

## STATEMENT

# Victorian Independent Remuneration Tribunal makes Members of Parliament (Victoria) Guidelines No. 01/2021

On 24 February 2021 the Victorian Independent Remuneration Tribunal made the Members of Parliament (Victoria) Guidelines No. 01/2021 (the **2021 Guidelines**). The 2021 Guidelines can be accessed on the Tribunal's website at <https://www.vic.gov.au/tribunals-determination-mp-salaries-and-allowances>.

The 2021 Guidelines take effect on 1 May 2021 and replace the Members of Parliament (Victoria) Guidelines No. 02/2019 (the **2019 Guidelines**). The 2021 Guidelines will apply to expenditure incurred for parliamentary allowances or under the Electorate Office and Communications Budget from 1 May 2021, while the 2019 Guidelines continue to apply to any expenditure incurred before this date.

The making of the 2021 Guidelines follows a comprehensive review of the 2019 Guidelines conducted over the past year. A summary of the process for the review is set out in [Part 1](#) below. The Tribunal expresses its appreciation to all those who made a submission as part of the review.

The Tribunal has given careful consideration to all issues raised to develop a modernised set of Guidelines that support the broader compliance framework within which they operate. A summary of the key changes made in the 2021 Guidelines is set out in [Part 2](#) below. An explanation of the broader regulatory framework is discussed in [Part 3](#) below.

The Tribunal notes that some matters raised during the review were outside of the Tribunal's power to address through the Guidelines. These issues have been passed on to the appropriate authorities for their consideration.

For further information please contact the Tribunal by email at [enquiries@remunerationtribunal.vic.gov.au](mailto:enquiries@remunerationtribunal.vic.gov.au).

# 1 Summary of review process

In June 2020 the Tribunal commenced a comprehensive review of its 2019 Guidelines. The review was holistic and aimed to identify anomalies or areas of ambiguity that should be revised to ensure clarity about the purpose and use of parliamentary allowances and the Electorate Office and Communications Budget (EO&C Budget).

An Issues Paper was published and the Tribunal invited all interested parties to make a submission to be considered as part of the review. There was no limit on what could be included in a submission with parties able to raise any matter of concern with the Tribunal. The Tribunal received four written submissions and four oral submissions in response to the Issues Paper, noting that some submissions were made collectively representing the views of several Members of Parliament.

In November 2020, the Tribunal published a consultation draft of the proposed 2021 Guidelines together with a Consultation Paper, and again invited submissions from all interested parties. The Tribunal received five written submissions on the consultation draft of the Guidelines, with some submissions being made collectively representing views on behalf of others.

All submissions received as part of the review have been published on the Tribunal's website and can be viewed at <https://www.vic.gov.au/review-tribunals-members-parliament-guidelines>.

## Future reviews of the Guidelines

The Tribunal intends to review the Guidelines every two years to ensure they remain fit-for-purpose and to consider any new matters or practices that may have arisen.

Urgent matters or issues in relation to the Guidelines not contemplated previously and that require revision or clarification will continue to be addressed on an as needed basis at the discretion of the Tribunal. These matters may be raised by Members of Parliament and all stakeholders at any time by contacting the Tribunal directly at [enquiries@remunerationtribunal.vic.gov.au](mailto:enquiries@remunerationtribunal.vic.gov.au).

## 2 Summary of key changes made

A summary of the key changes in the 2021 MP Guidelines are set out below.

The Tribunal notes that matters raised in submissions that were not considered to be within the Tribunal's guideline making power were referred to the appropriate authority for further consideration.

### (a) Overarching obligations and principles under the PSAS Act

The Statement of Principles provided in Division 1 of Part 2 of the *Parliamentary Salaries, Allowances and Superannuation Act 1968 (PSAS Act)*, and the overarching obligations under sections 9A to 9C of the PSAS Act, are now referenced at the beginning of the Guidelines.

This inclusion ensures that the principles and obligations are clear and easily referenced.

