
Compliance Officer

STATEMENT OF FINDINGS

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

Appeal reference 2021/01
Date of Decision 24 August 2021

Ordered to be published

VICTORIAN GOVERNMENT
PRINTER
September 2021

No 278 Session 2018–21

Compliance Officer

STATEMENT OF FINDINGS

Appeal reference	2021/01
Member	[REDACTED]
Relevant Officer	Secretary, Department of Parliamentary Services
Claim under	Electorate Office and Communications Budget
Claim for	Merchandise totaling \$6,581.30 comprising marquee, calico bags, smart wallet and grey tees
Claim reference	Purchase orders 34598, 34599, 34730 and 34731
Date of Decision	24 August 2021

DECISION and REQUIRED ACTIONS

- 1 The appeal is upheld in relation to purchase orders 34598, 34599 and 34730.
- 2 The appeal is rejected in relation to purchase order 34731.
- 3 Under section 9H(8) of the *Parliamentary Salaries, Allowances and Superannuation Act 1968* the Relevant Officer must accept the claims made by purchase orders 34598, 34599 and 34730 under the Electorate Office and Communications Budget and make the payment of these claims.

STATEMENT OF FINDINGS

- 1 This is an appeal under section 9H of the *Parliamentary Salaries and Superannuation Act 1968* (Vic) (the **PSAS Act**) of a decision by the delegate of the Secretary of the Department of Parliamentary Services (the **Relevant Officer**) to reject a claim for merchandise made by the Member under the Electorate Office and Communications Budget (the **Budget**).

Introduction

- 2 On 15 July 2021 the Relevant Officer rejected a claim by the Member under the Budget for the following purchase orders totalling \$6,581.30:

Purchase Order	Description	Amount
34598	Marquee	\$2,062.50
34599	Calico bags	\$2,156.00
34730	Smart wallet	\$976.80
34731	Grey tees	\$1,386.00

- 3 The Relevant Officer rejected the claim on the basis of being non-compliant with Guideline 9(1)(a) and 9(1)(b)(iii) of the *Members of Parliament (Victoria) Guidelines No 01/2021* (the **Guidelines**).
- 4 In rejecting the claim, the Relevant Officer stated that in relation to the Member's logo proposed to be printed on the merchandise, the "use of the phrase 'For [Electorate]' gives the appearance of items that would be used in an election campaign particularly as the phrase is printed in a different colour and style to the Members name".
- 5 On 21 July 2021, the Member appealed the decision to the Compliance Officer. The Member has appealed on the basis that he does not agree with the Relevant Officer's interpretation of the Guidelines in relation to the claim.
- 6 Additionally, the Member supplied the Compliance Officer with a copy of a logo previously approved by the Relevant Officer, which the Member contends should act as a precedent to allow the approval of his claim.

- 7 Following the appeal being lodged, the Relevant Officer and the Member were provided an opportunity to make a submission in response to the appeal.

Regulatory framework

- 8 Guideline 9 specifies the prohibitions on using the Budget for party political activity. The two sub-guidelines referenced by the Relevant Officer in rejecting the claim are as follows:

9 Prohibitions on party political activity

- (1) Communication materials in respect of a claim under the EO&C Budget must not:
- (a) be used to solicit a vote;
 - (b) direct how a person should vote at an election by promoting or opposing—
 - (i) the election of any candidate at an election; or
 - (ii) a registered political party; or
 - (iii) a Member;

- 9 Guideline 13 specifies the authorship and identification requirements that must be included on communication materials as follows:

13 Authorship and identification requirements for communication materials

- (1) All communication materials claimed under the EO&C Budget must include:
- (a) the name of the Member as the author of the material; and
 - (b) at least one form of contact detail for the Member, such as a phone number, electorate office address, email address, official website address or social media account.
- (2) A Member should provide full contact details in communication materials to the extent reasonably practicable.

