



SPECIAL REPORT

16 DECEMBER 2021

Members' additional entitlements 2021

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 add credibility to financial statements, 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 examine whether an entity is carrying out its activities effectively and doing so economically and 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.

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
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Sydney NSW 2000

In accordance with section 52B of the *Government Sector Audit Act 1983*, I present a special report titled '**Members' additional entitlements 2021**'.

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

Margaret Crawford

Auditor-General for New South Wales
16 December 2021

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Section one

Members' additional
entitlements 2021

Report highlights

What the report is about

The Auditor-General's review analyses claims made by Members of the NSW Parliament during the 2020–21 financial year by testing a sample of transactions. Our sample consisted of 67 claims submitted by 52 of the 137 Members.

What we found

While we did not identify any instances of material non-compliance with the Parliamentary Remuneration Tribunal's Determination, we did identify 31 departures from the Determination, which were of an administrative nature.

What we recommended

The Department of Parliamentary Services (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.

In 2020, we recommended the Department work with the Tribunal to provide additional guidance to Members to clarify:

- the definition of 'parliamentary duties'
- the activities that meet the definition
- requirements for retaining documents.

The Department will work with the Tribunal to clarify these items as part of its submission to the 2022 annual Determination.

Fast facts

12

claims were submitted after 60 days

10

annual loyalty scheme declarations were submitted late

\$22.5m

of additional entitlements were claimed in the 2020–21 financial year. This was 4.2% higher than in the 2019–20 financial year.

7

Sydney allowance reconciliations were submitted late

2

publications had not made the required authorisations and attributions

Members' additional entitlements 2021

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 2021.

The Auditor-General's review analyses claims made by Members during the 2020–21 financial year by testing a sample of transactions. Our sample consisted of 67 claims submitted by 52 of the 137 Members.

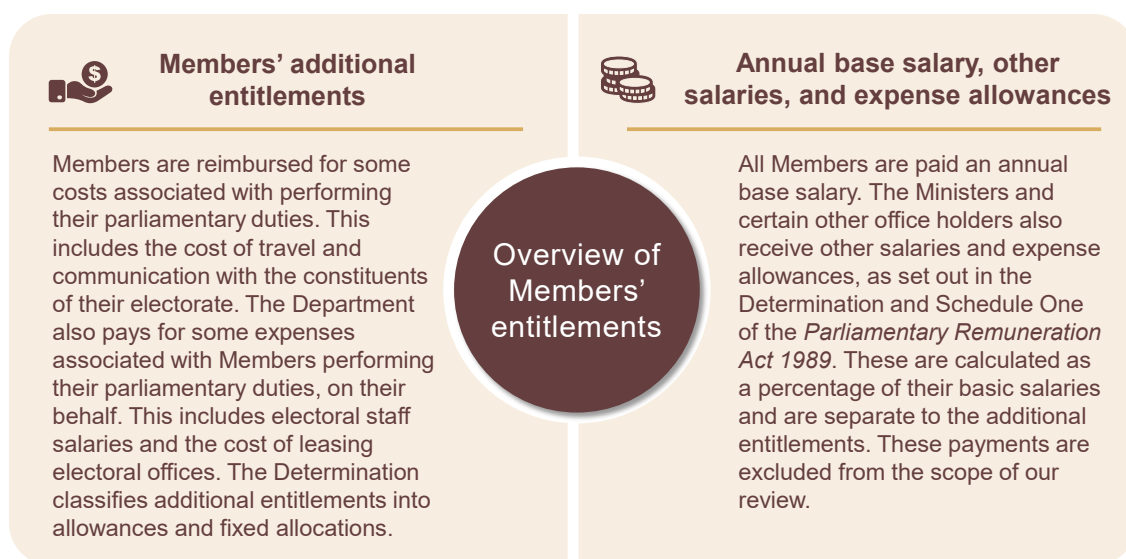
Results

Although our review did not identify any instances of material non-compliance with the Determination for the year ended 30 June 2021, we did identify 31 departures from the Determination, which were of an administrative nature. Such departures may help identify areas in the current processes where greater clarity is needed or where training or education for Members is needed. These departures were as follows:

- 12 claims were not submitted for payment within 60 days of receipt or occurrence of the expense
- 10 annual loyalty scheme declarations were submitted by Members after the due date specified in the guidelines
- 7 reconciliations for the Sydney Allowance were submitted after the due date
- 2 publications claimed under the Communications Allowance had not made the required authorisations and attributions on the publication.

