



An Independent Parliamentary Entitlements System

Review

February 2016

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An Independent Parliamentary Entitlements System

The Hon Malcolm Turnbull MP
Prime Minister
Parliament House
CANBERRA ACT 2600

22 February 2016

Dear Prime Minister

The Committee is pleased to provide herewith our completed Review and recommendations on options for an independent parliamentary entitlements system. The recommendations aim at a simplified framework for a principles-based system for the determination, processing and monitoring of parliamentarians' allowable work expenses. This framework will better enable parliamentarians to make informed decisions as to appropriate work expenditure, in particular ensuring value for money, and will create a clearer and more transparent regime for its administration.

The Committee has taken account of views received from a range of interested parties, and sought to build on previous work in this area. We have focused on priority areas for reform. We make 36 recommendations, some of which are suitable for immediate implementation. Other more structural reforms, including major legislative changes will take time for the Government to develop and implement.

We commend the Review and its recommendations to your Government.

Yours sincerely



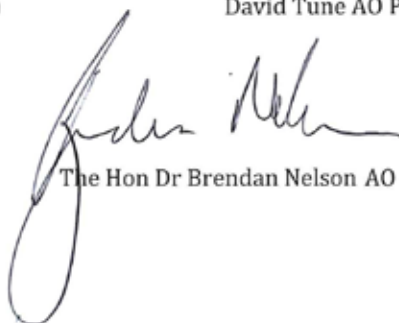
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Executive Summary

Preface

- 1 The Committee to consider an independent parliamentary entitlements system was established by the then Prime Minister, the Hon Tony Abbott MP, on 2 August 2015. The review announcement noted the rules governing the system lacked clarity and transparency and acknowledged that some parliamentary travel had been ‘inside entitlement but outside community expectations’.¹
- 2 A simple, effective and clear system to set and monitor parliamentarians’ expenses is needed, one that supports parliamentarians and their staff in their work and allows them to operate inside the rules; enables administrators to provide an efficient and effective service; and assures the public this is happening. The current system does not do this well.
- 3 The Committee was asked to propose models for fundamental reform, focusing on greater independence. We have taken into account the diverse nature of Australia’s federal constituencies and the differing duties of Senators and Members. We have invited and considered submissions from interested parties and we have considered international best practice across comparable parliamentary systems.
- 4 This Review addresses those aspects of the system we consider most in need of early reform. It contains recommendations suitable for immediate implementation and recommendations suitable for implementation in the medium term. The latter entail structural – including major legislative – reform which would require time to implement and could be further considered by Government in 2016. We have also proposed interim steps which would realise improvements while work was undertaken to achieve structural reforms.

Need for reform

- 5 The Committee has referred to previous reviews of parliamentary travel and other entitlements, notably Australian National Audit Office (ANAO) reports including its 2015 report (ANAO Report);² the 2011 *Review of the Administration of Parliamentary Entitlements* by Ms Helen Williams AO for the Department of Finance (Williams

1 The Hon Tony Abbott MP, ‘An Independent Parliamentary Entitlements System’ (Media Release, 2 August 2015).

2 Australian National Audit Office, *Administration of Travel Entitlements Provided to Parliamentarians*, Audit Report No. 42 of 2014-15 (4 June 2015).

Review); and the 2010 report of the Committee for the Review of Parliamentary Entitlements (Belcher Review).

- 6 Broadly speaking, these reviews concluded that the system, having evolved piecemeal and without adequate rationalisation, is complex, confusing, incomplete, contradictory and immensely difficult to follow and administer. The problem has worsened as demands on, and external scrutiny of, parliamentarians has increased. The complexity of the system's rules and regulations imposes stress on parliamentarians and their staff, and on those who administer the system. Parliamentarians can too easily run foul of rule interpretations or eligibility requirements. This has undermined public confidence, not only in parliamentarians, but also in the system itself.

'Compact': supporting parliamentarians' work in the public's interest

- 7 The parliamentarian's role is unlike that of any other member of the community. Considering legislation and voting in Parliament, meeting and representing constituents, holding government to account, and contributing to policy development require long hours, significant time away from family and friends, and extensive travel. The dislocation and travel demands are even greater on those representing large, remote or rural electorates and those appointed minister, leader or parliamentary office holder.
- 8 Attracting good candidates and supporting their work require that they be provided with appropriate support. In turn, the public expects the highest standards of effort, judgment and integrity. This is the unstated but important 'compact' between elected representatives and electors. Parliamentarians undertake to represent constituents to the best of their ability; place electorate above personal interests; offer good judgment, hard work, accessibility and communication; and accept intrusions into their privacy and family life. Electors undertake to support their representatives in discharging their duties and responsibilities, including by fair remuneration and appropriate funding for expenses, office and electorate facilities.
- 9 An essential element of this compact is trust. An opaque, complex expenses system will inevitably lead to errors and invite abuse. Real or perceived breaches of this trust undermine confidence in our parliamentarians. Such breaches become difficult to avoid when those using, administering and scrutinising expenses face such a complex system.

- 10 The Committee considers the term ‘entitlements’ to be misleading, anachronistic and inappropriate. A more accurate and easily understood description of the resources provided to parliamentarians for their parliamentary business is ‘work expenses’.

A new, principles-based system

- 11 The system should ensure that the relationship between the public and their representatives is one of respect and mutual support. It should be understood by all and simple to use and administer. It should ensure expenses are appropriate, sufficient and fair, be in accordance with reasonable standards and the overarching principle of ‘value for money’.
- 12 We believe the best way to achieve this goal is a principles-based system allowing the parliamentarian flexibility to apply judgement, choice and personal responsibility when using it, but obliging him or her to report publicly and be subject to reasonable standards of auditing so as to provide transparency and public accountability. To provide clarity, the rules should, to the extent possible, be consolidated into a single Act of Parliament.
- 13 As part of a principles-based system parliamentarians should consider whether their work expenditure represents an efficient, effective, and ethical use of public resources. A parliamentarian should not seek to disguise as parliamentary business an activity whose purpose is personal or commercial.
- 14 The Committee’s recommendations would reform key problem areas on the basis of the approach set out above. It can also be applied to further, ongoing reform.

Travel

- 15 Travel expenses are the most complex and problematic aspect of parliamentarians’ work expenses. Their complexity arises from being governed by many Acts and subsidiary regulations, determinations and guidelines which have evolved over time without rationalisation, and because different types of transport and associated arrangements are necessary for different situations: negotiating the back roads of a rural electorate as opposed to making frequent trips in Canberra while parliament is sitting; travelling to Canberra from remote localities as distinct from doing so from western Sydney; and differentiating between parliamentarians, those who are ministers, leaders or office holders, staff and families. Travel expenses are problematic because parliamentarians must travel often and far, and it is appropriate that they do

so in safety and by proper means; yet such travel can seem a luxury or indulgence to the public, which may not fully understand this aspect of parliamentary work.

- 16 The Committee believes a principles-based system will permit the parliamentarian to make appropriate travel arrangements without burdensome administration but in a manner which is reasonable and accountable.

Information technology

- 17 Parliamentarians and their staff need clear rules and processes, and flexibility to make optimal choices. Administrators and the public must be able to ensure those choices secure value for money and accord with appropriate standards. Essential to this balance is a significant upgrade to the information technology systems supporting the parliamentary expenses system. It is long overdue. Parliamentarians, their staff and administrators need to spend less time on redundant paperwork and processes, without compromising accountability. Updated information about expense usage must be readily accessible and timely, including to the public. A fit-for-purpose online expenses system, while requiring major investment, would allow the Department of Finance to replace manual processing and support higher quality customer service.

Recommendations

- 18 We make the following recommendations in each of the following chapters:

Chapter 4

Recommendation 1

Core elements – adoption

The Government should adopt the eleven core elements detailed in chapter 4 for the design of the system governing the provision, usage and oversight of parliamentarians' work expenses.

Recommendation 2

Core elements – terminology

The Government and the Remuneration Tribunal should change their respective terminology to describe the non-remuneration support provided to parliamentarians as ‘work expenses’ rather than ‘entitlements’ or ‘benefits’. This should be implemented in two stages, as follows:

- a. As an interim measure to be taken as soon as practicable, the Government should amend relevant policies and guidance materials, and the Remuneration Tribunal should amend its determinations.
- b. The Government should include necessary amendments to legislative terminology in a Bill to create a single framework for parliamentarians’ work expenses, to be introduced in Parliament as soon as possible, in line with recommendation 6.

Recommendation 3

Core elements – administrative responsibilities

The Government, in consultation with the Remuneration Tribunal, should clarify and strengthen the division of responsibilities for setting parliamentarians’ work expenses between the Remuneration Tribunal, the *Parliamentary Entitlements Act 1990* and its Regulations, and the discretionary decision-making power of the Special Minister of State. The division of responsibilities should be as follows:

- a. the Remuneration Tribunal should have exclusive responsibility for determining budgets and conditions applying to ‘material’ work expenses such as travel expenses, travel allowances, vehicle allowances and electorate allowances;
- b. the *Parliamentary Entitlements Act 1990* and Regulations should prescribe the budgets and conditions applying to ‘workplace costs’ (namely, office facilities, office budgets – including incidentals such as postage, flags and photographic services – and printing and communication costs); and
- c. the Special Minister of State should have discretionary decision-making power with respect to parliamentarians’ work expenses in two categories:
 - i. to make ‘one off’ determinations in cases involving exceptional circumstances, which are not covered adequately by the general eligibility rules; and

- ii. providing application-based approvals for individual activities against conditions or criteria prescribed in the *Parliamentary Entitlements Act 1990* or Regulations, or in Remuneration Tribunal determinations.

This division of responsibilities should be implemented as soon as practical via administrative arrangements, to the extent possible. It should subsequently be incorporated in legislation creating a single statutory framework for work expenses, in line with recommendation 6.

Recommendation 4 Core elements – ‘parliamentary business’ definition

The Government and the Remuneration Tribunal should adopt an inclusive definition of ‘parliamentary business’, as a purpose-based eligibility requirement for all work expenses. This definition should:

- a. include the core elements of the definition set out in chapter 4 (para. 4.21 refers); and
- b. be adopted immediately, or as soon as practicable, in Remuneration Tribunal determinations and Government policies and guidance materials, and should subsequently be incorporated in the single legislative framework for work expenses in recommendation 6.

Recommendation 5 Core elements – principles

The Government should adopt a statement of principles, as set out in chapter 4 (para. 4.52 refers), to support parliamentarians’ decision-making with respect to eligible work expenses under an improved system, and provide assurance to the public about such decisions.

Recommendation 6 Core elements – legislative framework

The Government should introduce legislation, as soon as possible, to establish the legal framework for an improved system. This legislation should:

- a. establish ‘remuneration’ and ‘work expenses’ as the two streams of support provided to parliamentarians; and

- b. create a single legislative framework for the determination and administration of ‘work expenses’, which provides for the following matters:
 - i. replaces the terms ‘entitlement’ and ‘benefit’ with ‘work expenses’, in line with recommendation 2;
 - ii. sets out the broad categories of ‘work expenses’ and delegates the necessary regulation-making and determination powers to set and amend the quantum and conditions applying to these categories;
 - iii. clarifies and strengthens the division of responsibilities between the Remuneration Tribunal and Special Minister of State with respect to determining work expenses, in line with recommendation 3;
 - iv. establishes a purpose-based eligibility requirement applying to all work expenses, providing that the relevant activities be carried out for the purpose of ‘parliamentary business’ in line with recommendation 4;
 - v. inserts an inclusive definition of ‘parliamentary business’ applying to the above eligibility requirement, in line with recommendation 4;
 - vi. incorporates principles to guide parliamentarians’ decision-making with respect to work expenses, in line with recommendation 5;
 - vii. makes provision for accountability and oversight measures, in line with recommendations 26 and 32; and
 - viii. establishes a periodic review mechanism for the framework, in line with recommendation 7.

