

Accident Compensation Act 1985

MINISTERIAL GUIDELINE 2010

Municipal Councillors

I, Tim Holding, Minister for Finance, WorkCover and the Transport Accident Commission, pursuant to section 14AA(4) of the **Accident Compensation Act 1985**, issue the following guideline with respect to duties performed by a Councillor that may, and may not, be taken to be 'duties as a Councillor' for the purposes of this Act.

Dated 21 June 2010

TIM HOLDING MP
Minister for Finance, WorkCover and the
Transport Accident Commission

MINISTERIAL GUIDELINE ISSUED PURSUANT TO SECTION 14AA(4), ACCIDENT COMPENSATION ACT 1985

Introduction

1. This guideline may be cited as the Municipal Councillor Ministerial Guideline 2010.
2. This guideline is made pursuant to section 14AA(4) of the **Accident Compensation Act 1985** (the Act) and specifies duties performed by a Councillor that may be taken to be, or not to be, duties as a Councillor for the purposes of the Act.
3. The guideline will come into operation on 1 July 2010 and apply to all claims for compensation made on or after this date.
4. Each claim is to be considered on its own facts, and this guideline is intended for assistance only.

Definitions

5. A **Councillor** is defined in section 3 of the **Local Government Act 1989** (the LG Act) to be someone who holds office as a member of a Council, and in this guideline the term has the same meaning.
6. For the purposes of this guideline, a reference to a Councillor acting as a **representative of Council** is a reference to a Councillor acting in a capacity to which the Councillor has been formally appointed as a representative of Council by a resolution of the Council.

Duties as a Councillor

7. A Councillor's duties are any duties performed by a Councillor, either inside or outside of the municipal district, that are necessary or appropriate for the purposes of achieving the objectives of the Council, as defined in section 3C of the LG Act. Such duties would generally include, but are not limited, to the following when performed or undertaken by a Councillor in that capacity:
 - a) attending an ordinary, a special or a committee meeting of Council;
 - b) attending a meeting with the Chief Executive Officer of Council, or any other member of staff of the Council, at Council premises;
 - c) attending or participating in a scheduled activity of a business, community or other organisation as a representative of Council;
 - d) attending a scheduled meeting with a representative of a local, State or federal government entity as a representative of Council;
 - e) inspecting, for a purpose associated with a Council approval process, a development or other site that is the subject of a Council approval process;
 - f) visiting any other site as a representative of Council;

- g) attending a pre-approved training or professional development activity for Councillors;
 - h) responding to communications from constituents concerning Council business.
8. The circumstances in which a Councillor will generally not be taken to be performing his or her duties as a Councillor include, but are not limited to, the following:
- a) where the Councillor's conduct contravenes the Council's Councillor Code of Conduct approved pursuant to section 76C of the LG Act;
 - b) where the Councillor's conduct contravenes the Councillor conduct principles referred to in sections 76B and 76BA of the LG Act;
 - c) where the Councillor is otherwise contravening a provision of the LG Act or is otherwise acting unlawfully;
 - d) where the Councillor is acting solely in his or her capacity as a private member of the community;
 - e) where the Councillor is carrying out work in his or her capacity as a worker or deemed worker of another individual, company, organisation or other body, or as a self-employed person.
9. The matters referred to in paragraph 8 have precedence over the matters referred to in paragraph 7.

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