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SALARIES AND ALLOWANCES ACT 1975

**DETERMINATION OF THE
SALARIES AND ALLOWANCES
TRIBUNAL**

**LOCAL GOVERNMENT ELECTED
COUNCIL MEMBERS**

SALARIES AND ALLOWANCES ACT 1975**SALARIES AND ALLOWANCES TRIBUNAL****DETERMINATION OF LOCAL GOVERNMENT ELECTED COUNCIL MEMBERS****Pursuant to Sections 7(B)**

June 2013

PREAMBLE

1. In accordance with Section 7B(2) of the *Salaries and Allowances Act 1975* (‘the SA Act’), the Salaries and Allowances Tribunal is required to “inquire into and determine—

- a. the amount of fees, or the minimum and maximum amounts of fees, to be paid under the *Local Government Act 1995* [‘the LG Act’] to elected council members for attendance at meetings; and
- b. the amount of expenses, or the minimum and maximum of expenses, to be reimbursed under the *Local Government Act 1995* to elected council members; and
- c. the amount of allowances, or the minimum and maximum amounts of allowances, to be paid under the *Local Government Act 1995* to elected council members.”

BACKGROUND

2. Following the proclamation of relevant sections of the Local Government Amendment Bill 2011 on 5 February 2013, the Salaries and Allowances Tribunal was empowered to determine certain payments that are to be made or reimbursed to elected council members with effect from 1 July 2013.

3. Sections 5.98 to 5.100 of the LG Act were also amended with effect from 1 July 2013 to complement the changes to the SA Act.

4. The legislation confers entitlements to claim fees, expenses and allowances on individual council members and provides the Tribunal with the capacity to determine either particular amounts for these payments or to determine a range within which the relevant local governments set the amounts. Those fees, expenses and allowances which are legislated as entitlements of a council member cannot be taken away by any decision or action of the council.

5. Where the Tribunal has chosen to determine minimum and maximum amounts for fees, expenses or allowances, there is an obligation on local governments to set the amounts to be paid or reimbursed within the range determined.

6. Fees, expenses and allowances for elected council members were set by regulation in 1996 following the introduction of the LG Act. Adjustments to fees, expenses and allowances have been made twice since then—in 1999 and most recently in 2005. In accordance with section 8(d) of the SA Act, not more than a year is to elapse between one determination and another under section 7B(2). Hence adjustments to the fees, expenses and allowances payable to council members will be made regularly under the new legislation. These adjustments will be published in determinations which must be in writing, signed by the members and come into operation on a date specified in the determination. The determinations will be published in the *Western Australian Government Gazette*.

7. It is clear from the relevant legislation and Parliamentary debates on the Local Government Amendment Bill 2011, that the fees, expenses and allowances to which they refer are not intended to be full time salaries for council members. There is a recognised element of voluntary community service in the role of council members.

CURRENT INQUIRY

8. In discharging the responsibilities given to it by the Parliament, the Tribunal has in the context of its current inquiry, adopted the following approach—

- advertised for public submissions;
- written to local governments and regional local governments requesting information on the fees, expenses and allowances currently paid to elected council members;
- written to local governments and regional local governments providing them with the opportunity to raise any comments or issues relevant to the determination of fees, expenses and allowances which they would like the Tribunal to consider;
- interviewed a number of mayors, presidents, councillors, chief executive officers (CEOs) and representatives of the Western Australian Local Government Association (WALGA);
- collected a wide range of data on the role and time commitments of elected members;
- considered relevant labour market and economic data; and
- sought advice from its Statutory Adviser.

PUBLIC SUBMISSIONS

9. An advertisement calling for public submissions to the Tribunal’s inquiry was placed in *The West Australian* newspaper on Wednesday, 6 March 2013 with a closing date of Friday, 29 March 2013. The advertisement was also placed on the Tribunal’s website at—

<http://www.sat.wa.gov.au/LatestNews/Pages/Default.aspx>

10. Advertisements were placed in 36 regional community newspapers throughout March and April 2013 calling for public submissions.

11. The Tribunal received three submissions from the public and one from WALGA.

SURVEY

12. On 18 February 2013 the Tribunal surveyed each local government regarding the actual amount of fees, expenses and allowances claimed by each elected member in the 2011/12 financial year. The Tribunal also sought information regarding policies that local governments had adopted in relation to the payment of fees, expenses and allowances.

13. The Tribunal received responses from 118 local governments, while 31 provided no response.

INVITATIONS TO LOCAL GOVERNMENTS AND REGIONAL LOCAL GOVERNMENTS

14. The Tribunal's correspondence of 18 February also provided local governments and regional local governments with the opportunity to inform the Tribunal of any comments or issues relevant to the determination of fees, expenses and allowances.

15. Seven local governments and four individual councillors provided written submissions to the Tribunal.

REGIONAL AND METROPOLITAN MEETINGS AND FORUMS

16. Members of the Tribunal travelled to Dumbleyung, Kellerberrin, Mingenew, Mount Barker and Nannup to consult with local government representatives who were attending WALGA Zone meetings. Additional forums were convened for representatives of metropolitan local governments in Joondalup and Perth. Tribunal members also met with members of the Pilbara Regional Council in Perth. In total, Tribunal members met with more than 80 council members from 69 local governments during the course of the inquiry. The Tribunal was grateful to the individuals who made themselves available for meetings and appreciated the invaluable information and understanding of issues they provided.

ASSISTANCE FROM STATUTORY ADVISOR

17. The Tribunal sought assistance from Ms Jennifer Mathews, Director General, Department of Local Government (DLG), who has been appointed by the Premier in accordance with section 10(4)(c) of the SA Act to assist the Tribunal in its inquiries in so far as they relate to the fees, expenses and allowances of local government elected members. Ms Mathews attended several Tribunal meetings and provided advice and assistance.

RESEARCH UNDERTAKEN BY THE TRIBUNAL EXECUTIVE

18. The executive team of the Tribunal undertook a range of research including information related to—

- a. roles and responsibilities of mayors, presidents, chairpersons and council members;
- b. fees and allowances paid to council members in other Australian jurisdictions;
- c. economic and labour market indices;
- d. fees paid to chairpersons and members of State government boards and committees; and
- e. superannuation provisions that may be relevant to council members.

CONSIDERATIONS

19. In undertaking this determination, the Tribunal has been mindful of the magnitude and complexity of the local government sector. There are presently 138 local governments in Western Australia which in 2011/12 accounted for a total operating and capital expenditure of approximately \$4.25 billion.¹ There are approximately 15,000 full time equivalent employees in the local government sector and 1,245 elected councillors representing local governments which range in geographic area from 1.5 square kilometres to 371,696 square kilometres.² Under our system of government, councils are responsible at a strategic level for the planning and delivery of a broad range of services affecting the everyday lives of Western Australians in this diverse range of local governments.

20. This determination comes at a time when the constitutional recognition of local governments is on the national agenda. Presently, local governments are a creation of state governments and their roles are established in Western Australia by the LG Act. The governance structures applicable to the local government sector make it quite distinct in many respects from the state government sector although they share in common many of the compliance standards. At the forefront of the Tribunal's deliberations, has been the importance of a local government sector that attracts capable and committed councillors to provide leadership and good government at the community level.

21. The Tribunal is also mindful that this determination is being made at a time when the state government has an agenda to create fewer, more regionally focused local governments and to build a local government sector with the capacity to plan strategically. Accordingly, the Tribunal is intent on establishing a framework for this determination which will accommodate the prospect of structural change in the local government sector.

¹ Local Government Grants Commission data provided by the Department of Local Government, May 2013.

² WALGA, *Western Australian Local Government Directory 2013*, p.211

22. Sections 2.7 to 2.10 of the LG Act set out the role of local government councils, councillors, mayors, presidents and their deputies. In general terms the role of the council involves oversight and determination of policy as distinct from implementation and management of day to day operations.

