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*Members' Office Mail: Liberal Caucus
January 1997 Province-wide Mailing*

*Report Issued to
the Speaker of the Legislative Assembly,
as Chair of the Legislative Assembly
Management Committee*

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Introduction and Scope

Members of the Legislative Assembly are provided with certain allowances and services that facilitate their sending written communications to citizens of the Province. These allowances and services are paid out of the public purse, through Vote 1 of the Legislative Assembly. The Members' Handbook provides guidelines as to the expense limits and types of communications that these allowances and services can be used for.

In January 1997, the Leader of the Official Opposition, Mr. Gordon Campbell, used these allowances and services for the mailing of a letter, a survey and a petition to almost 750,000 people in the province, at a cost in excess of \$700,000. This eight page mailing, which is reproduced in Appendix 1, resulted in considerable media attention and public reaction. Mr. Campbell therefore asked my Office to review the mailing (and similar communication initiatives undertaken by all parties) and inform him whether any or part of the costs should be reimbursed.

The Deputy Leader of the Official Opposition, Mr. Fred Gingell, also wrote to me. He referred to my 1996 public report entitled "Public Communications: Distinguishing Between Government Program and Partisan Political Communications," and stated that it may be appropriate to consider if the general principle suggested in that report should apply equally to government and opposition Members. He also stated that it may be appropriate to consider more explicit definitions of appropriate content for unsolicited mailings. I concur with Mr. Gingell's assertions.

It is traditional for Members to establish the guidelines which will govern their use of public funds and the parameters for any process or study by which their activities will be reviewed by others. In the case of this review, I was asked to look into a matter by the Leader of the Official Opposition—not by the Legislative Assembly or the Legislative Assembly Management Committee. In acceding to this request, I decided not to include in my review other Members' mailings. Before committing to any review of such mailings, I decided it was important to see

first if my providing an opinion on this mailing had any effect on the current guidelines or their application.

The scope of my review is set out in Appendix 2. To undertake my review of the mailing referred to me, I decided that it would first be necessary to determine what legal and administrative guidelines exist for Members' written communications. Our work was therefore largely based on a review of the guidelines set out in the Members' Handbook, and on interviews conducted with officers and employees in the Legislative Precinct (including the Speaker, the Clerk, the Clerk of Committees, the Legislative Comptroller, and the Administrator), staff at the Queen's Printer and BC Mail Plus, and the Liberal Caucus Chair and staff. My staff inquired about interpretation of the Handbook guidelines and the procedures for monitoring and enforcing them. We also looked closely at the mailing in question and the invoices relating to the associated expenses.

I have completed my review and present the findings in this report. Mr. Campbell has been advised of the content of the report. This report is addressed to the Speaker, who is both the senior official in the Legislative Precinct and the chair of the Legislative Assembly Management Committee. (This all-party committee was established by legislation and given the jurisdiction to deal with all matters affecting the policies for administration of the Legislative Assembly and the conduct of the Members.)



Overall Conclusion

In my opinion, the content of the January 1997 Liberal mailing did not conform with the requirements of the pertinent guideline expressed in the Members' Handbook. The two criteria spelled out in the guideline relating to Members' use of Office Mail privileges, which Members are expected to follow, are that mail be personally addressed and not include material of a partisan political nature. I believe the content of the Liberal mailing included material of a partisan political nature, and some of the mailings were not personally addressed.

I found that while the guideline provided the principle for the Members' use of Office Mail, it was also quite brief and lacking in detailed interpretation of terms used. Accordingly, in coming to a decision in this matter, I had to make reference to a number of sources, as explained later in this report.

Mr. Campbell asked me to inform him if I felt that any or part of the costs of the mailing should be reimbursed. I do not consider it appropriate for me to make a determination in this regard. Indeed, in all matters that I audit, the question of appropriate corrective action is up to those with the managerial responsibility for the matter that I am auditing. I therefore leave it to the Member himself, or the Legislative Assembly Management Committee to decide what, if any, action to take.

