



Special Standing Committee on Members' Services

Subcommittee to Review the Members'
Services Committee Orders

Interim Report - Review of Members' Services Committee Orders

Twenty-Ninth Legislature

Third Session

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COMMITTEES
OF THE LEGISLATIVE ASSEMBLY

Special Standing Committee on Members' Services

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**MEMBERS OF THE SUBCOMMITTEE TO REVIEW THE MEMBERS'
SERVICES COMMITTEE ORDERS**

29th Legislature

Thomas Dang, MLA
Chair
Edmonton-South West (NDP)

Estefania Cortes-Vargas, MLA
Strathcona-Sherwood Park (NDP)

Jason Nixon, MLA
Rimbey-Rocky Mountain House-Sundre (UCP)

Kim Schreiner, MLA
Red Deer-North (NDP)

Ric McIver, MLA
Calgary-Hays (UCP)

Substitutions/Members Also in Attendance:

Nathan Cooper, MLA
Olds-Didsbury-Three Hills (UCP)

June 29, 2017 and January 23, 2018

1.0 SUBCOMMITTEE MANDATE

On September 26, 2016, the Members' Services Committee (the "Committee") passed a motion as follows:

that the Members' Services Committee strike a subcommittee to conduct an extensive review of all Members' Services Committee orders but not include any review of members' compensation, including benefits.

At the October 25, 2016, meeting of the Committee, the Chair advised the Committee of the Members who had been appointed to the Subcommittee to Review the Members' Services Committee Orders (the "Subcommittee").

The Subcommittee began its review on January 10, 2017.

On September 14, 2017, the Committee passed a motion that matters raised by Mr. Greg Clark, MLA, in a letter dated August 10, 2017 (attached to this report as Appendix "A"), be referred to the Subcommittee, and that the Subcommittee be empowered to make any recommendations concerning those matters that it deemed appropriate.

Finally, the Committee passed a further motion on November 8, 2017,

that the matters of caucus funding and official party status be referred to the subcommittee that is reviewing the Members' Services Committee orders and that the subcommittee be empowered to make any recommendations concerning these matters that are deemed appropriate.

2.0 INTRODUCTION

The Subcommittee has met on six occasions since commencing its review of the Members' Services Committee Orders (the "Orders") – January 10, 2017, May 30, 2017, June 29, 2017, September 26, 2017, October 24, 2017, and January 23, 2018. At these meetings, the Subcommittee requested and received a number of briefing documents from officials from the Legislative Assembly Office and has examined the Orders in depth, identifying a number of key issues to be addressed. While discussions are ongoing on several matters, the Subcommittee has arrived at a number of recommendations for improvements to the Orders.

This interim report summarizes the 10 areas in which the Subcommittee is prepared to make recommendations, including recommended amendments to the Orders, as well as recommendations for changes to policies and guidelines that govern the way in which the rules set out in the Orders are administered.

3.0 SUBCOMMITTEE RECOMMENDATIONS TO DATE

3.1 Travel Expenses for Constituency Assistants

The Subcommittee recommends that up to 10 per cent of the kilometres allocated for Member travel under section 6 of the *Transportation Order*, RMSC 1992, c T-2, may, on the authorization of the Member, be used by constituency office staff in the performance of their duties. As constituency office employees are reimbursed at a different (higher) rate than Members for kilometres (employees do not receive separate reimbursement for fuel), the Legislative Assembly Office would convert the kilometres transferred to the constituency office employee to a dollar value with the result that fewer actual kilometres could be claimed by the employee, but at a higher rate of reimbursement. This will allow for employees to be reimbursed at the standard public service rate without an increase to the budget for Member travel under the *Transportation Order* because the overall actual allowable maximum kilometres will not increase. In public disclosure of expenses, kilometres allocated to constituency office employees would be disclosed as part of the individual Member's report, but the number of kilometres used by constituency office staff would be noted.

This allocation of kilometres from the Member's MLA Administration budget would not restrict the ability of a Member to provide similar reimbursement to the Member's staff from the Members' Services Allowance (MSA). Any other travel-related charges for constituency office employees could likewise be paid from the MSA.

To implement this change, the Subcommittee recommends that the *Transportation Order* be amended by adding the following after section 6:

TRANSFER OF AUTOMOBILE TRAVEL ALLOWANCE TO EMPLOYEES

6.1(1) A Member may transfer the reimbursable value of up to a total of 10 per cent of the kilometres for which the Member is entitled to be reimbursed for general travel under section 6 of this Order to employees of the Member's constituency office for reimbursement under subsection (2).

