**CHAPTER 3**

**MUNICIPAL ADMINISTRATION**

**3.5 UPPER LIMITS FOR COUNCILLORS: ANNUAL NOTICE- PROCESS**

**3.5.1 PURPOSE OF UPPER LIMITS FOR COUNCILLORS: ANNUAL NOTICE- PROCESS**

The salary and allowances of a councillor is determined by that municipal council by resolution of a supporting vote of a majority of its members, in consultation with the member of the Executive Council responsible for local government in each province, having regard to the upper limits set by the National Minister, the financial year of a municipality and affordability of municipality to pay within the different grades of the remuneration of councillors, including the austerity measures as approved by national Cabinet.

For purposes of implementation of the Government notice, “in consultation with” means that a municipal council must obtain concurrence of the MEC for local government prior to the implementation of the provisions of Government Notice.

The purpose of this document is to provide **explanatory notes/comments** to assist in the interpretation of the determination of councillor salaries and allowances and to present municipalities with a process in obtaining concurrence of the MEC for payment of increase of upper limits.

**3.5.2 LEGISLATIVE MANDATE**

**The Remuneration of Public Office Bearers Act of 1998**

Section 7(1) (e) of the Remuneration of Public Office Bearers Act of 1998, provides that the Minister for Cooperative Governance and Traditional Affairs, in determining the upper limits of salaries and allowances for councillors, must consult with Provincial MECs on the following:-

*7(1) The upper limit of salaries and allowances of the different members of Municipal Councils shall from time to time be determined by the Minister, after consultation with the member of the Executive Council responsible for local government in each province, by notice in the Gazette after taking into consideration-*

1. *the recommendations of the Commission;*
2. *the respective role, status, duties, functions and responsibilities of the different members of Municipal Councils;*
3. *the different categories or types of municipalities, having regard to their respective powers, duties and functions;*
4. *the gross income, the area of jurisdiction and the nature of settlement of each municipality;*
5. ***the affordability of different levels of remuneration of public office bearers****;*
6. *the current principles and levels of remuneration in society generally;*
7. *the need for the promotion of equality and uniformity of salaries, allowances and benefits for equal work performed;*
8. *the provision of uniform norms and standards nationally to address disparities; and*
9. *inflationary increases.*

Section 7(3) of the Remuneration Act further provides that the remuneration of councillors must be determined by that municipal council by resolution of a supporting vote of a majority of its members and shall be paid from the budget of the municipality.

**Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Councils Notice**

The Preamble in the Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Councils provides that:-

*The salary and allowances of a councillor is determined by that municipal council by resolution of a supporting vote of the majority of its members, in consultation with the member of the Executive Council responsible for local government in each province, having regard to the upper limits as set out hereunder, the financial year of a municipality and affordability of municipality to pay within the different grades of the remuneration of councillors, including the austerity measures as approved by National Cabinet.*

*For purposes of implementation of this Government Notice, “in consultation with” means that a municipal council must obtain concurrence of the MEC for local government prior to the implementation of the provisions of this Notice, subject to submission of information referred to in item 18 of this Notice to the MEC.*

**The Constitution of the Republic of South Africa, 1996**

Section 219(1) of the Constitution of the Republic of South Africa, 1996, requires that an Act of Parliament must establish a framework for determining the upper limits of salaries, allowances and benefits of all public office bearers ("POBs"). The Remuneration of Public Office Bearers Act, 1998 (Act No.20 of 1998) ("the Remuneration Act) gives effect to this constitutional imperative.

**Municipal Finance Management Act, 2003 (Act No. 56 of 2003)**

Section 167 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) ("the MFMA") states that a municipality may remunerate its councillors within the framework of the Remuneration Act.

**3.5.3 APPLICATION**

**Explanatory notes/ comments** are provided to assist in the interpretation of the determination of councillor salaries and allowances.

**Definitions**

1. In this Schedule, unless the context indicates otherwise, a word or phrase to which a meaning has been assigned in the *Remuneration of Public Office-bearers Act,* 1998 (Act No. 20 of 1998) (hereinafter referred to as "the Act") *and the Local Government: Municipal Structures Act,* 1998 (Act No. 117 of 1998) (hereinafter referred to as "the Structures Act"), has that meaning and –

**“basic salary”** means the salary component of a councillor that excludes a travel allowance as provided in item (9)(1), housing allowance as provided in item 9(2), the municipal contribution to a pension fund as provided in item 13(1) and municipal contribution to a medical aid scheme as provided in item 13(2);

**“full-time councillor”** means a councillor who has been elected or appointed to an office which has been designated as full-time in terms of section 18(4) of the Structures Act;

**Comment:** It is advised that the councillor to be designated as full-time **may not hold** any other remunerative position in either the private or public sector.