Liberal Caucus officials and staff responsible for the mailing informed us that, in the absence of clear guidelines, they relied on examples of previous mailings by other caucuses to determine what was acceptable. For several years, there have been media reports criticizing the partisanship of a number of MLA mailings apparently paid for with public funds. While we have not reviewed earlier mailings, if they are similar in content to the Liberal Party January 1997 mailing, then they too would contravene the guideline. However, as the focus of this review is on the Liberal mailing, the question is left unanswered as to whether this mailing was more, or less, in conformance with the guideline on Office Mail than other mailings in recent years.

Given the growing importance of this form of public communication for Members, I believe that it would serve the interests of both the Members and the public if there was more detailed guidance in place. For example, consideration needs to be given to providing interpretations for terms used such as

“partisan political” and “personally addressed.” In addition, the grouping together of individual and bulk mailings under the same guideline needs to be examined. I suggest that a review of these matters be undertaken soon.



My Recent Report Related to This Issue

My Office's 1995/96 Report 5: Issues of Public Interest, released in June 1996, included a report titled "Public Communications: Distinguishing Between Government Program and Partisan Political Communications." In that report, we recommended that the government consider (1) establishing a general principle prohibiting the use of partisan political information in public government communications, and (2) providing specific guidelines which set out the criteria as to information that should or should not be included in public government communications.

The report recommended that, if and when a principle and guideline are developed for public government communications, then the Legislative Assembly Management Committee might consider them for the purpose of developing guidelines for Members' communication allowances.

In that report, we referred to communication allowance guidelines of other government jurisdictions, which could be used as a starting point in our Province. These include prohibiting:

- political party logos or colours;
- solicitation of political party funds or memberships;
- promotion of political party activities or attendance at party functions; or
- personal criticism of another Member.

We believed at the time that more comprehensive guidelines were needed to assist Members in two ways: (1) situations where the circumstances were relatively straight-forward, and so guidance could be stated with certainty; and (2) situations which were less straight-forward, but which occurred with some frequency, so guidance would be beneficial in leading to more consistent interpretations of the general principle.

My report was discussed at a meeting of the Select Standing Committee on Public Accounts in November 1996, but the Committee did not conclude on the report's recommendations. Nevertheless, I consider that those recommendations still hold true and are worthy of reconsideration at this time.



Findings

Types of Members' Written Correspondence

In the Members' Handbook, two sections—"Office Mail" and "Communication Allowance"—contain guidelines that apply to individual and bulk correspondence. These sections are reproduced in their entirety in Appendix 3.

We were informed that there are three types of written correspondence covered by these guidelines:

Office Mail

- individual correspondence to specific constituents on a variety of matters (for example, responses to correspondence from constituents); and
- bulk mailings of the same communication to many constituents on a variety of matters, sent out as personally addressed mail (for example, responses to a number of constituents writing on the same issue, responses to petition signees, and unsolicited correspondence to taxpayers on issues of widespread public interest).

Communication Allowance

- newsletters or "householders," outlining legislative developments, and the role played by Members in the legislative process; not personally addressed, but rather delivered to each household.

Under the Office Mail provisions, Members are entitled to process an unlimited amount of personally addressed mail, and the costs covered include printing, preparation for mailing, and postage. There is no dollar limit on the amount that can be expensed, and no distinction is made between individual letters and bulk mailings. By contrast, under the Communication Allowance provisions, each Member is limited to \$7,120 per annum, effective April 1, 1997, for printing, preparation and delivery (or for radio and print media advertising).

The January 1997 mailing of Mr. Campbell was substantially expensed as Office Mail.

This mailing included a survey that people were asked to return, using a postage-paid envelope. The return postage cost, however, is not being expensed through Office Mail. It is being paid out of a "caucus support services budget" which is another

part of Legislative Assembly Vote 1. This budget is an amount allocated to each caucus, which has complete control over the use of the funds, the only requirement being that the amount must not be used to increase a Member's indemnity or allowance. Typically, these funds are used to pay the salary costs of caucus support staff and, unlike the Office Mail costs, the amounts allocated are limited. We were told by the Liberal Caucus representative that they had decided to spend some of their funds on return postage for the January 1997 mailing, and would therefore forego expenditure on something else.

