



SPECIAL REPORT

6 DECEMBER 2023

Members' additional entitlements 2023

NEW SOUTH WALES AUDITOR-GENERAL'S REPORT

THE ROLE OF THE AUDITOR-GENERAL

The roles and responsibilities of the Auditor-General, and hence the Audit Office, are set out in the *Government Sector Audit Act 1983* and the *Local Government Act 1993*.

We conduct financial or 'attest' audits of state public sector and local government entities' financial statements. We also audit the Consolidated State Financial Statements, a consolidation of all state public sector agencies' financial statements.

Financial audits are designed to give reasonable assurance that financial statements are true and fair, enhancing their value to end users. Also, the existence of such audits provides a constant stimulus to entities to ensure sound financial management.

Following a financial audit the Audit Office issues a variety of reports to entities and reports periodically to Parliament. In combination, these reports give opinions on the truth and fairness of financial statements, and comment on entity internal controls and governance, and compliance with certain laws, regulations and government directives. They may comment on financial prudence, probity and waste, and recommend operational improvements.

We also conduct performance audits. These assess whether the activities of government entities are being carried out effectively, economically, efficiently and in compliance with relevant laws. Audits may cover all or parts of an entity's operations, or consider particular issues across a number of entities. Our performance audits may also extend to activities of non-government entities that receive money or resources, whether directly or indirectly, from or on behalf of government entities for a particular purpose.

As well as financial and performance audits, the Auditor-General carries out special reviews, compliance engagements and audits requested under section 27B(3) of the *Government Sector Audit Act 1983*, and section 421E of the *Local Government Act 1993*.

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Sydney NSW 2001

The Legislative Assembly
Parliament House
Sydney NSW 2000

The Legislative Council
Parliament House
Sydney NSW 2000

In accordance with section 52B of the *Government Sector Audit Act 1983*, I present a report titled '**Members' additional entitlements 2023**'.

A handwritten signature in black ink, appearing to read 'Margaret Crawford'.

Margaret Crawford PSM

Auditor-General for New South Wales
6 December 2023



RECONCILIATION COMMITMENT STATEMENT

The Audit Office of New South Wales pay our respect and recognise Aboriginal people as the traditional custodians of the land in NSW.

We recognise that Aboriginal people, as custodians, have a spiritual, social and cultural connection with their lands and waters, and have made and continue to make a rich, unique and lasting contribution to the State. We are committed to continue learning about Aboriginal and Torres Strait Islander peoples' history and culture.

We honour and thank the traditional owners of the land on which our office is located, the Gadigal people of the Eora nation, and the traditional owners of the lands on which our staff live and work. We pay our respects to their Elders past and present, and to the next generation of leaders.

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Section one

Members' additional
entitlements 2023

1. Members' additional entitlements 2023

The Auditor-General has reviewed the compliance of the members of the NSW Parliament (members) with certain requirements outlined in the Parliamentary Remuneration Tribunal's Determination (the determination) for the year ended 30 June 2023.

The Auditor-General's review analyses claims made by members during the 2022–23 financial year. We use data analytics to select a sample of members' claims and focus on claims that our data analysis identifies as being at higher risk. We do not test every claim made by members. Our sample consisted of 70 claims submitted by 64 of 135 Members.

Results

Our audit procedures identified 33 departures from the determination. In addition, we identified seven instances where members did not submit their annual loyalty scheme declarations by the date specified in Department of Parliamentary Services' (the department) administrative requirements.

Such departures have been consistently identified in the past years and indicate greater clarity is needed in the current processes and where training or education for members is required. These departures were as follows:

- 22 members did not submit their claims for payment within 60 days of receipt of invoice or incurring the expense (2022: 12 members' claims)
- 4 members submitted their Sydney Allowance reconciliations after the due date (2022: six members' reconciliations)
- 2 members had claimed for publications under the Communications Allowance but not made the required authorisations and attributions upon publication (2022: four member's publications)
- 1 member made a claim for a Communication Allowance during the blackout period
- 4 members did not submit their annual loyalty/ incentive scheme declarations (2022: two members)
- 7 members submitted their annual loyalty/ incentive scheme declarations after the date specified in the department's administrative requirements (2022: 16 declarations).

