



Report 7 of 2014

## THE REMUNERATION TRIBUNAL REPORT RELATING TO DETERMINATION 7 OF 2014

### ALLOWANCES FOR MEMBERS OF LOCAL GOVERNMENT COUNCILS

#### Introduction

In terms of section 76 of the *Local Government Act 1999* (the Act), the Remuneration Tribunal has conducted a review of the allowances payable to members of Local Government Councils with the revised rates being published in Determination 7 of 2014. The allowances payable to members of the Adelaide City Council are dealt with in Determination 6 of 2014 and its accompanying report. Section 76(2) of the Act requires the Tribunal to undertake a review of the allowances payable to elected members of councils every 4 years. The allowances were last reviewed by the Tribunal in 2010 (see Determination 6 of 2010).

Section 76 (2) of the Act stipulates that the Tribunal must make its determination of the review before the day that is 14 days before the day on which nominations close for the council elections, which this year is 2 September 2014, with the election to be held in November 2014. In this context, the Tribunal gave notice of its 2014 review of allowances by inserting notices in *The Advertiser* on 22 March 2014, and all local newspapers in the State at about the same time. The notices invited submissions from all councils, interested persons and organisations. The closing date for submissions was 2 May 2014.

#### Submissions

A total of 21 submissions were received in relation to the allowances payable to members of councils, and a further 4 submissions of a general nature about allowances payable to elected members of councils throughout the State. The Local Government Association did not make a submission to the review.

The Tribunal noted that whilst there are 68 councils that operate in South Australia, and apart from the submissions that were received specifically relating to the Adelaide City Council, there were only 17 submissions from either CEOs or senior managers of councils, or individual councillors. Generally the submissions were not critical of the level of the existing rates of allowances being paid to the elected members of councils, although a couple of councils expressed the view that they should be in a higher level group so that their councillors were entitled to a higher level of allowance (Determination 6 of 2010 placed councils in 5 groupings with each group having a different level of allowance). Further, several Chief Executive Officers, mainly in rural areas, argued it was important to pay a reasonable level of allowance to ensure that persons with appropriate leadership abilities, skills, qualifications and experiences were attracted to stand for election to councils. One such submission stated that "it is becoming harder and harder to attract candidates to nominate to become a councillor and for the amount of time this council requires its councillors to attend meetings the current allowance is too low". However, overall the majority of comments in submissions were about

the payments available under the Travel Time Payment arrangement which is designed to provide compensation for the time members in rural areas spend on travelling to and from official council meetings and gatherings (i.e. briefings and subcommittee meetings). There were views expressed that the level of the Travel Time Payment did not adequately compensate those councillors who had to do a lot of travelling to and from official council functions. Some submissions also argued that the concept of the Travel Time Payment needed to be broadened to cover councillors who undertake extensive travel to consult with constituents and perform their own research and investigations. Several submissions also raised the issue about superannuation, reminding the Tribunal that members of councils do not receive an employer financed superannuation contribution relating to their allowance. It was similarly pointed out that some interstate jurisdictions provide for superannuation to be paid to councillors despite the fact that Commonwealth law does not make such payments mandatory.

A number of the submissions also criticised aspects of the arrangement provided for in Determination 6 of 2010 whereby an additional allowance is provided to a member of council who is the presiding member of a council standing committee. Whilst the Tribunal noted that this arrangement seems to work well with metropolitan councils which tend to have only 4-6 standing committees that meet on a regular basis in many non-metropolitan councils there are often in excess of 12 committees established in terms of section 41 of the Act designated as standing committees. In this regard it appears that legal advice obtained by some non-metropolitan councils has expressed the opinion that any on-going committee established in terms of section 41 of the Act is a 'standing committee', with the consequence that the presiding officer of the standing committee is entitled to a presiding officer allowance in terms of Determination 6 of 2010. As reported to the Tribunal during this review, the arrangement in some non-metropolitan councils has resulted in a level of unfairness in respect of the fixed amount of additional allowance paid to presiding officers. This is because of the differences in the frequency of meetings held and the resulting significant differences in workloads. It was put to the Tribunal that it should address this inequity and unfairness.