Recommendation 7

Core elements – periodic review

The Government should create a mechanism for the work expenses framework to be reviewed periodically, once during each parliamentary term, with a view to assessing its effectiveness and recommending amendments.

Chapter 5

Recommendation 8

Travel – value for money

The Government and the Remuneration Tribunal should promulgate an overarching principle of ‘value for money’ to support parliamentarians’ travel decisions, including, in particular, consideration of whether the expenditure or resource commitment represents efficient, effective and ethical use of resources.

Recommendation 9

Travel – travelling allowance

The Remuneration Tribunal should:

- a. simplify and align provisions for domestic travelling allowance to permit it generally to be claimed in relation to eligible travel on parliamentary business within Australia, while maintaining the current ten night per annum limitation on certain types of travel; and
- b. reduce the lodgement deadline for travelling allowance and Canberra expense allowance claims from 60 to 30 days.

Recommendation 10 Travel – additional travelling allowance for spouses

The Remuneration Tribunal should abolish the additional \$10 per night travelling allowance in respect of spouses who accompany ministers and office holders on travel.

Recommendation 11

Travel – scheduled commercial transport for parliamentary business

The Remuneration Tribunal should extend eligible travel on scheduled commercial transport for parliamentary business within Australia to all external territories (excluding Antarctica).

Recommendation 12

Travel – electorate charter (transport in large electorates)

The Remuneration Tribunal should:

- a. allow, within the current limits of approved expenditure, greater discretion in respect of driver hire and vehicle type, and additional passengers;
- b. examine whether the quantum of the current monetary caps on the existing Electorate Charter budget is appropriate; and
- c. substitute the term ‘Electorate Charter’ in Determination 2012/04 with ‘Transport in Large Electorates’ to render the purpose of the provision more transparent.

Recommendation 13

Travel – car with driver transport

The Remuneration Tribunal should prohibit use by parliamentarians of car with driver transport, including COMCAR, for journeys which are primarily personal.

Recommendation 14

Travel – Canberra parliamentary COMCAR ‘shuttle’

The Government should:

- a. re-examine the Canberra parliamentary COMCAR ‘shuttle’ service operating during sitting periods with a view to obtaining better value for money;
- b. match COMCAR fee structures for parliamentarians with those charged to COMCAR’s other clients, ensuring they reflect actual costs; and
- c. amend reporting on COMCAR costs and usage figures to represent the actual cost to the Commonwealth.

Recommendation 15

Travel – private plated vehicle

The:

- a. Remuneration Tribunal should examine replacing the provision for government-funded private plated vehicles with a vehicle leasing option, funded through a commensurate increase in Electorate Allowance; and
- b. Government could facilitate access to a vehicle leasing option for parliamentarians through a group agreement with an appropriate private provider.

Recommendation 16

Travel – private vehicle allowance

If the Remuneration Tribunal adopts a vehicle leasing option pursuant to recommendation 15, the Tribunal should abolish the private vehicle allowance, which provides a per kilometre rate to a Senator or Member using his or her personal vehicle on travel for parliamentary business, concurrently with the increase to Electorate Allowance proposed in recommendation 15(a).

Recommendation 17

Travel – Canberra and intra-state family travel

The Remuneration Tribunal should maintain three return fares for each dependent child, but use full fare economy class to determine this portion of the family travel budget.

Recommendation 18

Travel – ‘dependent child’

The Government and the Remuneration Tribunal should:

- a. update the definitions of ‘dependent child’ in, respectively, the *Parliamentary Entitlements Act 1990* and Remuneration Tribunal determinations to ensure they are uniform and contemporary; and
- b. ensure the definitions provide for a maximum age of 18, consistent with the Government’s approach in the Parliamentary Entitlements Legislation Amendment Bill 2014.

Recommendation 19

Travel – Inter-state family reunion travel

The:

- a. Remuneration Tribunal should review and tighten eligibility requirements with respect to the combined total of three inter-state business class return trips provided each year pursuant to Remuneration Tribunal Determination 2012/04 for use by the spouse, nominee, designated person or dependent children of a Senator or Member including by:
 - i. incorporating a requirement that such travel be for the dominant purpose of reunion with a Senator or Member who is at a location for the dominant purpose of conducting ‘parliamentary business’ as defined pursuant to recommendation 4; and
 - ii. prohibiting use of the provisions to undertake an inter-state family holiday.
- b. Government should similarly review and tighten eligibility requirements with respect to the single business class return trip to any place within Australia provided each year pursuant to the *Parliamentary Entitlements Act 1990* for use by a dependent child of a Senior Officer (minister, opposition office holder or presiding officer).

Recommendation 20

Travel – eligible travel on parliamentary business – mother of a dependent child under 12 months

The Remuneration Tribunal should:

- a. extend eligible travel to the spouse, nominee or designated person accompanying or joining a parliamentarian, who is the mother of a dependent child up to 12 months old, travelling on parliamentary business; and
- b. determine that the class of air travel under this schedule be full fare economy.

Recommendation 21

Travel – post-retirement

The Remuneration Tribunal should reduce the provision for post-retirement travel for former parliamentarians, who do not qualify for the Life Gold Pass, from five return trips to Canberra or their former electorate office in six months to three full fare economy return trips to Canberra or their former electorate office in three months.

Recommendation 22

Travel – *Parliamentary Entitlements Act 1990* office holder charter

The Government should provide, through the Department of Finance, guidance and training to parliamentarians, including office holders, which specifies that use of charter transport must constitute value for money, and in particular that, in the absence of compelling reasons, helicopters cannot be chartered to cover short distances.

Recommendation 23

Travel - 'Big Six' largest electorates

The:

- a. Government should provide members from the Big Six electorates with a land area of more than 500,000 square kilometres with a third, staffed electorate office; and
- b. Remuneration Tribunal should:
 - i. review the quantum of the Electorate Allowance and Electorate Charter budget for members of the Big Six electorates;
 - ii. provide travelling allowance for any night spent by a Big Six member outside his or her electorate in the course of staging from one point in his or her electorate to another; and
 - iii. maintain the eligibility of members of Big Six electorates to obtain a second vehicle offset against their Electorate Charter Budget.

Chapter 6

Recommendation 24

Improving transparency – publish all key documents online

The Government should ensure that all rules and practices relating to interpretation and operation of the work expenses framework are published together online, along with guidance material.

Recommendation 25 Improving transparency – more frequent reporting

The Government should publish:

- a. details of work expenses of parliamentarians and their staff; and
- b. a parliamentary expenses dataset on data.gov.au.

The Government should do so quarterly, pending implementation by the Department of Finance of an integrated digital system proposed in recommendation 30, and from then on monthly.

Recommendation 26 Improving transparency – more detailed travel reporting

The Government should:

- a. require parliamentarians to identify in their claims for flights (including air charter) and travelling allowance that the purpose of travel falls within at least one of the work streams covered by the inclusive definition of ‘parliamentary business’ recommended in chapter 4; and
- b. ensure this identification is included in published expenditure reports.

Recommendation 27 Improving efficiency – electorate office maintenance threshold

The Government should consider, within current contractual arrangements, what can be done to permit parliamentarians to organise minor maintenance and refurbishment of their electorate offices, without ministerial approval but through a market-based process.

Recommendation 28 Improving transparency – office costs

The Government should:

- a. amend the reporting regime so that required expenditure on the establishment, relocation and refurbishment of offices appears as Commonwealth expenditure administered by the Department of Finance, not in the expenditure reports of individual parliamentarians; and

- b. initiate a motion to refer the issue of the high cost of outfitting electorate offices under existing arrangements to the Joint Committee of Public Accounts and Audit for examination and possible inclusion in the Parliament’s audit priorities advised to the Auditor-General.

Recommendation 29

Improving efficiency – pooled budgets

The Government should consider developing further arrangements for pooling similar purpose categories of parliamentary work expenses into single budgets including with respect to aspects of car transport, home telephone services and information technology.

Recommendation 30

Information technology – integrated digital system

The Department of Finance should urgently develop for Government consideration a business case for a fit-for-purpose, integrated online work expenses system.

Recommendation 31

Information technology – digital service standard

The Government should require the Ministerial and Parliamentary Services Division of the Department of Finance to adopt a service charter which includes a commitment to meet the Government’s Digital Service Standard by 1 July 2018, subject to implementation of the single legislative framework and integrated digital system as recommended in this Review.

Chapter 7

Recommendation 32

Oversight and accountability – certification

The Government and the Department of Finance should undertake the following improvements to certification arrangements:

- a. the Government should introduce legislation creating a requirement that parliamentarians certify that their official expenditure accords with the eligibility rules;
- b. the Government should introduce legislation creating a requirement

that parliamentarians certify the purpose of travel provided pursuant to recommendation 26;

- c. the Department of Finance should publish certification reports quarterly pending implementation of the integrated digital information technology system proposed in recommendation 30, and then monthly;
- d. the Department of Finance should include in its certification reports any reasons provided by parliamentarians for not complying with certification requests, instances of failure to provide reasons, and details of any qualified certifications; and
- e. the Department of Finance should apply the improved information technology arrangements in recommendations 30 and 31 to its administration and reporting of certifications.

Recommendation 33 Oversight and accountability – assurance and audit

The Department of Finance should ensure that appropriate resources are allocated to conducting contemporary assurance and audit activities related to parliamentary work expenses claims, and taking action on the findings of these activities.

Recommendation 34 Oversight and accountability – the Protocol

The Government should:

- a. amend the *Protocol followed when an Allegation is Received of Alleged Misuse of Entitlement by a Member or Senator* (the Protocol) to:
 - i. reflect current practices in relation to allegations of misuse;
 - ii. incorporate the arrangements announced on 9 November 2013 for the Special Minister of State to table in Parliament the names of parliamentarians who do not comply with requests to provide information;
 - iii. replace the term ‘entitlement’ consistent with recommendation 2; and
 - iv. expand the membership of the high-level committee responsible for considering ‘more serious’ matters to include two independent members, one of whom should be a retired judicial officer of an Australian Court (Federal, State or Territory); and
- b. table the amended Protocol in Parliament.

Recommendation 35

Oversight and accountability – penalty loadings

The Government should move amendments to the Parliamentary Entitlements Legislation Amendment Bill 2014 to apply a penalty loading of 25 per cent to adjustments of parliamentarians' claims for all work expenses (other than those made following Department of Finance error), not just those relating to travel.

Chapter 8

Recommendation 36

Advice – strengthened Ministerial and Parliamentary Services Division

The Department of Finance should mandate and empower Ministerial and Parliamentary Services Division to:

- a. reallocate resources freed up by information technology and other reforms recommended in this Review to create an efficient and effective advice cell, led by senior officers;
- b. provide detailed, definitive, authoritative advice, in writing, to parliamentarians and their staff about expense eligibility; and
- c. undertake and publicise regular client surveys.

