

Appeal of a decision to reject a claim under the Electorate Office and Communications Budget for being party political communication

Appeal reference 2020/01
Date of Decision 27 March 2020

This Statement of Findings is published pursuant to section 9H of the Parliamentary Salaries, Allowances and Superannuation Act 1968. Given the appeal concerned an interpretation of rule 4.10 of the Members of Parliament (Victoria) Guidelines, the Compliance Officer considered that other Members would be assisted by having access to the decision and reasons.

Decision

- 1 On 27 March 2020, the Compliance Officer dismissed an appeal under section 9H of the *Parliamentary Salaries, Allowances and Superannuation Act 1968* (the **PSAS Act**).
- 2 The appeal concerned a claim made under the Electorate Office and Communications Budget (the **Budget**) for expenses to print envelope surveys. The claim was rejected by the Secretary of the Department of Parliamentary Services (the **Relevant Officer**) on the basis that the envelope surveys did not comply with rule 4.10 of the *Members of Parliament (Victoria) Guidelines No 02/2019* (the **Guidelines**).
- 3 The Relevant Officer's reasons for rejecting the claim may be grouped under the following two grounds:
 - (a) use of a party name other than in the Member's title (**ground 1**);
 - (b) use a non-recognised party name or official parliamentary office title (**ground 2**).
- 4 The Compliance Officer decided that the Relevant Officer correctly rejected the claim as the envelope surveys contravened rule 4.10 of the Guidelines on both grounds 1 and 2.

Reasons

Ground 1 – Use of a party name other than in the Member’s title

- 5 In relation to rule 4.10 of the Guidelines, the Compliance Officer held that a party name may only be used in a Member’s title.
- 6 The Compliance Officer found that, given rule 4.10 specifically addresses the use of party names, a strict reading will conclude that any use of a party name other than in the Member’s title will constitute party political communication.

Ground 2 – Use of a non-recognised party name or official parliamentary office title

- 7 In relation to rule 4.10 of the Guidelines, the Compliance Officer held that:
- (a) a reference to a party name will only be valid if it is a party name registered with the Victorian Electoral Commission (VEC) or Australian Electoral Commission (AEC);
 - (b) a Member’s official parliamentary office title may only refer to those offices provided in the definition of “specified parliamentary office” in section 3 of the PSAS Act.

Use of party names

- 8 Neither the Guidelines nor the PSAS Act provide a meaning of the terms “party name” or “party political”. The Compliance Officer acknowledged that given the ambiguity of these terms, it is understood why a Member would have difficulty in interpreting rule 4.10 to ensure their claim is compliant.
- 9 The Compliance Officer agreed with the approach of the Relevant Officer to take a narrow interpretation of the term “party name”, to only mean those political party names that are registered with the VEC or AEC.
- 10 A political party is required to be registered to engage in an election and the VEC and AEC maintain current registers of all registered political parties. Using a political party’s registered name therefore offers the electorate transparency, clarity and certainty in identifying the Member (and their associated political party) that has authored the communication material.
- 11 The Compliance Officer also held that the use of blended party names or other references that seek to identify parties as a collective, that are not registered with the VEC or AEC, will not comply with rule 4.10 of the Guidelines.
- 12 The Compliance Officer found that using a name other than the registered political party name goes beyond the purpose of identifying the Member, and in line with a strict reading of rule 4.10, would be considered to have a party political purpose.

Use of official parliamentary office titles

- 13 Rule 4.10 of the Guidelines provides that Members may use their official parliamentary office title.
- 14 The Compliance Officer held that the only official parliamentary office titles that could be used by a Member are those offices listed in the definition of “specified parliamentary office” in section 3 of the PSAS Act.

Recommendation

- 15 The Compliance Officer acknowledged that the Guidelines, and broader regulatory framework, do not provide clarity in relation to the meaning of “party political” or “party name”.
- 16 The Compliance Officer recommends that the Victorian Independent Remuneration Tribunal consider amending the Guidelines to clarify rule 4.10, specifically the meaning of those terms.