

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

EXECUTIVE SERVICES AND GOVERNANCE

21 MARCH 2016

10.5

NOTICE OF MOTION 836

Attachment No: 2

**Mayor and Councillor Entitlements Information
Guide**

Information Guide

Mayor and Councillor Entitlements

reimbursement of expenses and provision
of resources and facilities support for
Victorian Mayors and Councillors

November 2008

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Mayoral and Councillor entitlements**
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Supporting awareness of Mayoral and Councillor entitlements

This Information Guide is to assist Councils, Council staff and the community understand the entitlements of Mayors and Councillors with respect to expenses reimbursement and the provision of facilities and resources support.

Councils are encouraged to promote this Information Guide on their websites to better inform the Council, Councillors, the community and the media of Mayoral and Councillor entitlements and where they are referenced in policy or legislation.

Council policies on Councillor expenses reimbursement and facilities and resources support are required to be published on Councils' websites under section 82A (2) (c) of the *Local Government Act 1989*.

The Information Guide describes the minimum toolkit of support and what is prescribed under the following:

- *Recognition and Support, the Victorian Government's Policy Statement on Local Government Mayoral and Councillor Allowances and Resources April 2008* (Recognition and Support).
- *Local Government Act 1989* (the Act) as amended by the *Local Government (Councillor Conduct and Other Matters) Act 2008*

In addition, the Information Guide also describes the principles that are to guide the application of entitlements provided by policy and legislation.



Policy and legislative arrangements

Policy arrangements- Recognition and Support, the Victorian Government’s Policy Statement on Local Government Mayoral and Councillor Allowances and Resources

Recognition and Support prescribes the following as a “minimum toolkit” for expenses, support and resources. Section 75C of the Act allows for these to be further prescribed in the *Local Government (General) Regulations 2004* (refer Appendix 1):

Resources/facilities mandatory

- Administrative support for the Mayor
- Office for Mayor
- Vehicle for Mayor
- Computer – desktop or laptop
- Mobile phone and landline
- Stationery
- Access to fax/copier
- Website development as part of Council website*

Reimbursement

- Travel - including reimbursement of public transport costs
- Phone –re-imburement of relevant call costs
- Internet
- Child care/family care

And that as a matter for Council determination the following be considered

- Access to pool car for Councillors
- Office space and furniture

**In accordance with Principle 2 website development is intended to facilitate participation and access between councillors and the community. For some Councils this can simply mean developing their websites to include information about councillors, contact details and useful links. For others it could mean developing more sophisticated forms of e-democracy and online avenues of engagement.*

Under Principle 4, the response by Councils to website development is expected to be an individual one based on local circumstances.

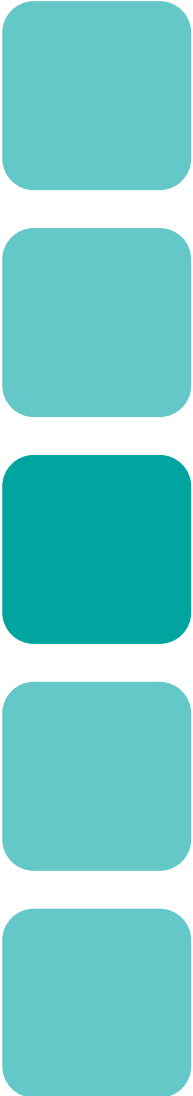
Legislative arrangements- *Local Government Act 1989*

The relevant sections of the *Local Government Act 1989* concerned with the reimbursement of expenses and provision of the minimum of resources and facilities support are listed below and detailed at Appendix 1):

- S75 *Reimbursement of expenses of Councillors*
- S75A *Reimbursement of expenses of members of Council Committees.*
- S75B *Councillor reimbursement policy*
- S75C *Resources and facilities for Councillors*

Requirement for Council website

- S82A *Council must maintain an internet website.*



Principles

1 Councillor conduct principles

Sections 76B and 76B A of the *Local Government Act* cover Councillor Conduct Principles. Details are included at Appendix 2 and include the requirements for Councillors to:

- act honestly and avoid statements whether oral or in writing or actions that will or are likely to mislead or deceive a person,
- endeavour to ensure that public resources are used prudently and solely in the public interest,
- act lawfully and in accordance with the trust placed in him or her as an elected representative, and
- support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

2 Encouraging diversity in participation, equity and access

Councillors operate in a complex environment and bring unique skills and insights to the role.

Diversity in participation and access to local representation contributes to well-informed decision making involving the community.

It is important that the Councillor role attracts and retains a wide cross section of people, particularly those from under-represented groups such as women, young people, those with disabilities and those in primary caregiver roles (whether of children, the disabled and the aged/infirm).

Councillors need to be accessible to a wide range of constituents and to stay informed about issues in their communities is an important part of the role. Use of the Internet is now essential to facilitate access.

Councillors are to be supported in undertaking their duties by assuring that reimbursement of expenses and access to resources support are provided in an equitable manner to cater for the full participation of all Councillors in Council business and with their communities, while also recognising individual needs and circumstances.

The Councillor role involves attendance at formal Council meetings and participation in community activities. Where these are part of the duties that are in within the scope of s75 (2) of the Act,(i.e. duties performed by a Councillor that are necessary or appropriate for the purposes of achieving the objectives of a Council having regard to any relevant Act, regulations, Ministerial Guidelines or Council policies), all Councillors are entitled to the toolkit of support described above and as allowed to be prescribed under section 75C of the Act.

3 Accountability, transparency and community acceptance

In line with section 75B of the *Local Government Act 1989* Councils must adopt and maintain a policy in relation to the reimbursement of expenses for Councillors and members of Council committees.