1. Introduction

Establishment of the Review

- 1.1 On 2 August 2015, the then Prime Minister, the Hon Tony Abbott MP, announced the appointment of a committee to undertake a fundamental review of the federal parliamentary entitlements system to report in the first half of 2016. This followed events which had highlighted shortcomings in the system. The Committee's terms of reference are at Appendix A.
- 1.2 On 17 October 2015, following briefing from the Committee on the progress and future of its work, the Prime Minister, the Hon Malcolm Turnbull MP, wrote to request an interim Report in December 2015 with recommendations addressing aspects of the system the Committee considers as the highest priorities for reform, including travel expenses. A copy of the Prime Minister's letter is at Appendix B.

Review Committee

- 1.3 The Government appointed a Committee of five persons to undertake the review. Its members are:
- Mr John Conde AO (Co-chair);
 - Mr David Tune AO PSM (Co-chair);
 - Mr Harry Jenkins AO;
 - The Hon Dr Brendan Nelson AO; and
 - Ms Linda Bardo Nicholls AO.
- 1.4 The Committee was supported by a Secretariat in the Department of the Prime Minister and Cabinet, including secondees from the Department of Finance and the Australian Public Service Commission (Remuneration Tribunal Secretariat).

'Parliamentary entitlements system'

- 1.5 The Committee has interpreted the system under review to be the legal and administrative framework under which federal 'parliamentary entitlements' are provided (including legislation, regulations, policies, guidelines and other instruments, rules and arrangements), and the practical administration and operation

of the framework (including usage, oversight and scrutiny). As such, the system covers:

- **remuneration** to parliamentarians in the form of a personal financial benefit; and
- **work expenses** (referred to previously as ‘tools of trade’) comprising other support to parliamentarians to carry out their duties.¹

‘Entitlement’

1.6 However, the Committee does not consider it appropriate to refer to work expenses as ‘entitlements’. Such language conveys a sense of privilege rather than of fair recompense and support for legitimate work. As outlined in chapter 4, the Committee recommends formal adoption in legislation and policy of the following terms:

- **remuneration**, as set out above; and
- **work expenses** (rather than ‘tools of trade’) analogous to public and private sector employees being supported for work expenses.

Priorities

1.7 The Committee has focused on a combination of systemic issues, relating to modernisation and rationalisation of the framework, and specific ‘work expenses’, in particular, travel. In respect of systemic issues, the Committee focused on:

- developing guiding principles to inform parliamentarians’ decision-making about eligibility and usage;
- streamlining the legislative and regulatory framework and clarifying key terms and concepts;
- improving disclosure of expenditure, particularly public reporting;
- utilising contemporary technology and innovation to improve the efficiency and effectiveness of administration, public reporting and oversight; and
- strengthening oversight, compliance and accountability arrangements, consistent with a modern, risk-based approach to auditing and enforcement.

Parliamentarians’ salaries are determined by the Remuneration Tribunal
(or, in the case of ministerial salaries, are the subject of advisory recommendations) in

1 This categorisation was informed by the submission of the Remuneration Tribunal to the Belcher Review, which was endorsed by that Review. This categorisation was applied subsequently by the Remuneration Tribunal in its 2012 determinations of parliamentarians’ base salary and entitlements (Determinations 2012/02 and 2012/04 respectively, and subsequent revisions).

accordance with the *Remuneration Tribunal Act 1973*, and are not considered further in this Review.

Methodology

Stakeholder engagement

- 1.8 The Committee on 22 August 2015 called for public submissions, advertising in major national, regional and metropolitan newspapers and on the Review's web page (www.dpmc.gov.au/taskforces/review-parliamentary-entitlements). The Committee also invited all parliamentarians, together with some government and private sector stakeholders, to participate.
- 1.9 The Committee received 74 submissions and has authorised the publication of submissions (whose release has been approved by submitters) on the Review's web page. It held consultations with 60 key stakeholders. Appendix C summarises the major themes that arose from the submissions and consultations.

Other reviews

- 1.10 The Committee also considered several recent reviews of either the entire work expenses system or aspects of it, in particular:
- The Belcher Review (April 2010), undertaken on referral from the then Special Minister of State, Senator the Hon Joe Ludwig.
 - The Remuneration Tribunal's *Review of the Remuneration of Members of Parliament – Initial Report* (December 2011), which set out initial findings regarding base salary and related matters determined by the Remuneration Tribunal pursuant to the *Remuneration Tribunal Act 1973*.
 - *The Attributes, Role and Reward of a Backbencher in the Federal Parliament* (November 2011), a work value assessment of the role of a member of parliament undertaken by private consultancy Egan Associates on engagement by the Remuneration Tribunal as part of its *Review of the Remuneration of Members of Parliament* (December 2011).
 - The *Review of the Administration of Parliamentary Entitlements* (January 2011), undertaken by Ms Helen Williams AO on the commission of the then Department of Finance and Deregulation as part of its programme of continuous improvement and complementary to the Belcher Review.

- Performance audits by the ANAO into aspects of the administration of the work expenses framework in 2001-02, 2004-05, 2009-10 and 2014-15.
- 1.11 The Committee has nevertheless exercised independent judgment and remained mindful that it must focus on contemporary circumstances, including developments subsequent to these reviews. Such developments include evolving business practices, especially those prompted by advances in information and communications technology. It is important that the Committee undertakes a ‘point in time’ assessment of current practices and stakeholder views.
- 1.12 In addition, the Senate Finance and Public Administration Legislation Committee undertook an inquiry into a Private Senator’s Bill introduced by Senator Nick Xenophon on 13 August 2015, the Parliamentary Expenses Amendment (Transparency and Accountability) Bill 2015. The Bill proposes additional public reporting requirements with respect to certain types of parliamentarians’ travel, penalties for claims in excess of entitlement, and confers an oversight role on the Commonwealth Ombudsman. In his second reading speech, Senator Xenophon indicated his intention that Parliament’s consideration of his Bill should serve as a complementary process to the Review.
- 1.13 The Senate Committee provided its report to the Senate on 26 November 2015, recommending that the Bill not be passed. The Senate Committee concluded, by majority, that ‘the appropriate forum for the discussion of the issues raised in the Bill is the current independent review of the parliamentary entitlements system’.² The Bill was not debated in the 2015 parliamentary sittings. In chapter 7 the Review Committee provides comments on some of the matters proposed in the Bill.
- 1.14 A Government Bill is presently before the Senate, the Parliamentary Entitlements Legislation Amendment Bill 2014, which contains measures to establish a penalty loading regime (together with amendments to former parliamentarians’ travel provisions). The Committee provides comments on this Bill in chapters 5 and 7.

2 Senate Finance and Public Administration Legislation Committee, Parliamentary Expenses Amendment (Transparency and Accountability) Bill 2015 (2015) 2 [1.1].

Review outline

Part I – Foundations

- 1.15 Chapter 2 seeks to articulate the contemporary role of parliamentarians and their duties, functions and activities that are supported by the work expenses system.
- 1.16 Chapter 3 outlines the current system – including administrative and governance arrangements and its genesis and policy rationale – and outlines the case for reform.

Part II – Findings and recommendations

- 1.17 Chapter 4 articulates the Committee’s recommended approach to reform, and chapter 5 sets out reform proposals with respect to parliamentarians’ travel expenses in the course of, and as part of, performing their duties.
- 1.18 Chapter 6 considers transparency in the administration and reporting of expenditure, including opportunities for the improved utilisation of information technology.
- 1.19 Chapter 7 addresses post-expenditure oversight and accountability mechanisms, including assurance, audits, handling allegations of misuse, and the administration of penalties or initiation of proceedings in relation to substantiated breaches.
- 1.20 Chapter 8 examines ‘independence’ in the system. It sets out views on possible new models, including an independent entity to provide post-expenditure oversight or scrutiny, or pre-expenditure approval or advice.
- 1.21 Chapter 9 identifies some further work, which could usefully be considered by the Government in the future.

Acknowledgements

- 1.22 The Committee thanks all those who have contributed to the Review, especially by providing submissions and participating in interviews. The Committee has been assisted greatly by its small Secretariat and records its appreciation to all involved:
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2. Role of the parliamentarian

Introduction

- 2.1 A fundamental issue for the Committee has been the need to clarify the role of a parliamentarian. Examination of the work expenses system must be based on an objective assessment of what parliamentarians do and what support should reasonably be provided to enable them to fulfil their responsibilities.
- 2.2 However, the responsibilities and activities of parliamentarians are unlike those of any other member of the community, and are consequently difficult to define precisely. The broad categories of their business are parliamentary, electorate and political (including party); but these overlap. While some duties, such as attending sittings of parliament, are clearly understood, others are not. Some are prescribed and others are discretionary. Ultimately, the electorate judges the parliamentarian's performance.

Compact

- 2.3 Attracting and retaining talented candidates with diverse life experiences, and facilitating their work in the public interest, requires that parliamentarians be provided with the means to do their job. Essentially, this constitutes fair remuneration commensurate with the demands placed upon them. It also requires adequate support for necessary work expenses, including travel, office and communication facilities. It should be provided in ways that acknowledge the unique nature of the role of a parliamentarian and the impacts on his or her family life. In turn, the public has a right to expect the highest standards of effort, judgment and integrity.
- 2.4 This is the unstated but vitally important 'compact' between the elected representative and the electors. The parliamentarian should undertake to represent constituents to the best of his or her ability; place electorate and national interests above personal interests; offer good judgment, hard work, accessibility and communication; and accept significant intrusions into his or her privacy and family life. Electors in turn should undertake to support their representatives in discharging their responsibilities, including by providing reasonably necessary funding for business travel, facilities and support for the legitimate needs of families.

- 2.5 An essential element of this compact is trust. An opaque, complex system of support for work expenses that can easily lead to errors and invite abuse undermines that trust. Inadequate public resourcing for work expenses prevents parliamentarians doing their job properly and opens them to the risk of unreasonable influence from outside parties.

Key aspects

- 2.6 There is no standardised job description, formal duty statement or mandatory professional qualification for Senators and Members. Their work days and work weeks have no formal limits. They are not employees in a conventional legal sense, although their electorate and the wider Australian citizenry could be likened to being their employer.

Influence, work conditions, accountability

- 2.7 The Committee concurs with the Belcher Review that the degree and combination of three elements of a parliamentarian's role make it unique: influence, work conditions and accountability.¹ Parliamentarians influence society's attitudes, standards and well-being at the local and national levels – including by developing or sponsoring, debating and voting on legislation; developing and explaining policy; and representing individuals and the citizenry generally.
- 2.8 Their combination of workplace conditions are not normally found in the private sector or elsewhere in the public sector: long, erratic hours; multiple, geographically separated offices; frequent travel and absences from home, families and friends; and the absence of formal leave provisions. The adoption of instantaneous communications technology, particularly smartphones, tablets and mobile phone and broadband coverage, means parliamentarians are always accessible and therefore never truly 'off duty', whether at home, in a remote locale, in Canberra or overseas. Job security is limited by elections, and non-existent for the holders of ministerial, shadow ministerial or other offices. Years spent away from their previous occupations can leave parliamentarians significantly out-of-pocket, in terms of forgoing a higher level of income or earning potential in a non-parliamentary role. Many find it difficult to re-establish themselves in their previous occupations, or to commence new occupations, upon their retirement from parliament.

1 Barbara Belcher AM et. al, Committee Report – *Review of Parliamentary Entitlements*, (April 2010) 34-35 [hereafter: Belcher Review].

- 2.9 In addition, parliamentarians operate in an environment of intense, sustained and, some may say, generally critical public and media scrutiny, and are held to account for their actions both in their daily work and their private lives.

