
Compliance Officer

STATEMENT OF FINDINGS

*Appeal of a decision to reject a claim under the Electorate Office and
Communications Budget*

Appeal reference 2022/01
Date of Decision 7 April 2022

Ordered to be published

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Compliance Officer

STATEMENT OF FINDINGS

Appeal reference	2022/01
Member	[REDACTED]
Relevant Officer	Secretary, Department of Parliamentary Services
Claim under	Electorate Office and Communications Budget
Claim for	Cygnett MagHold Car Vent Mount (\$49.00)
Claim reference	Requisition no. 155124
Date of Decision	7 April 2022

Decision and Required Actions

- 1 The appeal is upheld in relation to requisition no. 155124.
- 2 Under section 9H(8) of the *Parliamentary Salaries, Allowances and Superannuation Act 1968* the relevant Officer must accept the claim made in requisition no. 155124 under the Electorate Office and Communications Budget (**Budget**) and make the payment of this claim.

Statement of Findings

- 1 This is an appeal under section 9H of the *Parliamentary Salaries and Superannuation Act 1968* (Vic) (**PSAS Act**) of a decision by the delegate of the Secretary of the Department of Parliamentary Services (**relevant Officer**) to reject a claim made by [REDACTED] (**Member**) under the Budget for a mobile phone car mount.

Context

- 2 On 27 January 2022, the relevant Officer rejected the Member's claim under the Budget for the following reimbursement:

Requisition no.	Description	Amount
155124	Cygnett MagHold Car Vent Mount	\$49.00

- 3 The relevant Officer rejected the claim based on their interpretation of Guidelines 11(1) and 11(2)(c) of the *Members of Parliament (Victoria) Guidelines No. 01/2021* (**Guidelines**) made by the Victorian Independent Remuneration Tribunal (**Tribunal**).
- 4 On 27 January 2022, the Member appealed this decision to the Compliance Officer, stating that the item:
 - i. is frequently used to conduct electorate office business and is crucial for taking calls from constituents
 - ii. enables the Member to continue to undertake electorate work outside the electorate office, noting that Members do not stop working once they leave their office and that a vehicle should therefore be considered an extension of an electorate office.
- 5 The relevant Officer and the Member were provided with the opportunity to make a submission in response to the appeal. A submission was received from the relevant Officer on 16 February 2022.

Regulatory framework

6 The relevant elements of the regulatory framework for the Budget are summarised below.

PSAS Act

7 The PSAS Act sets out the monitoring, compliance and enforcement framework governing the Budget and work-related parliamentary allowances (Part 2, Division 4).

8 Under section 7F of the PSAS Act, a Member is provided with the Budget to fund the operating and maintenance costs of an electorate office and to communicate with their electorate in relation to their public duties.

9 The PSAS Act sets out three overarching obligations that govern the use of work-related parliamentary allowances and the Budget:

- value for money (section 9A)
- dominant purpose of performing public duties (section 9B)
- responsible and legitimate purposes (section 9C(1)).

10 These obligations are replicated in the Tribunal’s Guidelines under Guideline 5.

11 Section 9C also enables the relevant Officer to impose terms and conditions on the provision, claim and use of the Budget (section 9C(2)) and requires Members to comply with the Tribunal’s Guidelines (section 9C(3)).

Guidelines

12 The relevant Officer based their decision to reject the Member’s claim on a reading of Guideline 11.

13 Guideline 11 sets out ‘permitted’ and ‘prohibited’ operating and maintenance costs that may be claimed as under the Budget, provided the overarching obligations and other prohibitions are complied with.

Guideline 11(1) – Permitted costs

14 Guideline 11(1)(c)(ii) specifically provides for the purchase of additional miscellaneous equipment “such as additional furniture; additional

telecommunication or information technology devices, including mobile devices....”.¹

- 15 Other examples of items permitted under Guideline 11(1) include electorate officer expenses and associated on-costs, such as travel and incidental expenses associated with duties away from the normal work location (Guideline 11(1)(a)), and approved computer software and other information technology systems (Guideline 11(1)(b)).

