

Councillor Discretionary Funds Guideline

Local governments can include funds in their budgets for the discretionary allocation by councillors:

- for capital works of the local government that are for a community purpose;
- to a community organisation for a community purpose; or
- for another community purpose.

These funds are called “councillor discretionary funds.” The amount that a local government budgets for a discretionary fund must be the same amount for all councillors.

The *Local Government Act 2009* defines discretionary funds in section 109(2) as funds in the local government’s operating fund that are —

- (a) budgeted for community purposes; and
- (b) allocated by a councillor at the councillor’s discretion.

Section 201B of the Local Government Regulation 2012 provides that a local government may, for a financial year, budget an amount of discretionary funds for use by councillors for either or both of the following purposes:

- capital works of the local government that are for a community purpose,
- other community purposes.

However, the amount a local government budgets as discretionary funds for ‘other community purposes,’ for a financial year must not be more than the prescribed amount for the local government for the financial year.

The prescribed amount for a local government is 0.1% of the local government’s revenue from general rates for the previous financial year.

Local governments that do not have revenue from general rates, would not be able to allocate any monies to councillors for their discretionary funds for ‘other community purposes’ as the amount available to allocate would be nil. For example, in the case of Indigenous local governments as prescribed under the Local Government Regulation 2012 (LGR) who do not have rateable land, these councils would not be able to provide discretionary funds for other community purposes as they do not have revenue from levying rates. If the status of the Indigenous council changed to levying rates, then they would be able to have discretionary funds for other community purposes.

Notification of Discretionary Budget

Within 20 days of adopting a budget, local governments must publish on their website, and display in a visible place in their public office, an availability notice advising:

- the total amount budgeted for the financial year as the local government’s discretionary funds and
- the prescribed amount for the local government for the financial year
- the total amount of discretionary funds budgeted for the financial year for councillors to allocate for each of the following purposes

- i. capital works of the local government that are for a community purpose
 - ii. other community purposes
- the total amount of discretionary funds budgeted for the financial year for use by each councillor for each of the following purposes
 - iii. capital works of the local government that are for a community purpose
 - iv. other community purposes
- how community organisations may apply for allocation of the funds.

Use of Discretionary Funds

A councillor may allocate their discretionary funds only in the financial year for which the funds are budgeted.

A councillor must not allocate discretionary funds for supplying administrative or support services for performing the councillor's responsibilities under the *Local Government Act 2009*.

Councillors may use their discretionary funds in any of the following ways:

- to allocate for capital works by the local government that are for a community purpose
- to allocate to a community organisation (a group or individual whose primary object is not to make a profit) for a community purpose
- to spend for another community purpose

Capital Works

Where a councillor intends to allocate some of their discretionary funds for capital works, the councillor must seek the approval of the mayor and the chief executive officer (CEO). Mayors must seek approval from the deputy mayor and the CEO.

When considering whether to approve a proposal to allocate councillor discretionary funds for capital works, the mayor, deputy mayor and CEO must ensure the amount to be allocated does not exceed the amount stated in the availability notice. They must have regard to how the proposal fits in with the local government's 5 year corporate plan, long-term asset management plan and annual budget.

The amount budgeted for capital works for the local government that are for a community purpose is not based on revenue from general rates for the previous financial year.

Community Organisation

Where a councillor intends to allocate some of their discretionary funds to a community organisation, the councillor must do so only for organisations that have applied as required by the availability notice and in accordance with the requirements of the local government's community grants policy if they have one in place.

The amount to be allocated must not exceed the amount stated in the availability notice.

Another Community Purpose

Where a councillor intends to allocate some of their discretionary funds for another community purpose, the amount to be allocated must not exceed the amount stated in the availability notice.

Note: Under Section 201B(5) of the LGR, as an Indigenous local government does not levy general rates, an Indigenous local government cannot budget an amount for discretionary funds that are to be used for other community purposes. The Indigenous councils who have a limitation on the power to levy rates, is prescribed in s 73A (LGR).

Reporting to the Community

Within seven days after an amount has been allocated from a councillor's discretionary fund, the councillor must give the CEO a notice stating:

- the amount allocated
- the date the amount was allocated
- the way the money was allocated under section 202(1) of the Local Government Regulation 2012, (capital works, community organisation or another community purpose)
- if the amount was allocated to a person or organisation, the name of the person or organisation receiving the allocation
- the purpose for which the money was allocated.

Failure to give this notice is an offence with a maximum penalty of 10 penalty units. The CEO must publish the notice on the local government's website within seven business days of receiving the notice from the councillor.

Also, the requirement to give the chief executive officer notice of the allocation continues to apply to a person who was a councillor when the allocation was made and stops being a councillor before the notice is given.

The local government is also required to list details of all grants to community organisations from councillor discretionary funds in its annual report for the financial year.

More Information

For more information contact your regional office of the Department by phone on 13 QGOV (13 74 68).