Evolution and expansion

- 2.10 The parliamentarian's role has evolved continuously since Federation, in line with political, social, economic and technological developments. Originally conceived as a part-time occupation, it is now full-time. The number and complexity of issues on which constituents expect their parliamentarians to be informed and have a view has increased, extending well beyond the electorate, to encompass regional, national and international interests.
- 2.11 The Committee received evidence suggesting constituents expect that, with the benefit of instantaneous, online communication, including social media, parliamentarians will respond rapidly to all requests for information or assistance.

Diversity of electorates

- 2.12 The Committee's consultations corroborated the findings of previous reviews about the resourcing implications of electorates' differing geographic sizes and locations. In particular, parliamentarians representing large regional and remote electorates face difficulties travelling within those electorates and between them and Canberra, and communicating with constituents. Differences in electorate population sizes and densities also pose challenges.

Family support and impacts

- 2.13 The Committee was made aware of the significant impact placed on parliamentarians and their families by the demands of office, especially the long days and considerable periods away from home, far exceeding those in most other forms of employment. They can be obliged to spend as many as 200 nights away from home each year. They travel, some from or between remote locations, to Canberra to attend parliamentary sittings (19 weeks in 2015), and to a range of locations to attend electorate and committee events during non-sitting periods. The Committee learned of particular challenges in balancing family responsibilities for those parliamentarians with young children (including parliamentarians who are mothers of infants), and those representing regional and remote electorates. Even when they are at home in their electorates, parliamentarians are rarely off duty and need always to be prepared to respond to constituents' representations – there is no such thing as an uninterrupted trip anywhere, and certainly not, for example, to the shops or their own children's

sporting events.

- 2.14 Several parliamentarians commented on the valuable and extraordinary assistance provided by their families. In addition to offering companionship and moral support, family members can perform significant employment-like duties on a voluntary basis in both electorate and parliamentary offices. This was described by several participants in the Review as ‘getting two members for the price of one’.

Community perceptions

- 2.15 A number of submissions to the Review identified public cynicism and mistrust toward parliamentarians. Those views were, in those submitters’ opinions, driven by perceived *largesse*, widespread misuse of public funds for personal gain, and a lack of proportionality between the duties and functions of office and the expenses covered. Some submissions called for significantly reduced financial support, independent approval of expenditure, and increased sanctions for misuse.
- 2.16 The Committee notes these attitudes appear to have been exacerbated by recent controversies associated with some parliamentarians’ expenditure, which prompted the establishment of this Review.

Core work ‘streams’

- 2.17 The parliamentarian’s role entails three core ‘streams’ of work – electorate, parliamentary and political (including party) activities. Additional leadership and administrative responsibilities fall to ministers, shadow ministers and office holders (such as a presiding officer; manager of government, opposition or minor party business in the chambers; party whip; or chair or member of a parliamentary committee).

Electorate

- 2.18 A parliamentarian’s electorate functions include advocating and representing individual and collective constituent interests; providing a presence, contribution or leadership to community endeavours and events; and serving as a conduit between the electorate and parliament.
- 2.19 Within the electorate office itself, the parliamentarian’s management responsibilities can be likened to those involved in running a small or medium-sized business. He or she must manage staff (hire, manage performance, support professional development, ensure compliance with workplace health and safety requirements, handle staff movements and turnover); procure and maintain office assets and

services, such as information technology, communications and utilities; and administer budgets.

Parliamentary

2.20 The diverse and consuming responsibilities of parliamentary activities include developing or sponsoring, scrutinising and debating proposed legislation; participating in debate on matters of public importance, in parliament and publicly; representing the electorate in Parliament; and implementing the constitutional principle of responsible government by holding the executive to account in parliament. As discussed below, this includes dealing with business in each chamber, as well as a significant and growing programme of committee activities.

Political, including party

2.21 Parliamentarians are typically members of a political party, entailing additional responsibilities such as:

- supporting the development of party policy and governance, including through attending national or state/territory party conferences or other meetings (such as local branch and council meetings) and serving on various party committees;
- publicly advocating party policy and values, including maintaining party discipline in parliamentary votes;
- undertaking activities to further party interests and viability, such as organising and attending fundraising events;
- engaging in informal activities with party colleagues, such as providing pastoral care support or mentoring (particularly to more junior colleagues), and recruiting new parliamentary candidates and general members; and
- election campaigning.

Leadership and administration

2.22 Many parliamentarians perform additional duties by reason of holding ministerial or parliamentary offices. Members of minor parties may perform roles such as party spokesperson on particular issues. Independent members necessarily manage personally all aspects of their parliamentary activities.

2.23 Furthermore, the increasing volume of parliamentary business has generated significant committee activity, with detailed or technical matters referred for inquiry and reporting to the relevant chamber. Attending meetings, conducting hearings

around the country and undertaking research and study (including participation in site visits, study tours or overseas delegations) can involve a significant investment of time, during and outside parliamentary sittings.

Overlap of streams

- 2.24 These work streams are not mutually exclusive. For example, parliamentarians who are members of parties (the overwhelming majority) regularly engage in activities which serve party interests, in addition to fulfilling their responsibilities to parliament and their electorates. This is unremarkable, given the traditional role of political parties in Australian democracy. However, the Committee heard about ambiguity concerning the status of dual or multiple purpose activities under the current work expenses framework. Such ambiguity leads to uncertainty about compliance, and risks of unwittingly falling foul of the system.
- 2.25 There is an expectation that parliamentarians be involved in matters which transcend the immediate, local interests of their electorates but are of broad relevance to matters of parliamentary business or public policy. The Committee heard of confusion and instances of conflicting advice concerning, for example, whether parliamentarians with expertise or an interest in a subject can claim as a parliamentary work expense the cost of attendance at a related public policy or research forum, when the parliamentarian is not a member of a relevant parliamentary committee.

Resourcing requirements

- 2.26 Having regard to the key aspects of the role of a parliamentarian, the Committee has identified several resourcing requirements for inclusion in the work expenses framework, to ensure that parliamentarians can adequately and effectively fulfil their duties.
- 2.27 The Committee considers that it would be counter-productive to attempt to define formally or conclusively the role of a parliamentarian for the purpose of identifying attendant resourcing requirements. To do so would raise an unacceptable risk of limiting the scope of the role, and may impede its flexibility to evolve.
- 2.28 Instead, the Committee prefers to identify core aspects of the role which should be funded publicly, and others which should be funded privately. The Committee's fundamental principle is that parliamentarians should be funded publicly to perform their public roles, duties and functions as parliamentarians with support which is (i) adequate, (ii) flexible, (iii) proportionate, and (iv) accessible and transparent.

2.29 Such support must be adequate to:

- reflect, and be commensurate with, the high standing of the Parliament as an institution and the value of the duties performed by its members, placing the parliamentarian on a similar level, for this purpose, to a senior executive in the private or public sector;
- promote ethical behaviour, by obviating the risk that parliamentarians be reliant on sources of external, private funding to discharge their duties;
- enable persons from all backgrounds and sectors of society, and all stages of a career, to perform the role if elected, in particular ensuring that parliamentarians are not limited to those who are able to cover their work expenses from their own pockets; and
- recognise the support and assistance, direct and indirect, which parliamentarians receive from their partners and children.

2.30 Such support must be flexible, to the extent that it:

- enables the continual development of the role commensurate with social, political and economic developments and constituent expectations, including regular review and consultation to ensure the system remains credible and contemporary and avoids piecemeal and ad hoc amendments;
- facilitates parliamentarians' use of innovative business practices, including new technology, which maximise value for money and efficiency;
- recognises the different resourcing needs of parliamentarians representing diverse electorates, and in particular regional and remote electorates; and
- reflects the reality that parliamentary activities increasingly cut across multiple work streams.

2.31 Such support must be proportionate, not exceeding what is reasonably necessary, appropriate for and adapted to the purpose of parliamentarians performing their duties. As the Remuneration Tribunal stated in its 2011 review, the quantum of support provided should not be so high that 'remuneration itself becomes the overriding attraction with no regard for the concept of public service'.² Likewise, the Belcher Review commented that the level of support should not reward incumbency but rather should support public duties and not private interests.³ It 'should not be

² Remuneration Tribunal, *Review of the Remuneration of Members of Parliament: Initial Report* (December 2011) 6.

³ Belcher Review (April 2010) 33.

considered a perk of office; it is essential and is the community's investment in a healthy, functioning national [parliamentary] democracy'.⁴

2.32 Reasonable standards entail resisting calls for reduced support in response to popular opinion or the perception of widespread misuse, based on anecdotal evidence or reporting of individual cases. Restrictive arrangements should not be imposed on the vast majority of parliamentarians who comply with the rules, because there is a tiny minority that does not.

2.33 Such support must be accessible and transparent in the following respects:

- the rules must be expressed clearly and be capable of being easily identified, understood and applied by parliamentarians, administrators and the public (this requires clarity and certainty in the meaning of key terms and concepts);
- there should be a strong culture of client service in supporting and advising parliamentarians to make sensible and defensible expenditure decisions;
- administrative tools should be streamlined, efficient, user-friendly and automated to the extent possible; and
- expenditure should be disclosed publicly in an accessible and comprehensible form.

Duty to distinguish expenditure for public and private purposes

2.34 Only those activities carried out for the purpose of discharging parliamentarians' public responsibilities should be funded. But they must be funded. This raises the question of how to identify those activities which are characterised properly as 'public' and those which are private. This distinction is particularly important when interpreting rules governing expenditure on dual or multiple purpose activities. Indeed, the Committee's terms of reference require it to generate options to reduce ambiguity in what constitutes 'official business' and deal with 'the role of party business in parliamentary business'.⁵

2.35 The Committee is of the view that the concept of a parliamentarian's duty is a useful guiding principle. Regard should be had to whether particular expenditure occurred for the dominant purpose of meeting an obligation or requirement incumbent upon the parliamentarian as such and not in another capacity.

4 Ibid.

5 A copy of this Committee's terms of reference is provided at Appendix A.

- 2.36 A parliamentarian should not seek to disguise as parliamentary business an activity whose dominant purpose is personal or commercial. For example, in assessing travel expenditure to attend a party-sponsored event, consideration should be given to whether the parliamentarian was invited to attend because of its relevance to his or her ministerial portfolio responsibilities, his or her electorate, or the party's platform on matters of parliamentary business.
- 2.37 Indicators might be who issued the invitation, whether the parliamentarian performed a speaking role about a policy issue, the composition of attendees, the scale of the event and any fundraising activities, and the situation of the event in the electoral cycle.
- 2.38 Ultimately, the characterisation of an activity and its associated expense as falling within the parliamentarian's public role is a matter of common sense, based on the circumstances.
- 2.39 The Committee returns to this guiding principle of public duty in its analysis and reform proposals in subsequent chapters.

