



## **PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR MAYOR AND COUNCILLORS**

**Policy No: 1.8.5(v5)**

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**Verified by.....**

**Verified by.....**

*(Presented to at the Ordinary Meeting of Council 22.09.2014)*

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Status of the Policy

Date of Adoption:

Responsible Department:

General Manager

Mandatory Annual Review:

Date: September

Policy Amended:

Public Exhibition:

## **1. Title and Commencement of Policy**

This policy is to be known as Bourke Shire Council Policy regarding the Payment of Expenses and Provision of Facilities to Councillors.

## **2. Purpose of the Policy**

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

## **3. Objectives and Scope of the Policy**

The policy provisions are aimed at being non-discriminating and will be used in an equitable manner to enable the full participation by all Councillors.

The policy provisions are at a level to encourage members of the community to seek election to Council by ensuring that they would not be financially disadvantaged in undertaking the civic roles of a Councillor.

The policy will ensure accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors.

The policy will provide clear details of benefits available to Councillors.

The policy fulfils the statutory obligations of Council under section 252 of the Local Government Act 1993.

## **4. Making and Adoption of the Policy**

This policy will be reported to Council annually in September. The proposed policy is required to be will be placed on public exhibition for 28 days each year even if Council has resolved to adopt the same policy (Section 253 (5))

Council is also required to give public notice of any changes made throughout the year. However, Council is not required to give notice if the changes are deemed not to be substantial as per section 253 (3) of the Local Government Act.

## **5. Legislative Provisions**

The policy is governed by the Local Government Act 1993, specifically but not limited to; sections 252, 253 and 254 and the Local Government (General) Regulation 2005.

## **6. Other Government Policy Provisions.**

In addition to the legislative provisions as detailed above the following should also be taken into consideration:

- Bourke Shire Council Code of Conduct
- ICAC Publication- No excuse for Misuse, Preventing the Misuses of Council resources
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities
- Local Government Circular 05-08 legal assistance for Councillors and Council Employees.

## **PART 2 - PAYMENT OF EXPENSES - GENERAL PROVISIONS**

### **7.1 Exclusion of General Expense Provision**

In accordance with clause 403 of the Regulation no provision has been made for the payment of an allowance in the nature of 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 time frame.)

### **7.2 Monetary Limits on Expenses**

This policy identifies and publishes monetary limits and standards applicable to the payment of various expenses to Councillors. This 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.

The Mayor and General Manager may under exceptional circumstances vary the monetary limits with such variation to be reported to Council.

### **7.3 Gifts and Benefits to be of Token Value**

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 the Model Code of Conduct adopted by the Council. For clarification on what token gifts and benefits are you should refer to the Code of Conduct. Whilst the Code of Conduct does not put a monetary value on what is determined to be token value a figure of \$50.00 should be utilised for the purposes of this policy

#### **7.4 Approval and Dispute Resolution Process**

The approval for expenses in accordance with this policy shall be undertaken by the General Manager.

Where a dispute arises concerning the payment of expenses or provision of facilities, the matter shall be referred for determination jointly by the Mayor and Deputy Mayor.

Where the dispute involves either of the Councillors holding one of the positions, it shall be referred for determination at a meeting of the Council.

#### **7.5 Reimbursements and Reconciliation of Expenses**

- (a) Reimbursement of costs and expenses to Councillors will only be made upon production of appropriate receipts and tax invoices and completion of a Councillor's Expense Claim Form. Expenses and costs incurred must be in accordance with the requirements of this policy.
- (b) Claims for reimbursement of expenses should be submitted within three (3) months of the expense being incurred. Expense claims submitted in excess of three (3) months of the expense being incurred will not be reimbursed.
- (c) Payment will be made within one (1) month of an approved claim being received unless documentation is inadequate, in which case the claimant will be notified immediately.

