



No. 3 of 2022

REPORT OF THE REMUNERATION TRIBUNAL
2022 ALLOWANCES FOR MEMBERS OF ADELAIDE CITY COUNCIL

INTRODUCTION AND BACKGROUND

1. Section 14 of the *Remuneration Act 1990* provides that the Remuneration Tribunal (“the Tribunal”) has jurisdiction to determine the remuneration, or a specified part of the remuneration, payable in respect of certain offices, if such jurisdiction is conferred upon the Tribunal by any other Act or by the Governor by proclamation.
2. The Tribunal’s jurisdiction in relation to members of the Adelaide City Council (“Members”) is governed by section 24 of the *City of Adelaide Act 1998*. That section confers jurisdiction upon the Tribunal to determine allowances for members, once every four years.
3. A member of the Adelaide City Council, and their duties, is set out in section 22 of the *City of Adelaide Act 1998*.
4. The Tribunal notes that its jurisdiction for members under the above legislation is limited and specific. The Tribunal’s powers are limited to the determination of allowances only and the Tribunal must consider certain criteria as set out in the legislation.
5. The last review of this entitlement was conducted by the Tribunal in 2018. The Tribunal notes that allowances are indexed each year according to the above legislation.

PROCEDURAL HISTORY

6. Section 10(2) of the *Remuneration Act 1990* provides that prior to the making of a Determination, the Tribunal must allow an affected person, or persons of an affected class, a reasonable opportunity to make submissions orally or in writing to the Tribunal.
7. Section 10(4) of the *Remuneration Act 1990* provides that the Minister responsible for the Act may intervene, personally or by counsel or other representative, in proceedings before the Tribunal for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.
8. On 8 February 2022, the Tribunal wrote to the Premier of South Australia (“the Premier”), as the Minister responsible for the *Remuneration Act 1990*, the Minister for Local Government,

as the Minister responsible for the *Local Government Act 1999*, and the Local Government Association of South Australia (“LGA”) inviting submissions to the Tribunal.

9. A public notification of the review and a guideline for the making of submissions was published the same day on the Tribunal’s website advising that the Tribunal had “*initiated a review of allowances for Elected Members of Local Government Councils*”.¹ This determination relates to members of the Adelaide City Council only, and the Remuneration Tribunal will address allowances for members of other South Australian local government councils in a separate determination.
10. The Tribunal’s submission guidelines stated the Tribunal would consider the following factors in the making of its determination:
 - Name and contact details of the council, individual or association making the submission.
 - The geographical size (area) of the Council.
 - Population (number of electors).
 - The revenue (\$) of the Council.
 - The ratio of members to ratepayers.
 - Meetings (number of council and committee meetings held in last 12 months, number of councillors attending council and committee meetings).
 - Amount of allowance deemed appropriate (submission may present an evidence based justification for an adjustment).
 - Any other relevant factors, without limiting the issues that might be addressed (this may include comment on any issues with the current Determination, or council groupings for the purpose of determining the level of allowance, or the council’s capacity to pay).
11. These factors reflected the provisions of section 24(3) of the *City of Adelaide Act 1998* and matters considered by the Tribunal to be potentially relevant to the establishment of allowances.
12. The closing date for written submissions was 8 April 2022.
13. The Tribunal conducted a hearing on 2 May 2022 for any person or organisation who sought to make oral submissions to the Tribunal. No oral submissions were made.

LEGISLATIVE PROVISIONS

14. Section 24 of the *City of Adelaide Act 1998* states:

“(1) Subject to this Act, a member of the Council is entitled to the allowance determined by the Remuneration Tribunal in relation to the member’s office and indexed in accordance with this section.

(2) The Remuneration Tribunal must make determinations under this section on a 4 yearly basis before the designated day in relation to each periodic election for the City of Adelaide held under the Local Government (Elections) Act 1999.

¹ The public notification advised that the scope of the review included allowances for elected members as defined in section 76 of the *Local Government Act 1999* and section 24 of the *City of Adelaide Act 1998*.