Background

The Parliamentary Remuneration Tribunal (the Tribunal) determines the salary and additional entitlements of Members of the NSW Parliament (Members), details of which are set out in the Tribunal's annual Determination. The NSW Parliament, through the Department of Parliamentary Services (the Department), administers payments of additional entitlements to Members in accordance with the Tribunal's annual Determination. An overview is presented below:



Source: 2020 Annual Report and Determination - Parliamentary Remuneration Tribunal.

In 2020–21, Members claimed additional entitlements of \$22.5 million, an increase of 4.2 per cent from 2019–20. The increase is largely attributable to:

- the Tribunal's 2020 annual Determination increasing the quantum of the Additional Allocation component of the Communications Allowance by 3.6 per cent
- a relaxing of domestic travel restrictions in 2020–21 compared to the last quarter of 2019–20, resulting in increased utilisation of travel related entitlements.

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 allowed under this allowance in 2020–21 or 2019–20.
- Electoral Allowances, Committee Allowances and Equipment, Services and Facilities Fixed Allocation.

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

Nature	Additional Entitlements	2020–21	2019–20	Movement (%)
Allowance	Sydney Allowance	\$1.8m	\$1.6m	13.8
Fixed	Communications Allowance	\$8.7m	\$8.0m	8.7
Allocations	General Travel Allowance	\$708,000	\$686,000	3.2
	Electorate to Sydney Travel Allowance	\$426,000	\$455,000	(6.5)
	Skills Development Allowance	\$80,000	\$66,000	21.3

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 \$315 per night or actual costs incurred once the entitled number of overnight stays is exceeded. In previous years we have noted instances where Members have claimed this allowance when staying in non-commercial accommodation, and we continue to note similar instances this year.

1. Detailed findings

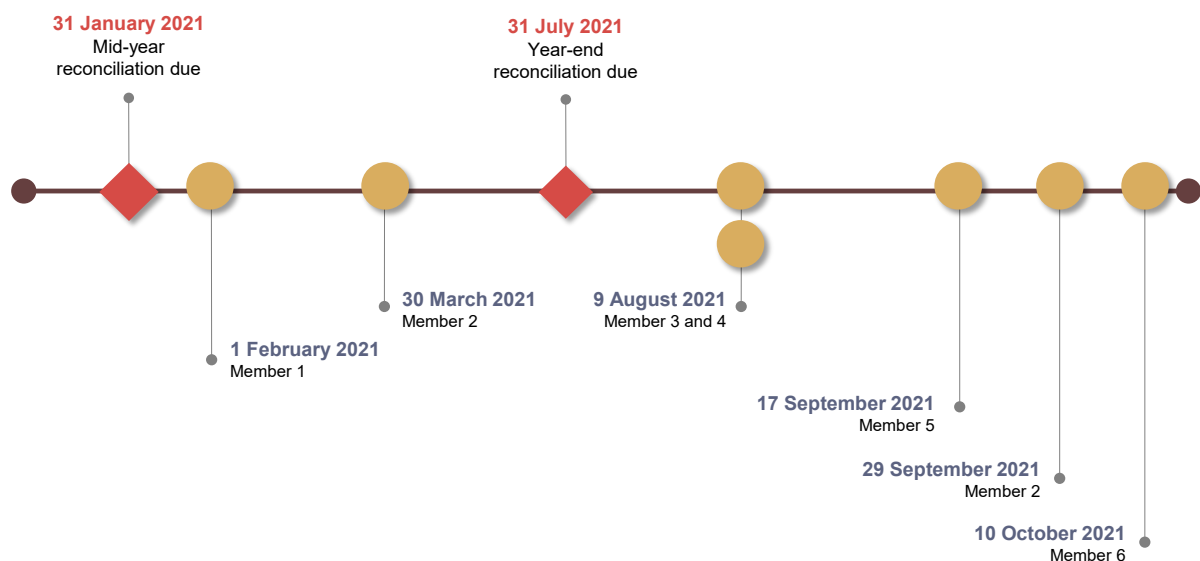
Twelve claims were not submitted for payment within 60 days of receipt or occurrence of the expense

The Determination requires Members' expense claims to be submitted to the Department within 60 days of when the expense is incurred or receipted. Our audit procedures identified 12 instances where Members submitted their claims between six and 248 days late.

