

LOCAL GOVERNMENT REMUNERATION TRIBUNAL

2008 ANNUAL REVIEW

BACKGROUND

1. Pursuant to Section 241 of the *Local Government Act 1993* (the Act) the Local Government Remuneration Tribunal hereby determines in each category of Council, the maximum and minimum amount of fees to be paid to Mayors and Councillors of Councils, as well as chairpersons and members of County Councils.

2. On 9 November 2007 the Tribunal wrote to all Mayors advising the commencement of the 2008 annual review. In respect of this review the Tribunal stated that:

“The current fee structure was introduced by the Tribunal in 1995. Aside from increases to the quantum of allowance the fee structure has remained largely unchanged since that time. As outlined in the 2007 Report the Tribunal will undertake a review of the fees as part of this review.

The Tribunal would welcome submissions from individual Councils or joint submissions in regard to the quantum and/or structure of fees.”

“The Tribunal does not intend to undertake a further review of categories during the 2008 review. The Tribunal will review the categories of Councils again as part of the 2009 review. Until then the Tribunal would not expect to move Councils within categories unless there is a significant change in the role and responsibilities of individual Councils.”

3. The Tribunal also wrote to the Presidents of the Local Government and Shires Associations (LGSA) in similar terms, and subsequently met with the Presidents. The Tribunal wishes to place on record its appreciation to the Presidents for making time to see the Tribunal.

4. The LGSA provided a submission on fees and related matters. The submission outlined matters of Local Government administration which impact upon the roles and Councillors and Mayors.

5. As in previous years, the LGSA has recommended that fees be set as a percentage of the annual salary paid to NSW Members of Parliament. In the model suggested by the LGSA the fees for Mayors would be pegged between 10% and 80% of the annual salary of MPs and fees for Councillors would be pegged at between 5% and 40%. Also, the fee for Councillors would be set at 50% of the fee paid to the Mayor for each Council category.
6. In making its recommendation the LGSA also sought consideration of the model recently adopted in Queensland as recommended by the Queensland Local Government Remuneration Tribunal.
7. Of the other submissions received the majority either supported the LGSA proposal or sought a general increase in fees. One submission recommended that the Act be amended to provide the following:
 - Councillor fees be equivalent to 50% of total Mayoral remuneration.
 - Mayor fees be set as percentage of MP salaries.
 - Councillors receive an additional allowance when they act in the office of Mayor when the Mayor is on leave.
 - Councillors receive an additional allowance when taking on the role of chairing one or more of the formal sub-committees of Council.

2008 REVIEW

8. Under the Act the Tribunal's role is limited to determining the categories of Councils (s.239) and determining the minimum and maximum fee range for Councillors and Mayors in each of those categories. Councillors vote annually on what fee within this range they will pay themselves. Other emoluments paid to Councillors and Mayors are not determined by the Tribunal. These are a matter for each Council and the Department of Local Government. Any expansion of the role of the Tribunal into these areas would require a change to the legislation.

9. For this review the Tribunal will be determining the quantum of fee increase to take effect on and from 1 July 2008. In making its Determination the Tribunal has had regard to a number of factors including:

- Interstate comparisons
- the proposal that fees be set as a percentage of the salary of Members of Parliament
- performance measures
- training and development
- the nature of full time versus volunteer service
- the ability to attract suitable candidates to stand for local government election.

Interstate Comparisons

10. The LGSA has drawn attention to recent changes to the level and structure of fees paid to Councillors and Mayors in Queensland and Victoria. In particular, it has drawn attention to the decision by the Queensland Local Government Remuneration Tribunal to determine the ranges of fees for Councillors and Mayors based upon percentages of the salary payable to Members of the Queensland Legislative Assembly.

11. In making its determination the Queensland Local Government Remuneration Tribunal made the following general comments:

“In determining appropriate remuneration levels the Tribunal has attempted to achieve a fair balance between affordability and appropriate compensation to Councillors for the time and commitments required to properly, and competently, perform their role. The Tribunal also believes it is necessary to set rates which properly reflect the workloads and expectations associated with performing the duties of a mayor, deputy mayor and Councillor in the 10 categories.”

12. The Tribunal notes and accepts that fee levels both in Queensland and Victoria are higher than those in NSW. The Tribunal also notes, however, that there are significant reasons why this should be the case

13. Councillors in Queensland previously set their own fees which were historically higher than those paid in NSW. The Tribunal, in its 2004 Report made the following observations about this practice;

“...Under the Queensland Local Government Act Councillors can set their own fees. The Tribunal is unaware as to the rationale that led to this approach being enshrined in legislation. It is not a matter for the Tribunal to comment on the pros and cons of other jurisdictions. The Tribunal does note, however, that such an approach can lead to disparities in fee setting.

