



SPECIAL REPORT

12 DECEMBER 2019

Members' additional entitlements 2019

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 *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 2019**'.

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

Margaret Crawford

Auditor-General
12 December 2019

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Section one

Members' additional
entitlements 2019

Members' additional entitlements 2019

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 2019.

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 2018–19 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 59 of the 159 Members.

Results

Our review identified one instance of material non-compliance with the Determination for the year ended 30 June 2019 relating to a Member who claimed the General Travel Allowance but did not provide evidence that the travel related to their parliamentary duties.

Our audit procedures identified 14 other departures from the administrative requirements of the Determination:

- 8 Members submitted their reconciliations for the Sydney Allowance after the due date
- 1 Member who elected to receive their Sydney Allowance as an annual payment, returned their unspent Sydney Allowance to the Department after the 30 September 2019 due date
- 5 Members' claims were not submitted to the Department for payment within 60 days of receipt or occurrence of the expense.

Our audit procedures identified two instances where it was unclear whether Members had been reimbursed for their costs in accordance with the Determination:

- The Determination specifies the Electorate to Sydney Travel Allowance is for travel between Members' electorates and Sydney. In administering the allowance, the Department permitted Members' claims for travel to and from their residence, which may be outside of their electorate. The Tribunal confirmed that this accords with the intent of the Determination.
- The Determination specifies the Communications Allowance reimburses Members for the cost of producing communications. One Member chartered flights to film materials used to produce communications and to perform parliamentary duties. The Member claimed the cost of flights under the General Travel Allowance, without apportioning any part to the Communications Allowance. The flights and the communication of the filmed material to constituents occurred during the blackout period, during which Members are not permitted to use their Communications Allowance. The Department determined that all travel costs can be claimed under the General Travel Allowance, even if the travel related to the production of communications during the blackout period.

Recommendation

The Department should work with the Tribunal to:

- **align the wording of the Determination in relation to the Electorate to Sydney Travel Allowance with the Tribunal's intent**
- **clarify whether Members can claim the cost of travel from their travel allowance when the travel was used to produce communications during the blackout period.**

Our audit procedures identified 25 other departures from the Department's administrative guidelines, which support the Determination. Twenty-five Members submitted their annual loyalty scheme declarations after the 31 July 2019 due date specified in the Department's administrative requirements. Their declarations stated that loyalty scheme benefits accrued using their parliamentary allowance and entitlements were not used for private purposes.

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.

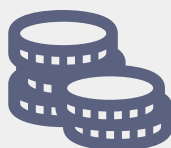
OVERVIEW OF MEMBERS' ENTITLEMENTS

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 base salary, other salaries, and expense allowances

All Members are paid an annual base salary. The Ministers and certain other office holders also receive other salaries and expense allowances, as set out in the Determination and Schedule One of the *Parliamentary Remuneration Act 1989*. These are calculated as a percentage of their basic salaries and are separate to the additional entitlements. These payments are excluded from the scope of our review.

The NSW Parliament, through the Department, administers payments of additional entitlements to Members in accordance with the Tribunal's annual Determination. In 2018–19, Members claimed additional entitlements of \$21.5 million, a decrease of 2.7 per cent from 2017–18. The decrease is largely attributable to the New South Wales State Election held on 23 March 2019. During an election year Members are not permitted to use their Communications Allowance for the production and distribution of publications intended for distribution from 26 January to the election date. Also, in 2018–19 parliament did not sit from 23 November 2018 until the 6 May 2019.

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

- Travelling Allowance for Recognised Office Holders. Members did not claim for reimbursement allowed under this allowance in 2018–19 or 2017–18.
- Electoral Allowances and Committee Allowances. The Determination excludes these allowances from the scope of this review.
- Equipment, Services and Facilities Fixed Allocation. Although the Determination includes fixed allocations within the scope of this review, the Tribunal confirmed it was not their intention for these transactions to be included in the review. The Department makes payments for these items directly to suppliers and staff, rather than to the Members. The Department estimates the cost of these payments to be \$61.8 million. This includes the expenses associated with Member's electorate offices and parliamentary offices, predominantly staff costs, rent, maintenance, security, administration and fit out costs.