(3) The Remuneration Tribunal must, in making a determination under this section, have regard to the following:

(a) the role of members of the Council as members of the Council's governing body and as representatives of their area;

(b) the size, population and revenue of the Council, and any relevant economic and social factors in the council area;

(c) the fact that an allowance under this section is not intended to amount to a salary for a member;

(d) the fact that an allowance under this section should reflect the nature of a member's office;

(e) the provisions of this Act providing for the reimbursement of expenses of members.

(4) For the purposes of the proceedings before the Remuneration Tribunal but without derogating from the operation of subsection (3), the allowances to be determined under this section will be taken to be in the nature of a fee under the definition of remuneration in the Remuneration Act 1990.

(5) Without limiting section 10 of the Remuneration Act 1990, the Remuneration Tribunal must allow persons who are entitled to be enrolled on the voters roll for the City of Adelaide, and the LGA, a reasonable opportunity to make submissions orally or in writing to the Tribunal in relation to any determination under this section.

(6) Nothing in subsection (5) requires the Remuneration Tribunal, for the purposes of making all determinations required under this section in any 4 year period, to hold more than 1 hearing to receive any oral submissions that persons may care to make (and the Tribunal is not required to hold any hearing if it appears to the Tribunal that no one is seeking to make oral submissions).

(7) The rates of allowances may vary from office to office.

(8) An allowance determined under this section will be payable for the period—

(a) commencing on the conclusion of the relevant periodic election; and

(b) concluding at the time at which the last result of the next periodic election for the City of Adelaide held under the Local Government (Elections) Act 1999 is certified by the returning officer under that Act (including in respect of a member of the Council for whom the conclusion of the next periodic election is, for other purposes, the last business day before the second Saturday of November of the year of the periodic election as a result of the operation of section 4(2)(a) of the Local Government Act 1999).

(9) An allowance determined under this section is to be adjusted on the first, second and third anniversaries of the relevant periodic election to reflect changes in the Consumer Price Index.

(10) Sections 17 and 19 of the Remuneration Act 1990 do not apply in relation to a determination under this section.

(11) Subject to subsection (8), a member of the Council who holds an office for part only of the period in respect of which an allowance is payable is entitled to the proportion of the allowance that the period for which the member held the office bears to the total period.

(12) An allowance under this section is to be paid in accordance with any requirement set out in the regulations (unless the member declines to accept payment of an allowance).

(13) Despite any other Act or law, the reasonable costs of the Remuneration Tribunal in making a determination under this section are to be paid by the LGA under an arrangement established by the President of the Tribunal after consultation with the LGA.

(13a) The LGA may recover the reasonable costs incurred by the Remuneration Tribunal in making a determination under this section as a debt from the Council.

(14) Regulations made for the purposes of this section may make different provisions according to the offices to which they are expressed to apply.

(15) In this section—

Consumer Price Index means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics;

designated day, in relation to a particular periodic election, means the day that is 14 days before the day on which nominations close for that election.”

15. The Tribunal notes that the allowances referenced in the *City of Adelaide Act 1998* fall within the definition of remuneration in the *Remuneration Act 1990* as follows:

“3—Interpretation

In this Act—

remuneration includes—

- (a) salary; and
- (b) allowances; and
- (c) expenses; and
- (d) fees; and
- (e) any other benefit of a pecuniary nature;

the Tribunal means the Remuneration Tribunal established under Part 2.”

16. The Tribunal further notes that in accordance with section 24(3)(c) of the *City of Adelaide Act 1998*, the allowance paid to members is “...not intended to amount to a salary for a member.” The Tribunal has proceeded with this review on that basis.

ROLE AND FUNCTIONS OF MEMBERS

17. The role of members is expressed at section 22 of the *City of Adelaide Act 1998*. The Tribunal has had due regard to the official role and functions set out below in the making of its Determination.

