

Members' Additional Entitlements 2018

28 FEBRUARY 2019



NEW SOUTH WALES AUDITOR-GENERAL'S REPORT

SPECIAL 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 *Public Finance and 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 Total State Sector Accounts, a consolidation of all agencies' accounts.

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 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 and compliance engagements.

Performance audits are reported separately, with all other audits included in one of the regular volumes of the Auditor-General's Reports to Parliament – Financial Audits.



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In accordance with section 52B of the *Public Finance and Audit Act 1983*, I present a special report titled '**Members' Additional Entitlements 2018**'.

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

Margaret Crawford

Auditor-General
28 February 2019

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contents

Members' additional entitlements 2018

Section one – Members' additional entitlements 2018

Members' additional entitlements 2018	1
---------------------------------------	---

Section two – Appendices

Appendix one – Response from Department of Parliamentary Services	9
---	---

Section one

Members' additional
entitlements 2018



1. Members' additional entitlements 2018

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 2018.

The Auditor-General's review is designed to provide Parliament with limited assurance about Members' compliance with the Determination. We analysed all claims made by Members during the 2017–18 financial year and tested a sample of transactions that we identified as having a greater risk of non-compliance in more detail. Our sample included claims submitted by 60 of the 140 Members.

Results

Our review identified two instances of material non-compliance with the Determination for the year ended 30 June 2018 relating to one Member. The Department of Parliamentary Services (the Department) has asked the Member to repay the unsubstantiated claims.



One Member claimed the Electorate to Sydney Allowance but was not able to evidence on two occasions that the travel related to the Member's parliamentary duties.

We identified 20 other departures from the administrative requirements of the Determination, all of which related to the timing of Members' claims:

- 2 Members submitted their reconciliations for the Sydney Allowance after the due date
- 5 Members who had elected to receive their Sydney Allowance as an annual payment, returned their unspent Sydney Allowance to the Department after the 30 September 2018 due date
- 5 Members' claims were not submitted to the Department for payment within 60 days of receipt or occurrence of the expense
- 1 Member claimed the Electorate to Sydney and General Travel Allowance before they travelled in three instances
- 5 Members submitted their annual loyalty scheme declarations after the due date. Their declarations stated that loyalty scheme benefits accrued using their parliamentary allowances and entitlements were used not for private purposes.

During our review, we noted instances where it was unclear:

- whether the Member's activities validly related to their 'parliamentary duties'
- which documents Members should retain to evidence compliance with the Determination.

Recommendation

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.

Background

The Parliamentary Remuneration Tribunal (the Tribunal) determines the salary and additional entitlements of Members of NSW Parliament (Members), which are set out in the Tribunal's annual Determination.

Overview of Members' Entitlements



Members' Additional Entitlements

Members are reimbursed for some costs associated with performing their parliamentary duties. This includes the cost of travel and communication with the constituents of their electorate.

The Department also pays for some expenses associated with Members performing their parliamentary duties on their behalf. This includes electoral staff salaries and the cost of leasing electoral offices.

The Determination classifies additional entitlements into allowances and fixed allocations.



Annual Basic Salary, Other Salaries, and Expense Allowances

Paid to Ministers and certain other office holders, as set out in the Determination and Schedule One of the *Parliamentary Remuneration Act 1989* as varying percentages of their basic salaries.

The NSW Parliament, through the Department, administers paying additional entitlements to Members in accordance with the Tribunal's annual Determination. In 2017–18, Members claimed additional entitlements of \$22.1 million, a decrease of 3.9 per cent from 2016–17. The decrease is largely attributable to a change in how staff are allocated to Members. From 1 July 2017 Members' entitlement to claim the cost of additional temporary staff as an additional entitlement was abolished. Instead, Members of the Legislative Assembly are now entitled to one additional staff member in each electorate office. This change decreased claims for Members' additional entitlements in 2017–18 by \$900,000.

We did not test Members' compliance with the Determination for the following additional entitlements:

- Travelling Allowance for Recognised Office Holders, as Members did not claim for reimbursement allowed under this allowance in 2017–18 or 2016–17
- Electoral Allowances and Committee Allowances, as the Determination excludes these allowances from the scope of this review
- Equipment, Services and Facilities Fixed Allocation, as the Department made payments for services and facilities directly to suppliers and staff in 2017–18.

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

Members' claims for additional entitlements			
		2017-18	Increase from 2016-17
Allowance	Sydney Allowance	\$1.8m	1%
	Electorate to Sydney Travel	\$623,000	6%
Fixed Allocations	Communications Allowance	\$8.5m	4%
	General Travel Allowance	\$919,000	21%

Detailed findings

Material findings

One Member could not support that two claims for the electorate to Sydney Allowance related to their parliamentary duties

Claims for Members' electorate to Sydney travel must relate to parliamentary duties. Members must retain records to support that the travel related to their parliamentary duties. On two occasions, one Member claimed travel costs but was unable to provide evidence that the travel related to their parliamentary duties. The Department has requested the Member return the amount they claimed.

Other findings

Two Members submitted their Sydney Allowance reconciliations late



Source: Department of Parliamentary Services.

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. As shown in the table below, almost half of the Members entitled to the Sydney Allowance elected to receive their allowance as an annual fixed amount for the year ended 30 June 2018. These Members must submit reconciliations twice a year to the Department and return any excess of the Allowance over the actual expense by 30 September each year.