#### **7.6 Payment in Advance**

Councillors may request payment in advance in anticipation of expenses to be incurred in attending conferences, seminars and training away from home. Councillors may also request an advanced payment for the cost of any other service or facility covered by this policy. The Mayor or the General Manager is to authorise pre-paid expenses. A reconciliation of the funds expended, and accompanying receipts, are to be submitted to the General Manager within 10 days following the conclusion of the Conference, Seminar or Training together with any unspent funds.

### **SPECIFIC EXPENSES FOR MAYOR AND COUNCILLORS**

#### **8.1 Civic Business within the Bourke Shire Local Government Area**

Expenses will be paid for Councillors to attend:

- Meetings of the Council and Committees;

- Meetings of other committees, bodies, organisations or groups to which those Councillors are Council delegates or representatives;
- Other meetings or inspections which are authorised by the Council, the Mayor or the General Manager;
- Training courses, seminars or conferences authorised by the Council (except in those circumstances where there is insufficient time for a Council decision and in those cases the Mayor and General Manager have the authority to approve the attendance and report back at the next Council meeting for endorsement of that decision);
- No Expenses are to be by Councillors to support attendance by Councillors at political fund-raising functions.

## **CATEGORIES OF PAYMENT / REIMBURSEMENT**

### **(a) Council and Committee Meetings**

#### (i) Travel

Councillors are entitled to be reimbursed for the use of their private vehicle for travel to and from meetings.

Payment for the use of a Councillor's private vehicle will be based on the relevant kilometre rate for vehicles as determined in the Local Government (State) Award and applicable as at 1<sup>st</sup> July each year.

The allowable distance claimed will be for travel, by the most practicable route from the Councillor's usual place of residence or other place where the Councillor might be (whichever is lesser), immediately prior to the meeting.

#### (ii) Meals/Refreshments

Arrangements will be made for a light meal and/or refreshments to be provided at each meeting depending on the scheduling of each meeting.

#### (iii) Accommodation

Should a meeting be scheduled to finish later than 9.00pm or start earlier than 7.00a.m and the Councillor lives more than 50 kilometres from Bourke or in other circumstances where, in the opinion of the Mayor or General Manager, because of the timing of the meeting, it would be impractical or introduce undue risk for the Councillor to travel home before/after the meeting, Council will meet reasonable accommodation costs (including sustenance and telephone calls) on the evening of or prior to the meeting for the Councillor.

Accommodation will generally be booked by Council staff and will be limited to \$150.00 per night. Council will not meet any expenses incurred from mini bars.

**(b) Meetings of Other Committees, Bodies, Organisations or Groups to Which Those Councillors are Council Delegates or Representatives or Other Authorised Meetings or Inspections Training Courses, Seminars or Conferences within Bourke Shire Area**

(i) Travel

Council vehicles will generally be made available, however, in circumstances where a Council vehicle is not available or the use thereof is impractical, Councillors may use their private motor vehicle. Councillors should check with the Engineering Section to ascertain whether a Council vehicle is available and should make arrangements to collect the vehicle at a mutually suitable time.

Payment for the use of a Councillor's private vehicle will be based on the relevant kilometre rate for vehicles as determined in the Local Government (State) Award and applicable as at 1<sup>st</sup> July each year.

When a private vehicle is used when a seat in a Council vehicle is available reimbursement will be at the discretion of the General Manager and the Mayor

The allowable distance claimed will be for travel, by the most practicable route from the Councillor's usual place of residence or other place where the Councillor might be (whichever is the lesser), immediately prior to the meeting or inspection.

(ii) Out-of Pocket Expenses

Reasonable out-of-pocket expenses will be reimbursed for costs associated with attendance, but excluding expenses of a normal personal nature. Out of pocket expenses are to be limited to \$50.00 per day when attending functions within Bourke Shire Area.

(iii) Accommodation

Should a meeting be scheduled to finish later than 9.00pm or start earlier than 7.00a.m and the Councillor lives more than 50 kilometres from Bourke or in other circumstances where, in the opinion of the Mayor or General Manager, because of the timing of the meeting, it would be impractical or introduce undue risk for the Councillor to travel home before/after the meeting, Council will meet reasonable

accommodation costs (including sustenance and telephone calls) on the evening of or prior to the meeting for the Councillor.

