

Council Member Allowance and Benefits Policy

Tuesday, 19 September 2023
City Finance and Governance Committee

Strategic Alignment - Enabling Priorities

Program Contact:
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Public

Approving Officer:
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EXECUTIVE SUMMARY

Section 24 (1) of the *City of Adelaide Act* (CoA Act) provides that a Council Member is entitled to an allowance determined by the Remuneration Tribunal (the Tribunal). The Tribunal determines allowances, yearly and certain other benefits, primarily in the form of reimbursement of expenses, are provided for within the CoA Act, section 77 (1)(b) of the *Local Government Act 1999* (the Act) and the *City of Adelaide (Members Allowances and Benefits) Regulations 2010* (the Allowance Regulations). Council may also determine facilities and support for Council Members to assist with discharging their duties.

Following on from feedback received from Council Members, this report seeks firstly to delete the Allowances and Benefits section from the City of Adelaide Standing Orders and secondly, the adoption of the Council Member Allowances and Benefits Policy (Policy) which sets out the statutory and discretionary allowances and benefits available for the support of Council Members at the City of Adelaide.

RECOMMENDATION

The following recommendation will be presented to Council on 26 September 2023 for consideration

THAT THE CITY FINANCE AND GOVERNANCE COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Adopts the Council Member Allowance and Benefits Policy, as contained in Attachment A to Item 4.10 on the Agenda for the meeting of the City Finance and Governance Committee held on 19 September 2023.
2. Approves the deletion of the following sections of the City of Adelaide Standing Orders:
 - 2.1. Chapter 5 – Allowances and Benefits
 - 2.1.1 Part One – Allowances
 - 2.1.2 Part Two – Benefits and Reimbursements of Expenses
 - 2.1.3 Part Three – Register of Allowances and Benefits
 - 2.1.4 Part Four – Provision of Facilities and Support
3. Authorises the Chief Executive Officer to make minor editorial or formatting amendments as required to finalise the Council Member Allowance and Benefits Policy.

IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Enabling Priorities
Policy	The Policy will replace sections of the existing City of Adelaide Standing Orders, 2019.
Consultation	Previous workshops have been held with Council Members to seek their views on the direction of the Standing Orders.
Resource	Not as a result of this Policy.
Risk / Legal / Legislative	The CoA Act, the Act together with the <i>City of Adelaide (Member Allowances and Benefits) Regulations 2010</i> make provisions for Council Members to receive allowances and benefits.
Opportunities	The Policy will be in a format that is accessible to Council Members as well as members of the public.
23/24 Budget Allocation	The 2023/24 budget allocation includes the costs to cover the allowances and benefits to the same level as currently contained within the City of Adelaide's Standing Orders. Should Council determine to change or add to their benefits, then a quarterly budget adjustment may be required.
Proposed 24/25 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report
23/24 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

Background

1. The CoA Act, the Act and the Allowance Regulations make provision for Council Members to receive allowances and benefits.
2. Part 5 of the Allowance Regulations prescribe that all Council Members are entitled to receive:
 - The allowance determined by the Remuneration Tribunal in relation to the member's office; and
 - Reimbursement of expenses actually and necessarily incurred in performing or discharging official functions and duties:
 - in travelling within the council area to or from a "prescribed meeting"; and
 - for the care of a dependant or a child of the council member as a consequence of the member's attendance at a "prescribed meeting" (but not if the carer is a person who ordinarily resides with the council member).
3. The CoA Act also makes provisions for Council to approve, on a discretionary basis, reimbursement to Council Members for a range of additional expenses incurred in performing or discharging official functions and duties.
4. These discretionary expenses can only be reimbursed with specific Council approval either by establishing a formal policy, or alternatively by Council approving each claim for reimbursement on a case-by-case basis by resolution. It is not possible to delegate power to approve these reimbursements unless Council has adopted a policy.
5. Council may exercise its discretion to resolve to provide Council Members with facilities and support. This could be in the form of electronic devices, and/or stationery, where it is necessary to expedite the performance or discharge of their official functions or duties.
6. Currently the policy is set out in the Standing Orders, Council has agreed that they wish to delete Parts 1 to Part 4 of Chapter 5 of the current City of Adelaide Standing Orders and that the policy will be a standalone Council Member Allowance and Benefits Policy (the Policy).
7. A separate item is being presented to Council setting out the support specific to the office of the Lord Mayor, which will form Schedule 3 to the Policy.
8. This separation is necessary due to conflict of interest provisions and the definition of 'ordinary business matters'. *Local Government (General) Regulations 2013 8AAA(1)(b)* states:

the preparation, discussion, adoption or revision of a policy relating to allowances and benefits payable to members if the policy relates to allowances and benefits payable equally to each member (rather than allowances and benefits payable to particular members or particular office holders);
9. Therefore, Council Members are not required to declare a conflict of interest in relation to the Policy. However, the determination of allowances and benefits specific to the Lord Mayor gives rise to a conflict of interest for the individual in the office of the Lord Mayor, so for ease of consideration Schedule 3 has been separated from the Policy and Council will consider this Schedule as a separate item. To assist Council with its deliberations, a draft Policy is attached to this report as **Attachment A**.
10. The draft Policy is consistent with the requirements of the Allowances Regulations and proposes facilities and support consistent with those previously made available to the Council Members at the City of Adelaide.
11. The draft Policy is consistent with the current provisions provided to Council Members in the Standing Orders.

Entitlements

Council Member Allowance

12. A Council Member is entitled to an allowance determined by the Remuneration Tribunal in relation to the members office. The Remuneration Tribunal makes the determination on a four-yearly basis, on a date set prior to the periodic elections. The most recent Determination was Determination No 3 of 2022 and is dated 5 July 2022 [[Link](#) 1].
13. The allowance is:
 - Payable from the first ordinary meeting of the Council held after the conclusion of the relevant periodic election (section 76(8));

- To be adjusted on the first, second and third anniversaries of the relevant periodic elections to reflect changes in the Consumer Price Index (section 76 (9)).

14. The allowances determined by the Remuneration Tribunal applicable to the City of Adelaide are as follows:

Lord Mayor	\$195,851 per annum
Deputy Lord Mayor	\$43,038 per annum
Presiding Member of a “prescribed committee”	\$35,865 per annum
Council Member	\$28,692 per annum
An additional allowance in the form of a sitting fee is payable to a council member (other than the Deputy Lord Mayor or a presiding member of a prescribed committee) who is the presiding member of a committee, that is not a prescribed committee, at the rate of the allowance of \$310 per meeting limited to an aggregate amount of allowance of \$1,859 per annum	

15. Section 76 (12) of the Act provides that an allowance must be paid in accordance with any requirements set in the Allowances Regulations unless the council member declines to accept the payment of an allowance. The Allowances Regulations provide that:

4—Allowances—section 76

- (1) *For the purposes of section 76 of the Act, an allowance may be paid in instalments up to 3 months in advance or 3 months in arrears of each month in respect of which an instalment is payable.*

16. Council has previously determined that allowances will be paid on a monthly basis in advance, and this is reflected in the Policy.

Reimbursements of expenses

17. Regulation 5, under the Allowances Regulations in reference to section 77(1)(a), provides for reimbursement of expenses actually and necessarily incurred for travelling to and from a “prescribed meeting” and for the care of a child or dependant while at such a meeting. Under the Allowances Regulations, “prescribed meeting” is defined as:

A meeting of the council or council committee, or an informal gathering, discussion, workshop, briefing, training course or similar activity which is directly or closely related to the performance or discharge of the roles or duties of the member.

18. Regulation 6, under the Allowance Regulations in reference to section 77(1)(b), provides for reimbursement of expenses approved by Council either specifically or under a Policy for the purposes of section 77(1)(b). To this end, the Council Policy has historically been included in the Standing Orders.

19. For the purposes of section 25(1)(b) of the CoA Act, the following kinds of expenses are prescribed:

- (a) *expenses incurred in the use of a telephone, fax or other telecommunications device, or in the use of a form of electronic communication, on the business of the Council;*
- (b) *travelling expenses incurred by the member as a consequence of the member's attendance at a function or activity on the business of the Council (other than for which the member is reimbursed under section 25(1)(a) of the Act);*
- (c) *travelling expenses incurred by the member in undertaking an eligible journey to the extent that those expenses are attributable to travel outside the area of the Council;*
- (d) *expenses for the care of—*
 - (i) *a child of the member; or*
 - (ii) *a dependant of the member requiring full-time care, incurred by the member as a consequence of the member's attendance at a function or activity on the business of the Council (other than for which the member is reimbursed under section 25(1)(a) of the CoA Act);*
- (e) *expenses incurred by the member as a consequence of the member's attendance at a conference, seminar, training course or other similar activity which is directly or closely related to the performance or discharge of the roles or duties of a member of a Council.*

Discretionary provision of facilities and support

20. The CoA Act allows that a Council may, at its discretion, provide facilities and support in addition to the above if these assist the Council Members in the performance and discharge of their official functions and duties.