ROLE OF A COUNCILLOR

23. The role of councillors is described in section 2.10 of the LG Act and in summary it involves—

- a. representing the interests of electors, ratepayers and residents of the district;
- b. providing leadership and guidance of the community;
- c. facilitating communication between the community and the council;
- d. participating in the local government's decision-making processes; and
- e. performing various other statutory functions.

24. At a practical level, councillors are required to attend and participate in meetings, read agenda papers and reports, and to liaise with residents in meeting their representational obligations. Councillors are legislators with powers under the LG Act to make local laws and regulations regarding such matters as construction and demolition of buildings, traffic management and environmental health. Another important statutory function is the town planning role of a local government as prescribed in the *Planning and Development Act 2005*. Important financial management responsibilities of councillors include strategic level budget planning and approval including approvals of significant infrastructure projects.

25. Local governments and their councillors are also subject to a range of State Government legislation including compliance with accountability and integrity obligations contained in legislation such as the *Corruption and Crime Commission Act 2003* and the *Freedom of Information Act 1992*.

26. In a submission from WALGA, councillors were represented as having dual roles—"board like" roles as the governing body which employs the CEO and "political" roles which no doubt include the work of representation, advocacy and legislation.³

27. The Tribunal sought information concerning any changes to the responsibilities of councillors which had occurred since 2005 when the LG Regulations setting fees, expenses and allowances were last adjusted. Key changes to local government responsibilities which have occurred since 2005 include the following—

- a. Local governments were required to establish Audit Committees as a consequence of legislative change in 2004.
- b. Local governments were required to develop Integrated Bushfire Risk Management Plans as a consequence of legislative change in 2005.
- c. Local governments were designated permit authorities with responsibility for administering certain building approvals under the *Building Act 2011*.
- d. As part of the Integrated Planning and Reporting Framework, Local governments were required to develop and adopt Strategic Community Plans and Corporate Business Plans by 30 June 2013 as a consequence of regulatory change in 2011.⁴

28. Some council members have a dual role as members of the councils of regional local governments. Part 3, Division 4 of the LG Act provides for the establishment of regional local governments. These regional local governments have establishment agreements which set out their purposes and these are related to cooperative arrangements as diverse as the management of waste, provision of certain services to constituent local governments and development of land. The members of the council of a regional local government are elected council members of one of the constituent local governments of the regional local government. The Tribunal is also charged with determining fees, expenses and allowances applicable to council members of regional local governments.

29. In relation to the council members of regional local governments, the Tribunal took into account that council members were in many respects delegates of the constituent councils and much of the decision making in relation to regional local governments occurred in the constituent councils themselves. Nevertheless, the Tribunal took account the representation role and other statutory responsibilities incumbent upon council members in regional local governments.

30. The Tribunal heard during the course of its inquiry that many council members were also called upon to participate in a range of community groups and activities as representatives of and leaders in their communities.

31. All these factors related to the role of a councillor have been taken into account by the Tribunal in making this determination.

ROLE OF A MAYOR, PRESIDENT AND CHAIRMAN

32. Additional to the responsibilities of a council member are those which are carried by mayors and presidents of local governments, chairpersons of regional local governments and their deputies.

33. Section 2.8 of the LG Act refers to a range of these responsibilities including—

- a. presiding at meetings;
- b. providing leadership and guidance;
- c. carrying out civic and ceremonial duties;

³ Submission from WALGA, 27 March 2013 p.5

⁴ Letter from Director General, Department of Local Government to Salaries and Allowances Tribunal, 3 May 2013.

- d. speaking on behalf of the local government; and
- e. liaising with the chief executive officer (CEO).

34. Mayors and presidents also have a range of statutory responsibilities including those to be undertaken in the event of emergencies (e.g. bushfires, floods) and signing of documents and reports on behalf of the council. The Tribunal has heard in the course of its inquiry that this role is equivalent to full-time employment in larger local governments.

35. These factors have been taken into account by the Tribunal in differentiating amounts of fees, expenses and allowances payable to mayors, presidents, chairpersons and their deputies.

ROLE OF THE LORD MAYOR

36. The Tribunal took into account that the role of Lord Mayor could be distinguished from that of other mayors. This distinction recognised the significant ceremonial and civic responsibilities associated with being a representative of the State's capital city, together with an involvement in state and national planning initiatives.

SUBMISSIONS

37. Submissions from local governments and individuals provided a valuable source of information and a diversity of views to inform the Tribunal's deliberations. Matters raised or suggestions made in submissions are summarised briefly in this section.

- a. The contribution made by elected members to the social, environmental, economic and financial development of communities has been undervalued.
- b. A council member is required to have a good knowledge of a wide range of legislation, understand good governance, be approachable and accountable and be a strategic thinker who can plan for the community's future. Remuneration should reflect the level of expertise, knowledge and commitment required of a council member.
- c. The roles and responsibilities of council members are comparable to those of members of Parliament and members of a board of directors.
- d. The life of a council member can be stressful when there are fractured relationships within the council and the demands of the council conflict with a council member's personal life.
- e. An amount for fees and allowances should be determined for each council collectively rather than an amount for individual members. The collective amount should be divided between the council members. This would recognise that members of councils with fewer elected members shoulder a greater work load than those with less council members.
- f. Training and professional development should be encouraged with airfares and accommodation paid for by the council. Council members who work full-time find it difficult to take time off work to undertake training during week days.
- g. Council members should be able to "salary sacrifice" part or all of their fees and allowances into superannuation.

38. WALGA made a substantial submission to the Tribunal's inquiry making observations regarding the evolving role of council members, presenting comparisons with local governments in other Australian jurisdictions and recommending a framework for setting fees and allowances in Western Australia. The WALGA framework proposed—

- a. variable rates for fees and allowances based on allocating local governments to a greater number of bands than is the case with the Tribunal's determination for local government CEO remuneration;
- b. that fees and allowances should be increased and set as precise figures and not a range;
- c. that the increasing work load and time commitment of mayors and presidents should be recognised;
- d. that the importance of the capital city and the Lord Mayor's role should be recognised; and
- e. annual allowances in lieu of the reimbursement of expenses should be rolled into general allowances for simplicity and flexibility.

39. WALGA also noted that legislative change would be required to facilitate the framework it proposed.

40. The Tribunal took all the written submissions into account as well as comments made by local governments in the context of completing the Tribunal's survey of the current fees, expenses and allowances being paid or provided to council members.

REGIONAL AND METROPOLITAN MEETINGS AND FORUMS

41. At the meetings and forums with council members, there were many aspects of local government work brought to the Tribunal's attention including several issues of particular importance—the barriers to entry into the role of councillor, the case for variable rates of fees and allowances and issues associated with training for council members.

42. *Barriers to entry*—Many councillors commented that the present fees and allowances payable to council members tended to attract candidates who were financially independent and had time on their hands; in particular, retirees. There was a sense that low fees and allowances put the role of councillor out of the reach of most young people and could be considered elitist. The Tribunal heard that the age profile of councils did not reflect the demography of their constituents or rate payers. There was a common view expressed that if the fees and allowances were higher, a broader demographic might be attracted to stand for election to councils.

43. *Variable rates for fees and allowances*—The vast majority of councillors expressed the view that the fees and allowances payable to elected council members should vary according to the magnitude of the responsibilities which each council was required to manage. The Tribunal heard that councils with very large populations, budgets and infrastructure projects to manage at the strategic level, should be able to pay their elected members more than councils managing much smaller populations, budgets and infrastructure projects. Most councillors were disposed to the rates of fees and allowances being varied according to the Bands applicable to the Tribunal's determination on Local Government CEOs. The Tribunal was also told of the significant differences between the responsibilities residing with mayors, presidents and chairpersons of local governments and regional local governments relative to the responsibilities residing with deputies and council members. There was universal acknowledgement that mayors, presidents and chairpersons had a much more onerous role than their deputies and other council members. It was also agreed that these different levels of responsibilities should be reflected in the fees and allowances payable to them.