The Liberal Caucus support services budget included both the return postage costs and the contractor costs associated with this mailing. The costs paid out of this budget, approximately \$26,000 up to March 31, 1997, are in addition to \$685,000 paid out of the Office Mail provisions of Vote 1. Beyond these direct costs of the January 1997 mailing would be the ongoing costs of staff salaries and benefits, accommodation and equipment use costs, and other related overheads.

Members' Handbook Guidance

The Members' Handbook provides guidance on a wide variety of requirements and processes that Members need to know about. This includes information on parliamentary practice, allowances, benefits and services.

The Office Mail guideline that covers expensing the cost of personally addressed mail, reads in the Members' Handbook as follows:

Office Mail

Members' personally addressed mail is paid for by the Legislative Assembly. Members may not print or mail any material of a political or partisan nature.

Given this guidance, we set out to obtain answers to these questions:

- Is the Office Mail guideline authoritative?
- What is meant by "personally addressed mail"?
- What is meant by "of a political or partisan nature"?
- How is the guideline enforced?

Authority of the Office Mail Guideline

The introduction to the Members' Handbook states: "It must be emphasized that this handbook is not to be considered a definitive authority, but simply a guideline, and Members are encouraged to consult relevant statutes, orders-in-council and resource personnel in cases of uncertainty." We found, however, that the Office Mail guideline is expected to be followed by all Members.

Much of the Handbook is taken from authoritative sources, such as the Standing Orders of the Legislative Assembly and decisions set out in the minutes of the Legislative Assembly Management Committee. Other parts of the Handbook, including the Office Mail guideline, have arisen as codifications of existing practice and, we were informed, have the implicit approval of the Legislative Assembly Management Committee and are accepted by the Members as authoritative.

In October 1996, the Speaker wrote to the Official Opposition, stating "I shall assume that all Members will be guided by these policies when determining what is appropriate material to be mailed from the Assembly."

We concluded, therefore, that the Office Mail guideline is expected to be followed by Members.

In the past, staff of the Legislative Precinct were sometimes consulted by Members for advice about certain communications, as suggested in the Introduction to the Members' Handbook. However, following the last election, the Speaker's Office suggested that Members wishing advice about the appropriateness of the content of their mailings should rely on their own judgement. This was confirmed in the Speaker's October 1996 letter in which he stated that Legislative staff do not have any authority over the content of the mail, and that there will be no review of the content of material to be printed.

Personally Addressed Mail

The Handbook currently requires that, to be processed and expensed as Office Mail, the mail must be personally addressed. We noted that some of the letters in the January 1997 mailing were addressed to "The Residents" at a street address.

In trying to determine what is meant by "personally addressed," we found conflicting definitions. Some people think that it means mail with a specific address, while others

think that it means there has to be both an address and a specifically named individual or group.

Canada Post does not have a definition for the term, but simply requires that all letter mail have an addressee (which can be the name of a business), as well as a delivery address.

Officials of the Liberal Caucus responsible for the mailing told us that, in their view, "personally addressed" meant that the item should be addressed in such a way that it can be delivered to a particular house or unit. This distinguishes it from a "householder" which is unaddressed and delivered to every house or unit on a particular mail route, along with flyers and other ad-mail. (This distinction is important, given the different budgetary way the two types of communications are handled and paid for. Under Office Mail, there is no dollar limit on how much may be spent, whereas under the Communication Allowance there are set limits.)

In our opinion, mail addressed to "the residents" does not qualify as "personally addressed," since a person is not named in the mailing address. Our review did not determine the extent of mailing to "Residents." However, the extent to which this form of addressee was used would, in our view, not meet the requirement of the Office Mail guideline in the Members' Handbook.

Information of a Partisan Political Nature

The Office Mail guideline tells Members not to print or mail any material of a "political or partisan nature," but offers no guidance on the meaning of the words "political" or "partisan." This requirement of the guideline is controversial, and there seems to be a lack of consensus as to what these terms mean.