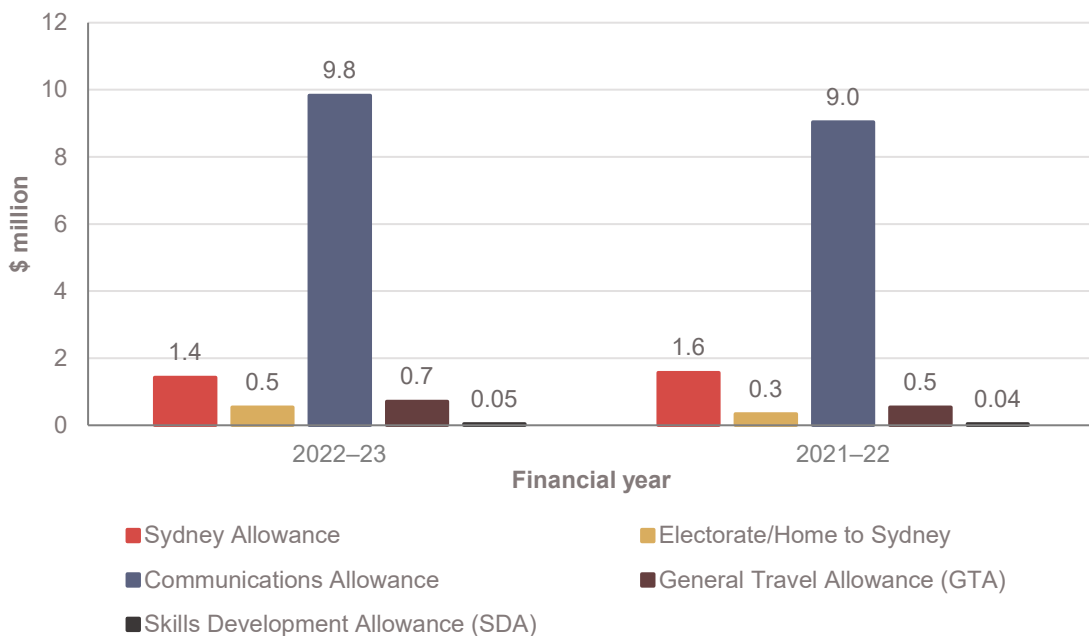
Background

The Parliamentary Remuneration Tribunal (the tribunal) determines the salary and additional entitlements of the members, details of which are set out in the tribunal's annual determination. The NSW Parliament, through the department, administers payments of additional entitlements to members. An overview is presented below:



In 2022–23, members claimed additional entitlements of \$23.9 million (\$22.5 million in 2021–22).

The following graph shows the total amount claimed by category of members' additional entitlements over the last two years:



The increase in Communication Allowance of \$0.8 million from 2021–22 was mainly due a general increase in members' activity increased in the lead up to the election more frequently than in the prior year. During an election year, members are not permitted to use their Communications Allowance for the production and distribution of publications intended for distribution within two months of the election date (the 'blackout period'). This means that members were unable to use their allowances from 26 January to the election date on 25 March 2023.

We did not test members' compliance with the determination for the following additional entitlements as the determination excludes these allowances from the scope of this review:

- Travelling Allowance for Recognised Office Holders. Members did not claim for reimbursement under this allowance in 2022–23 or 2021–22
- Equipment, Services and Facilities Fixed Allocation, Electoral Allowances and Committee Allowances.

