



**14.5** **ADOPTION OF INTERIM COUNCILLOR EXPENSES AND SUPPORT POLICY**

**EXECUTIVE MEMBER:** **KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND ORGANISATIONAL CAPABILITY**

**PREPARED BY:** **KIRSTY PEARCE, HEAD OF GOVERNANCE**

**1. PURPOSE**

- 1.1 To present the interim Councillor Expenses and Support Policy for endorsement which is required to be adopted by 1 September 2020 under the Local Government Act 2020 (the Act).
- 1.2 To recommend a community engagement process be undertaken prior to commencement of the Caretaker period, and feedback received through this process be presented to the new Council for consideration before reviewing and adopting the Councillor Expense Policy as one of its priority items of business.

**2. EXECUTIVE SUMMARY**

- 2.1 The Local Government Act 2020 (the Act) requires Council to adopt a policy by 1 September 2020 in relation to the reimbursement of out-of-pocket expenses for councillors and members of delegated committees.
- 2.2 The Councillor Support and Expense Reimbursement Policy was adopted by Council on 28 June 2016. Officers commenced a formal review of the Policy in 2019 and finalised a draft policy earlier in 2020, however presentation of this report was deferred while an internal audit was undertaken on this matter which is not yet complete. Key timeframes for this matter are outlined later in this report.
- 2.3 This attached proposed policy has been reviewed in accordance with the requirements of the new Act and incorporates:
  - input from Councillors on the opportunity to provide clearer information on the support and resources available to Councillors, and
  - new legislative requirements of the Act, and
  - general themes coming through from the internal Councillor Expenses and Support Audit, which has not yet concluded.
- 2.4 The key objectives of the Council Expenses and Support Policy developed by Council are to:
  - 2.4.1 Ensure Councillors have the support and knowledge they require to properly discharge their civic responsibilities, given they are elected to voluntary, part-time roles in the community.
  - 2.4.2 Ensure that Councillors and members of delegated committees and the Audit and Risk Committee fully understand the responsibilities and obligations they must uphold to receive reimbursement of expenses and support.
  - 2.4.3 Ensure expenses reimbursed and support provided meets reasonable community expectations and that the community understands why support is provided and the legitimate forms this can take.



- 2.4.4 Encourage diversity and participation as Councillors from the broadest cross section of the community by reducing barriers to participation.
- 2.4.5 Ensure expense reimbursement and support is administered in a timely, transparent and auditable manner that complies with relevant legislation.
- 2.4.6 Ratify Council's compliance with the Local Government Act 2020.

### 3. RECOMMENDATION

That Council:

- 3.1 Adopts interim Councillor Expenses and Support Policy, required under Section 41 of the Local Government Act 2020 (Attachment 1).
- 3.2 Endorses a community engagement process on the interim Councillor Expenses and Support Policy be undertaken prior to commencement of the Caretaker period.
- 3.3 Endorses the presentation of feedback received through the community engagement process to the new Council elected at the 2020 general election, for consideration before reviewing and adopting the Councillor Expense Policy as one of its priority items of business.
- 3.4 Delegates authority to the Chief Executive Officer to make minor amendments to the document to correct drafting errors that do not materially alter the intent of the policy.

### 4. KEY POINTS/ISSUES

#### 4.1 Legislative Context

- 4.1.1 The Act provides that councillors and members of delegated committees are entitled to be reimbursed for bona fide out-of-pocket expenses incurred while performing their role and are reasonably necessary to perform that role.
- 4.1.2 The Act also provides that Council must make available to the Mayor and Councillors the resources and facilities reasonably necessary to enable them to effectively perform their role. This includes that consideration must be given to the support that may be required by a Mayor, Deputy Mayor or Councillor because of a disability, and have particular regard to the support that may be required by a Councillor who is a carer in a care relationship within the meaning of section 4 of the Carers Recognition Act 2012.
- 4.1.3 The Act requires the Policy to:
  - specify procedures to be followed in applying for reimbursement and in reimbursing expenses; and
  - provide for the reimbursement of child care costs where the provision of child care is reasonably required for a councillor or member of a delegated committee to perform their role; and
  - have particular regard to expenses incurred by a councillor who is a carer in a care relationship within the meaning of the Carers Recognition Act.
- 4.1.4 The Policy must also comply with any requirements prescribed by the regulations in relation to the reimbursement of expenses however, it should be noted at this time no such regulations have been made.

