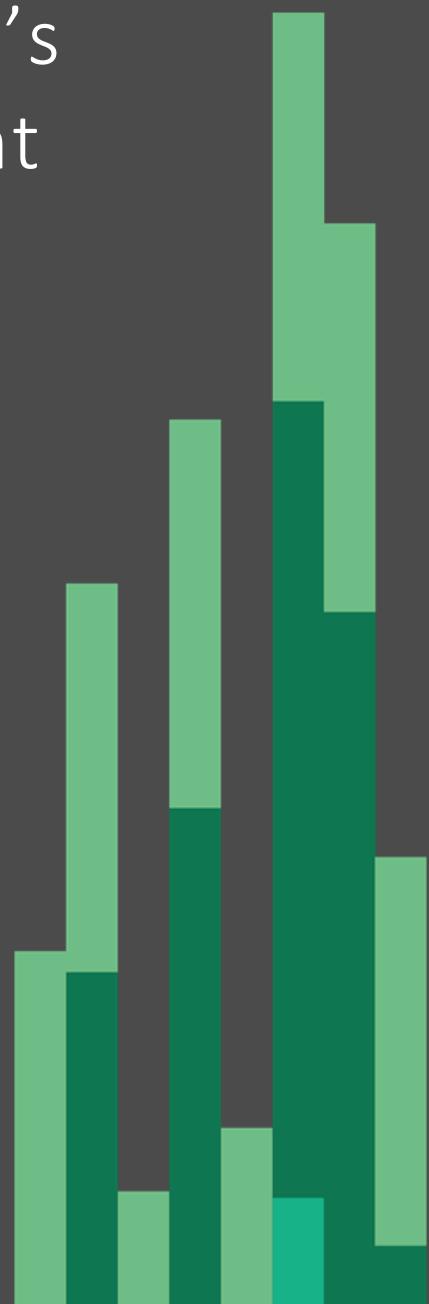

Victorian
Independent
Remuneration
Tribunal

Review of the Tribunal's
Members of Parliament
Guidelines

Consultation Paper

November 2020



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Glossary

Term or abbreviation	Definition
Compliance framework	The monitoring, compliance and enforcement provisions relating to work-related parliamentary allowances and the EO&C Budget under Division 4 of Part 6 of the PSAS Act.
DPS	Department of Parliamentary Services
EO&C Budget	Electorate Office and Communications Budget
MP	Member of Parliament
MP Guidelines	Members of Parliament (Victoria) Guidelines No. 2/2019
Parliament	Parliament of Victoria
PSAS Act	<i>Parliamentary Salaries, Allowances and Superannuation Act 1968</i> (Vic)
Tribunal	Victorian Independent Remuneration Tribunal
VIRTIPS Act	<i>Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019</i> (Vic)

1 Overview and objectives

The Tribunal commenced a comprehensive review of its MP Guidelines for the use of parliamentary allowances and the EO&C Budget in June of this year.

The Tribunal had indicated its intention to conduct a broad review of the MP Guidelines in its Statement accompanying the current MP Guidelines No. 02/2019, in effect since 23 December 2019.

The purpose of this review is to develop modernised MP Guidelines that support and reflect the broader compliance framework within which they operate, removing anomalies or ambiguities that have persisted in previous iterations of the document over time.

The Tribunal commenced the review by publishing an Issues Paper and invited written and verbal submissions from all interested parties.

The Tribunal would like to express its appreciation to all those who made submissions as part of this review and assisted the Tribunal in understanding the current arrangements and practices.

The Tribunal has considered the issues raised in submissions and drafted the revised Guidelines in the context of the broader regulatory framework guiding the review, such as the VIRTIPS Act, the PSAS Act, other relevant legislation like the *Parliamentary Administration Act 2005* and the *Electoral Act 2002*, as well as research across other Australian jurisdictions. [Section 4](#) provides further detail of the regulatory framework and the MP Guidelines in context.

A summary of the key changes reflected in the draft MP Guidelines are set out in [Section 3](#) below.

2 Draft MP Guidelines for consultation

The Tribunal now makes the draft MP Guidelines available for review and invites all interested parties to make a submission to provide feedback before they are finalised.

Written submissions must be made by 5pm on Thursday, 24 December 2020 by email to enquiries@remunerationtribunal.vic.gov.au

All submissions will be published in full or in summary form as appropriate on the Tribunal's website, unless the person making the submission seeks confidentiality or the submission contains information that is identified as commercially sensitive. In this instance, the submission will be published in a form which protects the confidentiality or commercial sensitivity.

This will be the final consultation process on the draft MP Guidelines. Following the Tribunal's consideration of submissions, the Tribunal intends to make the new MP Guidelines in early 2021.

Those affected by the new MP Guidelines, particularly MPs and relevant Officers, will be notified in advance of the date that the new guidelines take effect.

