

## **COUNCILLOR'S EXPENSES AND FACILITIES POLICY**

<b>POLICY REFERENCE NUMBER:</b>		<b>POL 5.3</b>	
<b>Original publication date</b>		27 August 1997	
<b>Revision number</b>	<b>Issue Date</b>	<b>Approved</b>	<b>Approval date</b>
0	27 August 1997	Res: 97/57	27 August 1997
1		Res: 05/86	19 October 2005
2		Res: 06/77	17 October 2006
3		Res: 07/65	22 August 2007
4		Res: 08/54	27 August 2008
5		Res: 09/73	26 August 2009
6		Res: 10/100	25 August 2010
7		Res: 11/87	24 August 2011
8		Res: 12/144	24 October 2012
9		Res: 13/107	23 August 2013
10			
<p>This document is to be reviewed every year. Next review date: <b>August 2014</b></p>			
<b>RESPONSIBLE OFFICER</b>		General Manager	

## **PART A – INTRODUCTION**

### **1.0 – GENERAL PROVISIONS**

#### **1.1 Purpose of the Policy**

The purpose of the Policy is to ensure there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors.

The Policy also ensures that the facilities provided to assist Councillors to carry out their civic duties are reasonable.

#### **1.2 Objectives and coverage of the Policy**

To give guidance to the Chairman and Councillors as to what facilities and resources are available to them.

To provide direction for the payment of expenses incurred, or to be incurred, by Councillors and the provision of facilities to the Chairman and other Councillors in relation to discharging the functions of their office.

Implementation of our legislative responsibility, in adopting a policy concerning the payment of expenses and the provision of facilities and resources to the Chairman and Councillors in carrying out their civic duty (Sections 252 and 253 of the Local Government Act 1993).

#### **1.3 Making and Adoption of the Policy**

Council must implement section 253 of the *Local Government Act 1993* before adopting or amending a policy. Council must give public notice of its intention and allow at least 28 days for public submissions.

Council must consider any submissions received and make any appropriate changes to the policy. Council does not need to give public notice of a proposed amendment to the policy, if the amendment is not substantial. Within 28 days of adopting or amending the policy, the policy and details of submissions are to be forwarded to the Director-General of the Division of Local Government.

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 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.

## **1.4 Promotion and Availability of the Policy**

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

## **1.5 Review**

Councils are required on an annual basis to review and submit their policy to the Director-General of the Division of Local Government within 28 days of adoption by council, even if they propose to adopt an unchanged policy. Current policies must be submitted by 30 November each year.

## **1.6 Reporting Requirements**

Section 428 of the *Local Government Act 1993* requires council to include in its annual report:

- the councils policy on the provision of facilities for, and the payment of expenses to, mayors and councillors,
- the total amount of money expended during the year on providing those facilities and paying those expenses
- additional information as required by the *Local Government (General) Regulation 2005*.

## **1.7 Legislative Provisions**

### **1.7.1 Provisions under the *Local Government Act 1993***

Changes to sections 252(5) and 253 of the *Local Government Act 1993*, made by the *Local Government Amendment Act 2005*, require councils to make and submit their Expenses and Provision of Facilities Policy annually to the Department of Local Government.

Section 252 of the *Local Government Act 1993* 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 *Local Government Act 1993*) 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 Local Government (General) Regulation and any relevant guidelines issued under section 23A of the Act.

Section 253 specifies actions that council must undertake before a policy concerning expenses and facilities can be adopted or amended. As earlier stated these actions include a requirement to give public notice with a

minimum period of 28 days for the making of submissions, procedure for consideration of any submissions received and circumstances where public notice is not required . This section also details the reporting requirements to the Director General.

Section 254 requires that part of a council or committee meeting which considers the adopting or amending of such a policy must not be closed to the public.

The Government Information Public Access Act 2009 and Regulation 2009 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 Division of Local Government to prepare, adopt or vary guidelines that relate to the exercising 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(4)(b) requires that councils must report on any other information required by the regulations.

### **1.7.2 Provisions under the *Local Government (General) Regulation 2005***

Clause 217 Provides details of information to be included in Councils Annual Report in addition to the above provisions, such as details of overseas trips by councillors and staff representing Council and details of expenses paid to Councillors.