**“grade”** in relation to this Notice means the grade of municipal council as determined in terms of item 4;

**“part-time councillor”** means a councillor other than a full-time councillor;

**‘‘pension fund’’** means any pension, provident or retirement annuity fund established and registered in terms of, and subject to, any law governing the registration and control of pension funds in the Republic of South Africa and to which an office bearer contributes or any pension scheme approved by Parliament for such office bearers;

**“section 79 committee”** means a committee of the municipal council established in terms of section 79 of the Structures Act;

**"SETAs"** means the Sector Education and Training Authorities established in terms of section 9 of the *Skills Development Act*, 1998 (Act No. 97 of 1998);

**“special risk cover”** means an insurance cover, provided to a councillor by the municipality, which covers the loss of or damage to a councillor’s personal immovable or moveable property and assets, excluding property used by such councillor for business purposes, as well as life and disability cover, for any loss or damage caused by riot, civil unrest, strike or public disorder;

“**tools of trade**” means the resources provided by a municipal council to a councillor to enable such councillor to discharge his or her duties in the most efficient and effective manner, and at all times remain the assets of the municipality concerned;

**Explanatory note:** As provided for in the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), Regulations, Notice No. 317 of 2019 dated 7 June 2019, item 13 (3) provides that expenditure on tools of trade for political office bearers must be limited to the upper limit as approved and published by the Cabinet member responsible for local government in terms of the Remuneration of Public Office Bearers Act, 1998.

**“total municipal income”** means gross income in respect of a metropolitan, local or district municipality based on actual income received as stated in the audited financial statements of that municipality for the 2017/ 18 financial year. The gross income for the municipality will include the following:

* rates on property;
* fees for services rendered by the municipality, or on its behalf by a municipal entity;
* surcharges;
* other authorised taxes;
* levies and duties;
* income from fines for traffic offences and contravention of municipal by-laws or legislation assigned to the local sphere of government;
* regional services council replacement grant for district municipalities;
* interest earned on invested funds other than national and provincial conditional grants;
* rental for the use of municipal movable or immovable property; and
* amounts received as agent for other spheres of government.

The gross income excludes the following:

* transfers and / or grants from the national fiscus and provincial fiscus, with the exception of regional services council replacement grant for district municipalities; and
* all value added tax (VAT) refunds.

**Explanatory note:** Gross income for purposes of determination of the total municipal income for district municipalities includes the regional services council replacement grant. For purposes of implementing the Notice, actual gross income that is received by the municipality, as stated in the annual financial statements, must be used when determining the points allocated for this criterion. The actual income that may be received from various sources are listed in the Notice; gross income excludes transfers and or grants from the national fiscus and all value added tax (VAT) refunds.

**“total population”** means the official statistics of the population residing in the area of jurisdiction of a metropolitan, local or district municipality, as published in the Community Survey 2016: Statistical Release No. P0301, in terms of the *Statistics Act,* 1999 (Act No. 6 of 1999); and

**“total remuneration package”** means the annual total cost to a municipality comprising of:

* a basic salary component;
* a travelling allowance as provided in items 9(1);
* housing allowance as provided in items 9(2);
* the municipal contribution to a pension, provident or retirement annuity fund as provided in item 13(1); and
* municipal contribution to a medical aid scheme as provided in item 13(2) to a councillor in a municipal financial year.

**Allocation of number of points for total municipal income**

1. The number of points allocated for the total municipal income of a municipality is as follows:

| **TOTAL MUNICIPAL INCOME** | | | **NUMBER OF POINTS** |
| --- | --- | --- | --- |
| R 0 | - | R 10,000,000 | 8.33 |
| R 10,000,001 | - | R 50,000,000 | 16.67 |
| R 50,000,001 | - | R 200,000,000 | 25.00 |
| R 200,000,001 | - | R 1,500,000,000 | 33.33 |
| R 1,500,000,001 | - | R 2,000,000,000 | 41.67 |
| More than R2,000,000,000 | | | 50.00 |

**Comment:** It should be noted that the points allocated are adjusted annually.

**Allocation of number of points for total population**

1. The number of points allocated for the total population within a municipality, is as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **TOTAL POPULATION** | | | **NUMBER OF POINTS** |
| 0 | - | 50,000 | 8.33 |
| 50,001 | - | 100,000 | 16.67 |
| 100,001 | - | 250,000 | 25.00 |
| 250,001 | - | 550,000 | 33.33 |
| 550,001 | - | 1,800,000 | 41.67 |
| More than 1,800,000 | | | 50.00 |

**Comment:** It should be noted that the points allocated are adjusted annually.

**Determination of grade of municipal council**

4(1) The sum of the number of points allocated to a municipal council in terms of items 2 and 3 of the Notice, determines the grade of such municipal council as follows:

|  |  |
| --- | --- |
| **GRADE OF MUNICIPAL COUNCIL** | **POINTS** |
| 1 | 0 to 16.66 |
| 2 | 16.67 to 33.33 |
| 3 | 33.34 to 50.00 |
| 4 | 50.01 to 66.67 |
| 5 | 66.68 to 83.35 |
| 6 | 83.36 and above |

**Comment:** It should be noted that the points allocated are adjusted annually.

**Upper limits of the annual total remuneration packages of full-time councillors**

1. The upper limits of the annual total remuneration packages of full-time councillors are as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **GRADE** | **TOTAL REMUNERATION PACKAGE** | | | |
| **EXECUTIVE MAYOR OR MAYOR** | **SPEAKER, DEPUTY EXECUTIVE MAYOR OR DEPUTY MAYOR** | **MEMBER OF THE EXECUTIVE COMMITTEE OR MAYORAL COMMITTEE, WHIP OR CHAIRPERSON OF A SUBCOUNCIL** | **CHAIRPERSON OF A SECTION 79 COMMITTEE** |
| 6 | 1,350,250 | 1,090,488 | 1,027,223 | 997,090 |
| 5 | 1,006,728 | 805,382 | 755,045 | 732,898 |
| 4 | 859,471 | 687,575 | 644,603 | 625,693 |
| 3 | 827,749 | 662,200 | 620,813 | 608,340 |
| 2 | 775,063 | 620,051 | 586,833 | 569,619 |
| 1 | 752,483 | 607,716 | 569,732 | 553,020 |
| The mayor of a plenary type municipality should be remunerated according to the total remuneration package column of executive mayor or mayor. | | | | |