3 Summary of key changes

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

(i) Overarching obligations and principles under the PSAS Act

The Statement of Principles provided in Division 1 of Part 2 of the 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 that apply to all claims for any allowance or the EO&C Budget are clear and easily referenced.

(see guidelines 4 and 5)

(ii) 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)

(iii) 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)

(iv) 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.

In allowing the use of party names and logos, MPs must be mindful of the prohibitions on party political activity (discussed below) and any guidelines made

by the Parliament in relation to the use of the parliamentary crest alongside political branding.

(see guideline 13)

(v) Party political prohibitions (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 soliciting a 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 aim to replicate 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.

(see guideline 9)

(vi) 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 (including equipment in the electorate office) for non-commercial purposes. For example, an MP may allow a community group to make small amounts of photocopying or use a room within the office.

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). This is also complemented through the removal of the requirement to include a 'funding declaration' that refers to the Parliament.

(see guidelines 12, 13 and 16)

(vii) 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 who have neighbouring electorates.

Additionally, the requirements around the distribution of communication materials have been clarified. While the PSAS Act specifies that the EO&C Budget is provided for an MP to communicate with “their electorate”, 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 claim the costs for communications at that event. This might include distributing communication materials or hosting a stall at a regional fair.

(see guidelines 13, 14 and 15)

(viii) 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.

(see guidelines 11 and 17)

(ix) Funding for committee business

The Tribunal notes that the guidelines do not preclude the Parliament from making parliamentary budgets available for committee expenses, and this position has been stated in the Guidelines.

(see the preambles to Parts F, G and H)

(x) 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), as well as parking fees at a Victorian airport under the commercial transport allowance (e.g. if the MP chooses to drive to the airport for an interstate trip).

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

(xi) Carry over of unspent international travel allowance

The Guidelines have not introduced the ability to carry over unspent amounts of the international travel allowance, however, the Tribunal is giving further consideration to how this allowance is provided to MPs during the Parliamentary term.

The Tribunal notes that matters raised in submissions that were not considered to be within the Tribunal’s jurisdiction or appropriate to address in the Guidelines will be referred to the appropriate authority for further consideration.

4 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 in [Annexure A](#).

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, and support MPs and administrators of the compliance framework in understanding the purposes of the public funding and the permitted reasons for claiming and approving use.

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
Statement of Principles		
Fair and reasonable recompense for public duties	<ul style="list-style-type: none"> A Member should receive fair and reasonable recompense for performing their public duties. Public resources are provided to a Member to support them in performing their public duties. 	s 4A

Principle	Obligation	PSAS Act reference
Good faith and integrity	<ul style="list-style-type: none"> 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. 	s 4B
Personal responsibility and accountability	<ul style="list-style-type: none"> A Member must be responsible and accountable for their use of public resources. A Member must be prepared for their claims to be made publicly available. A Member must be able to publicly justify their use of public resources. 	s 4C
Provision of the EO&C Budget		
EO&C Budget	<ul style="list-style-type: none"> An MP is provided with an EO&C Budget to: <ul style="list-style-type: none"> fund the operating costs and maintenance of their electorate office; communicate with their electorate in relation to the performance of their public duties. 	7F
Compliance framework principles and tests		
Value for money	<ul style="list-style-type: none"> 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. 	s 9A
Dominant purpose for performing public duties	<ul style="list-style-type: none"> 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. A Member may 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. 	s 9B
Responsible and legitimate use in connection with public duties	<ul style="list-style-type: none"> 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. 	s 9C(1)

Principle	Obligation	PSAS Act reference
Compliance with the Guidelines	<ul style="list-style-type: none"> 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. 	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).

Annexure A: Relevant entities and their responsibilities in relation to the compliance framework

Victorian Independent Remuneration Tribunal	<i>sets the value of salaries and provides for allowances that MPs will receive</i>	<ul style="list-style-type: none"> • The Tribunal issues the determination that sets the value of salaries, allowances and the Electorate Office and Communications Budget (EO&C Budget). • The Tribunal may also issue guidelines regarding the <i>use</i> of ‘work-related parliamentary allowances’ and the EO&C Budget. • MPs should look to these documents to understand what they are eligible to receive or claim.
Parliamentary Integrity Adviser	<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"> • 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. • 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.
Relevant Officers (Clerks or Secretary of DPS)	<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"> • The Relevant Officers are responsible for determining whether an MP’s claim for a work-related parliamentary allowance or under the EO&C Budget, and their conduct in relation to the allowance or the EO&C Budget, is compliant and can be paid. • 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&C Budget. • 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.
Compliance Officer	<i>hears appeals from MPs about decisions made by the Relevant Officers</i>	<ul style="list-style-type: none"> • If an MP is not satisfied with a decision of a Relevant Officer they may appeal to the Compliance Officer. • The Compliance Officer will hold a proceeding to determine the appeal and may request information and written or oral statements. • Given the appeal function performed by the Compliance Officer, they are not available to offer advice like the Parliamentary Integrity Adviser or Relevant Officers.