The following examples, taken from the list of fees provided by the LGSA, illustrate this point. In two Councils with a population of less than 1000 one pays its Mayor over \$41,000 pa, the other \$15,000. Another Council, with a population of just under 50,000 residents, pays its Mayor \$102,000 whereas a Council with more than twice that population size pays its Mayor \$94,000.”

14. It is important to note that the Queensland Tribunal’s initial determination followed a period of significant local government reform in Queensland. In 2007 the Queensland Government implemented a state-wide local government reform program and established the Local Government Reform Commission. As a result of that review the number of Councils in Queensland was reduced from 157 to 73 ie the number of Councils was reduced by more than 50 percent.

15. On 10 April 2008 the Victorian Government introduced a new support package for Councillors in Victoria. The new package includes an increase in the range of fees of 30 per cent plus superannuation contributions of 9 percent. The increase of 30 percent is the first since 2000 and is equivalent to the total increase paid since that time to Victorian Statutory and Executive Officers.

16. It should also be noted that the fee structure for Councils in Victoria was introduced following significant local government reform in Victoria when in 1995 the number of Councils was reduced from 210 to 78 ie a decrease of 37 percent in the number of Councils.

17. In both cases the underlying reason for significant fee increases has been massive reform of Local Government in each State. Queensland now has 73 Councils and Victoria has 78 Councils. By comparison NSW has 152 Councils. The obvious result of the reforms in Queensland and Victoria is to increase the size not only in area but also population of each of the remaining councils.

18. Based on the March 2007 figures NSW, Queensland and Victoria had the following populations

NSW	6.875 million
Victoria	5.188 million
Qld	4.162 million

19. This translates into the following average population figures for each council

NSW	45,000 per LGA
Vic	66,500 per LGA
Qld	57,000 per LGA

Link fees to the salary of a Member of Parliament

20. The LGSA has again proposed that Councillor and Mayoral fees be set as a percentage of the salary of a Member of Parliament. This matter is raised almost annually by the LGSA or individual Councils and, as on each previous occasion, it is not supported by the Tribunal.

21. The scope and range of responsibilities for Councillors and Mayors do not justify any nexus with the salary of a Member of Parliament.

22. This view was first articulated in the Tribunal's initial Report and Determination in 1994 which states:

"...the comparison with politicians (is not) valid on the basis that Councils are local government and that the mayor is the "political head". Councils are not statute-making bodies. Their constitution, powers, authorities, duties and functions are determined in accordance with the 1993 Act."

23. In other words, Members of Parliament are empowered to make laws. Councillors and Mayors are not. Another factor against a nexus was the number of MPs vis-à-vis Councillors and Mayors. The Tribunal expressed its view on this matter in its 2007 Report;

"...The Tribunal notes that there are 152 Mayors whereas there are 93 Members of the Legislative Assembly. The Tribunal also notes that Mayors are assisted by up to 12 Councillors as well as the General Manager and staff of the Council. The Tribunal cannot readily perceive any appropriate nexus between the fees of MPs and Mayors. However if this issue is presented again as part of the 2008 review, the Tribunal will look at it again."

24. The Tribunal has re examined this matter but finds that the rationale for not linking MP salaries to Mayors and Councillors adopted in previous reports and most recently expressed in the 2007 Report remains valid.

25. Although the Queensland Tribunal has linked Councillor remuneration to the salaries of MPs, that model was introduced following a period of significant reform in local government. Should there be significant change to or restructure of local government in NSW the Tribunal would comprehensively review the fee structure at that time.

Performance measures

26. Given the inherent difficulties associated with measuring performance of individual Councils or the overall performance of Councils across NSW, the Tribunal does not consider it appropriate or practical to factor in a measure of performance when determining an overall adjustment to fees.

27. This is made clear in the Tribunal's 1996 Report, which confirmed:

"...The fees are determined on the basis that Councils are performing in accordance with the Council's Charter (s.8 of the 1993 Act). The commitment of candidates for election on 9 September, 1995 to such a Charter is a matter for each community to assess".

28. While the Tribunal does not have a direct role in assessing the performance of Councils it is noted that the Department of Local Government does undertake such an assessment. This information is published annually as the *Comparative Information on New South Wales Local Government Councils*.

29. There may be some scope for the Tribunal to use this information when reviewing categories in 2009. Section 240 (1) the Act requires the Tribunal to consider a number of matters when determining categories for Councils and mayors. In determining categories the Tribunal may consider inter alia:

- *"...the nature and volume of business dealt with by each Council; and*
- *such matters as the Remuneration Tribunal considers relevant to the provision of efficient and effective local government."*

30. Finally, the Act empowers the Minister to take action against poorly performing Councils. The Local Government Act 1993 by ss 255 and 256 provides for the Governor, by proclamation, to declare vacant all civic offices in relation to a Council, on the recommendation of the Minister, if a public inquiry concerning the Council has been held, or on the recommendation of the ICAC. The Governor may appoint an administrator and/or order the holding of a fresh Council election.