**Comment:** It should be noted that the total remuneration packages are adjusted annually.

**Upper limit of annual total remuneration package or allowance in respect of councillors elected or appointed to a district council**

6(1) A councillor elected or appointed to a district council in terms of section 23(1)(b) of the Structures Act, may be paid the upper limit of the total remuneration package or allowance as follows:

*(a)* If a councillor is elected or appointed as speaker, mayor, executive mayor, member of a mayoral committee, member of an executive committee, chairperson of a section 79 committee or part-time member of a district council, such councillor is entitled to an amount **equal to the difference between** the total remuneration package that a councillor receives as a member of **the local council** and the total remuneration package allocated to that office in **the district council** in terms of items 5, 6, 7, 8, 9, 10, 11, 12 and 13, as the case may be.

1. If the total remuneration package payable to a councillor as a member of the local council is equal to or higher than the total remuneration package that an appointed councillor to the district council receives, such a councillor is, **in addition** to the total remuneration package received at the local council, **entitled to a sitting allowance** **not exceeding** R1060.80, regardless of the number of meetings of the district council or committees of that council that are attended by such councillor on a specific day.

(2) A district municipality is responsible for –

1. the payment of the remuneration or the allowance referred to in sub-item (1);
2. the reimbursement of travel expenses not exceeding the applicable tariffs prescribed by the national department responsible for transport for the use of privately-owned vehicles incurred by a councillor for the execution of official duties on behalf of that district municipality, in terms of that district council’s policy; and
3. the payment of cell phone expenses not exceeding 50% of the applicable allowances as prescribed under item 11 incurred by a part-time councillor for the execution of official duties on behalf of that district municipality, in terms of that district council’s policy.

**Explanatory Note:**

* In terms of item 6(1)(a) of the Notice, a councillor is entitled to an amount equal to the **difference** between the **total remuneration package** that a councillor receives as a local councillor and the total remuneration package allocated to his/her councillor position at the District;
* In terms of item 6(1)(b), where the total remuneration package that a councillor receives is equal to or higher than the upper limit of the total remuneration package to which a councillor is entitled to as an appointed councillor to the District Council, then such councillor is **entitled to receive a sitting allowance not exceeding R 1060,80 per day (*not per* meeting)**.
* Councillors do not qualify for a sitting allowance for meetings such as orientation, induction, IDP meetings, etc as these meetings are not formal committees constituted by the Council as described in Clause 6(1)(b).
* The District Municipality is responsible for the payment of the total remuneration package and allowances for District councillors.

**Example**

**Full time**

**(Mark**

**with an X)**

**Part time**

**(Mark**

**with an X)**

**Full time**

**(Mark**

**with an X)**

**Part time**

**(Mark**

**with an X)**

XYZ DM

5

ABC LM

2

Cllr A

x

x

R 288 998,00

Difference

between

LM & DM

TRP

x

Cllr B

x

x

R 288 998,00

Difference

between

LM & DM

TRP

x

DEF LM

4

Cllr C

x

R 246 725,00

x

R 288 998,00

Difference

between

LM & DM

TRP

Cllr D

x

(Exco)

R 590 292,00

x

n/a

R 1060,80

sitting

allowance

per day

x

Cllr E

x

R 237 236,00

x

(Exco)

R 382 091,00

Difference

between

LM & DM

TRP

R 237 620,00

**Surname of**

**councillor**

**Grade of**

**Municipality**

What does

cllr

is entitled

to be paid

**by the DM**

per

annum?

Reimburse

ment

of travel &

cellphone

expenses

ito Item

6(2)(b) &

(c), ito

DM's

policy

**32**

(13 PR cllrs &

**19 LM cllrs**

)

**Full time**

**Part time**

Mayor= R 921 912,00 Exco= R 382 091,00

Deputy Mayor= R 737 529,00 Chairperson of Sect 79 Comm (i.e. MPAC chair)= R 370 882,00

Speaker= R 737 529,00 Other part-time members= R 288 998,00

Executive Committtee= R 691 433,00

**Name of**

**Municipality**

**Total**

**remuneration**

**package (TRP)**

**at DM**

**Total remuneration**

**package (TRP)**

**at LM**

**Position on LM**

**Position on DM**

**Upper limit of allowance in respect of councillors serving in the governance and intergovernmental structures of organised local government**

7(1) (a) A councillor designated by organised local government to serve in a governance structure of organised local government must, in addition to the total remuneration package applicable to that councillor, be paid an allowance not exceeding R1060.80, **irrespective of the number of meetings attended** by such councillor on a specific day.

*(b)* A councillor designated by organised local government to represent organised local government at any intergovernmental structure, including national and provincial executive authorities, must in addition to the total remuneration package applicable to that councillor, be paid an allowance not exceeding R1060.80, **irrespective of the number of attendances** by such councillor on a specific day.