3. Current system

Introduction

- 3.1 The remuneration and work expenses system supporting parliamentarians' duties comprises a legislative framework and a range of services, facilities and allowances analogous to those provided by large public and private sector organisations. These include travel and related costs such as accommodation; property, including furnished and functional office space in Parliament House and electorates; office equipment; staff salaries and allowances; and other administrative support, advice and guidance.
- 3.2 The Ministerial and Parliamentary Services Division (M&PS) within the Department of Finance is responsible for administering most business support outside Parliament House to current and former parliamentarians. The parliamentary departments are responsible for office and support services within Parliament House. Additionally, the parliamentary departments deliver salaries and information technology, and portfolio agencies service their ministers.
- 3.3 The framework has, under successive governments, grown in an ad hoc way into a complex patchwork of Acts of Parliament; regulations under the *Parliamentary Entitlements Act 1990*; Remuneration Tribunal determinations and reports; determinations by the Special Minister of State under the *Members of Parliament (Staff) Act 1984*; procedural rules, guidelines, conventions and practices; and executive government decisions. There are at least eleven heads of authority (Appendix D refers). Understanding, using and administering this fragmented framework has become increasingly difficult if not close to impossible. Successive Australian National Audit Office (ANAO) reports and the Belcher Review have highlighted the need for reform; but simplification efforts have been 'haphazard and incremental'.¹
- 3.4 A summary of the current work expense provisions is provided at Appendix E.

1 Belcher Review (April 2010) 23.

The framework

Complexity

- 3.5 The key instruments establishing the framework are the *Parliamentary Entitlements Act 1990* and its schedules, the *Parliamentary Entitlements Regulations 1997*, the *Remuneration Tribunal Act 1973*, determinations of the Remuneration Tribunal, and the *Members of Parliament (Staff) Act 1984*. These interact with decisions of ministers (notably the Special Minister of State) or presiding officers under legislative authority, and of ministers and departmental officials under executive or delegated authority. Also relevant are various conventions and practices – some creating new categories of work expenses – which are not always clearly enunciated or publicly accessible.² There is ‘no overarching legislation to bind the framework into a cohesive whole’³ and it is rarely possible to understand individual expenses by referring to one source document.
- 3.6 The framework has developed over many years in response to changes in the role of parliamentarians, technological and societal evolution, and particular events and controversies. Some elements were designed to resolve specific problems without reference to the wider system. Others, established at a time during which Parliament set parliamentarians’ remuneration and opted to address salary deficiencies with new allowances, conflated remuneration with work expenses.

Framework

Parliamentary Allowances Act 1952

Parliamentary Entitlements Act 1990 (including schedules)

Parliamentary Entitlements Regulations 1997

Parliamentary Precincts Act 1988

Parliamentary Presiding Officers Act 1965

Remuneration Tribunal Act 1973

Remuneration and Allowances Act 1990

2 The conventions do not have legislative authority. See ANAO, *Administration of Travel Entitlements Provided to Parliamentarians*, Audit Report No. 42 of 2014-15 (4 June 2015) 78-82.

3 Belcher Review (April 2010) 38.

Remuneration Tribunal *Determination 2015/22 – Members of Parliament – Base Salary, Additional Salary for Parliamentary Office Holders, and Related Matters*

Remuneration Tribunal *Determination 2012/04 – Members of Parliament – Entitlements*

Remuneration Tribunal *Determination 2015/12 – Members of Parliament – Travelling Allowance*

Members of Parliament (Life Gold Pass) Act 2002

Members of Parliament (Staff) Act 1984

Ministers of State Act 1952

Parliamentary Superannuation Act 2004

Parliamentary Contributory Superannuation Act 1948

Executive authority exercised by ministers

- 3.7 The result is a wide array of expenses, some highly specific, many requiring interpretation through multiple, overlapping source instruments.⁴ Some are governed explicitly by different authorities, for example the *Parliamentary Entitlements Act 1990* and Remuneration Tribunal determinations regarding travel. The terms ‘parliamentary’, ‘electorate’, and ‘official’ business, and eligibility criteria for over 50 expenses, are not properly defined or commonly understood.⁵
- 3.8 Various ministers and presiding officers oversee different aspects of the system, while responsibility for particular expenses is delegated to others.⁶ Administrative responsibility is distributed across Parliament (the parliamentary departments), the executive (the Department of Finance and ministers’ portfolio agencies), and the Remuneration Tribunal (an independent statutory body), with ‘none ... compelled to consult the other’.⁷
- 3.9 In such circumstances, judgment often must be applied in the absence of consistent, definitive advice. Advice is often broad and non-specific, reflective of the opaque

4 Department of Finance, Submission to *Review Committee – An Independent Parliamentary Entitlements System*, October 2015, 2.

5 Belcher Review (April 2010) 69.

6 Ibid 38.

7 Ibid.

nature of the framework.⁸ Additional accountability and transparency measures, including certification, publication, audit, review of complaints, and recovery of payments outside of provision, developed over time, increase the burden on users and administrators alike.

- 3.10 Under the current system no provision is made for a periodic and systemic review of work expenses (by those determining and administering them) to ensure the system as a whole remains aligned to the needs of parliamentarians.

Remuneration Tribunal and the Executive

- 3.11 The Remuneration Tribunal sets the remuneration for parliamentarians and parliamentary office holders and makes determinations on matters it considers related significantly to remuneration.⁹ These can include services, facilities and allowances addressing ‘parliamentary’, ‘electorate’ or ‘official’ expenses (with some, e.g. electorate allowance, having the potential to provide a contingent personal benefit).¹⁰
- 3.12 The main work expenses determined by the Remuneration Tribunal are electorate allowance, travelling allowance, domestic travel (including by scheduled services and car, charter, private plated and privately owned vehicles), family reunion travel, post retirement travel¹¹ and home telephone services.¹² These determinations are not disallowable by the Parliament.
- 3.13 A range of other expenses is the responsibility of the Special Minister of State under the *Parliamentary Entitlements Act 1990* including office accommodation, equipment and facilities; office holders’ domestic travel (including charter transport for presiding officers and minority party leaders); overseas parliamentary delegation travel; overseas travel on official business for presiding officers, the Leader of the Opposition and minority party leaders; overseas travel for the spouse of a minister or presiding officer; and incidental provisions such as postage, flags and photographic services. Some of these can be varied, supplemented or omitted by the Remuneration Tribunal. The *Parliamentary Entitlements Regulations 1997* allow for additional benefits, ranging

8 Helen Williams AO, *Review of the Administration of Parliamentary Entitlements* (January 2011) 7-8.

9 The Remuneration Tribunal can therefore provide allowances additional to those legislated in the Parliamentary Entitlements Act. Where regulations under that Act conflict with a Remuneration Tribunal determination, the latter is void to the extent of the inconsistency. This means that, even where the Special Minister of State requests the Remuneration Tribunal to inquire into a specific expense, its determination might have no effect until the Special Minister of State agrees to revise the regulations.

10 Remuneration Tribunal, *Review of the Remuneration of Members of Parliament: Initial Report* (December 2011) 59.

11 Addressed in detail in chapter 5.

12 Remuneration Tribunal, above n 10, 59.

from printing and communications resources to legal assistance and insurance for public liability, professional indemnity and travel.

- 3.14 Regulations under the *Parliamentary Entitlements Act 1990* and Remuneration Tribunal and Special Minister of State determinations permit flexibility to ‘keep pace with changes required in the framework’.¹³ But ad hoc changes contribute to the system’s overall complexity and lack of transparency.

Administering the framework

Ministerial and Parliamentary Services Division

- 3.15 M&PS’ 142 staff administer business support worth, in 2014-15, \$425 million, at a cost of \$32.6 million. This was for 226 current parliamentarians, around 300 former parliamentarians, and roughly 1,850 staff employed under the *Members of Parliament (Staff) Act 1984*. The following summary of transactions processed in the M&PS’ Entitlements Management System (EMS) in 2014-15 illustrates the scale of the administration required. Each transaction is certified, reported on and subject to a range of assurance and compliance mechanisms. Due to the lack of integration in M&PS systems, each of these transactions may be handled multiple times. For example it could be a telephone call, then email, then claim, then follow-up check, before actual processing.¹⁴

M&PS EMS transactions 2014-15

55,033 domestic and overseas travel tickets	\$31.125m (average 1,058 tickets per week)
903 overseas travel claims (excluding tickets)	\$2.476m (average 17 claims per week)
10,052 parliamentarians’ travelling allowance claims	\$7.214m (average 193 per week)
16,202 staff travelling allowance claims	\$14.339m (average 311 per week)
31,466 office claims	\$102.722m (average 605 claims per week)
59,829 car transport claims	\$2.043m (average 1,151 claims per week)
787 other travel claims	\$1.145m (average 15 claims per week)

Information supplied by the Department of Finance

¹³ Ibid.

¹⁴ Department of Finance, above n 4, 8.

- 3.16 The framework's complexity imposes upon M&PS a granular, rules-based and sometimes seemingly heavy-handed approach. This makes it difficult for M&PS to provide the support parliamentarians need to manage their work expenses and ensure these expenses are delivered efficiently and effectively.
- 3.17 As well, M&PS' information technology systems are outmoded, unreliable and inadequate. M&PS' business model for expenses can be characterised as 'upfront claims and hard copy forms'. Only 4 per cent of claims are lodged online, with the remaining 96 percent lodged through emails and paper-based forms requiring M&PS entry and certification.¹⁵ M&PS staff are obliged to bridge the information technology gap with predominantly manual processes.
- 3.18 Devoting considerable time to claims processing and addressing specific queries forces M&PS into a necessarily reactive mode, with reduced scope for client service (including advice, outreach, education and training). Parliamentarians and their staff are obliged to spend unreasonable amounts of time asking questions and completing cumbersome forms. This bureaucratic, labour-intensive process is a source of friction between M&PS and parliamentarians (and their staff). It carries all the 'inherent risk of error arising from the manual processing involved'.¹⁶ Successive reviews have identified a need for significant information technology system improvement to support online delivery of services.¹⁷ So does this Review.
- 3.19 Notwithstanding the range of M&PS support services for parliamentarians, including state and territory offices, help desks and online handbooks, feedback from parliamentarians and their staff commonly includes the following themes:¹⁸
- insufficient understanding of parliamentarians' needs;
 - inconsistent and unhelpful advice, whether written or oral;
 - cumbersome, time-consuming forms;
 - outdated information technology systems and insufficient online processing;
 - unnecessarily bureaucratic accountability and transparency processes, particularly with respect to travel and employment; and
 - incorrect, outdated or indigestible data in monthly and six monthly management reports.

15 Information provided by Department of Finance.

16 ANAO, above n 2, 27.

17 This issue is addressed further in chapter 6.

18 See Williams, above n 8, 7-8. These points were mirrored in the Committee's own consultations.

- 3.20 M&PS, understandably, emphasises in its publications that, while it ‘can provide advice and assistance, it remains the responsibility of Senators and Members to satisfy themselves that their use of parliamentary entitlements is lawful’.¹⁹ More problematic for parliamentarians is complying with M&PS’ direction that they should seek confirmation of their eligibility for work expenses from original source material.²⁰ As noted above, it is rarely possible to understand an expense by reference to one source.
- 3.21 None of this should be interpreted as critical of M&PS, which administers an unwieldy and inconsistent framework. As the Belcher Review put it, ‘[n]o-one should be required to work within such a complex system; neither Senators and Members nor those required to administer the entitlements’.²¹ A streamlined, simplified system, with a single overarching legislative source, would reduce heavy-handed administration and wasting of the time of parliamentarians, their staff and administrators. Significant investment in new and integrated information technology systems would save time and facilitate better reporting, assisting parliamentarians to monitor their expense claims. Finally, embedding accountability, transparency and compliance measures at the heart of the framework, alongside overarching principles and a requirement to achieve value for money, will provide more flexibility for parliamentarians to utilise expenses in a common sense manner which complies with the framework, without drawn out approval processes.