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.*

## **1.8 Other NSW Government Policy Provisions**

### **1.8.1 Department of Local Government Guidelines**

As previously noted 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.

### **1.8.2 Department of Local Government Circulars to Councils**

The policy must take into account the following Circulars:

- Circular 11/27 Findings from Review of Councillors Expenses and Facilities Policies
- Circular 10/26 Misuse of Council Resources
- Circular 09/36 Updated Guidelines for the Payment of Expenses and the provision of facilities to Mayors and Councillors – Additional annual reporting requirements and other matters
- Circular 05/08 Legal Assistance for Councillors and Council Employees
- Circular 02/34 Unauthorised Use of Council Resources

### **1.8.3 The Model Code of Conduct for Local Councils in NSW**

The policy should be consistent with the Model Code of Conduct for Local Councils in NSW, Department of Local Government – June 2008.

### **1.8.4 ICAC Publication – *No Excuse for Misuse, Preventing the Misuse of Council Resources***

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

## **1.9 Approval Arrangements**

Approval of councillors to attend conferences and other council business that involves travel and/or accommodation should be, where possible, approved by a full meeting of the council. If this is not possible, the approval should be given jointly by the Chairperson and General Manager.

If the Chairperson requires approval to travel outside of council meetings, it should be given jointly by the Deputy Chairperson, or another councillor, if the Deputy Chairperson is unavailable and the General Manager.

## **PART B – PAYMENT OF EXPENSES**

### **2.0 GENERAL PROVISIONS**

#### **2.1 Payment of Expenses Generally**

This policy sets levels of expenses and facilities to realistically account for costs incurred by councillors independent of the level of their annual fees.

##### **2.1.1 Allowances and Expenses**

The Local Government Remuneration Tribunal determines the minimum and maximum limit of fees payable to Chairperson and councillors according to the category of council. The council will determine the actual level of fees between these limits on an annual basis following the determination of the Local Government Remuneration Tribunal.

The amount of the annual fee for the Chairperson and Councillors will be paid monthly in arrears.

During the month of June in each year, the Council will review the fees and expenses paid to or facilities provided for the Chairperson and Councillors and determine the amounts to be paid for the ensuing year.

The amount of expenses for conveyance to official Council functions by car will be determined by the rates provided in the Council's Award and will be paid monthly in arrears to Councillors that do not reside in the Local Government Area where the function is being held.

Provided that where a Councillor ceases to be the Chairperson, the fee to be paid will be calculated on a daily basis for the proportion of the month that the Councillor remained the Chairperson.

Similarly, where a Councillor is elected Chairperson, the fee to be paid will be calculated on a daily basis for the proportion of the month in which the Councillor became Chairperson.

##### **2.1.2 Reimbursement and Reconciliation of Expenses**

Actual expenses incurred by councillors in carrying out civic duty are only reimbursed upon the production of appropriate receipts, tax invoices and other documentation, together with the completion of the required claim forms. Expenses and costs incurred must be in accordance with the requirements of this policy.

##### **2.1.3 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 advance payment for the cost of any other

service or facility covered by the policy. However, councillors must fully reconcile all expenses against the cost of the advance when they return within two months. No allowance type expense payment will be payable in any circumstances.

## **2.2 Establishment of Monetary Limits and Standards**

### **2.2.1 Monetary Limits as to Expenses**

The monetary limit for expenses will be generally guided by the budgeted items in the Operational Plan under the following line items:

- Travelling and Subsistence Allowance – Councillors
- Councillor Expenses

Some expenses will have a specific limit or rate set.

### **2.2.2 Standard of Provision of Equipment and Facilities**

The standard of provision of equipment and facilities will be done so in conjunction with staff to ensure the most economically efficient method of delivery. This applies to accommodation, travel, services and facilities.

## **2.3 Spouse and Partner Expenses**

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 (hence they are properly incurred by, and reimbursable to the councillor). An accompanying person is a person who has a close personal relationship with the councillor and/or provides carer support to the councillor.

As a consequence, 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 where accompanying councillors within the Riverina Water County Council 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, 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 New South Wales annual conference may 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. are the personal responsibility of individual councillors. Consideration will be given to the payment of expenses for the spouse, partner or accompanying person of the Chairperson, or councillor when they

are representing the Chairperson, when they are called on to attend an official function of council or carry out an official ceremonial duty while accompanying the Chairperson outside the council area, but within the general region of the Council. Examples include charitable functions to which the Chairperson has been invited and award ceremonies and other functions to which the Chairperson is invited to represent the council.