(2)Organised local government is responsible for –

*(a)* the payment of the allowance referred to in sub-item (1);

(b) the payment of accommodation expenses incurred for attending a meeting of governance and intergovernmental structures in terms of applicable organised local government policy; and

*(c)*reimbursement of travel expenses, not exceeding the applicable tariffs prescribed by the national department responsible for transport for the use of privately-owned vehicles, incurred by a councillor for attending a meeting of governance and intergovernmental structures.

**Explanatory note:** Item 7 of the Notice provides for the payment of allowance in respect of councillors serving in the governance and intergovernmental structures of organised local government. A councillor who is appointed to serve in the governance and intergovernmental structures of organised local government is entitled to receive a **sitting allowance not exceeding R 1060,80 per day** for actual attendance of the meeting, regardless of the number of meetings that are attended by such councillor on each day. Costs pertaining to the payment of the sitting allowance contemplated herein, accommodation and travel expenditure incurred by a councillor will be borne by organised local government.**Upper limits of the annual total remuneration packages of part-time councillors**

8. The upper limits of the annual total remuneration packages of part-time councillors are as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **GRADE** | **TOTAL REMUNERATION PACKAGE** | | | | |
| **EXECUTIVE MAYOR OR MAYOR** | **SPEAKER, DEPUTY EXECUTIVE MAYOR OR DEPUTY MAYOR** | **MEMBER OF THE EXECUTIVE COMMITTEE OR MAYORAL COMMITTEE OR**  **WHIP** | **CHAIRPERSON OF SECTION 79 COMMITTEE** | **OTHER PART-TIME MEMBERS** |
| 6 | 756,866 | 640,278 | 573,056 | 556,247 | 505,677 |
| 5 | 561,622 | 449,299 | 421,217 | 408,860 | 318,591 |
| 4 | 479,472 | 383,577 | 359,604 | 349,055 | 271,990 |
| 3 | 461,777 | 369,421 | 346,339 | 336,171 | 261,952 |
| 2 | 432,384 | 345,907 | 324,289 | 314,776 | 245,280 |
| 1 | 419,784 | 335,826 | 314,839 | 305,602 | 237,846 |
| The mayor of a plenary type municipality should be remunerated according to the total remuneration package column of mayor/ executive mayor. | | | | | |

**Comment:** It should be noted that the total remuneration packages are adjusted annually.

**Upper limits of allowances of full-time and part-time councillors**

9. The upper limits of allowances of councillors, that constitute part of the annual total remuneration package, are as follows:

(1)Motor vehicle and travel allowance

1. A councillor listed in item 5 and 8 of this Notice may structure his or her basic salary to provide for motor vehicle allowance.
2. If a councillor structures a vehicle allowance, the councillor must provide proof of ownership of a **private vehicle** to the municipality and have the vehicle available for official duties.
3. A councillor who uses a **privately-owned vehicle** for execution of official duties on behalf of the municipality, may be reimbursed for official kilometres travelled, in addition to the total remuneration package of a councillor as determined in terms of items 5 and 8 of the Notice, not exceeding the applicable tariffs as prescribed by the national department responsible for transport and in terms of the municipal council’s policy.

*(d)* A councillor who utilises a privately-owned vehicle for official purposes must, for purpose of claiming kilometres travelled, keep a travel logbook containing the following information relating to actual official and private kilometres travelled per month as may be determined from time to time by the South African Revenue Service:

1. Date of travel;
2. Kilometres travelled; and
3. Travel details, where to and reason for the trip.

*(e)* A councillor may, in exceptional circumstances and upon good cause shown, and with the approval of the Mayor or Speaker, utilise the municipal-owned vehicle for official purposes: Provided that the municipal council must, in line with the approved municipal council policy, exercise prudent financial management to ensure that the provision of motor vehicle does not undermine the need to prioritise service delivery and sustain viable municipalities.

(f) If a councillor uses a municipal-owned motor vehicle for official purposes, such councillor **will not be reimbursed** for kilometres travelled.

**Explanatory note:** As provided for in the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), Regulations, Notice No. 317 of 2019 dated 7 June 2019, item 6 provides that:-

1. (1) The threshold limit for vehicle purchases relating to official use by political office-bearers **must not exceed R 700 000,00** or 70% (VAT inclusive) of the total remuneration package for the different grades of municipalities, as defined in the Public Office Bearers Act and the notices issued in terms thereof by the Minister of Cooperative Governance and Traditional Affairs, whichever is lower.

(2) The procurement of vehicles in sub-regulation (1) must be undertaken using the national government transversal contract mechanism, unless it may be procured at a lower cost through other procurement mechanisms.

(3) Before deciding to procure a vehicle as contemplated in sub-regulation (2), the accounting officer or delegated official must provide the council with information relating to the following criteria which must be considered:

(a) status of current vehicles;

(b) affordability of options including whether to procure a vehicle as compared to rental or hire thereof, provided that the cost effective option is followed and the cost is equivalent to or lower than that contemplated in sub-regulation (1);

(c) extent of service delivery backlogs;

(d) terrain for effective usage of the vehicle; and

(e) any other policy of council.

(4) If the rental referred to in sub-regulation (3) is preferred, the accounting officer must review the costs incurred regularly to ensure that value for money is obtained.

(5) Regardless of their usage, vehicles for official use by political office bearers may only be replaced after completion of 120 000 kilometres.