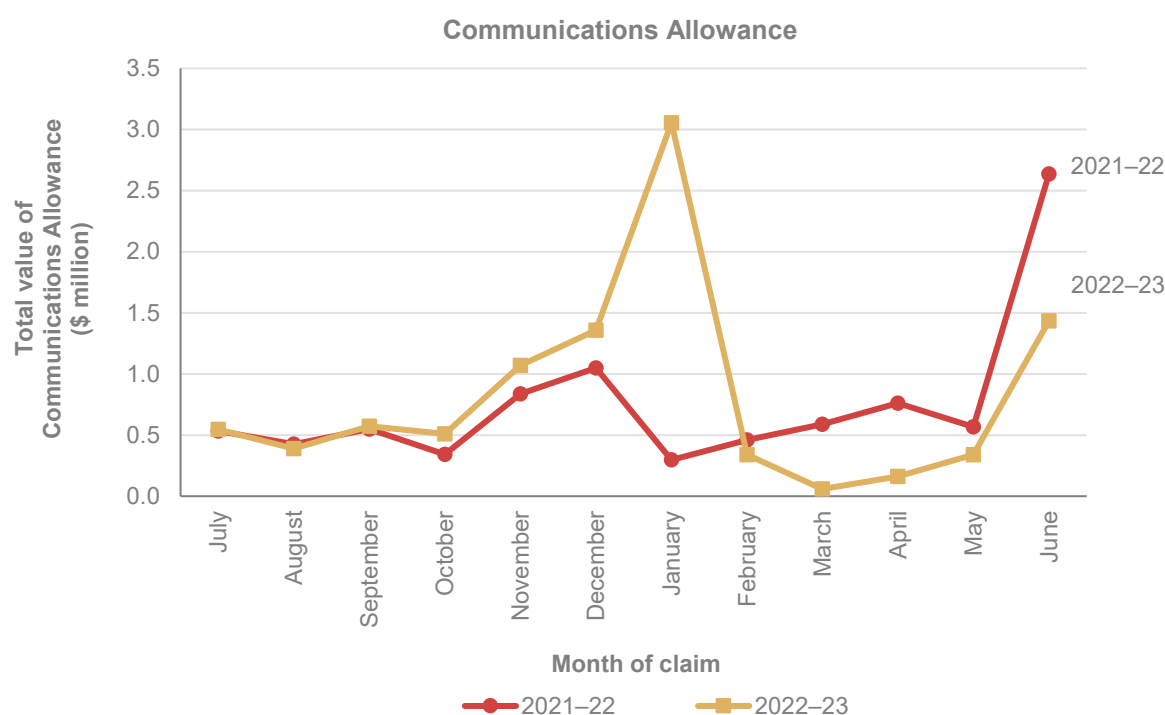
The following table shows the amounts claimed by members for additional entitlements in the scope of our review.

Nature	Additional entitlements	2022–23	2021–22	Movement (%)
Allowance	Sydney Allowance	\$1.4m	\$1.6m	(12.5)
Fixed Allocations	Communication Allowance	\$9.8m	\$9.0m	8.9
	General Travel Allowance	\$707,000	\$537,000	31.7
	Electorate to Sydney Travel Allowance	\$539,000	\$337,000	59.9
	Skills Development Allowance	\$46,000	\$43,000	7.0

Blackout period for the Communications Allowance before the 2023 State election

Members incurred expenditure in the months leading up to the blackout period which commenced on 26 January 2023. However, because claims can only be made after the expenditure has been incurred, while the expenditure related to transactions before the blackout period the claims were processed in January and February. Accordingly, the graph below shows an increase in Communications Allowance claims in January and February 2023 prior to the 2023 State election, with claims trailing off during the blackout period. Members spent over \$3.4 million from their Communications Allowance in this two-month period preceding the blackout, claiming 34.7% of the total within these two months in 2022–23.

The following graph shows the average monthly spend from the Communications Allowance over the last two years.



Sydney Allowance

Under the determination, the Sydney Allowance is provided for the purpose of compensating Members who reside in non-metropolitan electorates for the additional costs including commercial accommodation, meals and incidental costs associated with staying in Sydney to perform parliamentary duties.

Compensation is paid at a rate of \$332 per night, or on the basis of actual costs (up to the daily rate) incurred once the entitled number of overnight stays is exceeded. In prior years, we noted instances where members claimed the nightly rate under this allowance while staying in non-commercial accommodation such as a private or personal residence. We continue to note such instances in 2022–23, but note such claims are permitted under the terms of the determination.