*(see guidelines 4 and 5)*

### (b) Preambles to clarify the purpose of different allowances and EO&C Budget

Preambles are provided throughout the Guidelines to set out the purpose of the different allowances and EO&C Budget, which provide a short and easy reference about what may be claimed and how the allowance or EO&C Budget may be used.

*(preambles included throughout the guidelines)*

### (c) Claiming a travel allowance as a reimbursement

The Guidelines clarify when an MP incurs a travel related cost and may claim a travel allowance, with additional detail about how the claim must be repaid if the travel does not eventuate.

*(see guideline 6)*

### (d) The meaning of the four categories of 'public duties'

The Guidelines provide further detail about the four types of business that comprise the meaning of "public duties" as defined under the PSAS Act.

Definitions are provided for committee business, electorate business, Ministerial business and parliamentary business.

*(see guideline 7)*

#### **(e) Prohibitions on using the EO&C Budget**

The Guidelines now provide detailed and specific prohibitions on party political activity, to clarify what cannot be claimed under the EO&C Budget. These prohibitions deal with activities that relate to electoral campaigning (such as directing how to vote or advertising in relation to an election) or to promote or advance a political party's interests (such as requesting donations or drafting members to the party).

In particular, the prohibitions on electoral campaigning are drawn from the definitions of 'electoral expenditure' and 'political expenditure' in the *Electoral Act 2002*, which is expenditure that MPs may receive public funding for under that Act.

Additionally, the Guidelines prohibit the EO&C Budget being used to provide personal benefits or to pursue commercial purposes.

*(see guidelines 9 and 10)*

#### **(f) Using party names and logos (EO&C Budget)**

The Guidelines specifically provide that party names and logos may be included in communication materials, in whatever manner the MP wishes to refer to their political party. MPs may also refer to other political parties in their communication materials, provided they use the registered name or abbreviation for the party, or refer to the party in the same way that the party has referred to itself in its own communication materials.

In allowing the inclusion of party names and logos, MPs must be mindful of the prohibitions on party political activity and any guidelines made by the Parliament in relation to the use of the parliamentary crest alongside political branding.

*(see guideline 13)*

### **(g) Supporting community groups (EO&C Budget)**

The Guidelines now provide that an MP may allow community groups or a constituent to use their electorate office for non-commercial purposes. For example, an MP may allow a community group to undertake small amounts of photocopying or use a room within the electorate office. A community group does not include the local branch of a political party.

The Guidelines around ‘implying Parliamentary support’ have also been amended, to clarify that MPs may include communication materials in a publication owned by another entity (such as the local community newsletter) or at a venue owned by another entity (such as a sign at the local sports club), subject to the new prohibition on pursuing commercial or personal benefits. This is also complemented through the removal of the requirement to include a ‘funding declaration’ that refers to the Parliament.

*(see guidelines 15 and 16)*

### **(h) Communication materials (EO&C Budget)**

The Guidelines provide further clarity about joint communication materials. A sole MP must be identified as the author of a communication material, except in the following two circumstances:

- MPs from the lower House and upper House of the Parliament whose electorates share the same geographic location; or
- two MPs from the same House of the Parliament that have neighbouring electorates.

Additionally, the requirements around the distribution of communication materials have been clarified. The Guidelines clarify that if an MP has a reasonable belief that constituents from their electorate will attend an event outside their electorate, the MP may distribute communication materials at that event.

The Guidelines have also clarified how MPs may communicate with prospective constituents following a redivision of the electoral boundaries.

*(see guidelines 13, 14 and 15)*

**(i) Operating costs (EO&C Budget)**

The Tribunal has given careful consideration to how the EO&C Budget is used for maintenance costs of an electorate office. While MPs are provided with an electorate office fitted out to a common standard, each office will vary slightly depending on location and design.

Therefore, it is intended that the maintenance of any standard electorate office equipment will be paid for by the Parliament. The EO&C Budget will only be used for the maintenance of additional equipment not included in the standard office fit-out.

