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## 1. PREAMBLE

### 1.1 *Background*

Section 76 to 80 of the *Local Government Act 1999* (the Act) provides for allowances and reimbursements that Elected Members will receive and those which City of Holdfast (Council) may approve for certain prescribed expenses incurred by Elected Members.

The *Local Government (Members Allowances and Benefits) Regulations 2010* (the Regulations) in regulation 6 sets out the types of expenses that may be reimbursed under section 77(1)(b).

### 1.2 *Purpose*

Elected Members should not be 'out of pocket' as a result of performing and discharging their Council functions and duties.

The adoption of this policy provides authority for Elected Members to obtain reimbursement of those expenses.

The Council will ensure that the payment of Elected Member allowances and the reimbursement of expenses is accountable, transparent and in accordance with Chapter 5, Part 5 of the Act and the Regulations.

### 1.3 *Scope*

This policy applies to all Elected Members of the City of Holdfast Bay.

It summarises the provisions of the Act and Regulations in respect to Elected Member allowances, the provision of facilities and support, the different types of expenses, the circumstances in which those expenses will be or can be reimbursed and what benefits Council members receive that must be recorded for the purposes of maintaining the Register of Allowances and Benefits.

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It specifies the types of expenses incurred by Elected Members that will be reimbursed without specific approval of Council each time.

## 1.4 **Definitions**

**Act** means the *Local Government Act 1999*.

**Elected Member Code of Conduct** (the Code) means the Code of Conduct for Council Members as prescribed for the purpose of section 63 of the Act, as gazetted by the Minister from time to time.

**Eligible Journey** means as defined in regulation 3 of the Regulations, a journey (in either direction) between the principal place of residence, or a place of work, of a member of the council and the place of a prescribed meeting.

**Function** means:

- An official Council function including mayoral receptions, opening ceremonies, dinners, citizenship ceremonies and official visits or
- Attendance at meetings of community groups and/ or organisations as a Council appointed delegate (but not attending meetings of community groups or organisations when fulfilling the role of local representative).

**Prescribed Meeting** means as defined in regulation 3 of the Regulations, in relation to a member of council, means a meeting of council or council committee or an informal gathering, discussion workshop, briefing, training course or similar activity which is directly or closely related to the discharge of the roles or duties of the member.

**Regulations** means the *Local Government (Members Allowances and Benefits) Regulations 2010*.

## 1.5 **Strategic Reference**

A Place that provides Value for Money.

## 2. **POLICY STATEMENT**

2.1 The Chief Executive Officer of the Council is responsible for:

- a. Implementing expense reimbursement procedures in accordance with this policy
- b. Maintaining a Register of Allowances and Benefits as prescribed in section 79 of the Act and regulation 7 of the Regulations
- d. Ensuring that a copy of this policy is available for inspection and/or purchase by the public and
- e. Ensuring that a Gifts Register is maintained and available on the Council's website.

2.2 Pursuant to section 79 of the Act, the Chief Executive Officer of the Council will maintain a register of allowances and benefits to record:

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- a. Annual allowances paid to Elected Members (section 76 of the Act).
- b. Expenses reimbursed to an Elected Member (section 77(1)(b) of the Act).
- c. Details of other benefits paid or payable to an Elected Member.

### *Allowances*

- 2.3** Elected Members are entitled to an allowance as provided by section 76 of the Act and regulation 4 of the Regulations:
- a. Allowances are reviewed by the [Remuneration Tribunal of South Australia](#)
  - b. Allowances will be adjusted annually by the Consumer Price Index (CPI) for the September quarter immediately before the date on which the allowance was determined (regulation 4(2) of the Regulations).
- 2.4** Allowances will be paid monthly in arrears, except for the first three months of the new Council, which will be paid as a lump sum in advance on commencement.

### *Reimbursements (including travel and child, children and/ or dependent care)*

#### *Entitled Reimbursements*

- 2.5** Elected Members are entitled to receive reimbursements for travelling within the area of the Council and for child, children and/ or dependent care expenses associated with attending a prescribed meeting as required by section 77(1)(a) of the Act and regulation 5 of the Regulations:
- a. Reimbursement is restricted to eligible journeys by the shortest or most practicable route and to the part of the journey within Council area.
  - b. Where an Elected Member travels by private motor vehicle, the rate of reimbursement is as prescribed under section 28.25 of the *Income Tax Assessment Act 1997* (Commonwealth). Travel by taxi, bus or other means of public transport is reimbursed on the basis of expenses actually and necessarily incurred but is still limited to eligible journeys by the shortest or most practicable route and to the part of the journey that is within the Council area.
  - c. Where child, children and/ or dependent care expenses are actually or necessarily incurred by the Elected Member as a consequence of attendance at a prescribed meeting. Reimbursement does not apply if the care is provided by a person who usually resides with the Elected Member.