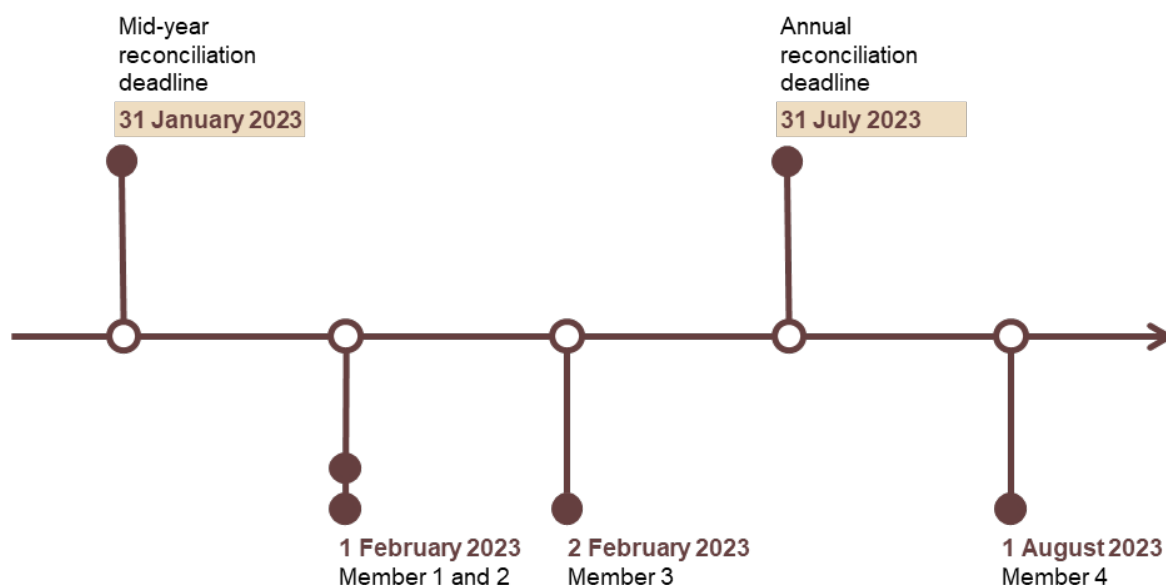
2. Detailed findings

Twenty-two members did not submit their claims for payment within 60 days of receipt of invoice or incurring the expense

The determination requires members to submit expense claims to the department within 60 days of receipt of invoice or incurring the expense. Our audit procedures identified 22 instances where members submitted their claims between three and 284 days late. This includes 18 members who currently sit in the Legislative Assembly or Council.

Four members submitted their Sydney Allowance reconciliations after the due date

At the start of each financial year, a member can choose to receive the Sydney Allowance as either an annual fixed amount paid monthly with their salary, or at a daily rate for each required overnight stay. Members who choose to receive an annual fixed amount must submit reconciliations twice a year to the department and return any excess of the allowance over actual expenses incurred by 30 September each year. Three members were late filing their mid-year reconciliations and one member was late filing their annual reconciliation (includes three sitting members). None of the members who filed late reconciliations needed to refund any unspent portion of their allowance to the department.



Two members had claimed for publications under the Communications Allowance, but not made the required authorisations and attributions upon publication

The Parliament's Communications Allowance Guidelines require that claims for the Communications Allowance, such as for printed or digital advertisements and electronic publications are eligible only where the communication includes an authorisation that the communication has been 'authorised by' (the member) and an attribution that it has been 'funded using parliamentary entitlements'. Two members claimed the Communications Allowance for published communications to constituents that had not made the required authorisation and attribution. The department will seek repayment of amounts claimed from these members.

Members are responsible for ensuring that their final published communications remain compliant with Parliament's Communications Allowance guidelines.

One member made a claim for a Communication Allowance during the blackout period

Members are not permitted to use their Communications Allowance during the blackout period as per the Parliament's Communications Allowance Guidelines.