44. *Training*—The view was widely expressed that the responsibilities and complexity of the role of a councillor had grown over time and there was a need for training. The Tribunal heard that there was a significant variance in the professionalism and capacity of councillors with many councils having from time to time, one of their elected members either unable or unwilling to fully shoulder their responsibilities. While the vast majority of councillors were considered to be dedicated and competent, many councillors had experience of an elected member who rarely contributed to the committee and other work of councils and some of these were "one issue" councillors. Many council members expressed the view that an incentive would be beneficial to reward elected members who had undertaken accredited training. However, the Tribunal also heard that for some councils based in regional locations with small budgets, the cost of training together with related travel and accommodation expenses, was prohibitive.

SURVEY RESULTS

45. The response rate to the Tribunal's survey of the current fees, expenses and allowances paid to council members was approximately 80 per cent, inclusive of both local governments and regional local governments. This gave the Tribunal a reasonably high level of confidence in the data provided with the *caveat* that the Tribunal's executive did not have the opportunity to cross check the responses to the survey from other sources to ensure that the survey instrument was effective in capturing all the relevant data.

46. The data was analysed with respect to a range of factors and it was noted that there were significant variances according to the band to which a local government was allocated for the purposes of the Tribunal's determination for the remuneration of local government CEOs.⁵

47. In relation to attendance fees, survey data showed that all councillors, mayors and presidents of local governments allocated to band 1 and band 2 (generally the local governments with the largest budgets and population), claimed an annual allowance for attendance at meetings in lieu of a meeting attendance fee. All these councillors claimed the maximum annual attendance allowance of \$7,000 and more than 85 per cent of the mayors and presidents of band 1 and band 2 local governments claimed the maximum attendance allowance of \$14,000. More than 80 per cent of councillors from local governments allocated to band 3 claimed annual attendance allowances instead of meeting attendance fees, but only one third of councillors from band 4 local governments claimed annual attendance allowances.

48. The proportion of local governments whose councillors claimed annual attendance allowances and the amount of those allowances was smaller for local governments allocated to band 3 and band 4. The smaller the budget of the local government as indicated by the band allocation, the less likely the council member was to receive an annual attendance allowance instead of a meeting fee. Similarly, the survey data showed that local governments with smaller budgets paid smaller attendance fees and allowances.

49. The high correlation between band allocation, the size of the local government budget and the size of the attendance fee or allowance, indicated to the Tribunal that the capacity of a local government to pay fees and allowances was an important factor. The Tribunal also considered that this high correlation between band allocation and whether a local government paid an annual attendance allowance was indicative of local governments taking into account their relative work load, weight of responsibilities and other factors in deciding whether to adopt the practice of paying annual attendance allowances in lieu of meeting attendance fees.

50. Mayors and presidents of local governments are entitled to an annual allowance in addition to attendance fees or an annual attendance allowance. The Tribunal took into account that the annual allowance for a mayor or president was formerly described in the LG Act as an "entertainment" allowance. The legislation was subsequently amended to make the nature of the allowance more general. The amounts currently prescribed in the LG Regulations for a mayoral or presidential allowance are a minimum of \$600 and a maximum of \$12,000 or 0.002 of revenue (whichever is the greater amount, but no more than \$60,000). The Tribunal's survey showed that 81 per cent of mayors in local governments allocated to band 1 received between \$58,000 and the maximum annual allowance of \$60,000. Approximately 23 per cent of mayors and presidents from local governments allocated to band 2 claimed the maximum amount and the average for all claims was \$33,400 per annum. Local governments allocated to band 3 were found to have no mayors or presidents claiming the maximum amount. The average amount claimed by these mayors or presidents was \$10,315. There was a wide range in the amounts claimed by these mayors or presidents with the highest allowance being \$25,820 and the lowest \$960. In local governments allocated to band 4, no mayors or

⁵ The band allocations to which this analysis refers are set out in Schedule 1 of this determination.

presidents claimed the maximum amount and the average amount claimed was \$5,597. The highest band 4 allowance was \$12,000 and the lowest was \$600. The broad range of annual allowances claimed by mayors and presidents in their respective local government bands was indicative of a significant range of factors being taken into account by local governments including the capacity to pay, work load and weight of responsibilities. The Tribunal considered the broad range of mayoral and presidential allowances may also have been reflective of culture and practice where individual local governments, mayors or presidents claiming relatively small allowances regarded their allowances as being tokens rather than substantial recognition for additional responsibilities.

51. In relation to the reimbursement of expenses, the survey data showed there was considerable variance in practice across local governments. While the reimbursement of certain expenses is prescribed in the LG Regulations, for example, travel costs and child care associated with attendance at council meetings, councils have considerable discretion to establish policies for the payment or reimbursement of other types of expenses.

52. The survey indicated that there were at least 29 different types of expenses being reimbursed to council members by local governments. These included grooming, clothing, dry cleaning, gym memberships, professional development (e.g. conference fees and university fees), parking fees and office equipment.

53. The Tribunal noted that there were some local governments whose council members typically did not claim their entitlement to travel expenses for attendance at meetings, while others did make claims. Furthermore, local governments allocated to band 1 and band 2 were more likely to pay higher travel expenses for councillors including travel to attend training, professional development courses and forums of local governments at state and national level.

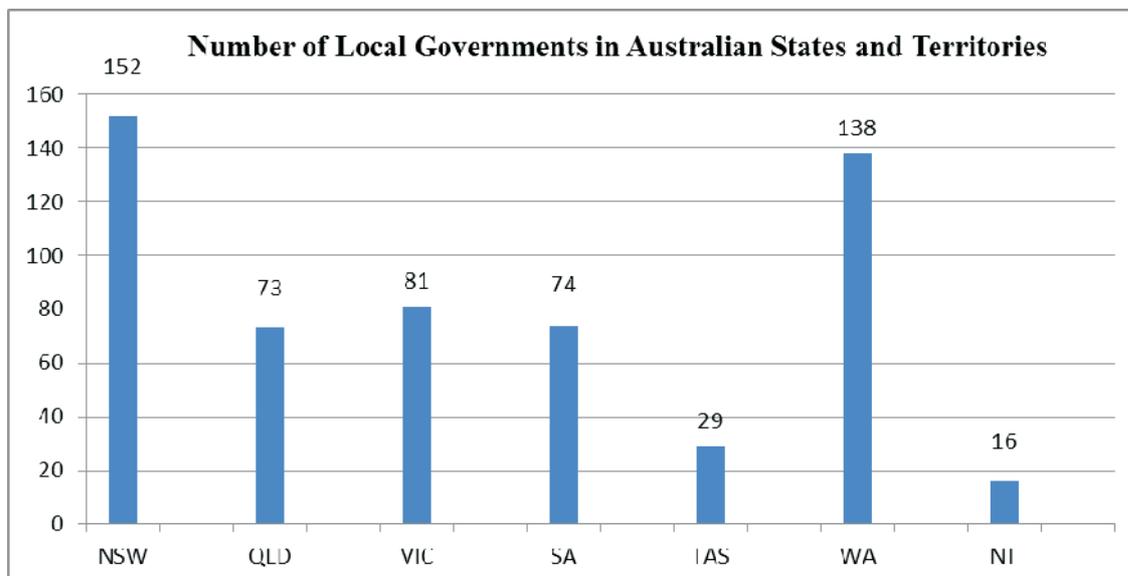
54. Other types of expenses for which councils had established policies included clothing and grooming, stationery, university fees, brief cases, lap top computers, iPads, printers, motor vehicles, car parking and entertaining rate payers.

INTERSTATE COMPARISONS

55. The Tribunal considered models for payment of elected council members adopted in other Australian states for comparative purposes.