(6) Notwithstanding sub-regulation (5), a municipality or municipal entity may replace a vehicle for official use by political office bearers before the completion of 120 000km only in instances where the vehicle has a serious mechanical problem and is in a poor condition and subject to obtaining a detailed mechanical report by the vehicle manufacturer or approved dealer.

(7) An accounting officer must ensure that there is a policy that addresses the use of municipal vehicles for official purposes.

(2) Housing allowance

A councillor may structure his or her salary to provide for housing allowance as part of the total remuneration package.

**Out of pocket expenses**

10. A councillor may, in addition to the total remuneration package, be reimbursed for reasonable and actual out of pocket expenses incurred during the execution of official or ceremonial duties, in accordance with the applicable municipal council policy.

**Upper limits of cell phone allowance for councillors**

11. A councillor may, in addition to the annual total remuneration packages provided for in terms of items 5 and 8 respectively, be paid a cell phone allowance not exceeding R3400.00 per month in accordance with the applicable municipal council policy.

**Comment:** It is noted that Cellular telephone packages at almost a third of the cost are available. It is therefore recommended that if a cell phone contract is less than R 3400,00 per month, then the difference **should not be paid** to the councillor but should be a saving to the Municipality.

**Upper limits of mobile data bundles for councillors**

12. A councillor may, in addition to the annual total remuneration packages provided for in terms of items 5 and 8 respectively, be paid an allowance on the use of data bundles not exceeding R300 per month.

**Upper limits of pension, provident or retirement annuity fund contributions and medical benefits of councillors**

1. (1) Pension, provident or retirement annuity contributions
2. A councillor may participate in a pension, provident or retirement annuity fund registered in terms of the Pension Fund Act, 1956 (Act No. 24 of 1956).
3. If a councillor elects to participate in a pension, provident or retirement annuity fund, the municipality must pay from his or her monthly salary, on behalf of that councillor, the monthly contributions and councillor contributions to a pension, provident or retirement annuity fund to which the councillor is a member in accordance with the rules of such pension, provident or retirement annuity fund. The contributions by the municipal council and the councillor are included in the total remuneration package as a total cost to the municipality.

(2) Medical Aid Scheme

*(a)* A councillor may participate in a medical aid scheme registered in terms of the Medical Schemes Act, 1998 (Act No. 131 of 1998.

*(b)* If a councillor elects to participate in a medical aid scheme, the municipal council must deduct from that councillor’s salary, the monthly contributions and pay the contributions to a medical aid scheme to which the councillor is a member in accordance with the rules of such medical aid scheme. The contributions by the municipal council and the councillor are included in the total remuneration package as a total cost to the municipality.

**Special risk cover**

14(1) A municipality must, in addition to the annual total remuneration packages as provided in items 5 and 8 respectively, take out risk insurance cover, to provide for an insurance cover, provided to a councillor by the municipality, which covers the loss of or damage to a councillor’s personal immovable or moveable property and assets, excluding property used by such councillor for business purposes, as well as life and disability cover, for any loss or damage caused by riot, civil unrest, strike or public disorder. The special risk insurance on residential property will be limited to R1, 5 million while on vehicles it is limited to R750 000. The life and disability insurance cover is limited to 2 times the total remuneration package of a councillor.

1. In the event where the residential property of a councillor was damaged or destroyed as a result of riot, civil unrest, strike or public disorder, the municipality may, subject to affordability, provide alternative accommodation to the affected councillor, for a period of 30 days from the date of such an incident.
2. Notwithstanding sub-item (2), the municipal council may, on good cause shown, provide alternative accommodation for a further period not exceeding 30 days.
3. A councillor is obliged to submit to the municipality details of property, assets and beneficiaries to be covered by the special risk insurance upon request. A councillor who fails to submit the required details referred to herein **will forfeit** the benefits associated with the special risk insurance cover.

(5) If a councillor already belongs to another special risk cover, such councillor must declare to the municipality the details of property, assets and beneficiaries to be covered by the special risk insurance.

**Tools of trade**

15 (1) A municipal council may extend the following tools of trade to a councillor:

|  | **TOOLS OF TRADE** | **APPLICABLE TO:** |
| --- | --- | --- |
| (a) | Braille reader | All visually impaired councillors. |
| (b) | Office space and furniture;  Parking bay;  Business cards;  Calculators;  Letter-heads;  Stationery;  Toner cartridges;  Diaries;  Postage costs;  Office telephone; and  Appropriate mobile technology and multi-digital office (excluding cell phones and mobile data card as per item 10 and 11), including facsimile, printer, photocopier and scanner. | Full-time councillors, part-time executive mayors or mayor, part-time deputy executive mayors or deputy mayors, part-time speakers, part-time members of mayoral committee or members of executive committee and part-time chairpersons of section 79 committees. |
| (c) | Laptop or tablet. | All councillors. |
| (d) | Official accommodation, fittings and furniture which was utilised as an official residence by the municipality, prior to 2016.17. | Full-time Executive Mayors or Mayors |
| (e) | Business cards;  Calculators;  Letter-heads;  Stationery; and  Diaries. | Part-time councillors and the usage must comply with policy directives of the municipality. |
| (f) | Postage costs;  Office telephone; and  Multi-digital office, facsimile, printer, photocopier and scanner. | Part-time councillors to have access to these tools of trade at the municipal offices. |
| (g) | Personal security | Executives Mayor, Mayor or Speaker **may not have more than two bodyguards**. Deviation may only be based on the recommendations of the South African Police Service. |
| Any other councillor, **subject to a threat and risk analysis** conducted by the South African Police Service. |

(2) If a municipal council makes available tools of trade in terms of sub-item (1), such a municipal council must take into account accessibility, affordability and cost control, equity, flexibility, simplicity, transparency, accountability and value of tools of trade.