Accommodation will generally be booked by Council staff and will be limited to \$150.00 per night. Council will not meet any expenses incurred from mini bars.

(iv) Registration

Includes all registration fees involved in the attendance at the conferences, seminars etc as well as associated official luncheons, dinners and tours.

## **8.2 Civic Business outside the Local Government Area**

Expenses will be paid for Councillors to attend:

- (i) Conferences, seminars and training courses at which attendance has been authorised by the Council (except in those circumstances where there is insufficient time for a Council decision and in those cases the Mayor and General Manager have the authority to approve the attendance and report back at the next Council meeting for endorsement of that decision);
- (ii) Meetings of other committees, bodies, organisations or groups to which those Councillors are Council delegates or representatives; and
- (iii) Other meetings or inspections which are authorised by the Council, the Mayor or the General Manager.

### **Categories of Payment/Reimbursement**

(i) Registration

Includes registration fees for attendance at conferences, seminars etc as well as associated official luncheons, dinners and tours.

(ii) Travel

Council will either pay or reimburse Councillors for travel by air, private motor vehicle, rail or taxi/hire car, as appropriate and as set out below: (With all travel arrangements, due consideration is to be given to the physical capacity of the Councillor and any variation to the arrangements below will be with the approval of the Mayor).

(a) Air

Where travel is undertaken by air, this will be by economy class. All bookings for travel will generally be made by Council staff.

(b) Motor Vehicle

Council will endeavour to make a vehicle available and Councillors are asked to clarify the availability of a vehicle with Council's Engineering Division.

Where a Council vehicle is not available a private motor vehicle may be used. Councillors are entitled to be reimbursed for this use.

Payment for the use of a Councillor's private vehicle will be based on the relevant kilometre rate for vehicles as determined in the Local Government (State) Award and applicable as at 1<sup>st</sup> July each year.

Where a private vehicle is used when a Council vehicle is available reimbursement will be at 50% of the determined rate unless otherwise approved by the General Manager.

If a councillor chooses to travel in their own vehicle when a seat is available in a Council vehicle travel will not be reimbursed unless otherwise approved by the General Manager and Mayor.

The allowable distance claimed will be for travel, by the most practicable route from the Councillor's usual place of residence or other place where the Councillor might be (whichever is the lesser), immediately prior to the meeting, function, training course, seminar or conference.

This claim will be subject to the cost not exceeding the economy class airfare as applicable.

(c) Rail

Where travel is undertaken by train, Council will meet the cost of a first class ticket, or equivalent, including sleeping berths where necessary.

(d) Taxi/Hire Car

Where travel is undertaken by taxi/hire car, Council will reimburse fares paid upon presentation of relevant receipts.

(iii) Accommodation

Council will meet reasonable costs (including sustenance and telephone charges) including the night before and after the meeting, training course, seminar or conference where necessary. Accommodation will generally be booked by Council staff and will be limited to \$150.00 per night in regional areas and \$300.00 in capital cities.

Council does not meet any expenses incurred from mini bars.

**Note: Should accommodation be in excess of this amount at the conference venue the General Manger is able to approve this additional cost.**

(iv) Out-of-Pocket Expenses

Reasonable out-of-pocket expenses will be reimbursed for costs associated with attendance, but excluding expenses of a normal private nature. Expenses are to be limited to the those amounts as detailed in Table 2 of the Australian Taxation Office's Determination for reasonable travel and meal expenses for that financial year. All claims are to be accompanied by receipts.

**Note:** It is expected that Councillors who attend conferences and seminars will provide Council with a brief report on such conference unless when accompanied by a staff member who will undertake this reporting function. Additionally it is expected that all conference/seminar attendees will actively participate in all sessions of the conference unless engaged in other business on behalf of Council.

### 8.3 Interstate Visits

All interstate visits should be approved by Council and the expenses payable will be in accordance with that for travel outside the Local Government Area.