#### *Discretionary Expenses*

- 2.6** Pursuant to section 77(1)(b) of the Act, Council also approves the reimbursement for expenses actually and necessarily incurred in travelling to official functions or activities on the business of Council (other than for which the Elected Member is reimbursed under section 77(1)(a) of the Act), i.e. if the journey is within or outside the Council area subject to:

- a. Reimbursement is restricted to the shortest or most practicable route.

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- b. Where an Elected Member travels by private motor vehicle, the rate of reimbursement is as prescribed under section 28.25 of the *Income Tax Assessment Act 1997* (Commonwealth). Travel by taxi, bus or other means of public transport is reimbursed on the basis of expenses actually and necessarily incurred.

**2.7** Pursuant to section 77(1)(b) of the Act, Council also approves reimbursement of:

- a. Child, children and/ or dependent care expenses as a consequence of the Elected Member's attendance at a function or activity on the business of Council (other than for which an Elected Member is reimbursed under section 77(1)(a) of the Act). Reimbursement does not apply if the care is provided by a person who usually resides with the Elected Member.
- b. Expenses incurred by the member as a consequence of the Elected Member's attendance at a conference, seminar, training course or other similar activity which is directly or closely related to the performance or discharge of the roles or duties of the Member (other than for which an Elected Member is reimbursed under section 77(a)(a) of the Act). It should be noted that all conference /seminar attendance must be approved by Council.

The following types of expenses will be reimbursed:

- Airfares (with council approval)
  - Registration fees
  - Taxi fares
  - Car parking
  - Incidentals expenses i.e. meals (up to a daily maximum of \$50 per day).
- c. Travel by taxi, bus, plane or other means of public transport is reimbursed on the basis of expenses actually and necessarily incurred, and is still limited to the shortest or most practicable route.

### *How to claim reimbursements*

**2.8** Any reimbursement claimed by an Elected Member must be for expenses actually and necessarily incurred in performing and discharging their official Council functions and duties.

**2.9** All claims for reimbursement must be submitted to the Chief Executive Officer on the Elected Member's claim form and are requested to submit these forms **at least on a quarterly basis within the quarter** of the year that they are incurred. Elected Members are required to provide evidence of expenses incurred (i.e. tax receipts/ invoices) and/ or details of kilometres travelled to support all reimbursements claimed.

### *Facilities and Support*

**2.10** Pursuant to section 78 of the Act, Council resolves to make available to Elected Members the following facilities and support which are necessary and expedient to assist in performing or discharging the Elected Members official functions or duties provided on a uniform basis to all Elected Members.

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The following items are considered to have a direct benefit to the effectiveness and efficiency of the Elected Members:

- a. An iPad with a 5GB/month on a mobile plan for the purpose of receiving council information and appropriate IT support.
- b. An IT equipment allowance of \$1600.00 in the first year of office, followed by \$1100 per annum, indexed annually by the Consumer Price Index (CPI) for the September quarter immediately before the date on which the allowance was determined. This allowance is to assist with the cost of providing and maintaining a desktop/laptop of their choice with appropriate software and peripheral devices, printer, paper, internet connection and telecommunications resources.
- c. Council's IT staff will only provide technical support for Council supplied equipment and software which are being used for Council business.

**2.11** The equipment provided by Council to an Elected Member remains the property of Council.

**2.12** Limited private use of electronic equipment is permitted by Council so long as Elected Members:

- a. Comply with the provisions in Council's Electronic Communications Policy and
- b. Additional costs associated with private use are to be borne solely by the Elected Member including if an Elected Member uses more than the plan amount each month.

**2.13** Upon appointment each Elected Member is provided with the following:

- a. Name badge
- b. Name badge for partner (optional)
- c. 1 x box of printed business cards.

**2.14** A meal will be provided, where deemed appropriate, by Council's administration while attending Council meetings, Committee meetings, briefings and workshops.

