

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

Contact Leonie Luke
02 4428 4177
leonie.luke@dlg.nsw.gov.au

FINDINGS FROM REVIEW OF COUNCILLOR EXPENSES AND FACILITIES POLICIES

A sample of 47 councillor expenses and facilities policies, prepared under sections 252 and 253 of the *Local Government Act 1993* and the *Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW*, have been reviewed to assess compliance with the legislation and Guidelines.

The Guidelines were first released in September 2006 to promote accountability and transparency in the payment of expenses and provision of facilities to mayors and councillors to meet community expectations.

Review Findings

Overall, the review found that approximately three-quarters of the policies reviewed adequately met the requirements of the legislation and the Guidelines. This represents an upward trend in the quality of the policies and policy compliance since a review of policies in 2007 (refer Circular to Councils 08-03). Most councils also complied with the subsequently introduced annual reporting requirements for councillor expenses and facilities.

A high level of compliance was found in relation to the exclusion of general allowances and inclusion of a process for reconciliation, reimbursement and dispute resolution. Compliance was also high in relation to provision for individual expenses. In particular, provision for legal expenses, carer expenses and spouse/partner or accompanying person expenses has significantly improved since the 2007 review.

It is pleasing to note the upward trend in the overall compliance and quality of councillor expenses and facilities policies.

Areas for Improvement

A lower level of compliance and/or issues were found in the following areas, which councils are requested to consider in the development of their future policies on councillor expenses and facilities.

Monetary limits

Nearly half of the policies reviewed lacked clear monetary limits and/or standards of provision for expenses and facilities provided to councillors.

Councils are reminded that the payment of expenses and the provision of facilities to councillors must not be open-ended. Monetary limits for all expenses and limits to the standard of provision for all facilities must be clearly stated and, where appropriate, justified within councils' policies (section 1.6.6 of the Guidelines refers).

Councils need to consider what a reasonable and acceptable level of provision is and include clear limits in their policies in relation to each expense and facility provided. Councils may choose to include a table of limits in an appendix to the policy. Referring to limits outlined in another document, such as council's annual budget, is not appropriate. It is a less transparent practice and contrary to the Guidelines.

Policy review requirements

Approximately one-third of policies reviewed failed to appropriately review, adopt and submit their policy to the Division on time.

Councils are reminded that it is a legislative requirement that they place their councillor expenses and facilities policy on public exhibition each year prior to annual adoption.

The Local Government Act sets out the annual policy review and adoption processes that must be followed. These are outlined in section 1.7.4 of the Division's Guidelines and are summarised below.

- Councils must annually **adopt** a councillor expenses and facilities policy by 30 November each year (s252(1))
- Councils must give public notice of the intention to **adopt** a policy and allow at least 28 days for public submissions (s253(1)) and consider submissions made (s253(2))
- Councils must publicly exhibit the draft councillor expenses and facilities policy before they annually **adopt** a policy, even if the policy is not amended or the amendments are not substantial (s253(5))
- Councils must forward the policy within 28 days of adoption to the Division of Local Government, together with a copy of the public notice and details of any submissions received (s253(4)).

Councils should note that section 253(3) of the Act, which provides that public notice need not be given of the intention to **amend** a policy if the council is of the opinion that proposed amendments are not substantial, does not relate to the annual policy adoption process. This subsection relates to minor amendments that a council may wish to make to the policy at other times during the year.

Council approval process

Approximately one-third of policies reviewed lacked a clear approval process for all expenses and facilities requiring at least two people. A number of non-compliant policies set out an approval process for one or two specific expenses only (eg, travel).

Councils are reminded that policies must contain approval arrangements for all expenses and facilities that avoid any one person being the decision maker (section 1.6.7 of the Guidelines refers).

Councils should consider the nature and significance of the various expenses and facilities outlined in the policy when determining approval arrangements. Significant or potentially contentious expenses will require prior approval at a full meeting of the council (eg, legal expenses or discretionary trips). Less significant expenses may only require approval by two people, usually the mayor and the general manager, or in the case of the mayor's expenses, the deputy mayor and the general manager.

Generic approval arrangements should be outlined in an overarching 'approval arrangements' section in the policy that captures all expenses and facilities. Special approval arrangements that may apply in relation to a specific expense or facility may also be incorporated into relevant sections of the policy.

Private benefits

Approximately one-third of policies reviewed did not disallow private benefit to councillors from facilities and lacked a clear mechanism to recoup the cost of any private benefit obtained.

Councils are reminded that policies are to include a statement clarifying that councillors should not obtain more than incidental private use of facilities (section 1.6.4 of the Guidelines refers). In situations where private use of a facility has been approved (eg, for private use of a council vehicle or telephone), council policies should clearly document the mechanism to determine and recoup the cost of private use of that facility from councillors. A number of councils whose policies were reviewed appropriately use declaration forms and/or log books to assist with this process.

Review feedback to councils

The 47 councils whose policies were reviewed are:

Armidale-Dumaresq, Ashfield, Bankstown, Bathurst, Bega Valley, Bland, Boorowa, Botany Bay, Brewarrina, Broken Hill, Burwood, Camden, Canada Bay, Central Darling, Cessnock, Dubbo, Dungog, Gosford, Gundagai, The Hills, Hornsby, Jerilderie, Kiama, Kogarah, Ku-ring-gai, Leeton, Leichhardt, Manly, Marrickville, Murrumbidgee, Muswellbrook, Orange, Parramatta, Penrith, Pittwater, Rockdale, Strathfield, Temora, Tumbarumba, Tumut, Tweed, Warringah, Warrumbungle, Wellington, Wingecarribee, Woollahra, Young.

These councils are encouraged to contact the Division for further information and feedback on their individual councillor expenses and facilities policy.

Update to Guidelines

Review findings will be incorporated into an update to the Guidelines, anticipated to commence later this year. Councils are requested to advise the Division about any issues they may have with the legislative framework guiding the payment of expenses and facilities to councillors, including the Guidelines, by **30 November 2011**.

Meanwhile, councils should continue to use the current Guidelines (dated October 2009) as they prepare their councillor expenses and facilities policies for the coming year.



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