31. The following Councils are currently under administration in NSW: Warringah, Liverpool City, Walgett Shire, Tweed Shire, Broken Hill City, Port Macquarie-Hastings, and Wollongong. A public inquiry is presently under way in relation to Shellharbour.

Full time paid employment versus volunteer service

32. The Tribunal has consistently affirmed the principle that Council representation is voluntary in nature and that it is not appropriate to equate the office of Councillor with a position in paid employment. The fees are not to be considered salaries or wages but are provided to acknowledge the contribution Councillors make to their local community. The Act refers to Councillors and mayors receiving a fee which implies a payment for services, and section 251 of the Act confirms that the role is not “employment” and that the fee is not a salary.

33. Should any future local government reform result in a substantial increase in Councillor responsibility then the position may need to be reconsidered but there is no reason at present to change this principle.

The ability to attract suitable candidates to stand for election.

34. The Tribunal has again considered whether the level of fees is sufficient to attract good candidates to stand for election. This issue is of particular significance this year as general local government elections will be held on 27 September 2008.

35. The Department of Local Government recently released a publication titled “Candidates and Councillors 2004: Report on the survey of Local Government Elected Members and Candidates for elections held between March and December 2004”.

36. The following table shows the number of candidates and the gender of those candidates who stood in the 2004 election compared with previous elections.

Table 2 Gender of Candidates 1991-2004 (page 9)

Election	Male		Male Change	Female		Female Change	Total
	No.	(%)		No.	(%)		No.
1991	2,949	77%		871	(23%)		3,820
1995	2,938	72%	-0.4%	1,125	(28%)	+29%	4,084
1999	3,441	70%	+15%	1,508	(30%)	+25%	4,950
2004	3,428	68%	-0.4%	1,645	(32%)	+9%	5,078

37. This data shows that the number of candidates has continued to increase since 1991, despite a reduction in Council numbers and Councillor positions, and that the number of women seeking election has increased.

38. While the level of fees does not appear to discourage people from standing for election, the LGSA suggests that the low level of fees may be discouraging a more diverse range of people from seeking election to Councils.

39. The Department's survey also found that:

- The typical Councillor was male, professional, aged 50-59 years, and spoke English as a first language.
- The typical mayor at the 2004 election was male, employed as a primary producer/farmer, aged 50-59 years, spoke English as a first language and had served three terms on Council.
- The following groups were still under represented: women, those aged between 18 and 39 years, those whose first language is not English, lower income occupations, Aboriginal and Torres Strait Islander people.

40. The profile of the “typical” Councillor is reflected by the type of people seeking election to local government.

- At the 2004 elections, 56% of the candidates standing for election were aged 40-59 years, which is similar to the 1999 and 1995 election results. The next most common age group is 60-69.
- Between 1999 and 2004 the number of people standing for election declined in the following age groups: 25-29 years, 30-39 years and 40-49 years.

41. The survey results indicate that existing Councillors and those seeking election do not represent a cross section of the community.

42. In a survey of Councillors conducted on behalf of the LGSA and included in their 2007 submission, it was suggested that money was not a motivating factor in seeking office. This statement may however reflect the profile of current Councillors who are predominantly male, employed and/or of retirement age.

43. That survey also found that, on average, 43% of respondents aged 45 and under stated that “financial hardship” was a reason for not standing for election again.

44. It is possible that the current level of fees discourages younger people and/or people of more diverse backgrounds from seeking election to local government, but it is not clear that any increase in the level of fees would improve this situation.

Training and development

45. The Tribunal accepts that Councillors need to be trained and properly informed of their roles and responsibilities. The Tribunal has been advised that the LGSA and Department of Local Government work together to develop training programs to educate new and existing Councillors. The LGSA provides a number of training programs for Councillors as part of its Councillor Professional Development Program (CPDP). In the six months following the 2004 elections, the LGSA conducted 31 workshops for approximately 400 Councillors. These workshops included induction programs for new Councillors and other workshops relating to planning legislation, strategic management, meeting procedures and change management.
46. The LGSA also provides Councils with a draft “Councillor Training and Development Plan” and recommends that Councils identify funding in their budgets for Councillor training.
47. The Tribunal welcomes the Department’s and LGSA’s initiative in Councillor training and development and will be interested to watch the extent of participation in these programs in the coming years.

Conclusion

48. In making its determination the Tribunal is of the firm view that the vast majority of Councils and Councillors are performing properly and discharging their duties responsibly. The Tribunal considers that poor performance by a small number of Councils and/or Councillors is not representative of local government across the state.

49. The Tribunal also notes that Councils spend a large proportion of their time on planning matters and that these are currently the subject of reform by the State Government. The Tribunal will monitor the impact of these reforms on Councils' workloads and responsibilities over the coming year.