56. The structure of local governments across Australia varies considerably with some states having fewer local governments than Western Australia. Queensland, for example, is a geographically vast state like Western Australia, but it has almost half the number of local governments and a much larger population—approximately 4.6 million population compared with Western Australia's 2.5 million population. The variances between local government structures should be borne in mind when making comparisons between jurisdictions. Table 1 below indicates the number of local governments in Australian States and Territories.

Table 1: Number of Local Governments in Australian States and Territories



Source: <http://australia.gov.au/directories/state-territory-and-local-government-directories/states-territories-and-local-government>

57. The Tribunal found that the range of annual fees for councillors and for mayors, presidents and chairpersons across Australia was considerable. Table 2 below, sets out the annual fees for councillors, mayors, presidents and chairpersons of local governments in selected Australian jurisdictions.

Table 2: Minimum and maximum annual fees for councillors, mayors, presidents and chairpersons of local governments in selected jurisdictions as at 30 June 2013

State	Councillor/Member Annual Fee		Mayor/President/Chairperson Annual Fee	
	Min	Max	Min	Max
WA	\$2,400	\$7,000	\$600	\$60,000
SA	\$5,427	\$18,234	\$21,708	\$72,937
VIC	\$7,542	\$26,843	\$53,684	\$85,741
NSW	\$7,930	\$26,220	\$8,430	\$76,390
TAS	\$8,087	\$31,513	\$20,217	\$78,784
QLD	\$22,492	\$130,035	\$73,803	\$217,869

Source: SA: Determination 6 of 2010—Members of Local Government Councils.

VIC: Victoria Government Gazette No. S 360 Friday 26 October 2012.

NSW: Report and Determination of the Local Government Remuneration Tribunal, 8 April 2013

TAS: Councillor Allowances Information Sheet, November 2012

QLD: Local Government Remuneration and Discipline Tribunal Report 2012

58. The Tribunal found that Western Australia had the lowest annual meeting attendance allowances for council members in Australia and there was a wide variety across the various jurisdictions. While this could be attributed in part to the structural differences between local governments in different jurisdictions, the Tribunal also considered that meeting attendance allowances had lagged behind in Western Australia.

59. The Tribunal also found there were a variety of models adopted in the various Australian states for compensating elected local government members. Although each state has adopted a different classification model, all display similarities with the Western Australian model adopted by the Tribunal for local government CEOs.

60. Common factors identified in various Australian models for determining the fees and allowances of local governments are listed below—

- a. Population (NSW, Qld, Vic, SA)
- b. Revenue/budget (Vic, SA)
- c. Geographic size (NSW, SA)
- d. Development—economic, infrastructure, community (NSW, Qld, SA)
- e. Regional significance (NSW)
- f. Diversity of communities served/demographic (NSW, Qld, SA)

61. In Western Australia, the adopted model is based on the analysis of the following key features of local governments—

- a. Expenditure (Operating and Capital) where the capital expenditure is based on a three year rolling average;
- b. Risk management;
- c. Asset management and infrastructure planning;
- d. Diversity of services and the types of services delivered;
- e. Population of Community Served;
- f. Staff Numbers;
- g. Focus of the CEO Role and Council Profile; and
- h. Distinguishing Features of local governments (e.g. major growth and development, significant social/economic issues management, environmental management issues, demand for services to non-residents).

62. Although this model was developed in the context of the remuneration of local government CEOs, the Tribunal considered the model to be relevant because of the high correlation between the magnitude of the responsibilities of the CEO and the magnitude of the responsibilities of the council members to lead, govern and make strategic decisions for their local government areas.

LABOUR MARKET AND ECONOMIC INDICES

63. The Tribunal considered a range of labour market and economic indices to assist in making adjustments to the amounts of fees and allowances payable to council members. The increase in the Perth Consumer Price Index (CPI) and the Western Australian Wages Price Index (WPI) over the period from 2005 to 2013 were considered to be important indicators of the change in value of the fees and allowances set in 2005 for council members. The Perth CPI is a cost of living index while the WPI is an index of the cost of wages in Western Australia which is arguably more relevant to the purpose of attendance fees.

64. Table 3 below shows the extent to which the value of the annual attendance fees for council members has been eroded by inflationary factors since the fees were set at a maximum of \$7,000 in 2005. The Tribunal noted that these factors did not take into account the value of the additional responsibilities shouldered by council members since 2005.

Table 3: Maximum annual attendance fees for council members adjusted by Perth CPI and Western Australia's WPI for the period 2005 to 2013

Maximum Annual Attendance Fees		
Year	Adjusted by Perth CPI	Adjusted by WA WPI
2005	\$7,000	\$7,000
2006	\$7,294	\$7,322
2007	\$7,469	\$7,673
2008	\$7,790	\$8,126
2009	\$7,962	\$8,565
2010	\$8,232	\$8,822
2011	\$8,446	\$9,184
2012	\$8,607	\$9,597
2013	\$8,813	\$9,952

Source : CPI: ABS Cat. 6401.0; WPI: ABS Cat. 6345.0

65. For comparative purposes, annual attendance fees paid by the state government to members of boards and committees were also considered by the Tribunal to be relevant comparators in the "labour market" applicable to council member attendance fees. The Tribunal was advised that members (excluding the chairpersons) of governing boards were currently paid an annual fee in a range from approximately \$7,000 to \$33,000. The actual annual attendance fees varied according to a number of factors related to the type and impact of each board or committee.

RANGE OF FEES VERSUS A SET AMOUNT

66. Consideration was given to whether the Tribunal ought to determine specific amounts for fees, expenses and allowances or whether to exercise its statutory prerogative to determine maximum and minimum amounts, that is, a range. The submission from WALGA made the case for specific amounts to be determined. In relation to such payments as attendance fees and mayoral allowances, this might be considered to have the advantage of de-politicising the payments and preventing council members from being accused of self-interest. The views of WALGA on this matter were taken into account along with the views of the many council members with whom it met.

67. The Tribunal was aware that a small differential in fees and allowances might have a significant impact on those local governments and regional local governments with small budgets. Individual local governments and regional local governments were considered to be best placed to assess their own financial capacity to pay their council members.

TRAINING FOR ELECTED COUNCIL MEMBERS

68. The Hon Tony Simpson, Minister for Local Government, and his predecessor asked the Tribunal to examine the issue of providing incentives for councils to be trained. The aim was to increase the capacity of council members both collectively and individually to acquit their responsibilities with a high degree of professionalism and acumen. This is an important element of the State Government's reform initiative to increase the capacity of local governments to undertake their critical role in the governance and delivery of services to the community.

69. The desire for well-trained council members was shared by WALGA and all those in the local government sector with whom the Tribunal consulted during the course of its inquiry. Some observations regarding the need for training and some of the barriers to accessing training have been discussed above.

70. There are currently gaps in the availability, scope and recognition of training packages for council members. The Tribunal considered that at this point it was not possible to provide incentives or rewards for completion of training in the absence of widely accessible and nationally recognised training packages. The Department of Local Government is currently exploring options with training providers for the delivery of council member training within the Australian Qualifications Framework including options for online training.

71. The Tribunal will continue to monitor the situation with a view to developing a means of rewarding training as part of the framework of fees, expenses and allowances in the next determination or sooner if the opportunity arises.

SUPERANNUATION

72. During the course of the inquiry a number of council members inquired as to whether the Tribunal could determine that meeting attendance fees and allowances could be paid into superannuation funds. The Tribunal found that there was already legislative provision for such arrangements to be made by local governments under the *Income Tax Assessment Act 1936* (Cwlth). In addition, the Tribunal found that there was an Australian Tax Office Interpretive Decision which allowed for council members and councils to agree for the whole or part of their attendance fees to be paid into a superannuation fund. References to the sources of this information have been included in explanatory notes attached to the end of the determination.

