

# Agreed summary of oral submission to the Victorian Independent Remuneration Tribunal's review of the Members of Parliament (Victoria) Guidelines

Submission from anonymous

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## *First principles for providing MPs with public resources*

- MPs incur legitimate expenses to carry out their duties. MPs have budgets and allowances to draw on, and the onus is on MPs to acquit what they have incurred and claim expenses appropriately.
- With the introduction of the Compliance Officer function, there are now strong repercussions for MPs if they breach the regulatory framework. There should be some guidance from those responsible for designing and implementing the framework to assist and support MPs in navigating that framework.
- Previous Guidelines were established over a long period of time, evolving in line with the nature of work MPs do in the community.
- The Tribunal's first Determination and the Guidelines seem to have disallowed some activities and expenses that were previously acceptable.
- An example for the EO&C Budget is that community group photocopying can no longer be claimed, but MPs still want to provide that service to the community (noting that this should be subject to usual conditions, like not being available for commercial purposes).
- There is a requirement for MPs to service their constituents including community groups and there can be an expectation, such as this one in the community about services they can rely upon.
- It's also important to consider the speeches during the Parliamentary debate on the VIRTIPS Bill regarding the no-less-favourable test inserted in the legislation.

## *Principles-based vs prescriptive guidelines*

- Overarching principles are useful, but need to be complemented with specific guidelines, and the more specific the better to remove ambiguity. If there is subjectivity it provides an avenue for multiple interpretations. Specific guidelines ensure clarity for all participants in the system (both relevant officers and MPs).
- Specific examples for common areas of concern would also be useful.

## *Support from relevant officers to assist MPs in navigating the regulatory framework*

- MPs receive inconsistent levels of support from the relevant officers. It is most helpful when relevant officers are proactive in advising MPs about how they intend to interpret the Guidelines and broader regulatory framework prior to receiving an MP's claim.

## *Process issues – ability to seek 'pre-approval'*

- It would be useful if the Guidelines set out a process for the 'pre-approval of claims' so that MPs are not disadvantaged in having to bear the cost if a claim is rejected.
- This would also assist in promoting compliance by MPs with the regulatory framework.

### *Proposed process for ongoing review and revision of the Guidelines*

- There should be a process that enables MPs, relevant officers and the Tribunal to deal with matters that arise from time to time that haven't been included in the Guidelines.
- A possible solution is to have a subcommittee comprising the relevant officers and a cross-party representation that could deal with issues of interpretation not clear under the Guidelines. The subcommittee could resolve how to deal with new issues until the Tribunal updates the Guidelines. This would allow for issues to be dealt with in 'real-time' while still providing the Tribunal with an opportunity to update the Guidelines annually in line with its annual adjustment determination.

### *Political nature of the role of an MP*

- Unless the MP is an independent, MPs are pre-selected by parties, elected under a party system, and then represent people and parties in the Parliament.
- Many parts of the broader Parliamentary and electorate framework support the notion of MPs being elected as representatives of a party. For example:
  - under the Electoral Act a party receives administrative funding based on the number of MPs elected for each party.
  - party rooms are allocated in the Parliament, as well as consideration given when allocating offices for the leader, deputy leader, whips etc.
  - speaking times in Parliament are apportioned based on party representation (Government, Opposition, Cross-bench).
  - you can speak in Parliament about party ideals and policies.
- However, when considering the Electorate Office, there is a disconnect as it is assumed that MPs should forget they are a member of a party, or the MP is expected to hide this fact or partition it in some way. This is very difficult as the whole system is intertwined and it is difficult to determine the line between the public and party roles of an MP.
- For example:
  - You can't engage in party political activity in your electorate office, but an MP is elected as a member of a political party and is expected to articulate the values and objectives of the party.
  - As a member of a party, staff can write speeches and contributions for Parliament or position papers, but at what point is that staff member drafting a contribution that articulates a party policy?
  - An MP's electorate office staff set up diary appointments and manage the MP's diary, which might include both party related meetings as well as constituent meetings.
  - Every party has a data management piece of software. The Victorian Electoral Commission provides electorate data that gets loaded in that system, which is usually licenced to a political party. Parliamentary services allow this to be loaded on a computer accessed daily by electorate staff to get information about electors. However, because that is perceived as a political tool, an MP cannot train staff within working hours on how to use the software (even though staff can use the software during working hours).
- Victoria's approach is not in line with the systems in other jurisdictions. For example, the Commonwealth scheme acknowledges that an MP is a member of a political party, and the MP represents that political party.
- In a time when the electorate is losing interest in being politically engaged, an MP should be able to articulate their party membership and not hide it. It goes to accountability and 'truth in