**Note: For the purposes of this policy travel to South Western Queensland will not be regarded as interstate travel given the relationship of Council with that region. The ACT is also not deemed to be interstate.**

## **8.4 Overseas Visits**

Overseas travel must be approved by the Council prior to a Councillor undertaking a trip.

Travel must be approved on an individual trip basis.

Council will not allow the retrospective reimbursement of overseas travel expenses unless prior authorisation of the travel has been obtained.

Travel proposals shall be included in the Council business papers and not via a Mayoral Minute and must include full details of the travel itinerary, cost, reasons for the travel and benefit to Council.

After returning from overseas, Councillors (unless accompanied by a Council staff member) should provide a detailed written account to Council on the aspects of the trip relevant to Council business and/or the local community.

Should the Mayor or other Councillor accept an invitation to travel overseas, details of travel will be included in the Council's Annual Report as required by the Local Government Act and Regulations.

## **8.5 Legal Expenses and Obligations**

In the particular circumstances outlined below and subject to the receipt of legal advice, Council may indemnify or reimburse the reasonable legal expenses of:

- (i) A Councillor defending an action arising from the performance in good faith of a function under the Local Government Act (section 731); or
- (ii) A Councillor defending an action in defamation provided the statements complained of were made in good faith in the course of exercising a function under the Act; or
- (iii) A Councillor for an inquiry, investigation or hearing into the Councillor's conduct by an appropriate investigative or review body including but not limited to:
  - (a) Local Government Pecuniary Interest and Disciplinary Tribunal
  - (b) Independent Commission Against Corruption
  - (c) Office of the NSW Ombudsman
  - (d) Division of Local Government, Department of Premier and Cabinet
  - (e) NSW Police Force
  - (f) Director of Public Prosecutions
  - (g) 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 the 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 shall only be made available where a matter has been referred by the General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with procedures in the Council's Code of Conduct. In the case of a pecuniary interest or misbehaviour matter legal costs will only be made available where a formal investigation has been commenced by the Division of Local Government.

In addition, legal costs will 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 the 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.

#### **Note**

- a) **Council will not meet the costs of an action in defamation taken by a Councillor as plaintiff in any circumstances.**
- b) **Council will not meet the costs of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.**
- c) **Council will not meet the costs in respect of any legal proceedings initiated by the Mayor and/or Councillors, acting as individuals, in any circumstances.**

## **8.6 Insurance**

Councillors will receive the benefit of insurance cover for:

- (i) **Personal injury** while on Council business. The cover does not include medical expenses for illness in Australia.
- (ii) **Professional indemnity** for matters arising out of Councillors' performance of civic duties or exercise of their functions as

Councillors provided the performance or exercise of the relevant civic duty is, in the opinion of Council, in good faith or proper. This is subject to any limitations or conditions set out in the policy of insurance that is taken out from time to time.

- (iii) **Public liability** for matters arising out of Councillors' performance of civic duties or exercise of their functions under the Local Government Act. This is subject to any limitations or conditions set out in the policy of insurance that is taken out from time to time.
- (iv) **Councillors and Officers liability.** This policy provides protection in respect of actions against the individual Councillors in addition to legal costs incurred by them in defending an allegation of a wrongful act made in the course of their duties as Councillors. This is subject to any limitations or conditions set out in the policy of insurance that is taken out from time to time.
- (v) **Travel Insurance-** Councillors will be provided with travel insurance when travelling outside the Bourke Shire Local Government area for those situations not covered under the personal injury policy.

## **8.7 Telecommunication Expenses**

- (i) **Councillor Supplied Fax/Phone Line**

Council will meet the cost of identified Council related calls and will make contribution to any consumables in proportion to the level of identified usage.

- (ii) **Mobile Phone Calls**

Council will meet the cost of calls made on behalf of Council for from private mobiles. Such calls should be clearly identified on the monthly accounts issued by service providers.

- (iii) **Limits on Expenditure on Calls**

The limit on the cost of reimbursement of calls shall be \$150.00 per month in the case of the Mayor and \$25.00 per month in the case of Councillors.