The Guidelines also now specifically provide for computer software and information technology systems to be claimed, provided they comply with Parliamentary networks and equipment. Additional domain names to protect the integrity of an MP's official website (ghost domains) may also be purchased, subject to conditions.

Equipment that may be removed from the electorate office has also been expanded, to include mobile technology devices, computer monitors and a chair, recognising the flexible work needs of MPs and their staff. This includes a provision for temporary relocation of equipment in exceptional circumstances, provided the equipment is returned.

*(see guidelines 11 and 17)*

**(j) Funding for committee business**

The Guidelines do not preclude the Parliament from making parliamentary budgets available for international travel in relation to committee business. This position has been stated in the Guidelines.

*(see the preamble to Part H)*

**(k) Additional transport costs (commercial transport allowance and international travel allowance)**

MPs may now claim reasonable commercial transport directly to or from a Victorian airport (e.g. a taxi to the airport) under both the commercial transport allowance and international travel allowance. MPs may also claim parking fees at a

Victorian airport (e.g. if the MP chooses to drive to the airport for a trip) under the commercial transport allowance only.

*(see the definitions of “commercial transport” and “transport costs” in guideline 3)*

### 3 The MP Guidelines in context

The Guidelines support the broader regulatory and compliance framework for parliamentary allowances and the EO&C Budget. A summary of relevant entities and their responsibilities in relation to the compliance framework is set out at the end of this statement.

There are number of overarching principles set out in the PSAS Act that an MP must comply with in the first instance when using a parliamentary allowance or the EO&C Budget.

The purpose of the Guidelines is to provide further detail to specify how an MP may use an allowance or the EO&C Budget. This may involve defining the purpose or eligibility criteria for certain allowances, providing additional detail to aid in the interpretation or implementation of the principles, or prohibiting allowances from being used for a certain type of activity or expense. In this way, the Guidelines safeguard the proper use of allowances and the EO&C Budget.

The Guidelines also assist the Victorian community to understand the ways in which MPs are permitted to use this public funding to carry out their public duties.

#### Principles underpinning the MP Guidelines

Principle	Obligation	PSAS Act reference
<b>Statement of Principles</b>		
Fair and reasonable recompense for public duties	<ul style="list-style-type: none"> <li>A Member should receive fair and reasonable recompense for performing their public duties.</li> <li>Public resources are provided to a Member to support them in performing their public duties.</li> </ul>	s 4A
Good faith and integrity	<ul style="list-style-type: none"> <li>A Member must act ethically, reasonably and in good faith when using, and accounting for the use of, public resources in relation to the performance of their public duties.</li> </ul>	s 4B



Principle	Obligation	PSAS Act reference
Personal responsibility and accountability	<ul style="list-style-type: none"> <li>A Member must be responsible and accountable for their use of public resources.</li> <li>A Member must be prepared for their claims to be made publicly available.</li> <li>A Member must be able to publicly justify their use of public resources.</li> </ul>	s 4C
<b>Provision of the EO&amp;C Budget</b>		
EO&C Budget	<ul style="list-style-type: none"> <li>An MP is provided with an EO&amp;C Budget to:               <ol style="list-style-type: none"> <li>fund the operating costs and maintenance of their electorate office; and</li> <li>communicate with their electorate in relation to the performance of their public duties.</li> </ol> </li> </ul>	7F
<b>Compliance framework principles and tests</b>		
Value for money	<ul style="list-style-type: none"> <li>A Member must provide value for money in using their work-related parliamentary allowances and Budget by ensuring that the costs incurred are reasonable and proportionate to the costs of performing their public duties.</li> </ul>	s 9A
Dominant purpose for performing public duties	<ul style="list-style-type: none"> <li>A Member must not claim or use a work-related parliamentary allowance or their Budget unless it is claimed for the dominant purpose of performing their public duties.</li> <li>A Member can only claim or use a work-related parliamentary allowance or their Budget for the travel expenses of another individual if that individual's travel is essential to support and execute the Member's public duties.</li> </ul>	s 9B
Responsible and legitimate use in connection with public duties	<ul style="list-style-type: none"> <li>A Member must claim or use work-related parliamentary allowances and the Budget provided to them responsibly and only for legitimate purposes in connection with their public duties.</li> </ul>	s 9C(1)
Compliance with the Guidelines	<ul style="list-style-type: none"> <li>A Member must be aware of, and comply with, the Tribunal Guidelines and the terms and conditions that apply to the provision, claim and use of the work-related parliamentary allowances and the Budget.</li> </ul>	s 9C(3)