The Tribunal received two submissions, one from the City of Mitcham, recommending that consideration be given to changing the existing arrangement whereby councillors are paid an annual allowance, to an arrangement whereby councillors are paid an allowance in the form of a sitting fee. Under a sitting fee arrangement, councillors would be paid only for those meetings that they actually attend. This proposal was put to the Tribunal in response to a situation that has been experienced by the City of Mitcham where a councillor only attended 3 out of 22 official meetings during the financial year 2012/2013, and attended only 4 out of 25 official meetings in 2013/2014.

As was the case in 2010, at least one non-council submission urged the Tribunal, among other things to consider deferring its determination of allowances for council members pending the amalgamation of councils deemed to be economically unviable in their present form. However, given the amalgamation of councils and their financial viability remains outside the Tribunal's jurisdiction, it remained unable to make any determinations in respect of these issues.

The Tribunal met with the Chief Executive of the Mid Murray Council following his request to make an oral submission in support of the Council's written submission.

Notwithstanding that the Local Government Association did not make a formal submission to the review, the Tribunal consulted with the LGA during its deliberations.

### Considerations

In undertaking this review and delivering this determination, the Tribunal has been mindful of the role and responsibilities of the elected members of the councils both in the metropolitan and rural and district areas of the state, as set out in the Act. The Tribunal has not only reviewed the current level of allowances paid to elected members of councils, but also reviewed the groupings of the councils, to determine whether each council is in the most appropriate group.

The Tribunal has also reviewed the arrangements for Travel Time Payments made to councillors in rural areas and the additional allowances paid to presiding members of a committee provided for under Determination 6 of 2010 to ensure that these allowances are providing a benefit to those councillors for whom they were originally intended, and to address any inequity issues.

The Tribunal has also given consideration to the matter raised in a number of submissions about whether councillors should be paid a sitting fee in the form of an allowance for those meetings they actually attend, in lieu of an annual allowance.

#### Role of Councillors

The role of a councillor as described in Section 59 of the Act is –

- (a) as a member of the governing body of the council -
  - (i) to participate in the deliberations and civic activities of the council;
  - (ii) to keep the council's objectives and policies under review to ensure that they are appropriate and effective;
  - (iii) to keep the council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review;
  - (iv) to ensure, as far as practicable, that the principles set out in Section 8 are observed;
- (b) as a person elected to the council – to represent the interests of residents and ratepayers, to provide community leadership and guidance, and to facilitate communication between the community and the council.

Councillors are therefore required to attend and participate in meetings, read agenda papers and reports, and liaise with residents in meeting their representational obligations. More importantly, councillors are in terms of the provisions of the Act, ultimately responsible for the operation of the council; its goals, policies, resource allocation, expenditure, corporate strategies, and the overall efficiency and effectiveness of the council's delivery of services to the individuals and groups within its community.

The Tribunal also noted that councillors are also legislators with powers under the Act to make certain laws and regulations dealing with generally local matters, and in particular, dealing with matters on Local Government land.

#### Role of the Principal Member or Mayor

The role of the Principal Member or Mayor as described in Section 58 of the Act is –

- (a) to preside at meetings of the council;
- (b) if requested, to provide advice to the chief executive officer between council meetings on the implementation of a decision of the council;
- (c) to act as the principal spokesperson of the council;
- (d) to exercise other functions of the council as the council determines;
- (e) to carry out the civic and ceremonial duties of the office of principal member.

#### Findings and Determinations

The Tribunal reviewed the arrangement that was established under Determination 6 of 2010 that placed each council into one of 5 groups. In doing so it has determined that the existing

grouping be modified and that it is more appropriate to have 6 groups instead of the existing 5 groups. The most significant changes to the existing grouping arrangement has resulted in the City of Adelaide being dealt with under its own separate determination, and the existing Group 1 being split into 2 new separate groups named Group 1A and Group 1B. The Tribunal has determined that those councils with the larger income, expenditure and populations, will be moved to the newly created higher classification group – Group 1A. The following councils have been allocated to Group 1A; City of Charles Sturt, City of Onkaparinga, City of Port Adelaide Enfield and City of Salisbury. The Tribunal has also moved a small number of other councils into a higher group. The new grouping of councils is shown in Appendix 1 of Determination 7 of 2014.