## **8.8 Carer and other related expenses**

In accordance with the principles of participation, access and equity Council will reimburse the reasonable cost of carer arrangements, including childcare expenses and care of elderly, disabled and/or sick immediate family members of Councillors, to allow Councillors to undertake their Council business obligations.

Reimbursement of these expenses will be limited to a maximum of \$1,000.00 per annum, plus \$200.00 per annum for carers expenses incurred in relation to the attendance at a conference/seminar or training course.

Council business obligations in this context shall include Council and Committee meetings, Councillor briefings, attendance as an appointed Council delegate to meetings and functions of external agencies on which the Council is represented, Council Citizenship Ceremonies, but not functions that are primarily social in nature.

All claims should be accompanied by a receipt verifying payment to a care provider.

## **8.9 Councillors with Disabilities**

In addition to other clauses on this policy regarding the provision of facilities to Councillors, in the event of a Councillor having a disability that would prevent them from performing their civic duties without the provision of additional facilities, where necessary, and with the agreement of the Mayor and General Manager, additional appropriate facilities will be made available to that Councillor.

## **8.10 Spouse and partner Expenses**

- (i) There may be limited instances where certain costs incurred by a Councillor on behalf of their spouse, partner or carer are properly those of the Councillor in the performance of his or her functions (hence they are properly incurred by and reimbursable to the Councillor).
- (ii) As a consequence, meeting the reasonable costs of spouses and partners or carer 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.

- (iii) Limited expenses of spouses, partners or carers associated with attendance at the Local Government and Shires Associations annual conferences will be met by Council. These expenses will be limited to the cost of registration and the official conference dinner. Travel expenses, any additional accommodation expenses, and the cost of partner/accompanying person tours, etc. will be the personal responsibility of individual Councillors.
- (iv) Consideration will also be given to the payment of expenses for the spouse, partner or carer 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 to represent the Council.
- (v) The above circumstances should be distinguished from spouses, partners or carers 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 will not be paid by Council (with the exception of attendance at the Local Government and Shires Associations annual conference, as noted above.)
- (vi) The above examples should also be distinguished from circumstances where spouses, partners or carers 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.
- (vii) The payment of expenses for spouses, partners or carers for attending appropriate functions as permitted above should be confined specifically to the ticket, meal and/or the direct cost of attending the function.
- (viii) The processing and payment of registration and associated fees on behalf of spouses, partners or carers may be undertaken by Council in conjunction of the registration of delegates with any fees paid to be reimbursed within thirty (30) days.

## **9. ADDITIONAL EXPENSES FOR THE MAYOR**

### **9.1 Corporate Credit Card**

The Mayor shall be supplied with a corporate credit card to facilitate payment of official Council business expenses, including hosting official

visitors and dignitaries to the Shire. Use of the card will be in accordance with the adopted credit card policy.

### **PART 3 – PROVISION OF FACILITIES**

#### **10. GENERAL PROVISIONS**

##### **Provision of facilities generally (principles and processes)**

##### **10.1 Private use of facilities and mechanism for reimbursement.**

Councillors should not generally obtain a private benefit from the provision of equipment and facilities.

However, it is acknowledged that incidental use of Council equipment and facilities may occur from time to time. Such incidental use is not subject to reimbursement.

##### **10.2 No Use of Council Resources for Political Purposes**

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

#### **11. PROVISIONS OF EQUIPMENT AND FACILITIES FOR COUNCILLORS**

##### **11.1 Equipment and facilities provided**

- (i) **Business Cards** – with approved details.
- (ii) **Letterheads** – for responding to matters raised by constituents.
- (iii) **Meeting Room**

Subject to availability the meeting room or conference room will be able to be used for Councillors to conduct interviews etc. Tea/Coffee making facilities will also be made available.

- (iv) **Corporate Apparel**

Council will supply each Councillor at the beginning of each quadrennial term a shirt/blouse embroidered with Council's logo or of Council design with such cost not to exceed \$100.00

- (v) **Personal Protective Equipment**

Each Councillor required to undertake inspections as part of their role as a Councillor will be supplied upon request with personal protective

equipment required as a condition of entry onto the individual work site.