The above circumstances shall be distinguished from spouses, partners or accompanying persons who accompany a councillor at any event or function outside the council area, including interstate or overseas, where the costs and expenses of the spouse or partner or accompanying person should not be paid by council (with the exception of the attendance at the Local Government New South Wales annual conference, as noted above).

The above examples shall 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 shall 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 Incidental Expenses**

Reasonable out of pocket or incidental expenses associated with attending conferences, seminars or training courses that councillors incur may be reimbursed upon the presentation of official receipts and the completion of the necessary claim forms.

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.

All advanced payments are required to be reconciled.

## **2.5 Authorisation of Claims**

Travel claims will be authorised as follows:

- The General Manager will authorise travel expense claims made by the Chairperson and Councillors. The Chairperson will authorise the General Manager's travel claims.

- Travel expenses claimed by a traveller but not supported with receipts will not be paid for by Council
  - supporting documentation should be dated to allow the authorising officer to determine if the expense item related to the authorised period of travel
  - receipts should also contain details of the nature of the transaction to allow the authorising officer to determine if the item is valid or not
- Registration fees for a conference can entitle the traveller to included meals at the conference venue. Claims for meals at other venues when these included conference meals are available will not be paid for by Council.
- Claims for meals / drinks / entertainment for "other people" will only be considered for possible authorisation if the name / position / organisation of the "other people" are detailed - if no details are provided, Council will not pay the claim.
- Payment in Advance - Provision of a payment in advance may be requested by a Councillor however such an advance must be fully accounted for upon return and any unspent portion returned to Council.

### **3.0 SPECIFIC EXPENSES FOR CHAIRPERSON AND COUNCILLORS**

#### **3.1 Attendance at Seminars and Conferences**

Riverina Water Councillors are required to represent Council from time to time at a variety of seminars and conferences.

Attendance at these events will be approved by Council and recorded in the minutes of the relevant meeting. All travel, accommodation and seminar/conference fees, as well as incidental expenses will be met by Council.

Council will meet reasonable costs of accommodation and acknowledges the economic and practical benefits of being accommodated at the conference /seminar venue.

Council will also meet reasonable costs of main meals where any of these meals are not provided as part of the conference. Receipts of purchases will need to be presented for reimbursement. Costs for mini bar use will not be paid by Council

A written report shall be provided to the Council on the seminar/conference by the Councillor or accompanying staff member (Local Government New South Wales annual conferences excepted).

#### **3.2 Training and Educational Expenses**

It is desirable for Councillors to undertake training and development from time to time.

Attendance at these events will be approved by Council and recorded in the minutes of the relevant meeting. All travel, accommodation and training fees, as well as incidental expenses will be met by Council.

### **3.3 Motor Vehicle Travel Arrangements and Expenses**

A Council vehicle shall be made available for the use of councillors wherever possible. However where it is not possible and councillors are required to provide their own private transport for travelling on authorised Council business then the councillors shall be paid an allowance for travelling at the rate specified in the Riverina Water Council Enterprise Award, currently:

- Under 2.6 Litres - \$0.74 per kilometre
- 2.6 Litres and Over - \$0.75 per kilometre

Council will also meet the costs associated with parking and road tolls. The driver of the vehicle is personally responsible for all traffic or parking fines incurred while travelling in private or Council owned vehicles and should abide by Council's *Safe Driving Policy* (Policy 3.4).

### **3.4 Overseas Travel**

Councils shall 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 provided, including the 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. Council shall 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 chairperson's minute to obtain council approval for travel is not appropriate and is not consistent with the principles of openness and transparency.

After returning from overseas, councillors, or 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 council's annual reports.

### **3.5 Interstate Travel**

Prior approval of travel should generally be required for interstate travel. The application for approval shall include full details of the travel including itinerary, costs and reasons for the travel.

### **3.6 Attendance at Dinners and Other Non-Council Functions**

Consideration will be given to meeting the cost of councillors' attendance at dinners and other non-council functions which provide briefings to councillors from key members of the community, politicians and business. Approval to meet expenses shall only be given when the function is relevant to the council's interest. Only the cost of the service provided shall be met. No payment shall be reimbursed for any component of a ticket that is additional to the service cost of the function, such as a donation to a political party or candidate's electoral fund, or some other private benefit. An additional payment to a registered charity may be acceptable as part of the cost of the function after prior approval by Chairman and General Manager.