(2) An employee may claim reimbursement if authorized by a Member in accordance with subsection (1) for general travel within the Province required in the performance of the employee's duties at the per kilometre allowance as set out in the *Travel, Meal and Hospitality Expenses Directive* issued by Treasury Board.

3.2 Use of Credit Cards for Payment of Constituency Office Expenses

The Subcommittee discussed that employees in constituency offices often may be required to use personal credit cards to pay for certain items for use in the office and must seek reimbursement through the Legislative Assembly Office. Some members of the Subcommittee noted that for certain employees this may present financial challenges.

Currently, Members of the Legislative Assembly may be issued two separate credit cards, with separate purposes. The Element card is used for fuel and automobile related expenses, while an American Express card may be used for travel expenses. Members may not use these cards for constituency office expenses.

The Subcommittee recommends that a maximum of two credit cards be issued per constituency: one for the Member representing the electoral division, and the other for one constituency office staff member if authorized by the Member. These credit cards would be subject to restrictions, including the following:

1. Credit cards would have a purchase limit of \$2,000 per month (but no per-transaction limit).

2. Credit cards issued to a staff member would be issued in the staff member's name, but a Member authorizing the use of the card by that staff member would agree to be personally responsible for any inappropriate, fraudulent or unauthorized expenditures by the staff member if not repaid.
3. Certain transactions, including cash withdrawals and the purchase of liquor, would not be permitted.
4. Credit cards for both Members and staff would be suspended on December 1 of the year preceding the year in which a general election must be called in accordance with section 38.1(2) of the *Election Act*, RSA 2000, c E-1. For a general election called at any other time, and in the case of a by-election (cards relating to that constituency only), credit cards would be suspended on the issuance of the writ.
5. Credit cards may also be suspended in the case of a failure to produce supporting documentation (i.e., receipts), for inappropriate or fraudulent use of the card, for failure to reimburse the Legislative Assembly Office for personal expenses, or, in the case of an employee, for any reason at the Member's request.
6. Although an employee would not be required to be an employee for any particular length of time prior to obtaining a credit card, an online training program would need to be completed prior to the card being issued.

To clarify that credit cards may be issued to constituency office staff as well as Members, the Subcommittee recommends an amendment to section 3 of the *Administrative Services Order*, RMSC 1992, c A-1, to add a new clause (a.1) as follows:

PAYMENT FOR SERVICES AND THINGS REQUIRED BY MEMBER

3 The Clerk may

...

(a.1) furnish to one individual employed in a constituency office, if authorized by the Member, a credit card for the purpose of facilitating the provision of any of the services and things to which the Member is entitled as a Member of the Legislative Assembly to obtain for the Member's constituency office as provided by statute, regulations made thereunder or Members' Services Orders;

3.3 Consolidation of Orders Concerning Guest Travel

The Subcommittee recommends that provisions in the Orders concerning guest travel be consolidated in the same Order for clarity. No substantive changes would result from this consolidation.

It is recommended that section 1.1 of the *Transportation Order*, RMSC 1992, c T-2 be deleted from that Order and instead included in the *Third Party Allowances and Expenses Order*, RMSC 1992, c T-1. The following draft amendment to the Orders also removes the reference to "family member" from section 1.1 of the *Transportation Order* for consistency, as a family member could be included in "guest", as would be the case under the *Third Party Allowances and Expenses Order* presently.

The Revised Members' Services Committee Orders are amended

(a) by striking out section 1.1 of the *Transportation Order*, RMSC 1992, c T-2, and

(b) by adding the following after section 1 of the *Third Party Allowances and Expenses Order*, RMSC 1992, c T-1:

LIVING AND TRAVELLING EXPENSES OF MEMBER'S SPOUSE OR GUEST

1.1 Reasonable living and travelling expenses may be paid to or on behalf of a Member's spouse or guest who accompanies a Member to or joins a Member in Edmonton or, provided that the trip is related to the Member's public or official business, any other part of Alberta, subject to a maximum of 4 round trips in any one fiscal year.

3.4 Use of Social Media by Members

The Subcommittee discussed that the Orders and related guideline documents do not adequately address the rules surrounding the use of social media by Members. The Subcommittee recommends that guidelines and policies be updated to take into account the permitted use of social media accounts by Members for the purpose of communicating with constituents (including social media advertisements).