ANNUAL REVIEW PROCESS AND PROVISION OF DATA TO THE TRIBUNAL

73. The Tribunal took into account that it is obliged under the SA Act to make annual inquiries and determinations in relation to the fees, expenses and allowances payable to local government council members. In undertaking regular annual reviews, the Tribunal will require current and timely information regarding the amounts of council member fees, expenses and allowances that local governments pay or reimburse. In this regard, the Tribunal would highly recommend that local governments keep accurate records of such payments made in accordance with each particular section of this determination so that relevant data can be provided to the Tribunal each year when requested.

74. By establishing appropriate record keeping and reporting processes relevant to the various provisions of this determination at the outset, local governments will avoid time consuming processes to capture data after the event. Local governments may wish to consider recording payments and reimbursements to council members in the context of their annual reporting obligations to avoid double handling. While the Tribunal has considerable powers under the SA Act to subpoena information relevant to its inquiries, it would prefer to work cooperatively with local governments to inform its decision making and meet its statutory obligations.

GENERAL ADJUSTMENT TO SALARIES

75. The Tribunal is currently inquiring with respect to the determination of a general salary adjustment affecting almost all of the office holders within its jurisdiction as at 1 July 2013. Any general salary adjustment made will not have any effect on the payments and reimbursements in this determination.

76. Changes to the band allocations of local governments for the purposes of the remuneration of local government chief executive officers and the fees, expenses and allowances paid to council members will be considered each year in an inquiry separate from any inquiry into a general salary adjustment. Local governments will continue to have the opportunity to make submissions to the Tribunal regarding band allocations and the Tribunal will continue to review band allocations in the event of any local government amalgamations.

DECLARATION OF INTEREST

77. During the course of this inquiry, the spouse of one of the Tribunal members nominated for election to a position on the council of a local government. That Tribunal member declared the interest and withdrew from further participation in the determination of amounts payable to elected council members.

CONCLUSIONS

78. During the course of the inquiry, it became clear to the Tribunal that the fees and allowances payable to council members, mayors, presidents, chairmen and their deputies required a significant adjustment.

79. Meeting attendance fees were found to have lagged behind those paid to council members in other Australian jurisdictions. Indeed, council members in Western Australia were found to be the lowest paid of any of the Australian states. Council member meeting fees were also found to be capped at around the minimum of the annual attendance fees payable to Western Australian State government board and committee members.

80. The Tribunal concluded that the present framework of fees and allowances did not adequately take into account the significant weight of responsibilities shouldered by council members in the largest and most populace local governments. In establishing a new framework for the payment of fees and allowances, the Tribunal therefore adopted a banding model with local government allocated to four bands like those used in determining the remuneration of local government chief executive officers. This approach enabled the Tribunal to properly differentiate between the weight of responsibilities carried by council members, mayors, presidents and chairmen in different sized local governments.

81. While adjustments to fees and allowances generally aligned to CPI and WPI were considered to be appropriate for council members in local governments allocated to bands 3 and 4, the Tribunal concluded that they were inadequate for council members in local governments allocated to bands 1 and 2. The Tribunal decided that increases in the amount of fees and allowances payable to council members who shouldered higher levels of responsibility should be aligned more closely with the fees and allowances paid to Western Australian Government board and committee members and council members in other Australian states.

82. The Tribunal also concluded that there should be sufficient breadth in the range of amounts determined for local governments in each band to enable councils to exercise discretion to their own satisfaction. It was the Tribunal's intent that councils should be able to take into account all the factors which were particular and relevant to their local government area and community. This is reflected in the overlapping ranges of amounts for fees and allowances in the determination which follows.

83. In relation to the fees and allowances payable to council members of regional local governments, the Tribunal decided that one range was adequate and there was no need to determine ranges particular to the band allocation of the regional local government.

84. The determination of amounts for reimbursement of expenses for local government council members presented particular challenges for the Tribunal. Regulations provide significant discretion for local governments to approve expenses for reimbursement and the Tribunal found that there were at least 29 different types of approved expenses. The Tribunal considered that the fundamental principle for reimbursement of expenses was that council members should not be out of pocket for properly incurred expenses that enabled them to fulfil their duties as council members. Nevertheless,

the Tribunal did not wish that reimbursement of expenses should be a means by which council members could profit from their office or top up fees and allowances already paid. Consequently, the Tribunal has determined wherever possible that actual amounts of expenses shall be reimbursed.

85. Where an annual allowance in lieu of reimbursement of expenses has been determined, the Tribunal decided that it should be a nominal amount of \$50 and any approved expense beyond this amount could be reimbursed up to the actual amount of the expense in accordance with the LG Regulations. If the Tribunal were to determine a higher amount for an annual expense allowance, it would be payable under the LG Regulations to all council members of any applicable local government regardless of the expenses incurred. The Tribunal did not consider that to be consistent with its fundamental principle for reimbursement of expenses.

86. In concluding this, the first determination of the Tribunal with respect to local government council members, the members of the Tribunal would like to acknowledge all those who generously shared their wealth of knowledge and experience, whether in person or by written submissions. During the course of the inquiry, the Tribunal became acutely aware of the great variety of experiences of council members and the huge impact that local governments have on the good governance of Western Australian communities. The Tribunal also wishes to thank Ms Jenny Mathews, Director General of the Department of Local Government, for the invaluable advice and assistance provided in person and by her staff. Special thanks should also go to Mr Paul Evans, State Solicitor, and Mr Geoff Lawn, Senior Parliamentary Counsel, for their discerning advice and the astute insight which they provided to the Tribunal. The Tribunal also expresses its appreciation to the Executive Officer and his team for the research and dedication that has enabled the compilation of this determination.

87. The Tribunal will monitor the outcome of this determination closely and will make adjustments as necessary.

The determination will now issue.

Signed this 19th day of June 2013.

W. S. COLEMAN AM,
Chairman.

C. A. BROADBENT,
Member.

Salaries and Allowances Tribunal

SALARIES AND ALLOWANCES ACT 1975

DETERMINATION FOR LOCAL GOVERNMENT ELECTED COUNCIL MEMBERS PURSUANT TO SECTION 7B

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Explanatory Notes

PART 1: INTRODUCTORY MATTERS

This Part deals with some matters that are relevant to the determination generally.

1.1 Short title

This determination may be cited as the *Local Government Elected Council Members Determination No. 1 of 2013*.

1.2 Commencement

This determination comes into operation on 1 July 2013.

1.3 Content and intent

(1) This determination provides for the amount of fees, expenses and allowances to be paid or reimbursed under the *Local Government Act 1995* (the LG Act) Part 5 Division 8 to elected council members. The determination applies to elected council members who are members of the council of a local government. Under the LG Act section 3.66, it also applies to elected council members who are members of the council of a regional local government.

(2) Where the Tribunal has determined a specific amount for a fee, expense or allowance for elected council members of a local government or regional local government, the amount determined by the Tribunal will be payable to an eligible elected council member.

(3) Where the Tribunal has determined a minimum and maximum amount for a fee, expense or allowance for elected council members of a local government or regional local government, each local government or regional local government council will set an amount within the relevant range determined and the amount set will be payable to an eligible elected council member.

(4) The fees, expenses and allowances determined are intended to recognise the responsibilities of elected council members, mayors and presidents of local governments and chairmen of regional local governments and to remunerate them for the performance of the duties associated with their office.