# ORDINARY MEETING OF COUNCIL 19 AUGUST 2020



4.1.5 Under the Act Council is required to provide details of all reimbursements for out of-pocket expenses made to a Councillor and a member of a delegated committee to the Audit and Risk Committee.

## 4.2 Current Policy

The Councillor Support and Expense Reimbursement Policy was adopted by Council on 28 June 2016. A copy of the 2016 policy is included at **attachment 2**.

Officers commenced a formal review of the Policy in 2019. A timeline of the review to date:

|  |  |
|--|--|
| <b>2 October 2019:</b><br>Councillor Briefing  | Overview of the current Policy<br>Background on the application of policy and desktop review of other inner metro Councils<br>Develop measures of success and key outcomes Council is seeking to achieve from the Policy |
| <b>30 October 2019:</b><br>Councillor Briefing | Confirm measures of success and key outcomes Council is seeking to achieve from the Policy<br>Provide Councillors with options on the development of a new Councillor Expenses & Support Policy                          |
| <b>29 January 2020:</b><br>Councillor Briefing | Working draft of the Councillor Allowances and Support Policy presented to Councillors for feedback prior to formal presentation of a draft policy to Council in March 2020  |
| <b>February / March 2020</b>                   | Discussion by the Audit and Risk Committee on this matter and a request for an internal audit to be undertaken by an independent party   |
| <b>March 2020</b>                              | New Local Government Act 2020 proclaimed   |
| <b>March / April 2020</b>                      | Audit scope defined and independent audit provider engaged   |
| <b>May 2020</b>                                | Audit scope approved by Audit and Risk Committee   |
| <b>May 2020</b>                                | Audit field work commenced   |
| <b>June - July 2020</b>                        | Field work and testing undertaken, and findings related to policy presented in draft form  |
| <b>July – Aug 2020</b>                         | Field work and testing continue on some parts of the audit scope   |
| <b>August 2020</b>                             | Field work completed.  |
| <b>Next Steps</b>                              | 1. Reviewing the draft audit report and responding to the findings<br>2. Consideration by the Audit and Risk Committee<br>3. Report on outcomes to be presented to a Council Meeting                                     |

## 4.3 Key Changes

4.3.1 The interim Policy has been updated to reflect the new requirements of the Act, including specifically to:

- give consideration to the support that may be required by a Councillor because of a disability, and
- provide for the reimbursement of child care costs where the provision of child care is reasonably required; and



- have particular regard to the support that may be required by a Councillor who is a carer in a care relationship within the meaning of the Carers Recognition Act 2012.

4.3.2 Additional key elements of the interim policy include: -

- A clearer statement of why the policy is required and what it sets out to achieve;
- A clearer definition of official Council business;
- A more holistic view of the various support and expenses that Councillors can access;
- Inclusion of an hourly rate cap for carer and childcare expenses, subject to available budget funding;
- Clearer criteria for accessing professional development and training opportunities;
- Greater clarity for travel associated with the Greater Melbourne area;
- A clearer definition of technology and communications support;
- Clearer forms for claim of expense or seeking reimbursement;
- Timeframes limiting the claim period for reimbursement;
- Reporting requirements which include a quarterly report published on Council's website as well as being tabled at an ordinary Council meeting, and reports being provided to the Audit and Risk Committee.

**4.4 Councillor Expenses and Support Audit**

4.4.1 Council's auditors were engaged to undertake an internal audit to amongst other things: *assess the design of, and adherence to, the key controls for Councillor Expenses including compliance with City of Port Phillip (CoPP) Councillor Expenses and Support Policy. Where possible, we will identify opportunities for you to improve the CoPP Councillor Expenses and Support Policy, and structure and operation of the procedures and controls.*

4.4.2 A final report on the Audit has not yet been received and some elements of the audit are still being finalised. Officers have been provided with the parts relating to the policy to enable Council to execute its statutory obligation to adopt a Policy by 1 September 2020. A public report will be provided on the matter once the Audit is complete which summarizes the audit scope, findings and management actions.