The Subcommittee further recommends that advertising that appears on, or is associated with, social media accounts be reviewed for compliance based on the content of the advertisement itself, regardless of the social media account with which it is associated. As an example, a Member should be permitted to use their MSA to pay for a non-partisan advertisement issued from their personal social media account, notwithstanding that a Member's personal account may contain some partisan content. The Subcommittee recommends that this rule be subject to one exception – advertising through social media accounts or websites of political parties. However, Members of the Subcommittee noted that individuals or entities may choose to share a post on social media without a Member's authorization and that a Member should not be denied reimbursement based on the actions of a third party.

3.5 Constituency Communications

The *Constituency Services Order*, RMSC 1992, c C-1, provides for the reimbursement of expenses associated with a Member's constituency office through the MSA. Section 5 of the Order permits the MSA to be used for expenses relating to non-partisan communication between a Member and the Member's constituents. The Subcommittee discussed that section 5 imposes limits on constituency communications that some Members found unduly restrictive. The Subcommittee makes the following recommendations with respect to constituency communications:

1. While political party logos and political party websites should not be referenced in constituency communications, it should be permissible for constituency communications to incorporate political party colours and for Members to identify their caucus affiliation.
2. The prohibition on communications that contain personal criticism of another Member should be removed.
3. Section 5 of the Order should be amended to clarify that electronic means of communication are permitted.
4. The *Constituency Services Order* should be amended to include a definition of "partisan" and clarify that the MSA may not be used to fund partisan materials or activities.

The Subcommittee therefore recommends that the *Constituency Services Order* be amended as follows:

(a) the following is added after section 1:

Please note that recommendation #2 was not approved by the Members' Services Committee.

PARTISAN ACTIVITIES OR MATERIALS

1.1(1) No amount of the Member's Services Allowance shall be applied to payment for partisan activities or materials.

(2) For the purposes of this Order, "partisan activities" means

- (a) the solicitation of money or votes to be given to a candidate or political party,
- (b) the solicitation of memberships to be purchased for a political party,
- (c) the distribution or display of materials that include references to or use of political party logos, websites or publications,
- (d) activities that relate to the internal administration, organization, conventions, meetings or communications of a political party or constituency association, or
- (e) activities that relate to a leadership contest or nomination contest for a political party.

(b) Section 5 is amended

- (i) **in subsection (1) by adding** " , including print or electronic communication," **after** "non-partisan communication";
- (ii) **in subsection (2)**
 - (A) by adding** "of communication" **after** "An item";
 - (B) by striking out** "or contains personal criticism of another Member".

3.6 Temporary Residence Allowance

3.6.1 Requirement for Temporary Residence Declaration

Prior to claiming the temporary residence allowance, a Member must complete a declaration in accordance with section 5(2) of the *Members' Allowances Order*, RMSC 1992, c M-1 that sets out the location of the Member's permanent residence. The Subcommittee recommends that a similar declaration should be completed with respect to a Member's temporary residence in the event that a Member owns or leases that residence. A declaration would not be required if a Member chooses to stay in hotel accommodations while in Edmonton.

The Subcommittee therefore recommends that the *Members' Allowances Order* be amended by adding the following after section 5:

DECLARATION FOR OWNED OR LEASED PREMISES

5.1 A Member may not claim any expenses under section 6 with respect to a temporary residence that the Member leases or owns until the Member has completed and filed with the Clerk's Office a declaration in a form prescribed by the Clerk and has provided any documentation required by section 6(2).

UPDATE TO INFORMATION IN DECLARATION

5.2 A Member shall advise the Clerk's Office as soon as is reasonably practicable following a change in any of the information set out in a declaration made under section 5(2) or 5.1, and shall provide the Clerk's Office with an updated declaration if required.

3.6.2 Compliance with *Members' Allowances Order*, Section 6.1

The Subcommittee recommends that the temporary residence allowance claim process include a requirement for a Member to acknowledge on the claim form that the Member has complied with section 6.1 of the *Members' Allowances Order*, RMSC 1992, c M-1. This section provides as follows:

SHORT-TERM RENTAL OF TEMPORARY RESIDENCE

6.1 A Member who claims an allowance for a temporary residence under section 6 of this Order shall not, during the period of time the allowance is claimed, use any commercial service through which the Member, or a third party on behalf of the Member, rents out the residence for a fee as a vacation rental or any other type of short-term accommodation.