### **3.7 Care and Other Related Expenses**

Riverina Water County Council will make the provision for the reimbursement of the reasonable cost of carer 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 and is considered by the Division of Local Government to be a legitimate expense. Councillors claiming the carer expense should not be subject to criticism for doing so.

Consideration shall be given to the payment of other related expenses associated with the special requirement of councillors such as disability and access needs, to allow them to perform their normal civic duties and responsibilities. Application shall be made for such expenses.

### **3.8 Insurance Expenses and Obligations**

Section 382 of the *Local Government Act 1993* requires a council to make arrangements for its adequate insurance against public liability and professional liability. Councillors are covered under such following insurance policies held by Riverina Water County Council:

- *Professional Indemnity* (for matters arising out of councillors' performance of their civic duties and/or exercise of their council functions)
- *Public Liability* (for matters arising out of councillors' performance of their civic duties and/or exercise of their council functions)
- *Statutory Liability* (provides indemnity for fines and penalties arising out of conduct of the business of Council)

- *Personal Accident* (provides for the payment of non-medical expenses and loss of wages resulting from an accident whilst on official business for the Council and a capital payment if the accident results in death)

### **3.9 Legal Expenses and Obligations**

Council may indemnify or reimburse the reasonable legal expenses of a hearing into a Councillor's conduct by an appropriate investigative or review body in the following actions:

- a. A Councillor defending an action arising from the performance in good faith of a function under the Local Government Act (section 731 refers) or
- b. 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
- c. A Councillor for proceedings before the Council's Conduct Review Committee/Reviewer, Office of the NSW Ombudsman, Independent Commission Against Corruption, Division of Local Government, Department of Premier and Cabinet, NSW Police Force, Director of Public Prosecutions Local Government Pecuniary Interest and Disciplinary Tribunal or an investigative body provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.

Council will not meet the costs of an action in defamation taken by a Councillor or council employee as plaintiff in any circumstances. Council will not meet the costs of a Councillor or council employee seeking advice in respect of possible defamation or in seeking a non-litigious remedy for possible defamation.

Legal assistance and reimbursement as specified above will only be provided upon resolution of Council.

## **PART C – PROVISION OF FACILITIES**

### **4.0 GENERAL PROVISIONS**

#### **4.1 Provision of Facilities Generally**

Councillors are provided with access and use of the following:

- Access to a room suitably furnished for use by all councillors
- Access to a motor vehicle for the purpose of attending conferences, seminars, official functions or meetings outside of Wagga Wagga
- Use of Council photocopiers, telephones, computers, facsimile machines and associated equipment in the course of undertaking official business.

Councillors should not generally obtain private benefit from the provision of equipment and facilities, nor from travel bonuses or any other loyalty schemes. 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 a compensatory payment. Where more substantial private use has occurred, the Act provides that a payment may be made to cover the level of that private use.

### **5.0 PROVISION OF EQUIPMENT AND FACILITIES FOR COUNCILLORS**

Each Councillor will be provided with business cards and name badge and an IPAD.

Any equipment issued to the Chairperson or Councillors remains the property of the Council and is to be returned to Council upon the Chairperson or councillor ceasing to hold office, unless Council makes a resolution otherwise.

### **6.0 ADMINISTRATIVE SUPPORT**

The Chairperson shall be provided secretarial support in relation to official correspondence.

### **7.0 SUSTENANCE/MEALS**

Councillors shall, at the discretion of the General Manager, be provided with a meal and/or refreshments in conjunction with their attendance at Committee/Council meetings or at any official ceremony or gathering authorised by Council or the Chairperson or in carrying out their Council responsibilities including meetings with its residents, ratepayers or guests of Riverina Water County Council.

## **8.0 DISPUTE PROCESS**

Any dispute over the payment or reconciliation of expenses to a Councillor is to be addressed in writing to the General Manager outlining reasons. If available, the disputed claim should be supported with relevant documentation. The General Manager is to review the matter within 14 days and provide a written response detailing his/her resolution to the dispute.