Recommendation

The Department should work with the Tribunal to clarify in the Determination that the Equipment, Services and Facilities Fixed Allocation is excluded from the scope of the external audit.

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

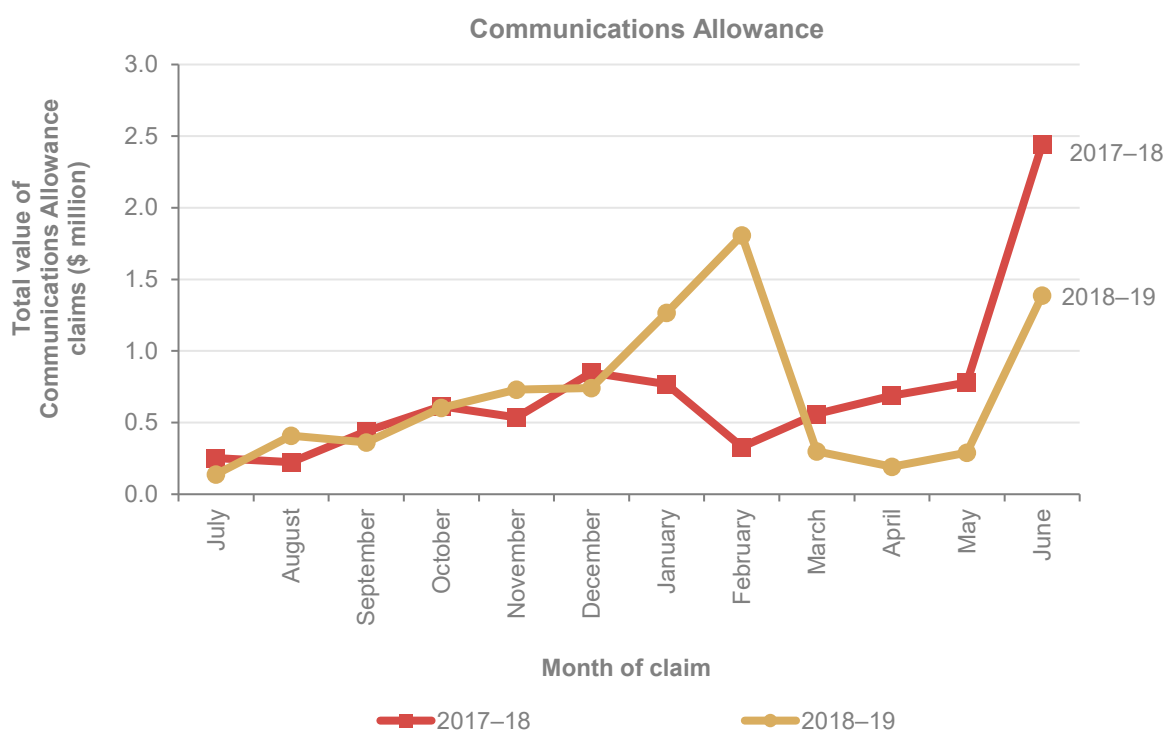
Nature	Additional entitlement	2018–19	2017–18	Movement (%)
Allowance	Sydney Allowance	\$1.5m	\$1.8m	(17.4)
Fixed allocations	Communications Allowance	\$8.2m	\$8.5m	(3.0)
	General Travel Allowance	\$780,000	\$919,000	(15.1)
	Electorate to Sydney Allowance	\$543,000	\$623,000	(12.9)
	Skills Development Allowance	\$19,000	N/A	100

Blackout period for the Communications Allowance before the 2019 State election

Members are not permitted to use their Communications Allowance for the production and distribution of publications that they intend to distribute in a State Election year in the period from 26 January to the election date (the 'blackout period').