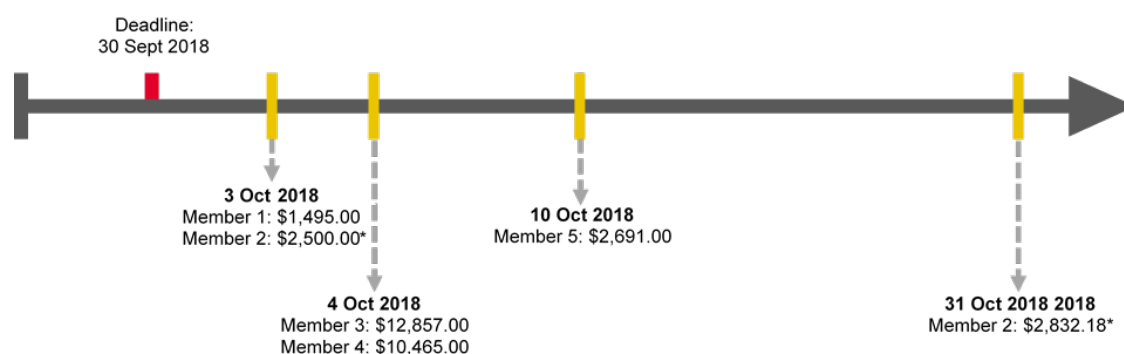
Year ended 30 June	2018	2017	2016
Legislative Assembly			
Members receiving entitlement on an annual basis	22	20	19
Members receiving entitlement on a daily rate	21	22	25
Legislative Council			
Members receiving entitlement on an annual basis	6	8	8
Members receiving entitlement on a daily rate	16	16	13

Source: Department of Parliamentary Services.

Five Members did not return their unspent Sydney Allowance by the due date

Following their final reconciliation, Members are required to return any excess Sydney Allowance payments to the Department. Excess payments are calculated by deducting the number of nights the Member stayed in Sydney for parliamentary business from the number of nights that the Member estimated they would be entitled to the allowance at the beginning of the financial year.

Excess Sydney Allowance must be returned to the Parliament by 30 September 2018. Of the 28 Members who received the Sydney Allowance on an annual basis, five failed to return their excess Sydney Allowance (with a total value of \$32,840.18) by the 30 September 2018 deadline.



* Member 2 returned their excess Sydney Allowance receipts in two payments.

Source: Department of Parliamentary Services.

The Determination allows the Department to suspend the annual entitlement for Members who fail to return their excess Sydney Allowance and revert these Members to the daily rate basis. All five Members returned their excess Sydney Allowance before the Department acted to suspend their annual entitlement.

Five Members submitted their claim for reimbursement after the due date

The Determination requires accounts and Members' expense claims to be submitted to the Department within 60 days of receipt or occurrence of the expense. Our sample of claims identified five instances where Members submitted their claims between 15 and 97 days late. Late submission of claims only disadvantages the Members themselves, as it delays the reimbursement of their claims.

One Member claimed private vehicle travel costs before they were incurred

The guidelines provide a basis for Members to claim reimbursement for private vehicle travel for the Electorate to Sydney and General Travel Allowance. Reimbursement is in accordance with the Australian Tax Office 'cents per kilometre' method. As Members do not 'incur' this expense until travel has occurred, Members cannot claim reimbursement before the travel takes place. One Member made three claims for private vehicle travel two days before they undertook the travel.

Five Members completed their annual loyalty / incentive late

At the end of each financial year, Members must declare they have not used loyalty/incentive schemes benefits accrued from their parliamentary duties for private purposes. The Determination requires current Members to complete declarations by 31 July 2018, and former Members to complete declarations within 30 days of leaving Parliament.

This year, records maintained by the Department continue to show all Members completed their annual declarations. However, five Members submitted their declarations between seven and 66 days late.

Year ended 30 June	2018	2017	2016	2015	2014
Number of Members that did not complete an annual declaration	0	0	1	5	22

Source: Department of Parliamentary Services.

The Guidelines would benefit from increased clarity

Under the Determination, Members can only claim expenditure incurred performing their parliamentary duties. The Determination provides examples of circumstances where additional entitlements may be used for 'parliamentary duties' and references to the Department's guidelines. However, we noted instances where it was unclear whether the Member's activities validly related to 'parliamentary duties' as described in the guidelines.

Enhanced public reporting of Members' expenditure claims

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. In November 2018, the Crown Solicitor advised the Tribunal that it does not have the power to require the Department to facilitate greater public reporting.

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 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 the Department of Parliamentary Services



DEPARTMENT OF PARLIAMENTARY SERVICES
Office of the Chief Executive

Ref: D19/05908

27 February 2019

Ms Margaret Crawford
Auditor-General of NSW
Audit Office
Level 15, 1 Margaret Street
SYDNEY NSW 2001

Dear Ms Crawford

Re: Auditor-General's Report to Parliament – Members' Additional Entitlements 2018

I refer to your Report to Parliament on Members' Additional Entitlements 2018 and specifically to the section titled 'Enhanced public reporting of Members' expenditure claims'.

The Parliament has continued to seek capital funding from NSW Treasury for the purpose of developing the required systems to achieve the original recommendation from your office.

As previously indicated, the desired outcomes cannot be achieved without significant capital funding. To regularly publish details of Members' expenditure claims on its website in an accessible and searchable format will require a minimum capital investment of \$2.751 million and ongoing recurrent funding of at least \$458,000.

Further to my previous advice to you on 24 September 2018, I can confirm Parliament has again requested funding from NSW Treasury in its recent budget proposals for the purpose of commencing work on the required systems during the 2019-20 financial year. However, at the time of writing, the outcome of our request is not as yet known.

Yours sincerely,

A handwritten signature in red ink, appearing to read 'Mark Webb'.

Mark Webb
Chief Executive

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

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