(3) The tools of trade must be insured by the council with the exception of sub-item (1)(g).

**Explanatory note:**

The Notice sets out the tools of trade that may be extended to councillors. Special note must be taken of the fact that due diligence must be adhered to and prior approval/ concurrence must be obtained from the MEC responsible for local government in the province prior to implementation of the tools of trade as contained in the Notice.

**Personal security process:** Municipalities are consequently requested to ensure that the requirements as set out in the Notice are being complied with and that the relevant SAPS reports are obtained in writing after the analysis has been done. Please note that if a threat and risk analysis is not carried out by SAPS, and councillors are provided with security, this will be raised as a query by the Auditor-General's Office.

* In addition, Council must take into consideration the affordability of appointing personal security.
* Municipalities must also provide an appropriate budget for security for each municipal financial year.
* Municipalities are also reminded that should personal security services be **provided internally**, by way of the appointment of municipal staff, provision must be made on the Council's approved staff establishment for such staff members of Section 66 (3) of the Municipal Systems Act, No. 32 of 2000.
* Furthermore, should personal security be **privately** **contracted or outsourced**, the Council's approved supply chain management processes must be complied with in accordance with the prescripts of the Municipal Finance Management Act.
* Finally, the registration requirements of all personal security guards and other security personnel, which is managed and controlled by the Private Security Industry Regulatory Authority, established in terms of Act No. 56 of 2001, must be taken into account and complied with concerning this matter.

As provided for in the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), Regulations, Notice No. 317 of 2019 dated 7 June 2019, item 13 (5) provides that a municipality or municipal entity may only use the services of the South African Police Service to conduct periodical or quarterly security threat assessments of political office bearers and key officials and a report must be submitted to the Speakers office.

**Capacity building**

16 (1) The municipal council must develop and adopt a skills development plan and personal development plan prior to any councillor undergoing training.

(2) A municipality must make a provision in its budget for development and implementation of capacity building programme for a councillor during the term of office of that councillor.

(3) Capacity building programme consist of short courses or programmes as provided for in the training, education and development policy and skills development plan of the municipality, including training conducted by national departments, associated government agencies and SETAs, provincial departments, municipalities and organised local government.

(4) The capacity building programme must take into consideration the capacity needs to fulfill a councillor’ statutory obligations and affordability by a municipality.

**Explanatory note:** Municipalities are obliged to make provision in their budgets for training and development of their councillors. Training and development programmes must take into consideration the policy imperatives of each municipality, capacity needs of individual councillors and affordability of the municipality.

**Overpayment**

1. (1) Any remuneration paid to a councillor of a municipality otherwise than in accordance with section 167(1) of the *Local Government: Municipal Finance Management Act*, 2003 (Act No. 53 of 2003) including any **bonus, bursary, loan, advance or other benefit**, is an irregular expenditure and the municipality –
2. must recover that remuneration from the political office bearer or member; and
3. may not write-off any expenditure incurred by the municipality in paying or giving that remuneration.

(2) The MEC must report to the Minister –

1. any transgression of subsection (1); and
2. any non-compliance with this Notice.

**Information to be submitted to the Minister**

1. (1) A municipality must submit to the MEC responsible for local government in the province, a report containing the following information in respect of its serving councillors for the 2018/19 financial year on an official letterhead of the municipality, signed by the mayor:
   1. Total number of councillors;
   2. Designation;
   3. Part-time or full-time;
   4. Name of incumbent;
   5. Gender;
   6. Total municipal income;
   7. Total population;
   8. Grading of municipal council;
   9. Date concurrence granted by the MEC;
   10. Total remuneration package; and
   11. Any allowance(s) payable to a councillor.
2. Upon receipt of the data referred to in sub-item 1, the MEC must submit a consolidated report to the Minister by not later than 28 February 2019.

**Transitional measures**

1. (1) If a municipality has no audited financial statements for 2017/18 financial year by the date of publication of this Notice, the audited financial statements for the 2016/17 financial year will apply.
2. If the grading of a municipal council is downgraded as a result of the redetermination of the grade of municipal council as set out in item 4 of this Notice, a councillor who in office as at 30 June 2018 will retain the total remuneration package as determined in terms of Government Notice No. 1440, Government *Gazette* No. 41335 of 15 December 2017 and the councillor is entitled to the applicable cost of living adjustment: Provided that the data used by the municipality for determination of the grading of a municipal council is correct.
3. This Notice replaces Government Notice No. 1440 as published in Government Gazette No. 41335 of 15 December 2017.

