public notice of the proposal.

b) However, if the council is of the opinion that any amendments to a policy are not substantial, it may adopt the amended policy without giving public notice.

12.4. Decision to be made in open meeting
Section 254.
The council or a council committee, all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended or at which any proposal concerning those matters is discussed or considered.

12.5. Circumstances in which annual fees may be withheld
Section 254A

a) Despite this Division, a council may resolve that an annual fee will not be paid to a councillor or that a councillor will be paid a reduced annual fee determined by the council:

i For any period of not more than 3 months for which the councillor is absent, with or without prior leave, from an ordinary meeting or ordinary meetings of the council, or

ii in any other circumstances prescribed by the regulations.

b) Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months.

Council Policy Manual

APPENDIX

1.1 Provisions under the Local Government Act 1993

1.1.1 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 248251 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.

1.1.2 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 Office 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 19

(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.

1.1.3 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.*

1.1.4 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.

1.2 Provisions under the Local Government (General) Regulation 2005

Clause 271 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:

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.

1.3 Other NSW Government policy provisions

1.3.1 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.

1.3.2 Circulars to Councils

The policy must take into account the following Circulars.

- Circular 10/26 *Misuse of council resources.*
- Circular 10/30 *Councillor's Access to Information*
- Circular 11/27 *Findings from Review of Councillor Expenses and Facilities Policies*
- Circular 12/12 *Amendments to the Local Government Act 1993*
- Circular 12/19 *September 2012 Local Government Elections – Caretaker Provisions*

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.*

1.3.3 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, Office of Local Government March 2013.* The following parts of the code are particularly relevant to s252 policies:

Use of council resources

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 You must not use council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.

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

10.8 You must not use council letterhead, council crests and other information that could give the appearance it is official council material for:

a) the purpose of assisting your election campaign or the election campaign of others, or
b) for other non-official purposes.

10.9 You must not use council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

1.3.4 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.

1.3.5 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 February 2008*. This publication is available on the ICAC website in at www.icac.nsw.gov.au.