Accountability, transparency and compliance

- 3.22 Although stipulated by policy, not legislation, parliamentarians’ certification that they have accessed work expenses ‘in accordance with applicable terms and conditions is a key accountability mechanism’.²² Every parliamentarian is expected, though cannot be legally compelled, to certify that a work expense has been used for parliamentary or electorate or official purposes. For purpose-based work expenses in particular, certification is important because the parliamentarian is obliged to assess whether an expense claim is for its intended purpose.

19 Department of Finance, *Senators and Members’ Entitlements*, (2015) [1.3.2]
<http://maps.finance.gov.au/entitlements_handbooks/senators-and-members/Part_One_Introduction_-_1.3_Provision_of_Entitlements_and_Accountability.asp>

20 Williams, above n 8, 17.

21 Belcher Review (April 2010), 8.

22 Department of Finance, above n 4, 9.

3.23 The claims which parliamentarians are expected to certify are set out below:²³

Entitlement	Certification required
Office requisites and stationery	Senators and Members are required to certify accounts from suppliers other than OfficeMax (the contracted supplier) for office requisites and stationery purchased, including certifying that the items purchased are reasonably comparable in function and value to products available through the contracted supplier, provide value for money and are for use within the electorate office.
Mobile office signage	Senators and Members are required to certify accounts for mobile electorate office signage, including certifying that the signage is stand-alone (i.e. not fixed to or incorporated into other structures) and will be used to identify the mobile electorate office, or to direct constituents to the location of the mobile electorate office.
Printing and communications	Senators and Members are required to certify that printing and communications services have been accessed within entitlement.
Publications	Senators and Members are required to certify that publications have been purchased within entitlement.
Electorate allowance	Senators and Members must declare expenditure to the Australian Taxation Office annually, and be able to substantiate use, or taxation liability incurred.
Travelling allowance	Claims are only paid on certification by Senators and Members of purpose of travel and, where appropriate, there is evidence of an overnight stay in commercial accommodation. Claims must be submitted within 60 days of travel.
Overseas delegations travel	If there have been any variations to an original itinerary for overseas delegation travel or a reimbursement is being made, Senators and Members are required to submit certification forms within 28 days of completion of travel.
Overseas study travel	Senators and Members are required to report in writing on the visit within 30 days of return.
Private vehicle allowance	Senators and Members are required to certify that private vehicle allowance claimed is for travel within entitlement.

23 Table reproduced from Department of Finance, *Senators' and Members' Entitlements* (2015) [1.3.3] <http://maps.finance.gov.au/entitlements_handbooks/senators-and-members/Part_One_Introduction_-_1.3_Provision_of_Entitlements_and_Accountability.asp>

Electorate charter transport	Senators and Members are required to certify that travel was undertaken within and for the service of their electorate.
Electorate staff travel	Senators and Members (or authorised persons) are required to certify that travel (scheduled commercial services, Cabcharge, private vehicle allowance) was on official business and at his or her direction.

- 3.24 M&PS conducts checks to confirm claims are within provision, where possible, prior to payment, although payments to third party suppliers must be made in accordance with contractual obligations regardless of whether the claim was legitimate. The Department of Finance conducts post-payment checks and submits, for internal and external audit, claims and attendant administrative processes. The ANAO also undertakes regular performance audits.
- 3.25 Publication is a key means of achieving transparency. The Department of Finance publishes reports detailing expense funding for all current and former parliamentarians every six months, which include:
- the parliamentarian’s name, date, amount, type of expense, any adjustment (with limited reasons);
 - additionally, for travel, origin/destination;
 - additionally, for travelling allowance, number of nights, rate, ‘details’ (such as ‘sittings of Parliament’, ‘official business’); and
 - property-related expenses.
- 3.26 Finance also publishes the instruments comprising the framework, entitlements handbooks²⁴ and summaries, forms, certification status of current and former parliamentarians, overseas study travel reports as well as matters concerning allegations of misuse including the *‘Protocol followed when an Allegation is Received of Alleged Misuse of Entitlement by a Member or Senator’* (the Protocol) which has been tabled in Parliament (see Appendix J). The Protocol is considered in chapter 7.

24 The Department of Finance produces a suite of seven separate handbooks for Senators and Members, ministers, parliamentary secretaries, opposition office holders, shadow ministers, leaders of a minority party and whips. Guidance letters are produced for other officers, such as presiding officers.

Need for change

- 3.27 There are many issues with the current system, including ‘instances of inconsistency and ambiguity, duplication, overlap, redundancy, entitlements that are split between multiple heads of authority and a general lack of transparency about the framework.’²⁵ These issues contribute to the inadvertent, perceived or deliberate misuse of work expenses, adversely affecting the careers and damaging reputations of individual parliamentarians and the standing of the institution of parliament.
- 3.28 It is little wonder that parliamentarians and the wider community find the system complex and perplexing.
- 3.29 Both the Belcher Review and the 2015 ANAO Report recommended detailed certification and publication requirements, the former recommending that publication have a legislative basis. The ANAO Report recommended that certification provisions require more detailed disclosure of the purpose of the expense.²⁶
- 3.30 Notwithstanding reforms undertaken by successive governments in recent years, the fundamental weaknesses in the framework remain. This is principally because recommendations for substantive legislative and administrative reform of the framework have not been undertaken.

²⁵ Belcher Review (April 2010) 39.

²⁶ ANAO, above n 2, 34-36.

4. Core elements of a contemporary system

Introduction

- 4.1 This chapter proposes the design of an improved system, incorporating eleven core elements covering:
- i. the conceptual and regulatory framework for the provision of support (both remuneration and work expenses) to parliamentarians;
 - ii. the parameters for determining the quantum of support provided;
 - iii. system administration (including transparency, oversight, accountability and enforcement of parliamentarians' usage of work expenses); and
 - iv. system evaluation and continuous improvement.

Core elements

Recommendation 1

Core elements – adoption

The Government should adopt the eleven core elements detailed in chapter 4 for the design of the system governing the provision, usage and oversight of parliamentarians' work expenses.

Framework

1. **Differentiation between remuneration and work expenses 'streams' of support**, including replacing the terms 'entitlement' and 'benefit' with that of 'work expenses' where used in legislation or policy to describe non-remuneration support; and improving the existing division of administrative responsibilities for work expenses between the Special Minister of State and the Remuneration Tribunal.
2. **An inclusive definition of 'parliamentary business' for determining activities eligible to be funded as work expenses** thereby providing greater certainty in pre-expenditure decision-making and compliance, and post-expenditure acquittal, oversight and scrutiny.
3. **Guiding principles to aid parliamentarians' decision-making** about their eligibility for, and use of, work expenses. Compatibility of expenditure with the principles is also a relevant consideration in post-expenditure oversight.

4. **A single legislative framework for ‘work expenses’**, setting out a clear, cohesive and readily accessible regulatory framework in primary and subordinate legislation.

Quantum

5. **Varying levels of ‘work expenses’** to accommodate additional responsibilities (for example, those of ministers and parliamentary office holders) and electorate diversity (for example, geographical size and distribution, and distance from Canberra).
6. **Streamlined and simplified categories of ‘work expenses’**, including the targeted use of pooled budgets and reduced prescription, where practical.

Administration

7. **Transparent rules and reporting**, through publication of all rules, policies and principles governing remuneration and work expenses, and effective public reporting on expenditure (in terms of frequency, degree of detail and accessibility), to facilitate accountability.
8. **Client service ethos**, focused on helping parliamentarians to make sensible, defensible expenditure decisions with respect to their work expenses, including timely and robust compliance advice, where requested, and practical, ongoing, education and training.
9. **Technology investment and innovation** to streamline procedures to make them more efficient, user-friendly and transparent, for example, through online reporting, lodgement, processing and acquittal of work expenses.
10. **Modern, risk-based compliance oversight** of parliamentarians’ usage of work expenses, focusing on areas of greatest risk and consequence.

System evaluation and continuous improvement

11. **Periodic review of the work expenses framework**, involving a targeted review of its operation and effectiveness once during the life of each Parliament, to ensure it remains contemporary. A standing review mechanism may avert the need for ad hoc reviews in response to individual incidents.

Approach to identifying core elements

Outcomes-based regulation, including a principles-based approach

- 4.2 The Committee aims to recalibrate the system from ‘rules-based’ to ‘outcomes-based’ regulation. The current system prescribes detailed rules to cover specific circumstances and imposes rigid procedures. Both have developed in a piecemeal

manner, largely in response to the identification of gaps, inefficiencies and unintended consequences in the course of applying the rules to individual cases; public criticism of specific cases or activities; and changes to parliamentarians' activities and business practices as a result of technological, social, economic and political developments. The results are complex, fragmented, time-consuming, unwieldy and inflexible.

- 4.3 Shifting from prescription and particularisation to achieving outcomes does not mean abolishing all rules beyond the stipulation that an activity must be conducted for the purpose of 'parliamentary business' in order to be publicly funded. Where necessary, specific rules should cover particular types of expense, setting exclusions, limitations and conditions additional to the general requirement that an activity be carried out for the purpose of parliamentary business. Parliamentarians must then decide what is permissible and appropriate within the eligibility rules, and be accountable for their decisions. Their decision-making would be assisted by the guiding principles propounded in this chapter.
- 4.4 The benefits of outcomes-based regulation – including principles-based decision-making – are widely recognised in regulatory theory, policy and practice. An outcomes-based approach can promote flexibility and efficiency by allowing those being regulated to determine the best way to meet a prescribed outcome. It can accommodate change and differing individual circumstances, allow innovation and enterprise, and reduce administration and compliance burdens.

Core elements 'package'

- 4.5 The Committee has designed these core elements to operate as an interrelated package. It cautions against selective adoption of some elements to the exclusion of others, as this would continue the practice of ad hoc amendment.
- 4.6 As such, the Committee recommends that the Government formally adopt these elements as the overarching policy for the design and development of the system. The individual reform measures recommended in this Review will implement these elements in relation to priority areas.

Element 1: ‘remuneration’ and ‘work expenses’ streams of support

Recommendation 2

Core elements – terminology

The Government and the Remuneration Tribunal should change their respective terminology to describe the non-remuneration support provided to parliamentarians as ‘work expenses’ rather than ‘entitlements’ or ‘benefits’. This should be implemented in two stages, as follows:

- a. As an interim measure to be taken as soon as practicable, the Government should amend relevant policies and guidance materials, and the Remuneration Tribunal should amend its determinations.
- b. The Government should include necessary amendments to legislative terminology in a Bill to create a single framework for parliamentarians’ work expenses, to be introduced in Parliament as soon as possible, in line with recommendation 6.

Recommendation 3

Core elements – administrative responsibilities

The Government, in consultation with the Remuneration Tribunal, should clarify and strengthen the division of responsibilities for setting parliamentarians’ work expenses between the Remuneration Tribunal, the *Parliamentary Entitlements Act 1990* and its Regulations, and the discretionary decision-making power of the Special Minister of State. The division of responsibilities should be as follows:

- a. the Remuneration Tribunal should have exclusive responsibility for determining budgets and conditions applying to ‘material’ work expenses such as travel expenses, travel allowances, vehicle allowances and electorate allowances;
- b. the *Parliamentary Entitlements Act 1990* and Regulations should prescribe the budgets and conditions applying to ‘workplace costs’ (namely, office facilities, office budgets – including incidentals such as postage, flags and photographic services – and printing and communication costs); and
- c. the Special Minister of State should have discretionary decision-making power with respect to parliamentarians’ work expenses in two categories:

- i. to make ‘one off’ determinations in cases involving exceptional circumstances, which are not covered adequately by the general eligibility rules; and
- ii. providing application-based approvals for individual activities against conditions or criteria prescribed in the *Parliamentary Entitlements Act 1990* or Regulations, or in Remuneration Tribunal determinations.