advertising'. When communicating with the electorate, an MP should be able to declare which party, if any, they are representing so electors can attribute weight to this.

#### *Party-political communication*

- The Guidelines currently allow an MP to state their party name in their title but not in the body of the text.
- Including the party name in the main body text and using commonly understood terms like 'coalition' should not be seen as a 'party-political measure'. The better view would be to consider these as factual statements that identify the MP. Using a party name more than once in a document should not cause the document to have a party-political purpose.
- Similarly, the Tribunal should consider a consistent approach for how rules regarding use of the party name apply to an MP's website, including the ability for an MP to provide links to their political party's website.

#### *Joint communication materials*

- Allowing MPs who represent neighbouring electorates to join in producing communication materials may provide economies-of-scale and have practical benefits for the distribution of those materials.
- It would seem to be a common-sense approach for neighbouring MPs to be able to share costs in producing one flyer that discussed joint issues or activities.
- This is particularly relevant where a 'municipality' covers two electorates. The Australian Post distribution maps do not always align with electorate boundaries, and occasionally materials can be delivered to the wrong electorate, resulting in complaints from constituents. Allowing a shared flyer would remove this issue.
- Similarly, joint communication materials would be beneficial for festivals or events that attract constituents from multiple electorates. If you are an upper house member you can do joint materials with any lower house members. But two members of the same house who share a geographic area cannot prepare joint materials. The Tribunal may consider the consistency of these Guidelines.
- Allowing joint communication may require conditions to prevent misuse, but may also deliver significant financial and practical benefits for MPs.

#### *Communicating with constituents about issues outside of electorate*

- MPs should be able to distribute materials at shared festivals that attract constituents from multiple electorates. Often an MP is aware that their constituents are attending the event, but the MP is prohibited from paying for a marquee or communication material for the event, because the event is not located within their electorate.
- Similarly, an MP's constituents may be serviced by a regional facility located outside of the electorate, like Hospitals, school's, community and sporting facilities. Under the relevant officer's current interpretation of the Guidelines, an MP would be prohibited from communicating with their constituents about that facility, because it is not located within the MP's electorate boundaries.

#### *Implying parliamentary support when dealing with community groups and joint advertising*

- Historically, MPs could display 'proudly supports' on advertising materials for sports clubs. This is one of the ways MPs support local community groups.

- The relevant officer has determined that, because of the requirement in the Guidelines to use the Parliamentary crest, an MP can no longer display this message of support, as this would imply Parliamentary support for the club. The relevant officer's position is that this would imply that Parliament is providing financial support, rather than the MP. This determination is not supported by many MPs, who consider that it is clear the display of support is from the local MP as a 'Member of Parliament', not from the Parliament itself.
- In line with the relevant officer's determination, it is proposed to grandfather the use of signage that uses 'proudly supports' over time.
- Similarly, the same reasoning from the relevant officer has been applied to joint advertising by MPs with local organisations and community groups (such as the local Country Fire Authority). Joint advertising has been prohibited on that the basis that doing so may indicate parliamentary support for the organisation or entity sharing the advertisement.
- The Tribunal may consider providing clarity regarding use of the Parliamentary crest, and whether this kind of advertising could be permitted without using the crest.
- It should also be noted that MPs consider there is value in being able to use the crest on business cards, letter heads, and writing letters of support (to name a few examples). While some MPs may be happy to forego using the crest, many others consider that holding the position of MP should afford them the opportunity to use the crest.

