



LATE AGENDA

Ordinary Meeting of Council
To be held on Tuesday 26 March 2024
At 12:00 pm

Civic Centre, Council Chambers
24 Stuart Highway, Katherine NT 0850

The Chief Executive Officer of Katherine Town Council
hereby provides notice of the Ordinary Meeting of Council
in accordance with Section 92 of the *Local Government Act 2019*



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17.1 COUNCIL MEMBERS ALLOWANCES

Author: Emily Jones, Executive Assistance Governance
Authoriser: Ingrid Stonhill, Chief Executive Officer
Report Type: For noting
Attachments: 1. FA Qs - 2024-25 Council Member Allowances [17.1.1 - 7 pages]

Officer Recommendation

That Council note the attached document of frequently asked questions in relation to changes made in Determination No. 1 of 2024.

Purpose of Report

To inform Council of the changes in Determination No. 1 of 2024 – Allowances for Members of Local Government Councils.

Strategic Plan

Not Applicable

Municipal Plan

Not Applicable

Background

The Remuneration Tribunal recently tabled reports and determinations for allowances for both members of local government councils and local authorities. The frequently asked questions sheet was created to answer some of the commonly asked questions regarding the Remuneration Tribunal Determination No. 1 of 2024 – Allowances for Members of Local Government Councils. The Determination comes into effect from 1 July 2024 and will replace Determination No. 1 of 2023 – Allowances for Members of Local Government Councils.

Discussion

Attached is the frequently asked questions resource.

Consultation Process

There was no consultation process required for this report.

Policy Implications

There are no policy implications resulting from the decision.

Budget and Resource Implications

There are no budget and resource requirements.

Risk, Legal and Legislative Implications

There are no risk, legal and legislative implications.

Environment Sustainability Implications

There are no environmental sustainability implications.

Council Officer Conflict of Interest

We the Author and Approving Officer declare we do not have a conflict of interest in relation to this matter.



Council member allowances – from 1 July 2024

Frequently asked questions

The Remuneration Tribunal (**the Tribunal**) Report and Determination No. 1 of 2024 – Allowances for Members of Local Government Councils (**the Determination**) was made on 29 January 2024 and tabled in the Northern Territory Legislative Assembly on 14 February 2024. Below are answers to some commonly asked questions on the application of the Determination and how it links to the *Local Government Act 2019 (LG Act)*.

This document was created by the Department of the Chief Minister and Cabinet (**CM&C**). It does not form part of the Determination but aims to assist councillors and staff in understanding the Determination.

1 – Changes

The Determination follows Determination No. 1 of 2023 - Allowances for Members of Local Government Councils made by the Tribunal in 2023. Some key changes have been made in the Determination from its predecessor. The changes come into effect on 1 July 2024 and include the following:

- Travel time while a councillor is travelling to and from council meetings, or to and from local authority meetings within their wards is now included in the Extra Meeting/Activity Allowance.
- Vehicle Allowance cap has been increased from \$5,000 to \$10,000.
- Vehicle Allowance paid to attend local authority meetings in the councillor's ward is not included in the \$10,000 vehicle allowance cap.
- Extra Meeting/Activity Allowance and Professional Development Allowance for shire councillors have been brought into line with all other councils.

2 – Allowances

Will the council need to make a decision to adopt the allowances?

The Determination sets the value of the Councillors Allowance, Deputy Principal Members Additional Allowance and Principal Members Additional Allowance. The exceptions are Belyuen and Wagait Councils, for which the Principal Members Additional Allowance is capped at a certain amount, "as approved by council". These are the only councils that need to make a separate decision adopting the allowances up to the capped amount.

The Determination shows an annual allowance, does that mean the full allowance is paid once per year?

No, the Determination sets the maximum annual allowances for each council. Allowances are paid in accordance with council policy, usually fortnightly or monthly.

Frequently asked questions

Do the deputy principal member and principal member also get the Councillor's Allowance?

Yes, the allowances determined for Deputy Principal Members Additional Allowance and Principal Members Additional Allowance are in addition to the Councillor's Allowance. Appendix A to the Report compares the current allowances with the new allowances and provides the total allowance for the Mayor (principal member) and Deputy Mayor (deputy principal member).

3 – Inclusions of all allowances

If, before 1 July 2023, a council provided an allowance to councillors that was not required under the LG Act, for example an allowance for internet and phones, does it now need to come out of the allowances covered by the Determination? Can the council make a decision to pay allowances not mentioned in the Determination?

The Determination sets what is covered by all allowances. For example, as the Determination specifies “contribution towards phone and internet usage”, a council cannot pay another allowance towards such usage. However, there may be circumstances where, subject to council policy, it is appropriate for a council to supply a councillor with a phone, computer or related equipment, or reimburse a councillor's cost of purchasing such equipment.

4 - Extra Meeting/Activity Allowance

Is the Extra Meeting/Activity Allowance limit of \$10,000 per council or councillor?

The Determination only sets allowances for councillors not for councils. Therefore, the capped amount is set at \$10,000 per councillor for Extra Meeting/Activity Allowance per year.