21. The provision of discretionary facilities and services under section 26 of the CoA Act is subject to the following requirements:
- a) *the Council must specifically resolve that the provision of the facilities or services is necessary or expedient to the performance or discharge of official functions or duties;*
 - b) *facilities and services must be available to members on a uniform basis (other than facilities or services specifically provided for the benefit of the Lord Mayor; and*
 - c) *any property provided to a member remains the Councils.*
22. Section 26 (3) of the CoA Act specifically states:
- A member of a council must not use a facility or service provided by the council under this section for a purpose unrelated to the performance or discharge of official functions or duties (unless the use has been approved by the council and the member has agreed to reimburse the council for any additional costs or expenses associated with this use).*
23. Council has the legislative right to provide additional facilities and services under the CoA Act. If Council chooses not to use its discretion to provide additional benefits, Council Members will only be able to claim for those which are legislatively prescribed.
24. Any facilities/support accessed under the Policy will be recorded in the Allowances and Benefits Register, in accordance with the requirements of section 79 of the Act and section 7 of the Allowances Regulations.
25. The Policy has been developed in accordance with the Local Government Association's model policy.
26. The following table provides a summary of provisions and benefits that were included in the Standing Orders, where it can be located in the Policy and if this information is existing or new.

Document Header/Item	Legislated (Yes/No)	Section	New/Existing	Standing Orders	Policy
Allowances	Yes	S24 CoAA	Existing	P57	P3
Leave of Absence – Council Member Contesting Election	Yes		New legislation		P4
Reimbursement of Expenses	Yes	S25 CoAA	Existing	P58	
Prescribed Reimbursement - Travel & Carer	Yes	Reg 5&6 CoAR	Existing	P59-60	P6 and P8
Definition of Official Business	No	NA	Existing	P59	P17
Use of Private vehicle	No	NA	Existing	P60 & 65	P7
Use of Taxis for Local travel	No	NA	Existing	P60	P8
Telephone, Email and Internet	Yes	Reg 5&6 CoAR	Existing	P60	P8
Event Attendance Expenses	No	NA	Existing	P75	P9
Register of Allowances and Benefits	Yes	S79 LGA & Reg7 of COAR	Existing	P62	P14
Support	No	S26 LGA “may”	Existing	P63	P11
CM – Administrative Support	No	NA	Existing	P63-64	P11
CM – Council Governance Assistance	No	NA	Existing	P64	P11
CM – Independent Legal Advice	No	NA	Existing	P64	P11
CM – Computers and Internet Access	No	NA	Existing	P64	P12
CM – Office Use and Storage	No	NA	Existing	P64	P13
CM – Members’ Room	No	NA	Existing	P64	P13
CM - Insurance	No	NA	Existing	P64	P13
CM – Refreshments, Newspapers and Magazines	No	NA	Existing	P65	P14
CM – Building Access	No	NA	Existing	P65	P14
CM – Private Use of Council Facilities	No	NA	Existing	P65	P14
Lord Mayor	No	NA	Existing	P63	P16
Deputy Lord Mayor	No	NA	Existing	P63	P16
Official Partner of the Lord Mayor or Lady Mayoress	No	NA	Existing	P63	P16

*CoAA – City of Adelaide Act 1998

*CoAR – City of Adelaide (Members Allowances and Benefits) Regulations 2010

*LGA – Local Government Act 1999 (SA)

*LGR – Local Government (General) Regulations 2013

*NA – Not applicable

27. Minor amendments have been made to the following items within the Policy:

- Register of Allowances and Benefits
- CM – Independent Legal Advice
- CM – Computers and Internet Access
- CM – Refreshments, Newspapers and Magazines

The minor updates are reflective of changes to current processes.

DATA AND SUPPORTING INFORMATION

Link 1 - Determination of the Remuneration Tribunal allowances for members of Adelaide City Council

ATTACHMENTS

Attachment A – draft Council Member Allowances and Benefits Policy

- END OF REPORT -