## Other aspects of the compliance framework

The broader compliance framework is designed to ensure that public resources made available to MPs are used responsibly, transparently and in accordance with legal obligations.

In addition to the principles and tests set out above, the compliance framework under the PSAS Act also includes:

- the ability for the Clerks of the Parliament and the Secretary of DPS to impose terms and conditions for the provision, claim and use of allowances and the EO&C Budget (noting that the Guidelines will prevail in relation to any inconsistency) (s 9C)
- oversight and approval requirements (ss 9E to 9H)
- public reporting requirements (ss 9I and 9J)
- financial penalties for non-compliance (ss 9G and 9H).

## Relevant entities and their responsibilities in relation to the compliance framework

<b>Victorian Independent Remuneration Tribunal</b>	<i>sets the value of salaries and provides for allowances that MPs will receive</i>	<ul style="list-style-type: none"><li>• The Tribunal issues the determination that sets the value of salaries, allowances and the Electorate Office and Communications Budget (EO&amp;C Budget).</li><li>• The Tribunal may also issue guidelines regarding the <i>use</i> of ‘work-related parliamentary allowances’ and the EO&amp;C Budget.</li><li>• MPs should look to these documents to understand what they are eligible to receive or claim.</li></ul>
<b>Parliamentary Integrity Adviser</b>	<i>available to provide confidential advice to MPs about ethical issues, integrity matters, and parliamentary matters (including the use of entitlements)</i>	<ul style="list-style-type: none"><li>• The Parliamentary Integrity Adviser is available to provide advice to MPs on ethical issues and integrity matters concerning an MP’s role, as well as broader advice on parliamentary matters. This includes the application of any legislation relevant to MPs and the use of MP entitlements.</li><li>• If MPs have questions about whether it would be appropriate to make a claim for a certain type of expense, or whether their conduct in relation to a claim is appropriate, and the MP does not want to raise these questions with the Relevant Officers, then they should seek the confidential advice of the Parliamentary Integrity Adviser.</li></ul>
<b>Relevant Officers (Clerks or Secretary of DPS)</b>	<i>determines whether a claim and the conduct in relation to the claim is compliant and may be paid</i>	<ul style="list-style-type: none"><li>• The Relevant Officers are responsible for determining whether an MP’s claim for a work-related parliamentary allowance or under the EO&amp;C Budget, and their conduct in relation to the allowance or the EO&amp;C Budget, is compliant and can be paid.</li><li>• The Clerks of each House of the Parliament are responsible for claims for work-related parliamentary allowances, and the Secretary of DPS is responsible for claims under the EO&amp;C Budget.</li><li>• The Clerks will also determine whether an MP is ineligible to receive a separation payment as a result of committing a significant and wilful breach of the Code of Conduct while an MP.</li></ul>
<b>Compliance Officer</b>	<i>hears appeals from MPs about decisions made by the Relevant Officers</i>	<ul style="list-style-type: none"><li>• If an MP is not satisfied with a decision of a Relevant Officer they may appeal to the Compliance Officer.</li><li>• The Compliance Officer will hold a proceeding to determine the appeal and may request information and written or oral statements.</li><li>• Given the appeal function performed by the Compliance Officer, they are not available to offer advice like the Parliamentary Integrity Adviser or Relevant Officers.</li></ul>