

Advice Note

Responsible Officer: Manager Governance and Property

Date of Meeting: 21 July 2020

Meeting of the: Ordinary Meeting of Council

Item: Amendments to CP-091 Elected Members Allowances and Expenses

DETAIL

Cr Kepernt has submitted a Notice of Motion that:

The Council approves the following amendment to be made to CP-091 Elected Members Allowances and Expenses and directs the CEO to adjust the policy accordingly:

Delete all text under Section 2.5 “Other Expenses” and replace it with the following:

“As a general rule the administration is to reimburse Elected Members for costs they have incurred in the course of their roles and duties. If the administration disputes an item sought for reimbursement, the administration is to state in writing their position and reasons for doing so to the Elected Member. The Elected Member is afforded the opportunity to present the disputed expense to a meeting of the Governance Committee for determination and recommendation to the Council. The Elected Member is also afforded the opportunity to request interest equal to inflation from when the cost was incurred to be included in the reimbursement.”

The policy describes clearly what allowances, reimbursements and equipment and support will be made in accordance with the provisions of the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*. The Policy is prescriptive so that it can be consistently applied and so it is clear what expenses can be paid for by the Council and/or reimbursed. The costs to be reimbursed are set in the Policy determined by the Council.

A “As a general rule the Administration is to reimburse... “ description allows for individual interpretation and inconsistency in applying the policy. The Policy should and does clearly state what expenses, incurred in fulfilling the role as an Elected Member, should be reimbursed as determined by legislation, referred to below.

The policy has served the Council well to date as claims for any expenses outside of the Policy have been infrequent if not non-existent. With the Policy being specific on what expenses are approved, the reason for declining a reimbursement request is given. A recent example being that the reimbursement claim was outside of the expenses described in the policy. Should a claim be declined the Elected Member is advised of the review actions that are available to them.

The current Policy affords Elected Members the opportunity to present any additional information to the disputed expense to a meeting of the Governance Committee for determination and recommendation to the Council.

In full Clause 2.5 “Other Expenses” states:

It is not expected that Elected Members will incur any other expenses in the performance of their duties. Should an Elected Member incur an expense they believe they are entitled to have reimbursed, the matter shall be presented to the Governance Committee for determination.

The regulatory provisions that determine whether or not an expense can be reimbursed are set out in the Act and Regulations as follows:

Section 5.98. Fees etc. for council members

2. A council member who incurs an expense of a kind prescribed as being an expense —

1 to be reimbursed by all local governments; or

2 which may be approved by any local government for reimbursement by the local government and which has been approved by the local government for reimbursement,

is entitled to be reimbursed for the expense in accordance with subsection (3).

3. A council member to whom subsection (2) applies is to be reimbursed for the expense —

1 where the extent of reimbursement for the expense has been determined, to that extent; or

2 where the local government has set the extent to which the expense can be reimbursed and that extent is within the range determined for reimbursement, to that extent.

4. If an expense is of a kind that may be approved by a local government for reimbursement, then the local government may approve reimbursement of the expense either generally or in a particular case but nothing in this subsection limits the application of subsection (3) where the local government has approved reimbursement of the expense in a particular case.

Expenses to be reimbursed (Act s. 5.98(2)(a) and (3))

(1) For the purposes of section 5.98(2)(a), the kinds of expenses that are to be reimbursed by all local governments are —

(a) rental charges incurred by a council member in relation to one telephone and one facsimile machine; and

(b) child care and travel costs incurred by a council member because of the member’s attendance at a council meeting or a meeting of a committee of which he or she is also a member.

Expenses that may be approved for reimbursement (Act s. 5.98(2)(b) and (3))

(1) For the purposes of section 5.98(2)(b), the kinds of expenses that may be approved by any local government for reimbursement by the local government are —

(a) an expense incurred by a council member in performing a function under the express authority of the local government; and

(b) an expense incurred by a council member to whom paragraph (a) applies by reason of the council member being accompanied by not more than one other person while performing the function if, having regard to the nature of the function, the local government considers that it is appropriate for the council member to be accompanied by that other person; and

(c) an expense incurred by a council member in performing a function in his or her capacity as a council member.

In relation to the payment of interest, Clause 2.6 Payment of Reimbursements requires that;

Claims for reimbursement of all expenses and travel claims can be made through the year and must be provided to the CEO on the appropriate form. Final claims relating to the financial year must be submitted by mid-July for the claim to be recorded in the accounts of the financial year to which the claim relates. No back payment of claims relating to prior financial years will be permitted. Payment of reimbursements will be made by direct deposit to the nominated bank account.

It is for Elected Members to submit claims promptly and even with referral to the Governance Committee, if needed, reimbursements would be promptly made, negating the need to apply interest.

Summary

Any Policies adopted by the Council must be in accordance with the limits set out by legislation.