The Communication Allowance guideline also prohibits material of a "partisan political nature," but it too provides no guidance on what is meant by this.

While looking elsewhere for a definition of "partisan political," we noted the practice of the House concerning private Members' statements which may be made on Friday mornings. Various Speakers have held that highly partisan remarks that reflect negatively on individual Members or groups of Members are not regarded as falling within the spirit or intent of the Standing Order that permits statements by private Members.

In my 1995/96 Public Report 5, I referred to the term “partisan” as defined in Safire’s New Political Dictionary as “placing party advantage above the public interest.” I also noted that there are other similar definitions available in other authoritative reference sources.

When, in the past, staff at the Legislative Precinct were asked for their advice on whether the content of an intended communication was “political” or “partisan,” their advice was that the names of other Members or political parties should not be used, party logos should not be shown, and requests for funds should not be made. However, as we have already pointed out, it was never a requirement that staff’s advice be sought or followed and, in addition, the Speaker’s letter of October 1996 confirmed that staff would no longer review the content of Members’ mailings.

During the course of my 1996 audit of government communications, I obtained information from the Members’ Handbooks of other provinces across the country as to what guidance is available concerning their Communication Allowances. The relevant excerpt from that report is reproduced in Appendix 4. One of the criteria in another province is that an item not be paid for if it contains personal criticism of another Member.

Liberal Caucus officials informed us that they relied on examples of previous mailings by other caucuses in forming their judgements as to what was acceptable content. In the absence of detailed guidance, this could be considered a reasonable course of action. However, if earlier mailings did not comply with a guideline, then this approach would tend to lead to further non-compliance. For several years, there have been media reports criticizing the partisanship of a number of MLA mailings apparently paid for with public funds. While we have not reviewed earlier mailings, if they are similar in content to the Liberal Party January 1997 mailing, then they too would contravene the guideline. In any event, as previously noted, this review focuses on the Liberal mailing, and does not include any other mailings.

In considering these various reference sources, I concluded that the January 1997 Liberal mailing, containing as it does personal criticism that negatively reflects on another Member and that Member’s party, is partisan political in content, and thus contravenes the Office Mail guideline in the Members’ Handbook.

Enforcement of the Guideline

The Legislative Assembly Management Committee, under its Act, has the jurisdiction (subject to any rules of conduct established by the Legislative Assembly) to deal with all matters affecting the conduct of Members of the Legislative Assembly. This would include, therefore, consideration of compliance with the Office Mail guideline. It has not, however, to date, made any rulings on Members' use of Office Mail because, we were advised, it has never received any formal complaints on this subject.

Costs of Personally Addressed Mail

The *Constitution Act*, section 64, provides that "There is granted to Her Majesty, annually out of the consolidated revenue fund, sums required to pay the necessary expenses of the Legislative Assembly." This provides a statutory authorization for the expenses in Vote 1—the expenses of operating the Legislative Assembly and providing services to Members. However, for a great many categories of spending within Vote 1, the Legislative Assembly Management Committee has provided guidance and, in some cases, limits on the amounts that may be spent. Examples include salaries, caucus support services, and constituency office costs. For Office Mail there are no dollar limits.

Exhibit 1 shows the increase in the amount being expensed as Office Mail over the past six years. This is mainly due to the increasing amount of bulk, personally addressed mail. Postage costs have also increased, but only by 12% during this period. The increase in the amount of personally addressed, bulk mail results from advances in computer technology. It is now more feasible for a Member, for example, to mail what is essentially the same letter to many different recipients, each one being personally addressed. This is particularly important to opposition MLAs, who need to communicate with the public in order to perform their role in opposition.