#### *Outdated monetary limits*

- Issues around the unit cost cap for promotional items. The \$2 cap may be causing unintended consequences as MPs are being forced to purchase bulk quantities to meet the cap and may not be achieving 'value for money'.
- If there needs to be a unit cost cap, it may be more appropriate to base this on the average cost for ordering a set number of items, which can be applied on a case-by-case basis.

#### *Authorisation requirements*

- The authorisation and acknowledgement requirements are not always practical, depending on the size of the promotional item or communications material. It may be worth considering having the Guidelines address the minimum authorisation requirements for certain items.
- It is also important to consider how relevant these requirements are now that expenses are publicly reported, which provides a new avenue for disclosing expenditure.
- An alternative option may also be to develop a kind of symbol or trademark to acknowledge that public funds were used, rather than a wordy acknowledgement.
- The current requirements are also producing some practical issues, such as:
  - whether the MP must have personally authored the material to be eligible to include the acknowledgment that they are the author. Some instances of an MP seeking approval to print/photocopy material where they did not personally author it have been rejected (an example is printing/photocopying material for a community group where the Member is not the author).
  - MPs may have legitimate reasons for keeping the design of certain promotional items very simple, however the relevant officer has determined that only including the name and email address of the MP is not sufficient contact information to promote the MP.
- The Tribunal may consider specifying in the Guidelines the minimum contact details of an MP that must be included.

#### *IT systems and software packages*

- Software like MYOB or an equivalent should be considered a legitimate expense in managing an electorate office and be permitted under the EO&C Budget.
- If this software can be claimed under the EO&C Budget, it would then follow that the software may be loaded onto parliamentary computers.
- Similarly, using database software that contains data about the electorate from the Victorian Electoral Commission should not be seen as a political tool, rather a legitimate activity in managing an electorate office and communicating with the electorate.

***The following was provided to the Tribunal in writing in addition to the oral submission:***

### **Commercial Transport Allowance**

There appears to be an inconsistency with regard to the claiming the commercial travel allowance for a taxi to and from the airport when Members' are travelling for Committee work. The definition for this allowance specifies that you cannot claim it for any mode of transport within Victoria. This is because Members are provided with a fully maintained vehicle and can access free public transport in Victoria.

However, this does not take into consideration the circumstances where a Member is required to travel to and from the airport in Victoria for the purposes of participating in Committee work. It does if they were, for example, travelling to and from the airport in NSW while undertaking Committee work.

I am fully aware of the rationale behind the previous changes that tightened up the commercial travel allowance and am not suggesting that this should be revisited, however I believe some consideration should be given to addressing this issue.

Currently the Clerks have been able to facilitate this whereby, if the Committee work you are undertaking includes an overnight stay outside of Victoria, they will reimburse the Member for the parking fee at the airport but if it does not include an overnight stay they are not able to. Further, if Members drive to Parliament and park their car there, the Member can obtain a Cab Charge Voucher from the Parliamentary Committee to travel from the Parliament to the airport and back to Parliament when travelling for Committee work. In many circumstances this would make no sense as Members would potentially be travelling some distance in the opposite direction to get to Parliament, just to turn around again and head back to the airport.