Members can only claim allowances after the expenditure has been incurred. Members incurred expenditure in the months leading up to the blackout period, but the claims were made in January and February. Accordingly there is a significant increase in Communications Allowance claims in January and February 2019 prior to the 2019 State election. Members spent over \$3.1 million from their Communications Allowance in this two-month period (37.4 per cent of the total claimed in 2018–19).

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



Skills Development Allowance introduced in 2018–19

From 1 July 2018 a new allowance was provided to Members and their staff for training that is directly relevant to the role of the Member and the Member's staff. The Skills Development Allowance includes, but is not limited to:

- media skills training
- public speaking
- community engagement
- graphic design
- website and social media maintenance
- writing skills for reports and media releases.

We did not identify any instances of non-compliance with the Determination relating to the Skills Development Allowance.

Detailed findings

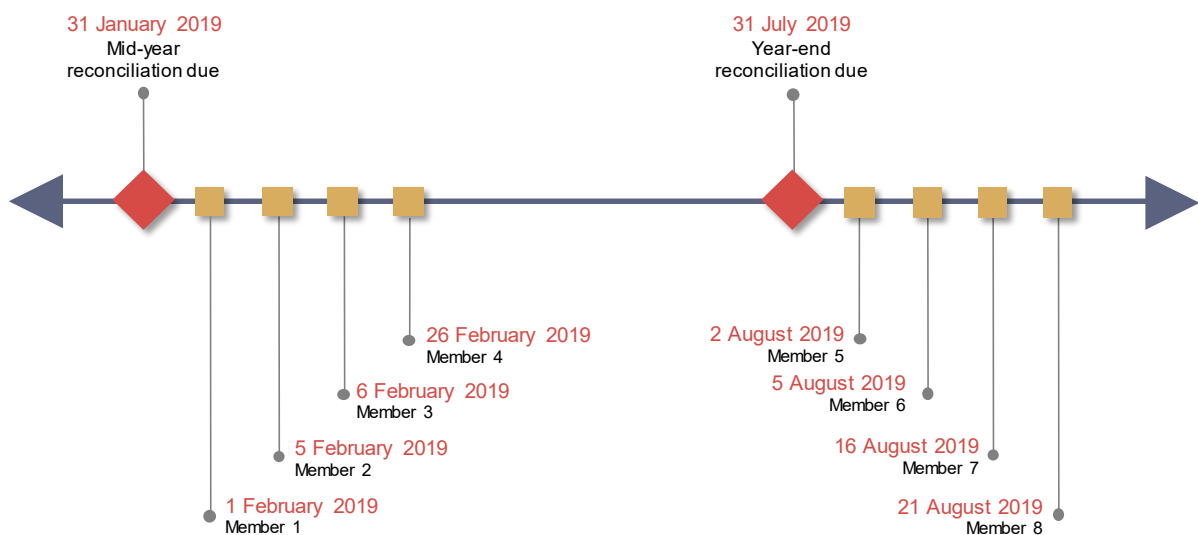
Material findings

One Member did not provide evidence that their claims related to their parliamentary duties

Claims for Members' General Travel Allowance must relate to parliamentary duties. Members must retain records to support that the travel related to their parliamentary duties. One Member claimed General Travel Allowance (for a total of \$251.60) but did not provide evidence that the travel related to their parliamentary duties. The Department has requested the Member return the amount claimed.

Other findings

Eight Members submitted their Sydney Allowance reconciliations late



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 four Members who submitted their year-end reconciliations late, three were required to make repayments. All repayments were made by the required date of 30 September.

One Member 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 on parliamentary business from the number of nights that the Member estimated, at the beginning of the financial year, that they would be entitled to the allowance.