- (vi) **Name badge.**
- (vii) **Laptop Computer or I Pad**

## **12. PROVISION OF ADDITIONAL EQUIPMENT AND FACILITIES FOR MAYOR**

### **Additional equipment and facilities provided to Mayor**

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

- (i) **Council Vehicle.**

A vehicle will be supplied for the use of the Mayor and will be available at all times for use whilst undertaking his/her Mayoral Duties. A fuel card will be provided for use with the Mayoral vehicle. The Mayor is required to undertake the completion of a log book.
- (ii) **Mobile Telephone** with a car kit (Note monthly limit of \$150.00 )
- (iii) Official stationary incorporating Mayoral letterhead for official Council correspondence issued under the hand of the Mayor.
- (iv) **Business Cards** for his/her role as Mayor.
- (v) **Secretarial Services** - word-processing and administrative support provided by the Executive Assistant.
- (vi) **Administrative Support** - assistance with the coordination of functions, organisations, meetings, ect.
- (vii) Where practicable and available provision of an appropriate facilities, suitable for interviews and small civic receptions.
- (viii) Use of ceremonial Chains of Office.
- (ix) A suitable name badge.

## **PART 4 – OTHER MATTERS**

### **13. ACQUISITION AND RETURNING OF FACILITIES AND EQUIPMENT BY COUNCILLORS**

#### **Acquisition or return of facilities and equipment by Councillors.**

Councillors must return all equipment and other facilities in good condition to the Council when they cease to be an elected member of Council or are granted extended leave of absence.

On cessation of their civic duties Councillors may purchase the equipment provided by the Council at an amount determined at an agreed fair market price or at the written down value of the asset on appearing on Council's Asset Register

This clause shall exclude uniforms and protective equipment which are able to be retained and the Mayor Chains of Office which shall always remain the property of Council and the Mayoral vehicle.

# Appendix 1

## LEGISLATIVE PROVISIONS

### Local Government Act 1993

The relevant provisions of the Local Government Act 1993 are set out below:

#### **Section 252 Payment of Expenses and Provision of Facilities**

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

#### **Section 253 Requirements Before Policy Concerning Expenses and Facilities can be Adopted or Amended**

- (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 twenty eight (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 twenty eight (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 Decision to be made in Open Meeting**

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.

**Section 12 (What information is publicly available)** 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 (Director General's guidelines)** makes provision for the Director-General of the 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.

**Section 428(2) (f) (Annual Reports)** requires a Council to include in its annual report: The total amount of money expended during the year on Mayoral fees and Councillor fees, the Council's policy on the provision of facilities for use by Councillors and the payment of Councillors' expenses, together with a statement of the total amount of money expended during the year on the provision of such facilities and the payment of such expenses.

In addition **Section 428 (r)** requires that Councils must report on any other information required by the regulations.

## **Local Government (General) Regulation 2005**

The relevant provisions of the Local Government (General) Regulation 2005 are set out below:

**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 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 (whether of the same or the opposite sex) or other person who accompanied a Councillor in the performance of his or her civic functions, being expenses payable in accordance with the *Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW* prepared by the Director-General from time to time,
- (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 (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.

## **OTHER GOVERNMENT POLICY PROVISIONS**

### ***DLG Guidelines for Payment of Expenses and Provision of Facilities***

This policy takes into account the following Circulars:

- Circular 05108 - Legal assistance for Councillors and Council employees.
- Circular 02134 - Unauthorised use of Council resources.
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These guidelines replace Circular 04160 Policy on payment of facilities to the mayor, deputy mayor and other councillors.

### ***Model Code of Conduct***

This is consistent with the Model Code of Conduct for Local Councils in NSW, Department of Local Government, and Council's Code of Conduct which implements the Model Code.

The part of the Model Code headed 'Use of Council resources' is particularly relevant to s252 policies, and is implemented by the Council's Code of Conduct.

***ICAC publications***

Councillors 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 at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).