3.7 Non-Compliance by Members

The Subcommittee discussed a variety of options for ensuring Members' compliance with the Orders and remedies for non-compliance. The Subcommittee acknowledges that sound practices and rules are already in place, but recommends the following additional measures:

1. The process in circumstances where a claim for reimbursement under the Orders is identified as potentially non-compliant should be codified in a written policy. This policy should provide that a Member will be notified immediately of the potential non-compliance and, should a claim be deemed to be non-complaint, the Member will be advised in writing of the decision as well as the provision of the Orders or Guidelines that resulted in the disallowance of the claim.
2. The temporary residence claim process should require Members to confirm that the amount being claimed does not exceed the Member's costs of maintaining the temporary residence and acknowledge that the Member will be personally responsible for any payment received that exceeds this amount.

3.8 Updates to Expense Claim Forms – Hosting

Members of the Subcommittee identified changes to expense claim forms that would provide more detail relating to hosting expenses and eliminate any perception of "double dipping" that may arise with the current forms. For example, a constituency office employee may purchase food for an event at the office, whereas a Member may at that same time be travelling and claim a *per diem* for a meal. Presently there may be an appearance that the Member has claimed twice for the same meal. The Subcommittee recommends that the personal expense claim form be revised so that the claimant identify to whom the hosting expense relates and that this information be posted alongside the other claim information in any public disclosure.

3.9 Caucus Funding and Official Party Status

The Subcommittee discussed the matter of funding for caucuses in the Legislative Assembly that do not meet the threshold of “official party status” or are not a “recognized opposition party”. While “recognized opposition party” is defined in section 42 of the *Legislative Assembly Act*, RSA 2000, c L-9, this definition is only relevant to the determination of whether the leader of a recognized opposition party other than the Leader of the Official Opposition receives an allowance prescribed by the Committee. Caucus funding is a matter within the authority and discretion of the Committee, including determining whether the Leader’s Office Allowance is provided to a caucus. The Subcommittee heard that per-Member funding for third and fourth party caucuses, and for Independent Members, has been provided since 1986 and that Committee support funding has been provided to third and fourth parties as well as Independent Members since the 2007-2008 fiscal year.

The Subcommittee noted the short amount of time remaining until the commencement of the next fiscal year and some members of the Subcommittee commented that any changes to the caucus funding formulas for the 2018-2019 fiscal year could be punitive. Accordingly, the Subcommittee recommends that no changes to the funding formula for caucuses be made for the 2018-2019 fiscal year.

The Subcommittee will continue its discussions on this matter and report back to the Committee with any recommendations for changes to take effect in subsequent fiscal years.

3.10 Future Reviews of the Orders

The Subcommittee recommends that a review of the Orders be undertaken every five years, with the next review to commence on or before March 1, 2023.

4.0 STATUS OF SUBCOMMITTEE'S DELIBERATIONS

There are still a number of matters being reviewed by the Subcommittee, including the matter of caucus funding as noted in section 3.9 above, which the Subcommittee will address in its final report.

APPENDIX “A”

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Greg Clark, BA MBA
MLA, Calgary-Elbow
Leader of the Alberta Party Caucus

August 10, 2017

Honourable Robert Wanner
Office of the Speaker
325 Legislature Building
10800 - 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

Re: Accommodation Allowance

I am deeply troubled by the acknowledgement by the Member for Strathmore-Brooks that he has been renting his Temporary Residence while also claiming his Accommodation Allowance. This is the sort of behaviour that diminishes the reputation of all Members, and of the political process as a whole. It is important that Albertans know their elected representatives behave ethically, and when they do not, there are consequences.

Therefore, I am writing to ask that you determine if any penalties apply to this Member for claiming over and above his actual living allowance.

Consolidated Member Services Committee Orders section 6(1) says (emphasis added):

A Member who qualifies for an allowance under *section 5(1)* may claim an allowance for accommodation reflecting the actual costs incurred up to a maximum amount

I ask that you request he produce documentation to confirm the exact amount over and above his actual expenses were incurred, and also produce documents confirming that he has in fact repaid this exact amount. Based on my reading of the current *Consolidated Member Services Committee Orders* I do not believe a penalty can be applied, but I ask that you determine if there are any provisions within your role as Speaker that allow you to apply a penalty.

calgary.elbow@assembly.ab.ca www.assembly.ab.ca

In fairness to all Members, I also ask that you direct the Legislative Assembly Office to conduct an audit of MLA living allowances to ensure all Members are following the rules.

As always, I am happy to discuss this with you at any time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Clark', with a long horizontal flourish extending to the right.

— Greg Clark BA MBA
MLA Calgary-Elbow