Are deputy principal members entitled to the Extra Meeting/Activity Allowance?

Yes, deputy principal members are eligible to access the Extra Meeting/Activity Allowance as per paragraph 4.1 of the Determination.

If a councillor has to cancel their attendance at a meeting or activity for which they have already received an allowance, are they required to repay the allowance?

If payment has been made to the councillor prior to the meeting, then the councillor fails to attend the meeting that money must be repaid to the council. Councillors are only eligible for Extra Meeting/Activity Allowance for the time they are in attendance at the meeting or activity.

If a councillor is unable to attend a meeting or activity due to illness or unforeseen circumstances, can they still claim allowances for the missed meeting or activity?

No, a councillor can only claim allowances for a meeting or activity they were present for.

Is there a minimum part/amount of time required for the attendance at a meeting to get the allowance, for example attendance at 80 per cent of the scheduled meeting?

The Determination does not specify the minimum attendance time required per meeting. However, it is common for councils to have established policies and procedures in place for meetings and the payment of allowances to councillors. The Determination does nominate different amounts for the time period in attendance, including up to 2 hours, between 2 and 4 hours and more than 4 hours.

Frequently asked questions

For example, if a councillor attends a meeting/activity for 1.5 hours and the full meeting was for 4 hours, the councillor is entitled to the 'up to 2 hour' amount (\$200).

How is the Extra Meeting/Activity Allowance calculated if a councillor has multiple two-hour meetings a day, for example?

The maximum Extra Meeting/Activity Allowance payable for any one day is \$500. That is, if a councillor attends four two-hour meetings, the maximum amount they will receive for attending those meetings on that day is \$500.

Can a councillor claim the Extra Meeting/Activity Allowance for attending a meeting or activity via telephone/video conference?

Yes, under sections 95(3)(a) and 98(3)(a) of the LG Act, the councillor's attendance at the meeting by means of an audio or audiovisual conferencing system is authorised in accordance with a council resolution establishing a policy for attendance in such a manner.

Are councillors paid for attending local authority meetings?

Local authority meetings qualify for the Extra Meeting/Activity Allowance only where a councillor attends the meeting in their own ward. If a councillor attends a local authority meeting of a ward that is not their own, they will not be eligible for the Extra Meeting/Activity Allowance.

What sort of functions qualify for the Extra Meeting/Activity Allowance?

Functions such as a citizenship ceremony, museum opening, presentation or award ceremony would qualify, provided the councillor is attending as a representative of the council and with the council's approval given through a council resolution.

Is travel time to a special council meeting considered as part of the Extra Meeting/Activity Allowance?

Yes, under the Determination, travel time taken to get to ordinary or special council meetings, and local authority meetings in the councillor's ward, may be paid as part of the Extra Meeting/Activity Allowance if the councillor has to travel more than 50 kilometres from their home for the activity. The payment is not included as part of the council's \$10,000 Extra Meeting/Activity Allowance cap.

5 - Professional Development Allowance

Are there any limitations on the number of professional development courses that a councillor can take per year?

The Determination does not limit the number of professional development courses that a councillor can attend each year. However, the course must be relevant to their role as councillor and be approved by the council.

If a councillor needs to book flights and accommodation to get to the professional development course, would that be covered under the Professional Development Allowance?

The Determination specifies that the Professional Development Allowance is an all-inclusive allowance, covering all costs associated with the professional development such as travel costs, vehicle allowance, travel allowance and travel time.

Frequently asked questions

For proof of completion of a professional development course, will a pass grade be required (if applicable) or will a confirmation of attendance from the provider be suitable?

The Determination does not specify requirements for attendance or passing a course in order to be eligible for the Professional Development Allowance. This should continue to be managed in line with council policy.

If a professional development course or several courses will cost more than the yearly allowance, can a councillor use their allowance for the following year?

Yes, as long as it is still within their elected term. The Determination sets out in paragraph 5.4 that a total of two years' worth of allocations can be used in one financial year, as long as the councillor would still be within their elected term. Alternatively, if a councillor uses part or none of the allowance in one financial year, the allowance will be carried over for the following financial year only, although it will not continue to be carried across further years, even if the councillor is still in term during those years. For example, if the allowance is not accessed for two years, the councillor will lose access to one years' worth of the allowance.

If a councillor does not wish to attend any professional development courses, can their allowance go towards other councillors to top up their allowance, for example be pooled for others to use?

No, the Professional Development Allowance is capped at \$4,000 per financial year for each councillor of all councils. If a councillor does not access any of their Professional Development Allowance it cannot be accessed by another councillor that has exhausted their capped allowance and it does not get pooled towards any other allowance or person.

6 – Vehicle Allowance

The reimbursement for vehicle use at the Australian Taxation Office (ATO) rate (85 cents per kilometre in 2023-24) may not fully compensate councillors for wear and tear on their vehicles. Is there a way the council can 'top up' the allowance?

No, nothing can be paid above the ATO rate to compensate for vehicle usage. Nor can a council pay any additional allowance towards vehicle expenses.

Can a councillor claim the Vehicle Allowance for travel outside of the council's jurisdiction?