**Affordability Framework for the determination of upper limits of salaries, allowances and benefits of councillors**

* 1. Each municipality will be allocated a score as contemplated in the first row of each of the tables hereunder, for an assessment contemplated in the relevant item in the second row of each table:-

1. Staff cost expressed as a percentage of reported total gross expenditure;

|  |  |  |  |
| --- | --- | --- | --- |
| **3** | **2** | **1** | **0** |
| 35% and less | 36% to 45% | 46% to 55% | 56% and higher |

1. The total actual reported income expressed as a percentage of the budgeted income;

|  |  |  |  |
| --- | --- | --- | --- |
| **5** | **3** | **1** | **0** |
| 90% and higher | 89% to 70% | 69% to 50% | 49% and less |

1. The over or under-spending of the amount budgeted for expenditure; and

|  |  |  |  |
| --- | --- | --- | --- |
| **0** | **1** | **3** | **0** |
| 84% and less | 85% to 94% | 95% to 105% | 106% and higher |

1. The exemption or non-exemption from the payment of staff salaries in accordance with the Local Government Bargaining Chamber determination of salaries.

|  |  |
| --- | --- |
| **3** | **0** |
| **No**, the Council has not been exempted, and is paying salaries in accordance with the Local Government Bargaining Chamber determination of salaries. | **Yes**, the Council has been exempted, and is not paying salaries in accordance with the Local Government Bargaining Chamber determination of salaries. |

* 1. Each assessed municipality will be allocated a score as contemplated in the first column of the table hereunder, with the relevant percentage contemplated in the second column of the table hereunder being the percentage of the upper limit of salaries, allowances and benefits contemplated in the determination published in Government Notice No. R 653 dated 30 June 2006, by the Minister for Provincial and Local Government in terms of section 7(1) of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998), that the said municipality may grant to its councillors.

|  |  |
| --- | --- |
| **Municipal Score** | **Percentage of Upper Limit** |
| >75% | 100% |
| 50% - 75% | 95% |
| < 50% | 90% |

* 1. Where the current national determination results in a total remuneration package that is less than the total remuneration package of the previous national determination, the current national determination shall apply.

The MEC had from the 2005/2006 to the 2018/2019 municipal financial years, applied the **Affordability Model** in respect of the applications submitted by all municipalities for their annual increases in salaries, allowances and benefit payments in terms of the National Minister’s promulgated upper limits. The Model was promulgated in the Provincial Gazette on 15 March 2007, vide Notice No. 376. The Model has been applied uniformly throughout the KwaZulu-Natal Province over the past few financial years.

Another aspect relating to the processing of applications and which concerns the process is the consideration that had been given to **municipalities that had received a disclaimer/adverse as an audit outcome** and municipalities that may be under intervention/administration resulted in the MEC resolving not to grant such municipalities any increases.

In this regard the MEC’s decision not to grant any increases to those municipalities that received **disclaimers/adverse** as an audit outcome, is based upon the fact that the Auditor General is unable to express an opinion on the municipality’s financial situation and therefore the affordability of any proposed increases in councillor remuneration cannot be readily assessed.

It is the MEC’s obligation to exercise oversight over municipalities, including not **granting councillor upper limit increases** to those municipalities that had received disclaimers/adverse opinions as an audit outcome, and municipalities placed under section 139 intervention because of serious financial concerns.

**CONSULTATIVE PROCESS BY THE NATIONAL MINISTER**

* In terms of section 7(1) of the Remuneration of Public Office Bearers Act of 1998, the Minister for Cooperative Governance and Traditional Affairs, in determining the upper limits of salaries and allowances for councillors, must consult with Provincial MECs.
* National Cooperative Governance and Traditional Affairs holds a Technical meeting with officials of all Provinces where the Provinces provide technical comment on the draft Notice.
* The draft Notice is received from the Minister for Cooperative Governance and Traditional Affairs in which the Minister requests the MEC to provide comment by a certain time period. The draft Notice proposes, inter alia, to increase the salaries, allowances and benefits of municipal councillors in respect of the financial year with a percentage increase to different salary bands of councillors across the board.
* A comparison is carried out between the current Notice and the draft Notice. The most significant amendments that are contained in the draft Notice are identified and comments and recommendations are presented to the MEC which will thereafter be brought to the attention of the Minister.
* The Notice on the Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Councils is then published in the Gazette.
* The Notice is then circulated to all municipalities bringing to their attention the amendments to the Notice which could have some challenges for certain municipalities in terms of meeting the financial implications thereof, especially considering that they may be implemented with retrospective effect to 1 July of each financial year.

**MUNICIPAL PROCESS**

* Municipal councils are therefore required to give consideration to all aspects relating to the date of implementation thereof and to be *specific* in their resolutions as to which provisions of the Notice are to be implemented with retrospective effect and which are not, **taking into account the provisions made in the financial year’s budget,** without negatively impacting on service delivery matters.
* In this regard the Municipal Managers, together with their Chief Financial Officers, are required to provide their Councils with full details of the financial implications relating to the provisions of the Notice.
* Municipalities are required to submit their applications to the MEC (via the Department) for consideration in order to implement any increases in councillors’ remuneration. Such applications must be accompanied by the following essential documentation:

(a) a certified copy of the Council’s resolution in which the Council’s decision in respect of the proposed level of payment is specified. N**ote:** The percentage increase that is being applied for must be in respect of the amounts that appear in the Notice e.g.100% or 95% of the upper limits (i.e. the maximum reflected in the Notice), and not in respect of the percentage increase;

(b) a Certificate which is provided by the Department must be completed and signed by both the Municipal Manager and the Chief Financial Officer;

(c) a copy of the **audited** annual financial statements for the respective municipal financial year, failing which the **audited** financial statements for the previous financial year will apply (as per Item 19 of the Notice); and

(d) a copy of the audit report for the municipal financial year.