1.4 Terms used

In this determination, unless the contrary intention appears—

chairman means a person who is elected or appointed from among the members of a council of a regional local government as its chairman;

committee meeting means a meeting of a committee of a council where the committee comprises—

- (a) council members only; or
- (b) council members and employees of the local government or regional local government;

council—

- (a) in relation to a local government, means the council of the local government;
- (b) in relation to a regional local government, means the council of the regional local government;

council member—

- (a) in relation to a local government—
 - (i) means a person elected under the LG Act as a member of the council of the local government; and
 - (ii) includes the mayor or president of the local government;
- (b) in relation to a regional local government—
 - (i) means a person elected under the LG Act as a member of the council of a local government and who is a member of the council of the regional local government; and
 - (ii) includes the chairman of the regional local government;

LG Regulations means the *Local Government (Administration) Regulations 1996*;

mayor means a council member holding the office of mayor, whether elected by the council from amongst its members or elected by the electors;

operating revenue means revenue that is operating revenue for the purposes of the Australian Accounting Standards made and amended from time to time by the Australian Accounting Standards Board;

president means a council member holding the office of president, whether elected by the council from amongst its members or elected by the electors.

1.5 Pro rata payments

The amount of a person's entitlement to an annual attendance fee or annual allowance specified in this determination shall be apportioned on a pro rata basis according to the portion of a year that the person holds office as a council member and is eligible for the relevant annual attendance fee or annual allowance.

1.6 Local government band allocations

Unless the contrary intention appears, local governments are allocated in this determination to the bands set out in Schedule 1 of this determination. Regional local governments are not allocated to bands.

PART 2: MEETING ATTENDANCE FEES

This Part deals with fees payable to council members for attendance at council meetings and meetings as set out in section 5.98(1) and (2A) of the LG Act and regulation 30(3A) of the LG Regulations.

In particular it deals with fees for attendance at the following meetings—

- (a) *council meetings;*
- (b) *council committee meetings;*
- (c) *Western Australian Local Government Association (WALGA) Zone meetings;*
- (d) *Main Roads Western Australia Regional Road Group meetings*
- (e) *regional local government meetings where an elected council member is deputising;*
- (f) *meetings attended at the request of a Minister of the Crown;*
- (g) *meetings where an elected council member is a delegate of the council.*

2.1 GENERAL

(1) Pursuant to section 5.98(1)(b) of the LG Act, a council member who attends a council meeting is entitled to be paid the fee set by the local government or the regional local government within the range determined in section 2.2 of this Part for council meeting attendance fees.

(2) Pursuant to section 5.98(1)(b) and (2A)(b) of the LG Act, a council member who attends a committee meeting or (at the request of the local government or regional local government) a meeting of a type prescribed in regulation 30(3A) of the LG Regulations is entitled to be paid the fee set by the local government or regional local government within the range determined in section 2.3 of this Part for attending committee meetings or, as the case requires, meetings of that type.

(3) Each of the following meetings is a type of meeting prescribed in regulation 30(3A) of the LG Regulations—

- (a) meeting of a WALGA Zone, where the council member is representing a local government as a delegate elected or appointed by the local government;
- (b) meeting of a Regional Road Group established by Main Roads Western Australia, where the council member is representing a local government as a delegate elected or appointed by the local government;
- (c) council meeting of a regional local government where the council member is the deputy of a member of the regional local government and is attending in the place of the member of the regional local government;
- (d) meeting other than a council or committee meeting where the council member is attending at the request of a Minister of the Crown who is attending the meeting;
- (e) meeting other than a council meeting or committee meeting where the council member is representing a local government as a delegate elected or appointed by the local government.

(4) Pursuant to section 5.99 of the LG Act, a local government or regional local government may decide by an absolute majority that instead of paying council members an attendance fee referred to in section 5.98(1) of the LG Act, it will pay all council members who attend council or committee meetings a fee set within the range for annual fees determined in section 2.4 of this Part.

(5) Regulation 30(3C) of the LG Regulations prevents the payment of a fee to a council member for attending a meeting of a type prescribed in regulation 30(3A) of those regulations if—

- (a) the person who organises the meeting pays the council member a fee for attending the meeting; or
- (b) the council member is paid an annual fee in accordance with section 5.99 of the LG Act; or
- (c) the council member is deputising for a council member at a meeting of a regional local government and the member of the regional local government is paid an annual fee in accordance with section 5.99 of the LG Act.

(6) In determining the fees set out in this Part, the Tribunal has taken into account a range of factors including—

- (a) the time required to prepare adequately for the meetings including consideration of agenda papers, site visits related to agenda items and consultation with council staff and community members;
- (b) the role of the council member, mayor or president including, but not limited to, representation, advocacy, and oversight and determination of policy and local legislation;
- (c) particular responsibilities associated with the types of meetings attended;
- (d) responsibilities of a mayor, president or chairman to preside over meetings; and
- (e) the relative “size” of the local government as reflected in the Tribunal’s local government banding model.

(7) The Tribunal has not determined a specific meeting attendance fee for the purposes of section 5.98(1)(a) or (2A)(a) of the LG Act.

2.2 COUNCIL MEETING ATTENDANCE FEES—PER MEETING

(1) The ranges of fees in Table 1 and Table 2 apply where a local government or regional local government decides by an absolute majority to pay a council member a fee referred to in section 5.98(1)(b) of the LG Act for attendance at a council meeting.

Table 1: Council meeting fees per meeting—local governments

Band	For a council member other than the mayor or president		For a council member who holds the office of mayor or president	
	Minimum	Maximum	Minimum	Maximum
1	\$600	\$750	\$600	\$1,125
2	\$363	\$550	\$363	\$738
3	\$188	\$388	\$188	\$600
4	\$88	\$225	\$88	\$463

Table 2: Council meeting fees per meeting—regional local governments

	For a council member other than the chairman		For a council member who holds the office of chairman	
	Minimum	Maximum	Minimum	Maximum
All regional local governments	\$88	\$225	\$88	\$463

2.3 COMMITTEE MEETING AND PRESCRIBED MEETING ATTENDANCE FEES—PER MEETING

(1) The ranges of fees in Table 3 and Table 4 apply where a local government or regional local government decides to pay a council member a fee referred to in—

- (a) section 5.98(1)(b) of the LG Act for attendance at a committee meeting; or
- (b) section 5.98(2A)(b) of the LG Act for attendance at a meeting of a type prescribed in regulation 30(3A) of the LG Regulations.

Table 3: Committee meeting and prescribed meeting fees per meeting—local governments

Band	For a council member (including the mayor or president)	
	Minimum	Maximum
1	\$300	\$375
2	\$181	\$275
3	\$94	\$194
4	\$44	\$113

Table 4: Committee meeting and prescribed meeting fees per meeting—regional local governments

	For a council member (including the chairman)	
	Minimum	Maximum
All regional local governments	\$44	\$113

2.4 ANNUAL ATTENDANCE FEES IN LIEU OF COUNCIL MEETING AND COMMITTEE MEETING ATTENDANCE FEES

(1) The ranges of fees in Table 5 and Table 6 apply where a local government or regional local government decides by an absolute majority that, instead of paying council members an attendance fee referred to in section 5.98(1) of the LG Act, it will pay all council members who attend council or committee meetings an annual fee.

Table 5: Annual attendance fees in lieu of council meeting and committee meeting attendance fees—local governments

Band	For a council member other than the mayor or president		For a council member who holds the office of mayor or president	
	Minimum	Maximum	Minimum	Maximum
1	\$24,000	\$30,000	\$24,000	\$45,000
2	\$14,500	\$22,000	\$14,500	\$29,500
3	\$7,500	\$15,500	\$7,500	\$24,000
4	\$3,500	\$9,000	\$3,500	\$18,500

Table 6: Annual attendance fees in lieu of council meeting and committee meeting attendance fees—regional local governments

	For a council member other than the chairman		For a council member who holds the office of chairman	
	Minimum	Maximum	Minimum	Maximum
All regional local governments	\$1,750	\$10,000	\$1,750	\$15,000

PART 3: ANNUAL ALLOWANCE FOR A MAYOR, PRESIDENT, CHAIRMAN, DEPUTY MAYOR, DEPUTY PRESIDENT AND DEPUTY CHAIRMAN

This Part deals with annual allowances payable to mayors, presidents, chairmen and their deputies in addition to any entitlement to meeting attendance fees or the reimbursement of expenses pursuant to section 5.98 of the LG Act.