Example: Printed communication materials may provide enough space for multiple types of contact details, which a Member should aim to include. However, it may only be practicable to include one type of contact detail on smaller promotional items or electronic messages, and a Member may determine which detail should be included (for example: an SMS message might include a telephone number; a social media message might include an email address, website address, or social media handle).

The issues to be considered

- 10 Based on the reasons relied on by the Relevant Officer to reject the claim, the key issue to consider is as follows: *Does the form of the Member's logo as set out in each of the purchase orders contravene Guideline 9(1)(a) or (b) as a result*

of either the content, styling or use of the logo? That is, did the Relevant Officer err in their interpretation of the facts or application of Guideline 9(1)(a) or (b) in rejecting the claims.

11 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 items complied with any other aspects of the regulatory framework, except for Guideline 13 for the reasons below.

12 In considering the appeal, I note that the grey tees claimed under purchase order 34731 may contravene Guideline 13(1)(b) as a result of failing to include at least one contact detail of the Member. Given this clear and present issue, I have also considered Guideline 13 in deciding the appeal.

Does the claim contravene Guideline 9(1)(a)

13 Guideline 9(1)(a) prohibits a claim under the budget that is used to “solicit a vote”.

14 The basis for the Relevant Officer rejecting the claim was that the style and colouring of the logo would seek to solicit a vote.

15 However, the logo includes no reference to voting, an election, or an issue before voters at an election. I consider that the logo simply appears to identify the Member and his electorate.

16 I do not consider that the use of different colours or typeface styles in the logo would result in soliciting a vote. There is not a sufficient connection between these stylistic components of the logo and soliciting a vote. A Member should not be limited to only one colour or typeface in the design of their logo.

17 I do not consider that the claim contravenes Guideline 9(1)(a).

18 While the meaning of the phrase “solicit a vote” may warrant a more fulsome consideration in other circumstances, I consider that my decision can be made on a plain reading of those words.

Does the claim contravene Guideline 9(1)(b)

19 Guideline 9(1)(b) prohibits a claim under the Budget that directs how a person should vote at an election by promoting or opposing a Member.

20 A key element of this guideline is to “direct how a person should vote”. The logo does not make comment on how a person should vote. Nor does it seek to comment on an issue before electors that may informally direct how a person should vote. Simply put, the logo identifies the Member and his electorate.

21 I do not consider that the claim contravenes Guideline 9(1)(b).

Does the claim contravene Guideline 13

22 Guideline 13 specifies the authorship and identification requirements that must be included on communication materials. Relevantly, a communication material must include at least one form of contact detail for the Member.

23 The items proposed to be claimed were categorised as follows by the Relevant Officer

Guideline 11(1)(c):

(a) *Additional equipment not included as part of the standard electorate office fit out –*

i. marquee claimed under purchase order 34598;

Guideline 12(1)(g):

(b) *Promotional items –*

i. calico bags under purchase order 34599

ii. smart wallets under purchase order 34730

iii. grey tees under purchase order 34731.

24 I agree with the Relevant Officer’s categorisation of these items.

25 Therefore, as the grey tees claimed under purchase order 34731 are communication materials, they must include at least one form of contact detail for the Member, which they do not.

26 Therefore, I consider that purchase order 34731 contravenes Guideline 13(1)(b).

Precedent claims by the Member

27 Based on the decisions made above regarding the interpretation and application of the Guidelines, I do not consider the precedent claims of the Member material to the outcome of this appeal.

Conclusion

28 The appeal is upheld in relation to purchase orders 34598, 34599 and 34730 as I do not agree with the Relevant Officer's determination that the items claimed contravene Guideline 9(1)(a) or (b).

29 I consider that purchase order 34731 does not contravene Guideline 9(1)(a) or (b), however, the appeal is rejected in relation to this purchase order, as the item claimed contravenes Guideline 13(1)(b) as it does not include a contact detail of the Member.

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 published on my website and transmitted to each House of the Parliament.