This division of responsibilities should be implemented as soon as practical via administrative arrangements, to the extent possible. It should subsequently be incorporated in legislation creating a single statutory framework for work expenses, in line with recommendation 6.

Removal of the labels ‘entitlement’ and ‘benefits’

- 4.7 Remuneration is provided to parliamentarians for doing their job. The term ‘work expenses’ describes the support provided to them for the purpose of conducting parliamentary business. As noted in chapter 1, the Committee considers the term ‘work expenses’ preferable to the labels of ‘entitlement’ and ‘benefit,’¹ currently used in legislation and common reference, because it more clearly conveys the legitimate purpose of the activities supported.
- 4.8 Accordingly, the Committee recommends that ‘work expenses’ be included as a defined term in all relevant legislation and regulations covering non-remuneration support, and in supporting policy and explanatory materials.
- 4.9 To avoid doubt, the Committee does not suggest amendments to parliamentarians’ substantive legal right (referred to in some legislation as a legal ‘entitlement’) to receive payment or recompense for their work expenses,² but rather that the label ‘work expenses’ be used.

1 For example, the term ‘benefit’ is used in the *Parliamentary Entitlements Act 1990*, which creates a legal entitlement to the non-remuneration forms of support listed in Schedule 1 to the Act, or made by the Remuneration Tribunal, or prescribed by regulations made under the Act (sections 4 and 5). These forms of support are referred to as ‘benefits’. The long title of the Act also describes the purpose of the Act as being for ‘the provision of benefits to Members of each House of the Parliament’. The short title of the Act also uses the word ‘entitlements’.

2 For example, sections 4-8 of the *Parliamentary Entitlements Act 1990* provide that parliamentarians are ‘entitled to’ certain ‘benefits’ as provided by or under the Act. The Committee is concerned to ensure that the ‘benefits’ that parliamentarians have a legal right to receive are referred to as ‘work expenses’ or ‘remuneration’. They should not be described formally as ‘entitlements’ or ‘benefits’.

Demarcation of two ‘streams’ of support and administrative responsibilities

- 4.10 The Committee recommends the formal separation of the two ‘streams’ of support (‘remuneration’ and ‘work expenses’) in terms of their content and administration. Separation would clarify the nature and quantum of what is provided, and by whom it is administered.
- 4.11 Despite recent efforts to separate remuneration and other forms of support, there remain duplication and overlap between provisions and the responsibilities of administering entities – particularly with respect to work expenses. The Committee supports legislative demarcation of the two streams of support, and the clarification of responsibilities for determining the quantum of, and other eligibility conditions applying to, particular types of work expenses.
- 4.12 As a guiding principle to a strengthened division of responsibilities, the Committee considers that the Remuneration Tribunal should have exclusive responsibility for determining budgets and conditions applying to material work expenses such as parliamentarians’ travel expenses and allowances, vehicle allowances, and electorate allowances.³
- 4.13 The Committee considers that the quantum and conditions of workplace costs (in the sense of costs relating to the establishment and operation of a physical office) are best set by legislation and regulations administered by the Special Minister of State. For example, office facilities, office budgets (including incidentals such as postage, flags and photographic services) and printing and communication costs.

3 The Committee has not recommended an itemised division of responsibilities but rather has set out a broad approach to inform such a division, in recognition that this task will require detailed consideration by the Government and the Remuneration Tribunal. For the avoidance of doubt with respect to the material work expenses proposed to be the exclusive responsibility of the Remuneration Tribunal, the Committee’s intention is to prevent the duplication of responsibilities between the Remuneration Tribunal and the Special Minister of State for determining these types of expenses. The Committee has not made recommendations regarding the arrangements for work expenses administered by Ministers other than the Special Minister of State under the *Parliamentary Entitlements Act 1990* – for example, the Minister for Defence (with respect to Special Purpose Aircraft) and the Attorney-General (with respect to legal assistance to ministers).

- 4.14 The Committee considers that this legislation and regulation should also sharpen the focus of the discretionary decision-making power of the Special Minister of State. In particular, provisions authorising discretionary decision-making should focus on the making of ‘one-off’ determinations in cases involving exceptional circumstances, which are not covered adequately by the general eligibility rules,⁴ and on providing application-based approvals for individual activities against conditions or criteria prescribed in legislation or regulations, or in Remuneration Tribunal determinations.⁵
- 4.15 This division of responsibilities would ensure that budgets and rules of general application for the material work expenses – particularly travel – are determined by the Remuneration Tribunal, which is at arm’s length from the Parliament and the Government. Sharpening the focus of discretionary decision-making by the Special Minister of State to cases involving exceptional circumstances and application-based approvals would also promote efficiency and remove overlap with the Remuneration Tribunal’s responsibilities by enabling the Minister to concentrate on these limited categories of cases. Such discretion would be exercisable within fixed and transparent legislative parameters.

4 For the avoidance of doubt, the Committee considers that the Special Minister of State’s discretion to make decisions in ‘exceptional circumstances’ should apply to all types of work expenses (as provided for in relevant eligibility rules). To ensure transparency and prevent arbitrariness, the relevant criteria constituting ‘exceptional circumstances’ should be fixed in legislation, regulation or disallowable legislative instrument, which should also make provision for any further limitations or conditions on the exercise of the discretion as necessary – such as a maximum monetary amount able to be approved, or a maximum number of activities, or certain types of activities. (The structure of regulation 3EA of the *Parliamentary Entitlements Regulations 1997* is illustrative of this approach. It enables the Minister to approve, on the application of a Senator or Member a supplement of certain capped work expenses, where satisfied that a supplement is necessary for the Senator or Member to perform electorate or parliamentary business, because of a disaster. The maximum amount of a supplement is \$20,000, and it can only be used for specified purposes.)

5 For example, in approving particular instances of overseas spousal travel for parliamentary office holders.

Element 2: inclusive definition of ‘parliamentary business’

Recommendation 4 Core elements – ‘parliamentary business’ definition

The Government and the Remuneration Tribunal should adopt an inclusive definition of ‘parliamentary business’, as a purpose-based eligibility requirement for all work expenses. This definition should:

- a. include the core elements of the definition set out in chapter 4 (para. 4.21 refers); and
- b. be adopted immediately, or as soon as practicable, in Remuneration Tribunal determinations and Government policies and guidance materials, and should subsequently be incorporated in the single legislative framework for work expenses in recommendation 6.

Need for a uniform eligibility test, including terminology

- 4.16 The Committee concurs with previous reviews, and views expressed to the Committee, that the absence of clear and consistent tests (and associated terminology) to determine eligible expenditure creates significant ambiguity and administrative difficulty.⁶
- 4.17 There is currently a ‘patchwork’ of different purpose-based eligibility requirements applying to parliamentarians’ work expenses. They variously require an activity to be carried out for the purpose of undertaking ‘parliamentary business’, ‘official business’, ‘electorate business’ and some forms of ‘party business’. There is no consistent eligibility test (or terminology within those tests) applying to all work expenses.

⁶ See, for example, successive performance audits undertaken by the ANAO, most recently Report No 42 of 2014-15, *Administration of Travel Entitlements Provided to Parliamentarians*, 66-70, [2.46]-[2.56]; and ANAO Report No 3 of 2009-10, *Administration of Parliamentarians’ Entitlements by the Department of Finance and Deregulation*, 67-91 [2.39]-[2.92]. See also *Belcher Review* 69-71. The uncertainty arising from the absence of a definition of the term ‘parliamentary business’ was also the subject of recent judicial comment: *Slipper v Turner* [2015] ACTSC 27. See also chapter 7 (in relation to oversight and accountability).

In some instances, terms are defined for the purpose of eligibility requirements applying to particular types of work expenses.⁷ In other instances, terms are undefined.⁸

- 4.18 This inconsistency fails to provide meaningful guidance to parliamentarians about eligible expenditure, to administering agencies in conducting oversight and assurance, and to members of the public wishing to scrutinise expenditure.
- 4.19 There should be a single purpose-based eligibility requirement applying to all ‘work expenses’. The Committee supports a purpose-based test that requires the relevant activity (for example, travel) to have been carried out for the ‘dominant purpose’ of conducting ‘parliamentary business’.⁹ That is, an activity would fall within the scope of ‘parliamentary business’ where undertaken for the ‘ruling,’ ‘prevailing’ or ‘most influential’ purpose of conducting parliamentary business.¹⁰

7 This is generally the case for those work expenses determined by the Remuneration Tribunal. See, for example, *Determination 2012/04: Members of Parliament - Entitlements* (for instance, clauses 3.2 and 4.2 define ‘official business’ for the purpose of parliamentarians’ use of scheduled commercial transport and car transport). See also subregulation 3AA(11) in the Parliamentary Entitlements Regulations 1997, which defines ‘party business’ for the purpose of the printing and communications allowance.

8 See, for example, the various work expenses (currently described as ‘benefits’) in Schedule 1 to the *Parliamentary Entitlements Act 1990* and in the Parliamentary Entitlements Regulations made under the Act.

9 This means that there would be two main eligibility requirements for parliamentarians’ work expenses – (1) the expense must have been incurred for the purpose of the parliamentarian conducting parliamentary business; and (2) the expenditure must comply with any other conditions or limitations applying to that particular category of work expense as provided for in legislation, regulations or determination of the Remuneration Tribunal, as applicable. (Such conditions might include, for example, a requirement that the amount of expenditure must not exceed a budget cap, or a maximum number of trips applying to certain forms of travel.)

10 A ‘dominant purpose’ test has been adopted in various areas of law. These provide useful analogies in relation to the use of the term as an eligibility requirement for parliamentarians’ work expenses. For example, under the *Evidence Act 1995*, client legal privilege applies to confidential communications made, and confidential documents prepared, for the dominant purpose of a lawyer providing legal advice, or for the dominant purpose of providing professional legal services relating to litigation. A body of case law has arisen in relation to ascertaining the ‘dominant purpose’ of a communication or document. A leading commentator has summarised the interpretation of this term in the evidence law context as involving the following question: “Would the communication have been made or the document prepared even if the suggested dominant purpose had not existed? If the answer is ‘yes’, the test is not satisfied. If the answer is ‘no’, the test will be satisfied, notwithstanding that some ancillary use or purpose was contemplated at the time”: S Odgers, *Uniform Evidence Law*, 10th ed at [1.3.10520].

- 4.20 Specific guidance should be provided as to the meaning of the term ‘parliamentary business’ in this context, given its status as the core eligibility requirement. The term should incorporate activities within the three ‘work streams’ outlined in chapter 2: ‘parliamentary’, ‘electorate’ and some ‘party political’ duties. The core elements the Committee considers should be incorporated in the definition, together with the rationale and approach, are set out below.¹¹

Proposed inclusive definition of ‘parliamentary business’

- 4.21 Implementation of this recommendation would require detailed consideration of its terms and technical matters of drafting, including in consultation with parliamentary and other relevant stakeholders.¹²

11 The Committee emphasises that its proposed definition of the term ‘parliamentary business’ (and the meaning of terminology within its component elements) is intended to apply solely to the determination of eligibility of parliamentarians’ activities for funding under the work expenses scheme. It is not intended to have a broader application outside this scheme by affecting, for example, rules of parliamentary procedure, or provisions of electoral law.