Guideline 11(2) – Prohibited costs

- 16 Guideline 11(2)(c) states that the Budget must not be used to fund operating costs for equipment located outside the electorate office, except for:
- i. mobile technology devices purchased through and with the approval of the Parliament’s IT services (for example: laptop computer; mobile telephone; tablet);
 - ii. a maximum of two computer monitors;
 - iii. one chair;
 - iv. equipment that is temporarily located to support work arrangements in response to exceptional circumstances in accordance with the relevant Officer’s terms and conditions. Upon cessation of the exceptional circumstance, the equipment must be returned to the electorate office;

Note: This guideline supports the purpose of the EO&C Budget to fund a physical electorate office, while also balancing the flexible work needs of Members.²

Issues

- 17 The issue for consideration is whether the relevant Officer correctly determined that the purchase of a mobile phone car mount is not eligible for reimbursement from the Budget. The relevant Officer’s decision cited Guidelines 11(1) and 11(2)(c).

¹ *Members of Parliament (Victoria) Guidelines No. 01/2021*, p. 15.

² *Members of Parliament (Victoria) Guidelines No. 01/2021*, pp. 16-17.

18 Given these were the only reasons referenced by the relevant Officer in their formal notice to reject the claim, I have not considered whether the item complies with any other aspects of the regulatory framework.

Decision

19 I have considered the relevant Guidelines and contextual matters and do not consider the claim contravenes Guidelines 11(1) and 11(2)(c) for the reasons that follow.

20 Guideline 11(1) is permissive in nature, with the words “include” and “such as” indicating it is not an exhaustive list of operating and maintenance costs that may be claimed.

21 Guideline 11(1)(c) provides examples of additional miscellaneous equipment that may be claimed, “such as...additional telecommunication or information technology devices, including mobile devices.”³

22 As Guideline 11(1) is not a definitive list of permitted items I consider it reasonable that the purchase of a mobile phone car mount is within scope of Guideline 11(1).

23 Guideline 11(2)(c) prohibits expense claims for the costs of equipment located outside the electorate office, subject to limited exceptions. Guideline 11(2)(c)(i) states that mobile telephones are one such permitted exception.

24 In the appeal, the Member noted that access to a mobile phone car mount would enable them to undertake electorate business and communicate with constituents outside of their electorate office.

25 I consider it reasonable that reimbursement be available to Members for the cost of peripheral items that directly support the use of equipment permitted to be used outside the electorate office. This would include a mobile phone car mount used with a mobile telephone that is expressly permitted under Guideline 11(2)(c)(i).

26 I therefore consider it reasonable that the purchase of a mobile phone car mount is within the scope of Guideline 11(2)(c)(i). This interpretation is

³ *Members of Parliament (Victoria) Guidelines No. 01/2021*, p. 15.

consistent with the performance of a Member's public duties and overarching obligations under the PSAS Act.

- 27 The scope of this decision is limited to allowing funding to be provided for peripheral items that directly support the use of permitted items under Guideline 11(2)(c).

Conclusion

- 28 The appeal is upheld in relation to requisition no. 155124, as I do not agree with the relevant Officer's determination that the item is not permitted as an expense under Guidelines 11(1) and 11(2)(c).
- 29 I note the appeal considers questions of the concurrent operation of Guidelines 11(1) and 11(2). The Tribunal may wish to consider the interaction between Guidelines 11(1) and 11(2) and their practical application as part of future consideration of the Guidelines.

Publication of Statement of Findings

- 30 Pursuant to section 9H of the PSAS Act, I may publish a Statement of Findings and any required actions if I consider that these should be published for a particular matter.
- 31 I intend to publish this Statement of Findings as I consider other Members would be assisted by having access to the reasons for my decision in this appeal.
- 32 In line with section 9H of the PSAS Act, the Statement of Findings will be available at www.vic.gov.au/compliance-officer and transmitted to each House of the Parliament of Victoria.