SUBMISSIONS AND EVIDENCE SOURCES

18. The Tribunal notes that no submission was received from the City of Adelaide and no other submission addressed the circumstances of that council.
19. The Tribunal has considered the material available to it, with respect to local government generally in South Australia. In conducting this review, the Tribunal has sought data from the various official sources including the Local Government Grants Commission of South Australia and the Electoral Commission of South Australia.
20. The Tribunal also conducted an analysis of certain metrics of councils generally, including the number of persons, revenues, geographical area and the ratio of members to ratepayers.

CONCLUSIONS

21. The objective of the current review is to determine a fair rate of allowance, based on consideration of the legislative criteria. These allowances do not equate with salaries in the normal context in that they do not reflect a normal commercial or work value based rate of remuneration which takes full account of the time, the commitment and the responsibility associated with these roles. The Tribunal recognises at the outset that there is a significant element of voluntary community commitment on the part of members of local government. What is clear from the *City of Adelaide Act 1998* is that allowances provide at least partial recognition of the time and expenses incurred by members and the functions they perform.
22. The Tribunal has adopted a position whereby the allowance levels presume that appropriate behaviour standards are met. The Tribunal does not regard these issues to be relevant to setting allowances.
23. The Tribunal acknowledges the very broad range of skills and contributions made by members.
24. The Tribunal notes that the City of Adelaide is not included in the groups of councils that have traditionally formed the basis for Remuneration Tribunal consideration of local government allowances in South Australia.
25. In its Report 2 of 2022 the Tribunal has indicated its intention to invite consideration of a different approach to setting allowance amounts in four years' time.
26. This reflects the Tribunal's assessment that it is inherently difficult to address the factors in section 76(3) of the *Local Government Act 1999*, which are replicated in section 24(3) of the *City of Adelaide Act 1998*, in a group context. The Tribunal proposes to reconsider this traditional arrangement and will invite consideration of an alternative approach that would establish an appropriate "standard" or "benchmark" council, with specific additions or deductions for all other councils to recognise each of the criteria in s76(3) of the *Local Government Act 1999*. The Tribunal proposes to consider whether such an approach would more fairly recognise the impact of these statutory criteria and encourage councils to review the way in which they operate. Any such review must be evidence based. Whilst it was open to the Tribunal to delay the determination of this review to provide an opportunity for submissions on this proposition, the nature of the submissions received by councils generally and likely delays mitigated against this. The City of Adelaide is invited to comment on the applicability of such a concept when allowances are reviewed in four years' time.
27. As well, the City of Adelaide is invited to consider providing data that assists the Tribunal to make an objective assessment of the criteria referenced in section 24 of the *City of Adelaide Act 1998*.
28. Increases to Allowances.
 - 28.1. Absent any evidence to support an alternative approach, the Tribunal has applied a general increase to the amount of the allowances for members of the City of Adelaide. This increase takes into account the provisions of section 24(9) of the *City of Adelaide Act 1998* dealing with the annual recognition of Consumer Price Index movements for the three years between reviews of this nature. This section states:

"(9) An allowance determined under this section is to be adjusted on the first, second and third anniversaries of the relevant periodic elections to reflect changes in the Consumer Price Index."

- 28.2. The Tribunal considers an increase to current councillor allowances of three per cent is appropriate. The Tribunal is satisfied that this adjustment, when considered in the context of the annual increases that have been applied over the past three years reflects the reasonable maintenance of allowance payments against consumer price index movements.
- 28.3. The Tribunal has applied the same percentage increase (three per cent) to the allowance applicable to the Lord Mayor.
- 28.4. The Tribunal is satisfied, on the information available to it, that these increases will not materially impact on ratepayers of the City of Adelaide.

FREQUENCY OF REVIEWS

29. The Tribunal intends to review the allowances for members on a four yearly basis in accordance with the *City of Adelaide Act 1998*. The next review will be in 2026. The Tribunal has foreshadowed a significant review of the allowance setting approach may be undertaken in 2026.

OPERATIVE DATE

30. As provided for by section 24(8) of the Act, this Determination will come into operation on the conclusion of the 2022 Local Government Elections.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure AM
MEMBER

Dated this 5th day of July 2022