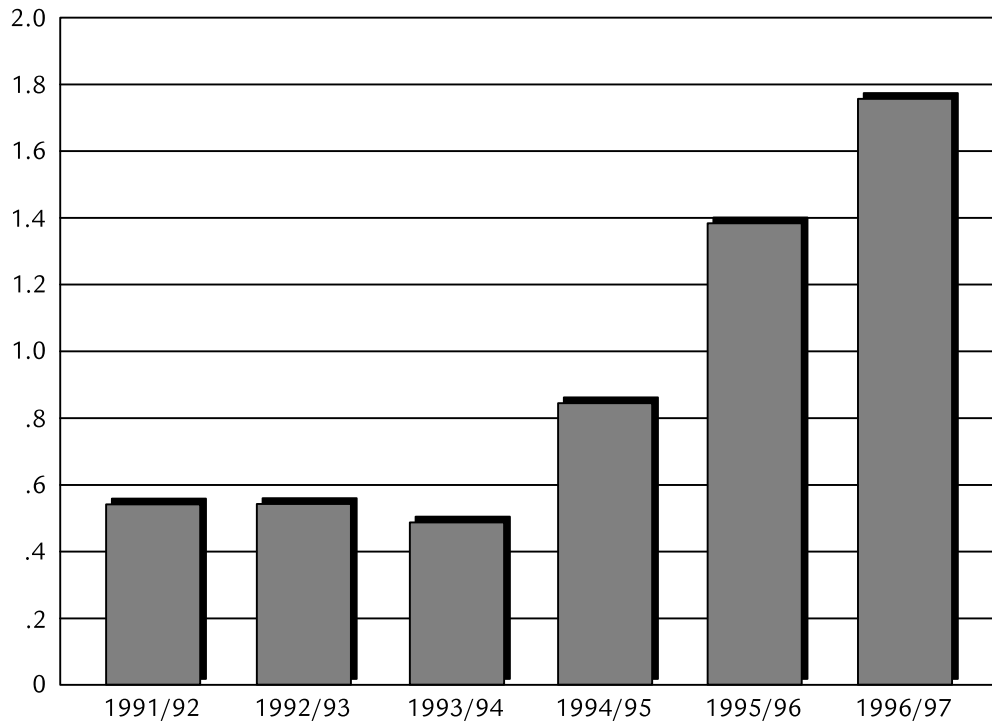
Explaining "Office Mail" and the "Communication Allowance"

Office Mail—allowing Members unlimited mailing privileges—is a service Members need to enable them to communicate with individual members of the public. The Communication Allowance provides Members with a means of communicating their activities to their own constituents,

Exhibit 1

Costs of Legislative Assembly Office Mail

(\$ Millions)



Source: Consolidated Revenue Fund General Ledger

typically by means of the “householder” newsletter, although the allowance is often utilized for advertisements in local newspapers advising readers of constituency office hours, location, etc. In addition, the Members’ Communications Allowances are now allocated to caucuses, and so it is possible that an individual Member’s allowance could be used for more general, and less personalized, communications.

Office Mail must be personally addressed, whereas correspondence under the Communication Allowance is unaddressed. The Communication Allowance is specifically intended for communications by MLAs with constituents, while there is no specified purpose for Office Mail. In this regard, we were informed that Members need to manage some

issues that go beyond the boundaries of constituencies. For example, opposition party members, with official critic roles, may need to communicate beyond their own constituencies.

Advances in computer technology now permit the easy production of bulk, personally addressed mail, and this is being processed as Office Mail. For example, if a Member receives, say, 100 letters on the same issue, or a petition with 10,000 names, the Member can easily reply to each of these persons with essentially the same letter. Now that mailing lists can be purchased and used to produce personally addressed mail in bulk, using “personally addressed” as a key requirement in distinguishing between different forms of communication may no longer be appropriate. It would seem that this new bulk mail capability may be taking the place of the “householders” covered by the Communication Allowance. Certainly, such bulk mailings have become an important medium used by Members for communicating, and we believe these are mainly responsible for the above-noted, marked increase in the dollar amounts being expensed for mailings over the last five years.

Clearly, the different communication allowances and services could be structured in many ways. Perhaps having different guidelines for solicited and unsolicited mail might be part of the solution. Rather than trying to make today’s methods of communicating fit yesterday’s guidelines, we suggest that the Legislative Assembly Management Committee consider updating and revising the pertinent guidelines to better meet the Members’ current and future methods and needs for communicating.