In line with its decision to move 4 councils into the new Group 1A, the Tribunal has determined that those elected members of councils in Group 1A will be paid a higher level of allowance than those councillors with councils in Group 1B. The Tribunal has determined this in recognition of councillors with Group 1A councils having responsibility for larger populations and operating budgets than those in Group 1B, resulting in a required overall greater level of decision making.

The annual allowances for councillors and principal members (ie mayors), are as set out in Determination 7 of 2014. The new category of allowance determined for those councillors with a council in Group 1A, is \$21,500 per annum, while the allowance for those with councils in Group 1B, is \$19,000 per annum. Whilst the increase for councillors with councils in the new Group 1A is 15.6%, the average increase for the other Groups (Group 1B, Group 2, Group 3, Group 4 and Group 5) is 2.6%. Although the Tribunal acknowledges that an increase of 15.6% is in excess of the current annual increase in the rate of inflation, and wage movements generally, it considered that such an increase was warranted for the group in question based on the material before it.

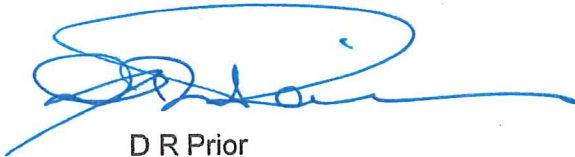
The Tribunal also recognised that the elected members of councils were not eligible for a superannuation payment relative to the allowance they received. The fact that members of councils did not qualify for any employer superannuation support was in the view of the Tribunal, an anachronism in terms of the Australian Retirement Incomes Policy which generally provides for all persons earning over \$450 a month to receive a superannuation benefit. The Tribunal investigated whether it could include a superannuation benefit as part of the allowance review but advice provided to the Tribunal was that there was no jurisdictional power to provide such a benefit in terms of Section 76 of the Act.

The Tribunal has decided to rename the previous Travel Time Payment to Travel Time Allowance. On the basis that this allowance has not been adjusted for 4 years, it has been determined to increase the rates of allowance to reflect the movement in the Consumer Price Index over the last 4 years (11%). In future, the Travel Time Allowance will be automatically adjusted annually by the movement in the Consumer Price Index in the same manner and at the same time as the adjustment of the elected member allowance. In addition, the Tribunal has added an additional category to the Travel Time Allowance to cater for those councillors in rural areas who have to travel between 30 and 50 kms each way to an official council meeting or function. This new category will provide these members with an additional annual allowance of \$335 per annum.

In relation to the matter of the allowance paid to the presiding officer of a standing committee and the fact that payment of this allowance was being made by councils to committees which in the view of the Tribunal were not 'standing committees', the Tribunal has revised the existing arrangement and determined one it believes will better reflect the original intention of this payment. The Determination therefore provides clarification as to what constitutes a 'standing committee' which will now be known as a 'prescribed committee', due to the fact that the role and area of responsibility of such committees are now defined. Furthermore, a different allowance, in the form of a sitting fee will be payable to the presiding member of a committee

established in terms of section 41 of the Act, where the committee does not meet the requirements of being a 'prescribed committee'.

The Tribunal gave consideration to the issue of whether councillors should be paid an annual allowance or a sitting fee for each meeting they actually attend. Cognisant of the fact that councillors stand for election in the knowledge that if elected they take on the role of councillor for a term of four years, the Tribunal determined that the existing arrangement whereby councillors are paid an annual allowance was the most appropriate. Notwithstanding the Tribunal's view as to the most appropriate form of payment for the position, the Tribunal considered whether it could attach terms and conditions to the payment so that payment could be denied to a councillor who does not attend a meeting and who fails to submit an acceptable reason for not attending. In considering its options, the Tribunal sought the advice of the Crown Solicitor who advised the Tribunal that it did not have the jurisdictional powers to attach such a term and condition to the payment of an allowance under section 76 of the Act. Having regard to this advice, the Tribunal came to the view that the matter of infrequent and overall poor attendance at council meetings was not a matter over which it has any power or responsibility. Rather it appeared to the Tribunal to be a breach of the Code of Conduct for Council Members issued by the Minister for Planning for the purposes of section 63(1) of the Act, and therefore one that should be dealt with in terms of that Code.



D R Prior  
**PRESIDENT**

28 July 2014