The excess Sydney Allowance must be returned to the parliament by 30 September 2019. One Member failed to return their excess Sydney Allowance (\$8,820.68) by the due date. The Department can suspend the annual entitlement for Members who fail to return their excess Sydney Allowance and revert those Members to the daily rate basis. The Member returned their excess Sydney Allowance on 24 October 2019, before the Member could be suspended prior to the October payroll cut-off date.

Five Members submitted their claim for reimbursement after the due date

The Determination requires Members' expense claims to be submitted to the Department within 60 days of receipt or occurrence of the expense. Our audit procedures identified five instances where Members submitted their claims between 8 and 120 days late. Late submissions of claims disadvantage the Members themselves, as it delays the reimbursement of their claims.

One Member claimed for travel to Sydney while residing outside of their electorate

Our audit procedures found one Member, who lived outside their electorate, claimed the Electorate to Sydney Travel Allowance for travel between their place of residence and Sydney. The Determination specifies Members may claim Electorate to Sydney Travel Allowance for travel between their electorates and Sydney. In administering the Allowance, the Department permitted the claim. The Tribunal advised that the intent of the Determination is to reimburse the Members for their travel from their place of residence, even though the residence may be outside of their electorate.

One Member claimed the General Travel Allowance for costs relating to communications during the blackout period

One Member claimed General Travel Allowance for multiple charter flights during which they observed issues the Member assessed as of interest to their constituents. The flight manifest confirmed a video was filmed during one of the flights. The film was posted to the Member's social media page during the blackout period.

The General Travel Allowance is provided to Members to meet travel costs associated with their parliamentary or official duties within Australia. A separate allowance, the Communications Allowance is provided to Members to meet the cost of producing communications. However, Members are not permitted to use their Communications Allowance for the production and distribution of publications in the blackout period.

Had the cost of the flights been apportioned between the General Travel Allowance and Communications Allowance, the claim would exceed the maximum amount of Communications Allowance, which might have been available to the Member had the blackout period not commenced.

In administering the allowance, the Department has determined that all travel costs are to be claimed under the General Travel Allowance, even if the travel relates to the production of communications and even if the communication is made during the blackout period. Accordingly, the Department has not requested the Member return the cost apportioned to the flight during which the communication was produced (\$1,498.75).

Twenty-five Members completed their annual loyalty/incentive scheme declarations late

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 31 July 2019 per the Department's administrative process), and former Members to complete the declarations within 30 days of leaving parliament.

While all Members completed their annual declarations, 24 current Members submitted their declarations between two and 58 days late. One former Member submitted their declaration 73 days after 30 days of leaving parliament.

Clarifying the Department's Guidelines relating to 'parliamentary duties'

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 refers to the Department's guidelines. Last year we noted instances where it was unclear whether the Member's activities validly related to 'parliamentary duties' as described in the guidelines, and we continued to note similar instances this year.

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 recommendation is currently being considered by the Department. The Department has advised they plan to consult with Members and review definitions in other jurisdictions.

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 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.

Section two

Appendices

Appendix one – Response from Department of Parliamentary Services



DEPARTMENT OF PARLIAMENTARY SERVICES
Office of the Chief Executive

04 December 2019

D19/47089

Ms Margaret Crawford
Auditor-General of NSW
Audit Office
Level 15, 1 Margaret Street
SYDNEY NSW 2000

Dear Ms Crawford

Re: Auditor-General's Report to Parliament – Members' Additional Entitlements 2019

I refer to your report to Parliament on Members' Additional Entitlements 2019 and specifically to the section titled 'Enhanced public reporting of Members' expenditure claims'.

In February 2019, during the annual budget bid process, Parliament sought capital funding from NSW Treasury for the purpose of developing the required systems to achieve the original recommendation from your office. The estimated cost to publish details of Members' expenditure claims on the website in an accessible and searchable format will require a capital investment of \$3.327 million and ongoing annual recurrent funding of at least \$527,000.

I can also confirm that the Parliament will again request funding from NSW Treasury in the next round of budget bids for the purpose of commencing work on the required systems during the 2020-21 year.

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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