In particular, this Part deals with—

- (a) the entitlement of a mayor, president or chairman to an additional allowance; and*
- (b) the discretion of a local government or regional local government to pay an additional allowance to a deputy mayor or deputy president or deputy chairman.*

3.1 GENERAL

(1) Pursuant to section 5.98(5) of the LG Act, the mayor or president of a local government and the chairman of a regional local government are entitled, in addition to any fees or reimbursement of expenses payable under section 5.98(1) or (2), to be paid the annual allowance set by the local government or regional local government within the range determined in section 3.2 of this Part.

(2) Pursuant to section 5.98A(1) of the LG Act, a local government or regional local government may decide by an absolute majority to pay the deputy mayor or deputy president of the local government, or the deputy chairman of the regional local government, an allowance of up to the percentage that is determined by the Tribunal of the annual allowance to which the mayor or president of the local government, or the chairman of the regional local government, is entitled under section 5.98(5) of the LG Act. That percentage is determined in section 3.3 of this Part. This allowance is in addition to any fees or reimbursement of expenses payable to the deputy mayor, deputy president or deputy chairman under section 5.98 of the LG Act.

(3) In determining the allowances set out in this Part, the Tribunal has taken into account a range of factors including the following—

- (a) the leadership role of the mayor, president or chairman;
- (b) the statutory functions for which the mayor, president or chairman is accountable;
- (c) the ceremonial and civic duties required of the mayor, president or chairman, including local government business related entertainment;
- (d) the responsibilities of the deputy mayor, deputy president or deputy chairman when deputising;
- (e) the relative “size” of the local government as reflected in the Tribunal’s local government banding model;
- (f) the civic, ceremonial and representation duties particular to the Lord Mayor of Western Australia’s capital city.

3.2 ANNUAL ALLOWANCE FOR A MAYOR, PRESIDENT OR CHAIRMAN

(1) The ranges of allowances in Table 7 apply where a local government sets the amount of the annual local government allowance to which a mayor or president is entitled under section 5.98(5) of the LG Act, subject to subsections (3) and (4).

(2) The range of allowances in Table 8 apply where a regional local government sets the amount of the annual local government allowance to which a chairman is entitled under section 5.98(5) of the LG Act, subject to subsection (5).

(3) Despite the provisions of subsection (1), the Perth City Council is to set the amount of the annual local government allowance to which the Lord Mayor is entitled within the range of \$60,000 to \$130,000.

(4) The maximum annual local government allowance for a mayor or president of a local government shall not exceed the maximum allowance applicable to that local government in Table 7 or 0.2 per cent of the local government’s operating revenue for the 2012-2013 financial year, whichever is the lesser.

(5) The maximum annual local government allowance for a chairman of a regional local government shall not exceed the maximum allowance applicable to that regional local government in Table 8 or 0.2 per cent of the regional local government’s operating revenue for the 2012-2013 financial year, whichever is the lesser.

Table 7: Annual allowance for a mayor or president of a local government

Band	For a mayor or president	
	Minimum	Maximum
1	\$50,000	\$85,000
2	\$15,000	\$60,000
3	\$1,000	\$35,000
4	\$500	\$19,000

Table 8: Annual allowance for a chairman of a regional local government

	For a chairman	
	Minimum	Maximum
All regional local governments	\$500	\$19,000

3.3 ANNUAL ALLOWANCE FOR A DEPUTY MAYOR, DEPUTY PRESIDENT OR DEPUTY CHAIRMAN

(1) The percentage determined for the purposes of section 5.98A(1) of the LG Act is 25 per cent.

PART 4: EXPENSES TO BE REIMBURSED

This Part deals with expenses for which council members are entitled to be reimbursed pursuant to section 5.98(2) of the LG Act.

In particular, this Part deals with—

- (a) *expense reimbursements prescribed specifically in regulation 31(1) of the LG Regulations that must be paid by a local government or regional local government when claimed by a council member (i.e. telephone and facsimile rental, child care and travel); and*
- (b) *expense reimbursements prescribed in general terms in regulation 32(1) of the LG Regulations that may be approved by a local government or regional local government and claimed by a council member.*

4.1 GENERAL

(1) Pursuant to section 5.98(2)(a) and (3) of the LG Act, a council member who incurs an expense of a kind prescribed in regulation 31(1) of the LG Regulations is entitled to be reimbursed for the expense to the extent determined in section 4.2(1) to (5) of this Part.

(2) Regulation 31(1) of the LG Regulations prescribes the following kinds of expenses that are to be reimbursed—

- (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.

(3) Pursuant to section 5.98(2)(a) and (3) of the LG Act, a council member who incurs an expense of a kind prescribed in regulation 32(1) of the LG Regulations is entitled to be reimbursed for the expense to the extent determined in section 4.2(6) and (7) of this Part.

(4) Regulation 32(1) of the LG Regulations prescribes the following kinds of expenses that may be approved by a local government for reimbursement—

- (a) an expense incurred by a council member in performing a function under the express authority of the local government;
- (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;
- (c) an expense incurred by a council member in performing a function in his or her capacity as a council member.

4.2 EXTENT OF EXPENSES TO BE REIMBURSED

(1) The extent to which a council member can be reimbursed for rental charges in relation to one telephone and one facsimile machine is the actual expense incurred by the council member.

(2) The extent to which a council member can be reimbursed for child care costs incurred because of attendance at a meeting referred to in regulation 31(1)(b) of the LG Regulations is the actual cost per hour or \$25 per hour, whichever is the lesser amount.

(3) The extent to which a council member of a local government can be reimbursed for travel costs referred to in regulation 31(1)(b) of the LG Regulations is—

- (a) if the person lives or works in the local government district or an adjoining local government district, the actual cost for the person to travel from the person's place of residence or work to the meeting and back; or

- (b) if the person does not live or work in the local government district or an adjoining local government district, the actual cost, in relation to a journey from the person's place of residence or work and back—
- (i) for the person to travel from the person's place of residence or work to the meeting and back; or
 - (ii) if the distance travelled referred to in subparagraph (i) is more than 100 kilometres, for the person to travel from the outer boundary of an adjoining local government district to the meeting and back to that boundary.

(4) The extent to which a council member of a regional local government can be reimbursed for travel costs referred to in regulation 31(1)(b) of the LG Regulations is the actual cost for the person to travel from the person's place of residence or work to the meeting and back.

(5) For the purposes of subsections (3) and (4), travel costs incurred while driving a privately owned or leased vehicle (rather than a commercially hired vehicle) are to be calculated at the same rate applicable to the reimbursement of travel costs in the same or similar circumstances under the *Public Service Award 1992* issued by the Western Australian Industrial Relations Commission as at the date of this determination.

(6) The extent to which a council member can be reimbursed for child care costs incurred in any of the circumstances referred to in regulation 32(1) of the LG Regulations is the actual cost per hour or \$25 per hour, whichever is the lesser amount.

(7) The extent to which a council member can be reimbursed for intrastate or interstate travel and accommodation costs incurred in any of the circumstances referred to in regulation 32(1) of the LG Regulations is at the same rate applicable to the reimbursement of travel and accommodation costs in the same or similar circumstances under the *Public Service Award 1992* issued by the Western Australian Industrial Relations Commission as at the date of this determination.

PART 5: ANNUAL ALLOWANCES IN LIEU OF REIMBURSEMENT OF EXPENSES

This Part deals with annual allowances that a local government or regional local government may decide to pay, pursuant to section 5.99A of the LG Act, to all council members in lieu of the reimbursement of expenses of a particular type under section 5.98(2) of the LG Act.