**Below are several possible alternatives to address this issue, however there may be others:**

- **amending the definition to allow for taxis to be used by Members when travelling to and from the airport when undertaking Committee work. This could include a maximum cap per trip to ensure it is not taken advantage of, bearing in mind it comes out of the Members overall yearly allowance amount**
- **ratify the example given above in relation to travelling to and from the airport from Parliament utilising a Cab Charge Voucher from the Parliamentary Committee when undertaking Committee work. This should be declared/reported somewhere for disclosure purposes**
- **allow the airport parking fee to be claimed from the commercial travel allowance when undertaking Committee work.**

### **Value of EO&C Budget Overall**

I am not aware that there has ever been a full review of the value of the EO&C Budget to determine if the current allocation is actually sufficient for a Member to discharge their responsibilities and adequately service their electorates. Over the years there have been a number of adjustments and changes to what is and isn't paid for directly out of the budget, but I think it's fair to say they have been 'around the edges' and never part of a wholistic review. For example, many years ago, expenses like water and electricity used to come out of the EO&C Budget, but were removed on the basis that they were considered essential and should be provided to all electorate offices without a deduction from the Member's allocation.

If you continued that logic, other services at electorate offices could also be eliminated as a deduction from the Member's allocation including: security monitoring, fire extinguishers and their servicing, rubbish/recycling bins, shredding bins, cooling and heating etc...

Some of these expenses are essential and should be provided as part of the standard office provision; others could provide for a minimum provision for the electorate office with the EO&C Budget absorbing any expenses above a threshold amount.

I am aware that this would effectively shift the cost from an electorate office expenses to a Department of Parliamentary Services expense but provides some consistency and in the absence of a budget increase provides more capacity in the EO&C Budget.

**I believe any review should also consider the formula for calculating the value of EO&C Budget for Legislative Council electorates. They comprise 11 Legislative Assembly electorates, yet the value of their EO&C Budget is around the same as one Legislative Assembly electorate. I'm am not suggesting a Legislative Council budget should be substantially increased, but I am suggesting that recognition needs to be given to the larger area and greater number of electors that Members in these electorates are required to service.**

### **Travel Expenses during Committee Trips**

Parliamentary Committees are provided with funding to cover certain expenses for Members while travelling overseas/interstate while undertaking Committee work. The Member pays for the airfares, usually out of their International Travel Allowance, while the Parliamentary Committee funds can fund expenses such as food provided during meetings, costs associated with witnesses, internal transfers, accommodation etc. (I would note that it should not be used, in my view, to fund individual meals for Members outside of official proceedings as this could be paid for from a Member's Electorate Allowance and claimed via the taxation system).

Even though this funding is provided to Parliamentary Committees for this purpose, because this benefit to Members was not acknowledged in the Tribunal's First Determination, the Clerks feel that by continuing to fund these expenses for Members may be interpreted as going beyond that which the Tribunal had intended. I believe it was more the case that the Tribunal was not aware.

It is important that the Tribunal provided clarity to the Clerks as to whether it is their view that this should continue. If not, the Parliamentary Committee's Budget may be adjusted to reflect that they no longer cover these costs and consideration be given as to where these costs will now be funded from (possibly the International Travel Allowance).

**It should be noted that if it is to continue; the expenses should be reported in some way as a 'cost by Member' so as to maintain full transparency of the allowances a Member has received. The Clerks would be best placed to advise about the most appropriate way to report on these expenses within existing reporting pathways so as to not complicate things further.**

**International Travel Allowance**

As you are aware this \$10,000 per annum allowance was separated from the EO&C Budget as part of the Tribunal's first determination and now sits as a stand-alone allowance.

There has not been an assessment done as to an annual amount for this allowance as it was a nominated figure that was not attached to any actual costs of travel.

This has been addressed in the short term through the regulations where you can be reimbursed for your airfares after incurring the expenses, but be reimbursed for your accommodation for the same trip once you have returned from the trip and when you have lodged your travel report which could be in the subsequent financial year. However, this may cause issues, particularly if you are on a number of Parliamentary Committees, and if you are required to participate in travel in the same financial year as it is likely that you will not have enough funds.

**I believe an assessment needs to be made about what is the appropriate value for this allowance and how it might better operate.**