Ten annual loyalty/incentive scheme declarations were submitted by Members after the due date specified in the guidelines

At the end of each financial year, Members must declare they have not used loyalty/incentive scheme benefits accrued from their parliamentary duties for private purposes. The Determination requires current Members to complete the declarations at the end of each year (by 27 August 2021 per the Department's administrative process). Former Members must complete the declarations within 30 days of leaving parliament. We found ten current Members submitted their declarations between three and 18 days late. 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 reconciliations for the Sydney Allowance reconciliations were submitted 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, or at a daily rate for each required overnight stay. Members that 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. Of the six Members who submitted their Sydney Allowance reconciliations late, one Member was late with both of their mid-year and year end reconciliations.

Of the five Members who submitted their year end reconciliations late, four were owed money for expenditure more than the Allowance received but one needed to repay unspent Allowances. The Member repaid \$630 after the required date of 30 September 2021. Another Member who had submitted their reconciliation on time and needed to repay unspent Allowances also repaid \$5,040 after the required date of 30 September 2021.

Two publications claimed under the Communications Allowance had not made the required authorisations and attributions on a publication

The Parliament's Communications Allowance Guidelines require that claims for the Communications Allowance, such as for radio and television advertisements and electronic publications are eligible only where the communication has made the following statement 'Authorised by' (the Member). 'Funded using parliamentary entitlements'.

We noted the following claims did not include the prescribed attribution in the published communications:

- \$3,000 relating to a community sport advertising campaign. The Member had submitted a compliant draft communication to the Department for review. During the publishing process a pagination issue caused the attribution to be cut off in the final print.
- \$2,000 relating to a radio advertising campaign that used the statement 'Spoken by Member for ... Funded by Parliamentary Budget', which is a departure from the prescribed attribution.

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

2. Recommendations

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 does not have the power to require the Department to facilitate this.

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.

Clarifying key parameters of the annual Determination

In 2020, the Auditor-General's Reports to Parliament recommended The Department work with the Tribunal to provide additional guidance to Members to clarify:

- the definition of 'parliamentary duties'
- the activities that meet the definition
- requirements for retaining documents.

To address this recommendation, the Department has performed a review of the definitions and activities used by other jurisdictions, in their administration of Members' entitlements. The Department is also continuing to monitor for changes in the administration of Members' entitlements occurring at the Federal level. The Department will work with the Tribunal to clarify these items as part of its submission to the 2022 annual Determination.

Resolved prior period recommendations

Recommendations resolved since the 2020 Auditor-General's report

The 2019 Auditor-General's Report recommended the Department work with the Tribunal to clarify whether Members can claim the cost of travel from their General Travel Allowance when the travel was used to produce communications during the blackout period. Members are not permitted to use their Communications Allowance for the production and distribution of publications that they intended to distribute in a State Election year in the period from 26 January to the election date (the 'blackout period').

The 2021 Determination has clarified this matter by stating that during the 'blackout period' travel necessary for parliamentary duties rather than electioneering is acceptable. The 2021 Determination has also included the condition that a Member may not use their General Travel Allowance to fund communications that would normally be funded from the Communications Allowance during a 'blackout period'.

Section two

Appendices

Appendix one – Response from Department of Parliamentary Services



DEPARTMENT OF PARLIAMENTARY SERVICES
Office of the Chief Executive

Ref: D21/63007

1 December 2021

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

Dear Ms Crawford

Re: Auditor-General's Report to Parliament - Members' Additional Entitlements 2021

I refer to your report to Parliament on Members' Additional Entitlements 2021 and specifically to the following items titled:

1. Enhanced public reporting of Members' expenditure claims

The Department remains committed to implementing the enhanced public reporting of Members' expenditure claims as contained in the Annual Report and Determination of the Parliamentary Remuneration Tribunal dated 16 May 2018.

As indicated in previous years, the Department requires significant funding from NSW Treasury to develop appropriate systems in respect to the original recommendation put forward by the Audit Office. I can confirm the Department has again submitted a proposal for funding to NSW Treasury as part of its 2022/23 budget cycle.

2. Clarifying key parameters of the annual Determination

The Department remains committed to working with the Parliamentary Remuneration Tribunal in respect to any additional guidance to be provided to Members in respect to the activities that meet the definition of 'parliamentary duties'.

In supporting this work, the Department has previously undertaken some preliminary work on the definition of parliamentary duties and the activities that meet the definition in the context of select Australian jurisdictions.

Yours sincerely

A blue ink signature of Mark Webb, Chief Executive of the Department of Parliamentary Services.

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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