50. As outlined in the 2007 report the Tribunal will undertake a review of the categories of Councils as part of the 2009 annual review. The Tribunal will seek detailed information from Councils in regard to categorisation at that time.

51. Having regard to the factors discussed in the report, and after considering key economic indicators, and after taking the views of the Assessors into account, the Tribunal considers that an increase of 4 per cent in the fees for Councillors and Mayors is appropriate for the current year and so determines.

Local Government Remuneration Tribunal

Helen Wright

Dated: 30 April 2008

DETERMINATION PURSUANT TO SECTION 239 OF CATEGORIES OF COUNCILS AND COUNTY COUNCILS EFFECTIVE FROM 1 JULY 2008

(as determined with effect from 1 July 2006)

Category S1 (1 Council)	Sydney
Category S2 (3 Councils)	Newcastle Parramatta Wollongong
Category S3	County Councils
Category S4 (engaged in significant commercial activities)	County Councils

Category 1A (2 Councils)

Blacktown
Penrith

Category 1. (16 Councils)

Bankstown	Liverpool
Baulkham Hills	North Sydney
Campbelltown	Randwick
Fairfield	Ryde
Gosford	Sutherland
Hornsby	Warringah
Hurstville	Willoughby
Lake Macquarie	Wyong

Category 2. (21 Councils)

Ashfield	Lane Cove
Auburn	Leichhardt
Botany	Manly
Burwood	Marrickville
Camden	Mosman
Canada Bay	Pittwater
Canterbury	Rockdale
Holroyd	Strathfield
Hunters Hill	Waverley
Kogarah	Woollahra
Ku ring Gai	

Category 3. (32 Councils)

Albury City	Greater Taree
Armidale Dumaresq	Griffith
Ballina	Hastings
Bathurst Regional	Hawkesbury
Bega Valley	Kempsey
Blue Mountains	Lismore
Broken Hill	Maitland
Byron	Orange
Cessnock	Pt Stephens
Clarence Valley	Shellharbour
Coffs Harbour	Shoalhaven
Dubbo	Tamworth Regional
Eurobodalla	Tweed Heads
Gt Lakes	Wagga Wagga
Goulburn Mulwaree	Wingecarribee
Queanbeyan	Wollondilly

Category 4. (77 Councils)

Balranald	Glen Innes Severn	Narromine
Bellingen	Gloucester	Palerang
Berrigen	Greater Hume	Parkes
Bland	Gundagai	Oberon
Blayney	Gunnedah	Richmond Valley
Bogan	Guyra	Singleton
Bombala	Gwydir	Snowy River
Boorowa	Harden	Temora
Bourke	Hay	Tenterfield
Brewarrina	Inverell	Tumbarumba
Cabonne	Jerilderie	Tumut
Carrathool	Junee	Upper Hunter
Central Darling	Kiama	Upper Lachlan
City of Lithgow	Kyogle	Uralla
Cobar	Lachlan	Urana
Conargo	Leeton	Wakool
Coolamon	Liverpool Plains	Walcha
Cooma-Monaro	Lockhart	Walgett
Coonamble	Mid-Western Regional	Warren
Cootamundra	Moree Plains	Warrumbungle
Corowa	Murray	Weddin
Cowra	Murrumbidgee	Wellington
Deniliquin	Muswellbrook	Wentworth
Dungog	Nambucca	Yass Valley
Forbes	Narrabri	Young
Gilgandra	Narrandera	

TOTAL GENERAL PURPOSE COUNCILS

152

Category S3 (9 Councils)

Castlereagh – Macquarie	Richmond River
Central Murray	Southern Slopes
Far North Coast	Upper Hunter
Hawkesbury River	Upper Macquarie
New England Weeds	

Category S4 (5 Councils)

Central Tablelands	Riverina Water
Goldenfields Water	Rous
MidCoast	

TOTAL COUNTY COUNCILS 14

DETERMINATION PURSUANT TO SECTION 241 OF FEES FOR COUNCILLORS AND MAYORS

Pursuant to s.241 of the Local Government Act 1993, the annual fees to be paid in each of the categories to Councillors, Mayors, members and chairpersons of County Councils effective on and from 1 July 2008 are determined as follows:

	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Category 4	6,870	9,060	7,300	19,790
Category 3	6,870	15,120	14,610	33,010
Category 2	6,870	15,120	14,610	33,010
Category 1	10,300	19,250	21,910	51,130
Category 1A	13,740	22,680	29,210	66,100
S4	1,370	7,560	2,930	12,420
S3	1,370	4,530	2,930	8,250
S2	13,740	22,680	29,210	66,100
S1	20,620	30,240	126,160	166,000

*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).

Local Government Remuneration Tribunal

Helen Wright

Dated: 30 April 2008