
Compliance Officer

STATEMENT OF FINDINGS

Appeal of a decision to reject a claim under the international travel allowance

Appeal reference	2024/01
Date of Decision	6 March 2024

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Compliance Officer

STATEMENT OF FINDINGS

Appeal reference	2024/01
Member	[REDACTED]
Relevant Officer	Clerk of the Legislative Assembly
Claim under	International travel allowance
Claim for	Unreimbursed airfares (\$1,244.46)
Claim reference	N/A
Date of Decision	6 March 2024

Decision and Required Actions

- 1 The Member's appeal for unreimbursed airfares is rejected.

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 Clerk of the Legislative Assembly (relevant Officer) to reject a claim made by [REDACTED] MP (Member) for unreimbursed airfares from the international travel allowance. This claim was rejected by the relevant Officer on 18 January 2024.

Context

- 2 On 12 February 2024, the Member lodged an appeal under 9H of the PSAS Act. Having reviewed the requirements of the PSAS Act and the documentation provided by the Member, I determined to hear the appeal for unreimbursed airfares of \$1,244.46.
- 3 I also advised the Member I could not hear claims for ticket fees and ticket cancellation fees, as these had not been subject to a decision by the relevant Officer.
- 4 The relevant Officer rejected the claim for unreimbursed airfares based on their interpretation of Guideline 21 of the *Members of Parliament (Victoria) Guidelines No. 01/2023* (Guidelines) made by the Victorian Independent Remuneration Tribunal (Tribunal) and the *Parliamentary Salaries, Allowances and Superannuation Regulations 2019* (Vic) (Regulations).
- 5 The relevant Officer also considered the terms and conditions of the international travel allowance set by the Clerks of the Parliament.
- 6 In summary, the Member's appeal included the following reasons for why the Member believed the decision to be wrong:

[REDACTED]

[REDACTED]

[REDACTED]

7 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 26 February 2024. No submission was received from the Member.

Regulatory framework

8 The relevant elements of the regulatory framework for the international travel allowance are summarised below.

Legislation

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

10 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)).

11 These obligations are replicated in the Tribunal's Guidelines under Guideline 5.

12 Public duties have the same meaning in the PSAS Act as section 21(1) of the *Members of Parliament (Standards) Act 1978* (Vic) and includes the following:

- committee business
- electorate business
- Ministerial business
- parliamentary business.

13 Section 9C of the PSAS Act also enables the relevant Officer to impose terms and conditions on the provision, claim and use of work-related parliamentary allowances (section 9C(2)) and requires Members to comply with the Tribunal's Guidelines and terms and conditions (section 9C(3)).

Tribunal Guidelines

- 14 Guideline 6 provides for travel-related allowances to be claimed as a reimbursement. Guideline 6(3) states that for the avoidance of doubt, if a Member makes a claim for a cost incurred and does not undertake the travel for reasons within the Members control, the amount must be repaid. Where the reason for not travelling is not within the Members control, then the Member must make all reasonable endeavours to obtain a refund of that cost and repay the amount that was refunded.¹
- 15 Guideline 21 provides criteria for claiming the international travel allowance when a Member is performing their public duties. Guideline 21(1) states that a Member may claim the international travel allowance for travel costs and transport costs actually incurred to perform their public duties outside of Australia. This requires cost to be ‘actually incurred’ before a claim can be made.²

Regulations

- 16 The Regulations prescribe the work-related parliamentary allowances for the purposes of section 6(2) of the PSAS Act.
- 17 Regulation 12 outlines the supporting documentation that a Member must provide to the relevant Officer with respect to the reimbursement of flight and other costs.
- 18 All claims require a tax invoice or receipt showing the costs actually incurred.³

Terms and conditions of the international travel allowance

- 19 Under section 9C of the PSAS Act, as the relevant Officers for work-related parliamentary allowances, the Clerk of the Legislative Council and Clerk of the Legislative Assembly have issued terms and conditions to apply to international travel allowance claims.

¹ *Members of Parliament (Victoria) Guidelines No. 01/2023*, pp. 7-8.

² *Members of Parliament (Victoria) Guidelines No. 01/2023*, p. 27.

³ *Parliamentary Salaries, Allowances and Superannuation Regulation 2019.*, Regulation 12 – International travel allowance.

20 The terms and conditions state:

Where a member has claimed reimbursement of international travel costs prior to travel, but does not undertake the travel for reasons not within the member's control, the member must —

(a) provide evidence to satisfy the Clerk that the reason for not travelling was not within the member's control;

(b) make all reasonable endeavours to obtain a refund of the international travel costs claimed;

(c) provide appropriate documentary evidence to the Clerk of any non-refundable costs incurred and that they have made all reasonable endeavours to obtain a refund of those costs;

(d) repay any amount that was refunded.

Issues

- 21 I note that the Member sought and obtained a partial reimbursement from their travel agent of airfare costs for the cancelled trip. The unreimbursed amount was \$1,244.46 (\$5,267.66 airfare costs minus refund of \$4,023.20).
- 22 The issue for consideration is whether the relevant Officer correctly determined that the unreimbursed amount could not be claimed from the international travel allowance. That is, whether the reason for not travelling was not within the Member's control.
- 23 I have reviewed the relevant legislation, Tribunal Guidelines, Regulations, terms and conditions imposed by the relevant Officer, submissions and contextual circumstances and reject this appeal for the reasons that follow.
- 24 I understand that the purpose of the Member's planned travel was to undertake electorate business, which is defined in Guideline 7 of the Tribunal's Guidelines as any of the following activities relating to matters of importance or interest to constituents (including matters that do not relate exclusively to constituents, such as matters of state importance):
- providing advice or information to constituents
 - attending a meeting with constituents

- undertaking research
- representing the views and interests of constituents
- participation in official and community activities to which the Member is invited
- providing constituent assistance and service.⁴

25 In their submission, the relevant Officer noted that:

- other Members who had intended to travel to [REDACTED] with the Member, and who had claimed the cost of airfares in advance, reimbursed those costs on the basis the trip was cancelled for reasons within their control
- where a Member has postponed proposed travel for reasons of ill-health, for example, the relevant Officer has accepted that the reasons for not travelling as scheduled were outside a Member's control.

26 I consider that the circumstances as presented for not travelling were not outside of the Member's control and [REDACTED]. The Member was not directed not to undertake the travel. It was also open to the Member to undertake the travel on their own or with others, which would have allowed the Member to conduct the planned electorate business in [REDACTED] for the benefit of constituents.

Conclusion

27 The appeal is rejected, and I agree with the relevant Officer's determination that cancellation of the Member's trip to [REDACTED] were not for reasons outside his control.

Publication of Statement of Findings

28 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.

⁴ *Members of Parliament (Victoria) Guidelines No. 01/2023*, p. 9.

- 29 I intend to publish this Statement of Findings — with appropriate redactions to protect the Member’s privacy — as I consider other Members would be assisted by having access to the reasons for my decision in this appeal.
- 30 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.

A handwritten signature in blue ink, appearing to read 'Peter Lewinsky', is positioned above the printed name.

Peter Lewinsky AM
Compliance Officer

6 March 2024