In particular, this Part deals with allowances to be paid instead of—

- (a) *expense reimbursements prescribed specifically in regulation 31(1) of the LG Regulations that must be paid by a local government or regional local government when claimed by a council member (i.e. telephone and facsimile rental, child care and travel); and*
- (b) *expense reimbursements prescribed in general terms in regulation 32(1) of the LG Regulations that may be approved by a local government or regional local government and claimed by a council member.*

5.1 GENERAL

(1) Pursuant to section 5.99A of the LG Act, a local government or regional local government may decide by absolute majority that instead of reimbursing council members under the LG Act section 5.98(2) for all of a particular type of expense, it will pay all council members, for that type of expense, the annual allowance determined in section 5.2 of this Part or, as the case requires, an annual allowance within the range determined in that section.

(2) Where a local government or regional local government has decided to pay council members an annual allowance for an expense of a particular type instead of reimbursing expenses of that type under section 5.98(2) of the LG Act, section 5.99A of the LG Act provides for reimbursement of expenses of that type in excess of the amount of the allowance.

(3) In determining the maximum annual allowance for expenses of a particular type, the Tribunal has taken into account a range of factors including the following—

- (a) the intent of the allowance to reflect the extent and nature of the expenses incurred and not to result in a windfall gain for council members;
- (b) the capacity of local governments to set allowances appropriate to their varying operational needs;
- (c) the particular practices of local governments in the use of information and communication technology (e.g. laptop computers, iPads);
- (c) the varying travel requirements of council members in local governments associated with geography, isolation and other factors.

5.2 ANNUAL ALLOWANCES DETERMINED INSTEAD OF REIMBURSEMENT FOR PARTICULAR TYPES OF EXPENSES

(1) In this section—

ICT expenses means—

- (a) rental charges in relation to one telephone and one facsimile machine, as prescribed by regulation 31(1)(a) of the LG Regulations; or
- (b) any other expenses that relate to information and communications technology (for example, telephone call charges and internet service provider fees) and that are a kind of expense prescribed by regulation 32(1) of the LG Regulations;

travel and accommodation expenses means—

- (a) travel costs, as prescribed by regulation 31(1)(b) of the LG Regulations; or
- (b) any other expenses that relate to travel or accommodation and that are a kind of expense prescribed by regulation 32(1) of the LG Regulations.

(2) For the purposes of section 5.99A(b) of the LG Act, the minimum annual allowance for ICT expenses is \$500 and the maximum annual allowance for ICT expenses is \$3,500.

(3) For the purposes of section 5.99A(a) of the LG Act, the annual allowance for travel and accommodation expenses is \$50.

SCHEDULE 1: LOCAL GOVERNMENT BAND ALLOCATIONS

Local Government	Band
Albany City	2
Armadale City	1
Ashburton Shire	2
Augusta-Margaret River Shire	2
Bassendean Town	3
Bayswater City	1
Belmont City	2
Beverley Shire	4
Boddington Shire	4
Boyup Brook Shire	4
Bridgetown-Greenbushes Shire	3
Brookton Shire	4
Broome Shire	2
Broomehill-Tambellup Shire	4
Bruce Rock Shire	4
Bunbury City	2
Busselton City	2
Cambridge Town	2
Canning City	1
Capel Shire	3
Carnamah Shire	4
Carnarvon Shire	2
Chapman Valley Shire	4
Chittering Shire	3
Claremont Town	3
Cockburn City	1
Collie Shire	3
Coolgardie Shire	3
Coorow Shire	4
Corrigin Shire	4
Cottesloe Town	3
Cranbrook Shire	4
Cuballing Shire	4
Cue Shire	4
Cunderdin Shire	4
Dalwallinu Shire	4
Dandaragan Shire	3

Local Government	Band
Dardanup Shire	3
Denmark Shire	3
Derby-West Kimberley Shire	2
Donnybrook Balingup Shire	3
Dowerin Shire	4
Dumbleyung Shire	4
Dundas Shire	4
East Fremantle Town	3
East Pilbara Shire	2
Esperance Shire	2
Exmouth Shire	3
Fremantle City	1
Gingin Shire	3
Gnowangerup Shire	4
Goomalling Shire	4
Gosnells City	1
Greater Geraldton City	1
Halls Creek Shire	3
Harvey Shire	2
Irwin Shire	3
Jerramungup Shire	4
Joondalup City	1
Kalamunda Shire	2
Kalgoorlie-Boulder City	1
Katanning Shire	3
Kellerberrin Shire	4
Kent Shire	4
Kojonup Shire	3
Kondinin Shire	4
Koorda Shire	4
Kulin Shire	4
Kwinana Town	2
Lake Grace Shire	4
Laverton Shire	3
Leonora Shire	3
Mandurah City	1
Manjimup Shire	3
Meekatharra Shire	3
Melville City	1
Menzies Shire	4
Merredin Shire	3
Mingenew Shire	4
Moora Shire	3
Morawa Shire	4
Mosman Park Town	3
Mount Magnet Shire	4
Mount Marshall Shire	4

Local Government	Band
Mukinbudin Shire	4
Mundaring Shire	2
Murchison Shire	4
Murray Shire	3
Nannup Shire	4
Narembeen Shire	4
Narrogin Shire	4
Narrogin Town	4
Nedlands City	2
Ngaanyatjarraku Shire	4
Northam Shire	2
Northampton Shire	4
Nungarin Shire	4
Peppermint Grove Shire	4
Perenjori Shire	4
Perth City	1
Pingelly Shire	4
Plantagenet Shire	3
Port Hedland Town	1
Quairading Shire	4
Ravensthorpe Shire	3
Rockingham City	1
Roebourne Shire	1
Sandstone Shire	4
Serpentine-Jarrahdale Shire	3
Shark Bay Shire	4
South Perth City	2
Stirling City	1
Subiaco City	2
Swan City	1
Tammin Shire	4
Three Springs Shire	4
Toodyay Shire	3
Trayning Shire	4
Upper Gascoyne Shire	4
Victoria Park Town	2
Victoria Plains Shire	4
Vincent Town	2
Wagin Shire	4
Wandering Shire	4
Wanneroo City	1
Waroona Shire	3
West Arthur Shire	4
Westonia Shire	4
Wickepin Shire	4
Williams Shire	4
Wiluna Shire	4

Local Government	Band
Wongan Ballidu Shire	4
Woodanilling Shire	4
Wyalkatchem Shire	4
Wyndham-East Kimberley Shire	2
Yalgoo Shire	4
Yilgarn Shire	3
York Shire	3

Signed this 19th day of June 2013.

W. S. COLEMAN AM,
Chairman.

C. A. BROADBENT,
Member.

Salaries and Allowances Tribunal

EXPLANATORY NOTES

This section does not form part of the determination

1. Entitlements

The entitlement of a council member to a fee, allowance or reimbursement of an expense established under the LG Act, the LG Regulations and this determination, cannot be proscribed, limited or waived by a local government. Any eligible claim against those entitlements is to be paid in accordance with the applicable financial procedures of the local government.

2. Local governments to set amounts within the range determined

Where the Tribunal has determined a minimum and maximum amount for a fee, expense or allowance for members of the council of a local government or a regional local government, each council is to set an amount within the relevant range determined and the amount set will be payable to an eligible elected council member.

3. Superannuation

Nothing in this determination establishes a liability for the payment of superannuation by local governments. Elected council members are eligible for superannuation payments if their council has resolved unanimously to become an Eligible Local Governing Body (ELGB) pursuant to section 221A and section 221B of the *Income Tax Assessment Act 1936* (Cwlth). Where the council is an ELGB, it is deemed to have an employer/employee relationship with its elected council members and this attracts the application of a number of statutory obligations. Alternative arrangements described in Australian Taxation Office (ATO) Interpretative Decision ATO ID 2007/205 allow for elected council members and councils to agree for whole or part of meeting attendance fees to be paid into a superannuation fund. This information is not published by way of legal or financial advice.