Yes, as long as the councillor is not receiving a vehicle provision or travelling in a council vehicle, and it falls within the circumstances set out in paragraph 6.3. For example, a councillor may need to travel outside of the council's jurisdiction to attend an approved function over 50 kilometres from home.

If a councillor travels 30 kilometres from home in their private vehicle to attend an approved meeting/activity, will the councillor be eligible for the Vehicle Allowance?

No, for a councillor to be eligible for the Vehicle Allowance, they must also travel more than 50 kilometres from their home to attend a meeting/activity with a minimum round trip of 100 kilometres.

Frequently asked questions

What happens if a councillor's Vehicle Allowance exceeds the capped amount?

In the event that a councillor does go over the cap, they will still be eligible for travel time payments.

Are councillors required to keep a logbook to claim the Vehicle Allowance?

The Determination does not specify requirements for councillors to keep a logbook. However, subject to council policy, it is important for councillors to keep thorough documentation and records when claiming the Vehicle Allowance. Maintaining a diary, logbook or using GPS-enabled phone applications are acceptable methods for tracking travel and keeping accurate records.

7 – Provision of motor vehicle

Is it the council's or the principal member's decision whether to have a vehicle provided or a Vehicle Allowance? For example it may be financially better for the principal member to take an allowance, but financially better for the council to provide a vehicle.

For municipal and regional councils, it is the principal member's decision whether to have a vehicle provided or receive the Vehicle Allowance.

If a councillor is acting as principal member, do they gain access to the principal member's Vehicle Allowance at paragraph 7.2?

No, an acting principal member does not receive any additional allowances under the Determination. They will only be eligible for their usual Vehicle Allowance set out in paragraph 6. However, they may attend more meetings or activities than they otherwise would and be eligible for more Extra Meeting/Activity Allowance payments.

8 - Travel Allowance

Can a councillor claim the Travel Allowance and/or breakfast, lunch or dinner for a full day trip from 7am to 7pm while on approved council business?

No components of Travel Allowance (food and drink, incidentals or accommodation) can be claimed for day trips.

Can a councillor claim the Travel Allowance if they are attending a meeting or activity outside of the Northern Territory?

Yes, as long as they are staying away from home overnight and are on approved council business. Table 1 of Taxation Determination TD 2023/3 sets out the applicable rates for each city/location.

Can a councillor claim both the Vehicle Allowance and the Travel Allowance for the same trip?

The Travel Allowance includes a component for incidentals such as costs of transportation. If a councillor claims the incidentals component of the Travel Allowance, then the Vehicle Allowance cannot be accessed. However, subject to council policy, a councillor may wish to claim the Vehicle Allowance for the kilometres travelled and not claim the incidentals component of the Travel Allowance. In another situation, a councillor may drive more than 50 kilometres from their home to the airport, then catch a flight to attend council business and fly back to the airport the following

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day. The Vehicle Allowance could be claimed for the kilometres travelled to and from the airport and the Travel Allowance claimed for the time between arrival at the airport on the first day and departure from the airport the following day.

9 - General

When will the Determination come into effect since it was tabled in the NT Legislative Assembly on 14 February 2024?

The Determination comes into effect on 1 July 2024.

When will the Tribunal's next inquiry be conducted?

The Tribunal has indicated in its report that there would be value in conducting an inquiry in 2025. A decision on the timing will be made by the NT Government. Councils are encouraged to gather feedback and evidence on the impact of the current Determination to provide as part of any future inquiry.

Other Q&As

Can a councillor get paid an allowance in advance?

The Determination does not specify requirements for payments of allowances. Allowances for councillors are normally paid in arrears. This means that the allowances are paid after the completion of a specified period of time, e.g. a month. The exact timing of the payments may vary depending on the specific council and their payment cycle. However, it is common for councils to have established policies and procedures in place for the payment of allowances to councillors.

What is the legal basis for the Determination? Do councils have to follow it?

Yes, section 106 of the LG Act requires allowances to be paid in accordance with the Determination. Not following the Determination would be a breach of the LG Act and could potentially be improper conduct under the *Independent Commissioner Against Corruption Act 2017*. In addition, not following the Determination could result in allowances having to be repaid by councillors following an audit.

Are the allowances taxed?

Generally, all allowances are taxable except those that are paid as reimbursements. It is a councillor's own responsibility to seek taxation advice for their particular circumstances.

Does the Determination have to be approved by the Minister for Local Government?

No, the Tribunal is independent from the Minister. The Determination is final and requires no further approval.

Frequently asked questions

Will the Tribunal carry out reviews/audits on councils' compliance with its Determination?

No, CM&C is responsible for administering the LG Act. While the Determination is made under the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*, section 106 of the LG Act requires allowances to be paid in accordance with the Determination. Compliance reviews or investigations carried out by CM&C may consider if a council has correctly followed the Determination.

How can I access the full Report and Determination tabled in the NT Legislative Assembly?

You can access the Tribunal's Reports and Determinations via cmc.nt.gov.au.

If you have a query relating to the Determination, please contact the Local Government Unit in CM&C, via LGQuestions.CMC@nt.gov.au.