



## Department of Parliamentary Services

30 June 2020

Mr Warren McCann  
Chair  
Victorian Independent Remuneration Tribunal  
Suite 1, Ground Floor, 1 Treasury Place  
MELBOURNE VIC 3000

By email: [enquiries@remunerationtribunal.vic.gov.au](mailto:enquiries@remunerationtribunal.vic.gov.au)

Dear Mr McCann

### **DPS Submission to Tribunal on MP Guidelines Review**

Thank you for the opportunity to make a submission in relation to the Tribunal's review of the Members of Parliament (Victoria) Guidelines No. 02/2019 (**MP Guidelines**).

As the relevant Officer responsible for determining MP's claims for the Electorate Office and Communications Budget (the **Budget**) it is not appropriate for me to comment on types of expenses that are or should be allowable. This is the role of the Remuneration Tribunal. As such, this submission focuses on administration matters and areas where additional clarity would assist with interpretation of the guidelines. Since its implementation, the majority of issues have arisen from either inconsistencies or lack of clarity in relation to definitions.

The matters raised in the submission have arisen as part of the claim determination process following the implementation of the new framework in September 2019 and addresses several of the questions highlighted in the Tribunal's issues paper.

### **If you are an MP or a "relevant Officer", how might the Guidelines be best designed to support your role?**

Guidelines that remove all ambiguity would be most effective. Ambiguity creates the potential for interpretation inconsistencies between the different stakeholders (Members of Parliament, relevant Officers and the Compliance Officer) within the new framework, and wherever possible should be reduced. The Guidelines should provide a specific level of detail that allows for clear and consistent interpretation for any person reading or applying them.

### **Do you have a view about how prescriptive the Guidelines should be? Should they attempt to cover every activity or expense in detail, or should they have a greater reliance on the principles set out in the legislation to allow a degree of interpretation?**

Currently, the MP Guidelines in relation to use of the Budget include a combination of both principle-based and rule-based guidelines.

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Based on my experiences as the relevant Officer following the implementation of the new regime, where the current MP Guidelines are prescriptive in nature, covering specific activities in detail, there is less confusion around what expenditure is or is not permitted. An example of this is the stipulation that including party logos in communications funded by the Budget is prohibited.

Where the MP Guidelines are based on principles, our experience is that there are inconsistent interpretations across stakeholders. As an example, the MP Guidelines prohibit the use of the Budget for party political communication. Party political is not defined in legislation or the Guidelines and is therefore subject to individual interpretation when considering content compliance.

Further, it is our experience that there is less ambiguity around non-communication expenditure that can be claimed under the Budget in comparison to communication related expenditure.

The Tribunal has provided clarity that it is not their role to provide ad-hoc clarifications in response to individual queries in relation to the current Budget usage Guidelines where differing views are held. Therefore, I would suggest that Guidelines for communication expenditure should be very prescriptive providing clear definitions. Guidelines for non-communication expenditure could be more principles based.

**Are there areas of ambiguity in the Guidelines that should be clarified or require further detail to assist with interpretation?**

The following matters in relation to the MP Guidelines for use of the Budget have arisen as part of the claim determination process and would benefit from further clarification or clear definitions to assist with a consistent interpretation of the Guidelines:

- For the purpose of Guideline 4.1, clarification on whether job advertisements are an employment cost and fall under (a) operating costs and maintenance of a Member's electorate office or (b) communicating with a Member's electorate in relation to the performance of their public duties. Consider including as a specific item in 4.9 of guidelines.
- For the purpose of Guideline 4.1(b), clarification on the intent of communications and advertising in relation to a Member's public duties.
- For the purpose of Guideline 4.5(e), clarification on what is meant by non-standard or additional furniture and minor equipment of a non-capital nature.
- For the purpose of Guideline 4.5(n), clarification of training fees for Members.
- For the purpose of Guideline 4.6 (c), clarification on the intent of prohibiting the supply of equipment or costs of operating equipment located outside the electorate office.
- What is the definition of small when assessing "small promotional items" under the funding declaration exemption outlined in 4.8(c)?
- For the purpose of Guideline 4.10, a definition of 'party political' and criteria for assessing whether a communication is deemed to be party political.
- For the purpose of Guideline 4.10, a definition for what constitutes a Member's title and how a member may present their party name in this context.

- For the purpose of Guideline 4.11(b), a threshold for what is considered as implying Parliament support or endorsement.
  - Are there circumstances where MP's are able to co-advertise with any person or body other than another Victorian MP (e.g. sporting groups and charities)?
- For the purpose of Guideline 4.12(f), clarification on the intent of prohibiting the request for donations.
- For the purpose of Guideline 4.18, clarification on the intent of restricting the use of the Budget for travel and transport costs.

Please also refer to some other administrative suggestions in relation the MP Guidelines:

- Replace 'engagment' with 'engagement' in Guideline 4.5(p).
- Remove pagers from the list of equipment in Guideline 4.6(c).
- Add taxation costs or other employment costs necessarily incurred (e.g. FBT) to the funds that can be automatically deducted from the Budget as listed Guideline 4.16.

I thank you for the opportunity to provide this submission and would be happy to meet with you and the Tribunal members to discuss these matters further.

Yours sincerely



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**Secretary**

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