**2.15** Elected Members will receive one street based car parking permit for use while on council business in the Council's parking areas; and in the Council area of the Beachouse carpark outside of normal working hours.

**2.16** In addition to the above, Council has resolved to make available the following **facilities and support to the Mayor** in performing and discharging official duties:

- a. Office Space
- b. Administrative support for Council business only, in accordance with Council's budget
- c. A fully maintained vehicle in accordance with Council's Use of Motor Vehicle Policy. Alternatively the Mayor may choose to be reimbursed for his/ her vehicle operational costs up to the equivalent cost of a fully maintained vehicle.

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### *Legal Advice*

- 2.17** Elected Members may in accordance with the any scheme established under section 78A directly obtain legal advice at the expense of the Council to assists in performing or discharging official functions and duties, subject to:
- a. The legal advice is sought from a legal firm that is included in the Council's legal panel or approved supplier up to a limit determined annually by Council; and
  - b. The legal advice is limited to Elected Member Code of Conduct matters.
  - c. Council has resolved to limit this amount (currently \$500 in response to a Code of Conduct complaint).

### *Insurance of Elected Members*

- 2.18** Section 80 of the Act requires that Council insure its Elected Members. Elected Members are covered under the following insurance policies on a 24 hour basis, while discharging their duties (which also includes attendance at meetings of external bodies as Council's official representative):
- a. Personal Accident Insurance – Elected Members (and accompanying spouses/ partners) are provided with benefits should they sustain bodily injury whilst engaged in any activity directly or indirectly connected with, or on behalf of Council.
  - b. Public/Professional Liability – indemnifies Elected Members but only in connection with their role as Elected Members
  - c. Personal Effects – Council provides coverage for damage to Elected Members personal effects whilst on Council business.

### *Gifts and Benefits*

- 2.19** Where an Elected Member receives a gift or benefit of more than a value published in the Government Gazette by the Minister from time to time, details of each gift must be declared and recorded within the Elected Member gifts and benefits register. An Elected Member must not:
- a. Seek gifts or benefits of any kind.
  - b. Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty.
  - c. Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the council.
  - d. Fail to declare any gift or benefit, or election donation.
- 2.20** Elected Members may accept hospitality provided in context of and invitation to attend local social and sporting events. This is limited to events held within the City of Holdfast Bay, by non-professional sporting clubs and community organisations. All other invitations that include hospitality accepted by an Elected

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Member, over the gazetted amount, must be declared on an Elected Members Gifts and Benefits Form.

- 2.21** All gifts and benefits received by an Elected Member above the gazetted value by the Minister from time to time must be declared on an Elected Members Gifts and Benefits Form.
- 2.22** It is the responsibility of the Elected Member to ensure that the form is completed, accurate and lodged within 30 days of receipt of the gift or benefit.

### *Campaign Donations*

- 2.23** Elected Members may accept donations and gifts as provided for and in accordance with the provisions of Part 14, campaign donations in the *Local Government (Elections) Act 1999*. All such donations and gifts must be declared in a campaign donations return within 30 days of the conclusion of an election.
- 2.24** A register of Elected Member campaign donations returns shall be maintained in accordance with Part 14 Division 2 of the *Local Government (Elections) Act 1999* and made available for public scrutiny upon request.
- 2.25** An Elected Members Gift register shall be maintained and updated quarterly on the Council's website.
- 2.26** An Elected Member who:
- a. makes a false claim for reimbursement or makes a claim for expenditure which they are not entitled or
  - b. fails to provide a campaign donations return or declare a gift or benefit may be investigated for a breach of Part 3 of the Elected Member Code of Conduct.
- 2.27** Any expenses, additional reimbursements and facilities and support not detailed in this policy will require the specific approval of Council prior to any expense being incurred, additional reimbursements being paid, benefits being received and facilities and/ or support being provided.

### **3. REFERENCES**

#### *Legislation*

- *Income Tax Assessment Act 1997*
- *Independent Commissioner Against Corruption (ICAC) Act 2013*
- *Local Government Act 1999*
- *Local Government (Elections) Act 1999*
- *Local Government (Members Allowances and Benefits) Regulations 2010*

#### *Other References*

- City of Holdfast Bay's Investigations Policy
- Code of Conduct for Elected Members 2013
- Elected Members Code of Conduct Complaints Investigations Procedure.
- Elected Members Gifts and Benefits Form.