Policies are required to cover the types of expenses and prescribed procedures for reimbursement and substantiation (section 75 (1) and (2)).

Individual Council policies should, in addition to providing expenses reimbursement, adequately reflect the basic toolkit and toolkit of resources and facilities entitlements available to all Mayors and Councillors.

Individual Council policies should be sufficiently flexible and tailored to allow Councils to determine what they can afford to provide for beyond the minimum toolkit and what is acceptable to their communities.

The overriding principle to be addressed in the development of a Council expenses reimbursement policy is that the details and range of benefits provided to Councillors by the Council should be clearly stated and be fully transparent and acceptable to the local community.

In the interests of accountability and transparency, s 75 B (3) requires that Council policies on expenses reimbursement are required to be available for inspection at Council Offices.

4. Local flexibility according to complexity, needs and standards

It is a basic cost of governance that all Councils should provide for the reimbursement of expenses as stated in this Information Guide and the basic toolkit - regardless of individual circumstances.

This Information Guide reflects the minimum standard 'toolkit' for the provision of reimbursement of expenses and for the provision of resources and facilities support for all Mayors and Councillors.

It is the responsibility of Councils to establish and define an appropriate and reasonable level of provision beyond the minimum that would enable Councillors to effectively carry out their civic role.

Provision for support beyond the reimbursement of expenses entitlements and the minimum toolkit needs to recognise the differences between Councils.

Differences include levels of complexity of a Council – indicated by its population size and growth and in the financial circumstances of a Council in terms of its revenue base. The local/regional economic and development environment is also important.

Levels of complexity are broadly reflected in the three categories of the Victorian Mayoral and Councillor allowances model under *Recognition and Support*.

It is expected that unique individual circumstances and the allowances Category of a Council will have a bearing on the needs of different Councils and this would be reflected in the scale, scope and nature of expenses, resources and facilities support provided over and above the minimum toolkit.

Councils may determine their own rates of expenses and provision of resources and facilities support over and above those described in this Information Guide as long as they conform to legislative and statutory requirements, or accepted benchmarks and standards applied in the Sector.

5 No disadvantage - separation of allowances from reimbursement of expenses and provision of resources and facilities support

Under section 74B of the Act, Mayoral and Councillor Allowances are provided separately to reimbursements of expenses and the costs of facilities/resources support. These allowances are further described in *Recognition and Support* and given effect through the 25 November 2008 Order in Council.

Accordingly, Mayors and Councillors' allowances must not be used to subsidise their entitlements and resources and facilities support provided by policy and legislation.

Any provision of other 'general expenses/allowances' unrelated to actual expenses incurred or to annual allowances provided by the Act, and which could be designed to supplement Councillors' annual allowances entitlements under the *Local Government Act 1989* is not permitted.



Approval arrangements


Approval is required for all Councillors undertaking discretionary trips and interstate travel and attendance at conferences.

At a minimum the Chief Executive Officer should be the approval authority in accordance with the Council's predetermined policy.

All overseas travel should be by resolution of full Council.

The Council's policy should specify any additional approval arrangements required by the Council.





Appendix 1: Legislative requirements – expenses reimbursement and facilities/resources support

S75 Reimbursement of expenses of Councillors

- (1) A Council must reimburse a Councillor for expenses if the Councillor –
 - applies in writing to the Council for reimbursement of expenses; and
 - establishes in the application to Council that the expenses were reasonable bona fide Councillor out-of-pocket expense incurred while performing the duties of a Councillor.
- (2) In this section, **duties as a Councillor** means duties performed by a Councillor that are necessary or appropriate for the purposes of achieving the objectives of a Council having regard to any relevant Act, regulations, Ministerial guidelines or Council policies.

S75A Reimbursement of expenses of members of Council Committees.

A Council may reimburse members of council committees for necessary out-of-pocket expenses incurred while performing duties as a committee member.

S75B Councillor reimbursement policy

- (1) A Council must adopt and maintain a policy in relation to the reimbursement of expenses for Councillors and members of Council Committees.
- (2) A policy adopted by Council under this section must be consistent with-
 - (a) the prescribed types of Councillor out-of-pocket expenses that must be reimbursed if the expenses are reasonable and bona fide; and
 - (b) the prescribed procedures to be followed by Councils in relation to the reimbursement of out-of-pocket expenses.
- (3) A Council must keep a copy of the policy adopted and maintained under this section available for inspection at the office of the Council

S75C Resources and facilities for Councillors

A Council must make available for the Mayor and the Councillors the minimum resources and facilities prescribed for the purposes of section

(Note: Minimum facilities and resources support are prescribed in the policy *Recognition and Support*, and are described earlier in this document under Policy and legislative arrangements).

Appendix 2: Legislative requirements – Councillor Conduct Principles

76B Primary principle of Councillor conduct

It is a primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must—

- (a) act with integrity; and
- (b) impartially exercise his or her responsibilities in the interests of the local community; and
- (c) not improperly seek to confer an advantage or disadvantage on any person.

76BA General Councillor conduct principles

In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must—

- (a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- (b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;
- (d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- (e) endeavour to ensure that public resources are used prudently and solely in the public interest;
- (f) act lawfully and in accordance with the trust placed in him or her as an elected representative;
- (g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

Appendix 3:
Legislative requirements
– Council websites and making available
policies on expenses and resources support
available for public inspection.

82A Council must maintain an Internet website

- (1) A Council must maintain an Internet website.
- (2) The Council must ensure that—
 - (c) a list of documents of the Council that the Council is required to make available for public inspection under this Act, and how a member of the public can examine each document on the list, is published on the Internet website.