We noted one member claimed the Communication allowance and distributed birthday letters in their electorate during the blackout period. This claim did not meet the criteria of general office correspondence in line with the Parliament's Communications Allowance Guidelines. The department will seek repayment of amounts claimed from this member.

Four members did not submit their annual loyalty/incentive scheme declarations

We found a further four members including two sitting members did not submit their declarations at all. The declaration is important as it affirms that loyalty benefits accrued using the members' parliamentary allowances and entitlements were not used for private purposes.

Seven members submitted their annual loyalty/incentive scheme declarations after the date specified in the department's administrative requirements

The department's administrative processes require members to complete the declaration about their use of loyalty/incentive scheme benefits accrued in the course of their parliamentary duties by 31 July 2023. Benefits accrued as a result of parliamentary duties must not be used for private purposes. The determination requires current members to complete the declarations at the end of each year. Former members must also complete a declaration within 30 days of leaving parliament.

We found seven members including three sitting members, submitted their declarations between one and 11 days late.

3. Recommendations

Greater clarity in current processes and training or education to members is required to address departures from the determination

There is an increase in the number of departures from the determination reported in our Auditor-General's Report to Parliament on members' additional entitlements since 2021–22. There is a need for greater clarity in current processes and guidance including increased training or education to help support members comply with the determination. We recommend the tribunal provides greater clarity on current processes and implications of departures from the guidelines to members. We recommend the department works with members to provide them additional training or education to better help them comply with the determination.

Open prior period recommendations

Enhanced public reporting

In 2016, the Auditor-General's Report to Parliament recommended the tribunal consider requiring the department to regularly publish full details of members' expenditure claims on its website in an accessible and searchable format. The tribunal had developed a plan requiring greater public reporting of members' additional expenditure from 1 July 2019 but it does not have the power to require the department to facilitate this. This matter has been raised every year since 2016 and it continues to remain an open recommendation in 2023.

The Annual Reports of the Legislative Assembly and the Legislative Council, published on the Parliament's website, currently list the total amount claimed during the year by each member for each allowance. However, transparency around members' claims would be enhanced if information was more extensively and regularly published on the Parliament's website. The department should continue to work with the presiding officers, members, the clerk of the Parliaments and the clerk of the Legislative Assembly to enhance reporting of members' expenditure.

Section two

Appendices

Appendix one – Response from Department of Parliamentary Services

Parliament of
New South Wales

Department of Parliamentary Services
Office of the Chief Executive

6 Macquarie Street, Sydney
NSW 2000 Australia
www.parliament.nsw.gov.au

5 December 2023

Our Ref: D23/135818

Ms Margaret Crawford
Auditor-General of NSW
Audit Office of New South Wales
GPO Box 12
SYDNEY NSW 2001

Dear Ms ^{Margaret}Crawford

Re: Auditor General's Report to Parliament – Members' Additional Entitlements 2023

I refer to the report to Parliament on Members' Additional Entitlements 2023 and specifically to the following recommendations:

1. Increased awareness of the administrative requirements in connection with the use of Members' additional entitlements

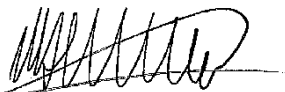
The Department remains committed to continuing to provide Member's with appropriate education and advice to support them in complying with Parliament's administrative guidelines and the Annual Determination of the Parliamentary Remuneration Tribunal.

2. Enhanced public reporting of Members' expenditure claims

As previously indicated, the ability of the Department to fulfill the recommendation of the Audit Office is contingent on the receipt of significant funding to develop, implement and maintain the required reporting system.

The Department will continue to seek funding from NSW Treasury in respect to the recommendation made by the Auditor General.

Yours sincerely



Mark Webb
Chief Executive



OUR VISION

Our insights inform and challenge government to improve outcomes for citizens.

OUR PURPOSE

To help Parliament hold government accountable for its use of public resources.

OUR VALUES

Pride in purpose
Curious and open-minded
Valuing people
Contagious integrity
Courage (even when it's uncomfortable)

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