4.4.3 Amongst other things the Audit assessed the updated Draft Policy (Feb 2020), and found it reflects many of the improvements required and suggested some additional elements to further strengthen the document. As a result, further material changes have been made to the following parts of the proposed policy including: -

- Mayor & Councillor Allowances;
- Communication Equipment;
- Transport;
- Monitoring of Expenditure;
- Form of Claims;



- Assessment of Claims;
- Reporting Requirements.

#### **4.5 Consideration by new Council**

- 4.5.1 The interim policy, once adopted by Council, will be listed on Have Your Say and circulated for community feedback prior to commencement of the Caretaker Period (22 September).
- 4.5.2 Following the election, the new Council will consider the community feedback and review the Policy accordingly, before adopting the Councillor Expense Policy as one of its priority items of business.

### **5. CONSULTATION AND STAKEHOLDERS**

- 5.1 The Councillor Expenses and Support Policy is a statutory document which incorporates prescribed requirements of the Local Government Act 2020.
- 5.2 Officers have worked closely with the other Councils, Local Government Victoria, legal advisors, and sector bodies to interpret legislative requirements and develop the policy.
- 5.3 The policy has been subject to consultation with Councillors at briefings, senior managers and relevant staff.
- 5.4 Feedback from the Audit Committee was sought at the November 2019 meeting to help inform the development of the draft policy. The Committee will provide further feedback during the consultation period and this will be presented to the new Council for their consideration when reviewing the policy.
- 5.5 Following the adoption of the interim Policy, Council will commence an online engagement page which will provide viewers with information on the new Act, the policy document, and the opportunity to provide feedback. The page will be circulated to community networks and promoted through Council's social media channels.

### **6. LEGAL AND RISK IMPLICATIONS**

- 6.1 Council is required to adopt by 1 September 2020 a Councillor Expenses Policy under the Local Government Act 2020.
- 6.2 The Policy has been prepared to ensure that council complies with its legislative requirements under the Act, including to:
- specify procedures to be followed in applying for reimbursement and in reimbursing expenses; and
  - provide for the reimbursement of child care, reasonably required for a Councillor or a member of a delegated committee to perform their role,
  - provide for reimbursement for a Councillor who is a carer in a care relationship within the meaning of section 4 of the Carers Recognition Act 2012.
  - provide details of all reimbursements to the Audit and Risk Committee.

### **7. FINANCIAL IMPACT**

- 7.1 Provision of support and expenses for Councillors is managed within Council's approved operational budgets.



**8. ENVIRONMENTAL IMPACT**

- 8.1 The Policy supports the use of sustainable travel by Councillors and members of Delegated Committees.
- 8.2 There is no direct environmental impact resulting from Council adopting this policy.

**9. COMMUNITY IMPACT**

- 9.1 The Policy seeks to provide:
  - 9.1.1 Greater appreciation by the community that there is a certain level of support required for Councillors to fulfil their civic duties;
  - 9.1.2 Reduction of barriers to encourage the greatest diversity of people to participate in civic life as Councillors;
  - 9.1.3 Greater clarity for Councillors, staff and members of the public about the reasons for Councillor expenses and reimbursement and the types of support provided to Councillors
- 9.2 The policy clarifies for the community and for Councillors what support is provided to Councillors and it clearly states what expenses can and cannot be claimed by Councillors and the reasoning. It also provides greater transparency and accountability by requiring certain costs to be publicly disclosed.

**10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

- 10.1 Adoption of the Policy aligns with Direction 6 of the Council Plan (Our Commitment to You), by providing a transparent and good governance approach to decision making and aids in achieving a financially sustainable, high performing, well governed organisation that puts the community first.
- 10.2 This policy assists Councillors and Council staff to understand the importance of having open and ethical processes which adhere to the law and stand up to scrutiny.

**11. IMPLEMENTATION STRATEGY**

- 11.1 Notice of the Councillor Expenses and Support Policy will be given, and officers will undertake a community engagement process as outlined in this report. The Council elected in October 2020 will consider feedback received and review the Policy as one of its priority items of business.

**12. OFFICER DIRECT OR INDIRECT INTEREST**

- 12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

**TRIM FILE NO:** F20/1

**ATTACHMENTS**

- 1. Interim Councillor Expenses and Support Policy
- 2. Councillor Support and Expense Reimbursement Policy 2016