* Municipalities are reminded that under no circumstances are Accounting Officers permitted to implement any increases in the remuneration levels prior to their applications being submitted and concurrence having been obtained from the MEC.
* The Municipalities are required to complete the following matters on the **Certificate** which is based on the Affordability Model and must be verified by the Municipal Finance Chief Directorate and Municipal Administration Directorate within the Department:-

**Part 1:**

| **TO BE COMPLETED BY THE MUNICIPALITY** |  |
| --- | --- |
| 1. The Municipality, in respect of the **“total municipal income”** as defined in Government Notice No.1426 of 21 December 2018, and in respect of the 2017/2018 financial year, has collected a total municipal income of R \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and which is based on the **(actual income received as stated in the audited financial statements for 2017/2018)** and which **excludes** any amounts received from the equitable share and other transfers or grants from the national or provincial fiscus (with the exception of RSC replacement grant for District Municipalities); |  |
| 1. The **total population** of the Municipality is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as appears in the **2016 Community Survey figures as published by the Statistician-General**; |  |
| 1. The Municipality is a **grade** \_\_\_\_\_\_\_\_\_\_\_\_ municipality calculated in accordance with item 4(1) of Government Notice No. 1426 of 21 December 2018; |  |
| 1. The sum required to pay councillors’ their total remuneration packages (salaries, allowances and benefits), based on Government Notice No. \_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_ will amount to R \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ p/a, and a provision of R \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ has been made on the 2018/2019 municipal budget to fund the said councillors’ remuneration with retrospective effect from 1 July 2018; |  |
| 1. By Council Resolution No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ the Municipal Council resolved to consult with / apply to the MEC on the resolution to pay councillors remuneration at \_\_\_\_\_\_\_\_\_ % of the upper limit amounts applicable to a grade \_\_\_\_\_\_\_\_\_ municipality; and |  |
| The payment of the Municipality’s contribution of councillors’ medical aid and pension benefits (which forms part of the councillors’ all-inclusive remuneration package) is to be paid by the Municipality directly to the respective funds. |  |

**Comment:** It should be noted that the financial years referred to in the Certificate will be changed annually.

**PART 2:**

As part of the consultation process with the MEC, the Preamble of the Government Notice stipulates that affordability is a criterion that municipal councils must apply to determine the level of remuneration. The MEC has accordingly, in Provincial Notice No. 376 dated 15 March 2007, published a framework in terms of which such assessments will be conducted, and in order for the Department to assist the MEC to assess the level of affordability, the following information is being provided:-

| **TO BE COMPLETED BY THE MUNICIPALITY** |
| --- |
| 1. The staff cost and councillors remuneration costs, being R\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, expressed as a percentage of the reported **total** gross expenditure (CAPEX and OPEX), being R\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the 2017/2018 financial statements is \_\_\_\_\_\_\_\_\_\_\_\_\_\_%;   **Formula**  Staff cost & cllr remuneration costs ÷ total gross expenditure= \_\_\_\_\_\_\_\_% |
| 1. The total **actual** reported revenue, being R\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ expressed as a percentage of the total **budget** (original) for revenue, being R\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in the 2017/2018 financial year, is \_\_\_\_\_\_\_\_\_\_\_\_\_\_%;   **Formula**  Total actual reported revenue ÷ total budget (original) for revenue= \_\_\_\_\_\_\_% |
| 1. In respect of the 2017/2018 financial year the – 2. **total** municipal budget (original) for expenditure was R\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and 3. **actual** expenditure was R\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; which represents an under / over expenditure of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_%; and   **Formula**  Actual expenditure ÷ total municipal budget (original)= \_\_% |
| 1. The Council **has / has not** (**delete which is not applicable**) been exempted from, or **is / is not** (**delete which is not applicable**) paying staff salaries in accordance with the Local Government Bargaining Chamber’s determination of salaries. |

**Comment:** It should be noted that the financial years referred to in the Certificate will be changed annually.

* Once an application is received from the Municipality, together with all of the supporting documents (a completed Certificate, Council resolution and the Auditor General’s report) is submitted to COGTA to verify the accuracy of the figures provided by the Municipality in its Certificate against the Municipality’s audited Annual Financial Statements for required financial year.
* Once the information is verified, the Department calculates the grading of the Municipality based on the total municipal income and total population of the Municipality. The Department then goes on to score the Municipality based on the following factors provided on the affordability assessment which will indicate whether sufficient funds have been provided on the Municipality’s budget or not:-

|  |
| --- |
| **FACTORS** |
| 1. Staff cost expressed as a percentage of total gross expenditure and compared with an accepted benchmark of 35% |
| 2. Total actual revenue expressed as a percentage of total budgeted (original) income. |
| 3. Actual expenditure expressed as a percentage of the original total municipal amount budgeted for expenditure. |
| 4. Whether the council is exempt from payment, or not paying staff salaries in accordance with the Local Government Bargaining Chamber determination of salaries. |

* After considering and applying the affordability criteria, which are based on the Municipality’s verified figures which is obtained from the Auditor Generals Report, and considering whether or not the municipality is in a financial stable condition, the MEC make a decision to grant or not grant an upper limits increase to councillors.
* Subsequently, the Municipality is informed of the MEC’s decision.

**CONCLUSION**

This guideline document should be reviewed annually by the Municipal Council in accordance with any proposed amendments to the Notice referred to above.