12 The Committee notes, in this regard, that ANAO performance audits have identified a preliminary body of work undertaken by the Department of Finance towards developing definitions of terms covering each of the three work streams within the Committee’s proposed inclusive definition of ‘parliamentary business’. See for example: ANAO Report No 42 of 2014-15, 69-70 [2.55] and 73-74 [2.66]-[2.68]. See also: ANAO Report No 3 of 2009-10, 22 [30].

Core elements of the definition

‘Parliamentary business’ includes, but is not limited to, activities carried out by a parliamentarian for the dominant purpose of performing duties of the following kind:

1. **Parliamentary duties** – activities directly related to the parliamentarian’s membership of the Parliament, and his or her participation in current or future proceedings in the Parliament, such as:
 - a. attending or participating in, or preparing to attend or participate in, sittings of the House of Parliament of which the person is a member; and
 - b. attending or participating in, or preparing to attend or participate in, meetings or other business of a parliamentary committee of which the parliamentarian is a member.
2. **Official duties of parliamentarians, ministers and parliamentary office holders** – activities undertaken by a parliamentarian, minister or parliamentary office holder in, and by reason of, that capacity, which do not relate directly to proceedings in the Parliament, such as:
 - a. attending an official government, parliamentary or vice-regal event, function or meeting;
 - b. attending another event, function or meeting to which a parliamentarian is invited, or attends, in his or her capacity as a member of the Parliament (or in his or her capacity as a minister or parliamentary office holder); or
 - c. attending an event, function or meeting as a representative of a minister or parliamentary office holder (provided that the minister or parliamentary office holder has made, or approved the making of, a request to provide representation, and the request is made in writing, or a written record is made of an oral request).
3. **Electorate duties** – activities undertaken by a parliamentarian in support of, in service to, or out of duty to the parliamentarian’s constituents, such as:
 - a. participating in public debate, or attending meetings, functions or events, relating to matters of importance or interest to constituents (including matters that do not relate exclusively to the parliamentarian’s constituents, such as matters of national importance);

- b. communicating with constituents; and
 - c. representing the views or interests of constituents.
4. **Party political duties** – participation by a parliamentarian in the activities of the political party of which he or she is a member, where the activity has a direct and substantial connection to the parliamentarian’s membership of the Parliament, and the parliamentarian participates in the activity in, and by reason of, his or her capacity as a parliamentarian, such as:
- a. attending formal meetings of a political party of which the parliamentarian is a member (including meetings of the party executive or subcommittees); and
 - b. attending the following conferences of a political party of which the parliamentarian is a member:
 - i. a national party conference;
 - ii. a state or territory party conference of the state or territory in which the parliamentarian’s electorate is located; and
 - iii. a state or territory conference other than that of the state or territory in which the parliamentarian’s electorate is located, if the parliamentarian is a minister, parliamentary office holder or a member of a parliamentary committee and is attending the conference in, and by reason of, that capacity.

‘**Parliamentary business**’ does not include activities which are undertaken, or could reasonably be considered to be undertaken, for the dominant purpose of one of the following:

1. administration or management of a political party, such as managing the party’s membership (including preselection), its funds (including fundraising), its property or its compliance with applicable legal and regulatory requirements;
2. providing personal benefit to the parliamentarian or another person; or
3. pursuing the commercial interests of the parliamentarian or another person.

Rationale for an inclusive definition

- 4.22 The Committee acknowledges that previous reviews have expressed caution in relation to the development of a definition of the term ‘parliamentary business’, for fear of creating ambiguity or unintended limitations or raising other issues relating to the separation of the executive and legislative arms of government.¹³ However, the Committee considers it appropriate to revisit this position, in light of the significant concerns raised by parliamentarians, administrators and other stakeholders in the course of the review about the current lack of clarity and certainty, and the high level of support they expressed for a definition of the term.¹⁴
- 4.23 These concerns can be managed through framing the definition in inclusive terms. That is, ‘parliamentary business’ would be defined as including a non-exhaustive list of activities or types of activities. The definition could also, for the avoidance of doubt, expressly exclude activities that do not have a substantial, direct connection to the parliamentarian’s position and duties as a Senator or Member, such as activities carried out for the dominant purpose of pursuing commercial interests or for personal benefit. This would communicate clearly a requirement that a parliamentarian must not seek to disguise as ‘parliamentary business’ an activity whose dominant purpose is personal or commercial. The definition could, in addition, expressly exclude those party political activities which do not have a substantial, direct connection to the parliamentarian’s position, and consequent duties, such as the general administration and management of a political party. (These exclusions are discussed further below.)
- 4.24 An inclusive definition would not exhaustively prescribe its outer limits, and would enable its ordinary meaning to be ascertained in contemporary circumstances. This

13 See, for example, the Belcher Review (April 2010), 68-69, and Remuneration Tribunal, *Report on the Fundamental Design and the Administration of Travel Allowances for Members of the Parliament* (1997) 15. Collectively, these reviews raised concerns including that a definition may create unintended exclusions or limitations, especially as the parliamentarian’s role continues to evolve. It may also lead to inadvertent breaches if activities are assumed by some to fall within its scope and, in fact, do not. Conversely, attempts to avoid these limitations may result in a vague, general definition, which would not provide meaningful guidance. Reaching consensus on the elements of a definition may also prove difficult. Attempts at a definition might raise questions about the propriety of prescribing, and therefore possibly limiting, the current and future functions of parliamentarians, and by extension the functioning of the Parliament itself. A definition could also be contested and generate litigation. (As mentioned below, however, the Committee considers that these concerns are capable of management, primarily because they appear to relate to a definition of an exhaustive nature, which seeks to set categorically the outer limits of the concept.)

14 The Committee also notes that the ANAO has, in successive performance audits, supported the development of a definition, and has expressed a view that the concerns raised above are not, in its view, insurmountable: see especially ANAO Report No 3 of 2009-10, 70 [2.41] and ANAO Report No 42 of 2014-15, 67 [2.49].

would strike a balance between the need for certainty and the need for flexibility in accommodating the broad, diverse and evolving nature of a parliamentarian's duties. It would be consistent with the proposal of the Belcher Review to identify, through the use of broad categories, those activities that would be publicly funded – including a mechanism that would allow the descriptions to evolve over time to reflect parliamentary activity and technological change.¹⁵

- 4.25 The Committee acknowledges the caution expressed in previous reviews about attempts to define 'parliamentary business' exhaustively. The Committee is of the view, however, that these concerns are specific to a definition of an exhaustive nature, and will be avoided by adopting an inclusive definition.

Approach to developing an inclusive definition

- 4.26 As an aid to the drafting of an inclusive definition the Committee makes the following general observations.

Recognition of multiple work streams, including some party political duties

- 4.27 The definition should recognise that parliamentarians' activities will necessarily cover 'parliamentary', 'electorate' and various 'party political' duties, as outlined in chapter 2. These 'streams' need not be rigidly separated, nor should an eligible activity be required to fit solely within one stream. A 'dominant purpose' test, as explained above, is preferable.
- 4.28 The Committee supports the inclusion of a number of party political activities with a substantial and direct connection to the parliamentarian's membership of the Parliament, and in which the parliamentarian participates in that capacity. This recognises the legitimate role of political parties in Australian parliamentary democracy, while also limiting public funding to those activities which have a clear and direct nexus to the parliamentarian's duties.
- 4.29 Party political duties eligible for public funding should include, for example, the costs of attending formal party meetings, and certain conferences of the party of which the parliamentarian is a member – such as national and state conferences – given the role these conferences play in developing party policy, which in turn influences public policy development.

¹⁵ Belcher Review (April 2010) 70-71. This is also consistent with the remarks of the Remuneration Tribunal in its 1997 report: 'while we can give an extensive list of examples of Parliamentary or electorate travel, any such list will not be exhaustive'.

4.30 As explained in the discussion of exclusions below, the Committee supports the express exclusion of some party political activities (namely the general administration and management of a political party), as examples of activities that do not have an adequate nexus to the parliamentarian's membership of the Parliament.

Recognition of self-education and fact-finding on matters of public importance

4.31 The Committee considers parliamentarians' self-education and fact-finding activities should be funded to improve their awareness of matters of public importance, enable them to better represent constituents and allow them to make an informed contribution to public policy development and debate in the Parliament. Such activities should be capable of recognition as parliamentary business within the proposed definition – namely, as 'parliamentary' or 'electorate' duties.¹⁶ The recognition of self-directed educational or fact-finding activities should not depend on a parliamentarian undertaking the activity as a member of a parliamentary committee whose mandate includes the relevant subject matter. While committee activities are important to informing the deliberations of the Parliament and should be supported (as 'parliamentary duties' under the proposed inclusive definition), parliamentarians' self-initiated information gathering and educational activities are also meritorious of funding. But there should continue to be a limit on the extent to which such activities should be funded, as provided under rules governing the quantum and conditions applying to specific categories of work expenses – for example, through the application of caps to certain travel-related work expenses, as discussed in chapter 5.

Exclusions

4.32 The definition should help identify the types of activities which do not have a sufficient nexus to a parliamentarian's membership of the Parliament. The Committee has identified, as key examples, activities undertaken for the dominant purpose of

¹⁶ For this reason, the Committee recommends that 'parliamentary duties' should include a reference to *future* proceedings in Parliament, and a parliamentarian's *preparations* to participate in such proceedings. (For example, a parliamentarian may undertake site visits, or attend a conference to inform his or her contribution to the debate of a Bill before the Parliament with respect to its impacts on an industry or section of the community; or a matter of public importance. Self-education activities might also be undertaken with a view to the parliamentarian informing himself or herself about relevant matters for the purpose of initiating a Bill, or moving a motion to debate a matter of public importance, or to refer a matter to a committee for inquiry.) Similarly, the Committee emphasises that 'electorate duties' should be capable of covering activities undertaken outside the parliamentarian's electorate, and need not relate exclusively to his or her constituents. This is intended to enable a parliamentarian to undertake self-initiated education or fact-finding on matters of importance or interest to his or her constituents, in order to represent constituents' interests in those matters, and to communicate information to constituents.

a parliamentarian participating in the general administration and management of a political party, pursuing commercial interests and obtaining personal benefit. The Committee intends that these terms should take their ordinary meanings and would not strictly require a legislative definition.¹⁷

Administration and management of a political party

- 4.33 The Committee notes that its proposed exclusion of the general administration and management of a political party is intended to denote the ‘day-to-day’ internal operations of a party – such as managing its membership (including preselection), its funds (including fundraising), its property and its compliance with legal and regulatory requirements (for example, those arising under electoral law, and rules governing registered associations).
- 4.34 With respect to fundraising activities, the Committee notes that the exclusion applies to activities undertaken for the *dominant purpose* of party fundraising. It would not exclude a parliamentarian’s participation in party activities that have a fundraising component, provided that fundraising is not the dominant purpose of his or her participation, but rather the performance of ‘parliamentary’, ‘electorate’ or permitted ‘party political’ duties. For example, a parliamentarian might deliver an address on a public policy matter at a party function at which funds are raised, or might attend such an event to discuss policy matters with constituents. The parliamentarian would be required to report on and certify that the dominant purpose of his or her activity was within the definition of ‘parliamentary business’, and should be prepared to justify publicly his or her decision-making. The measures in chapters 6 and 7 for improved expenditure reporting, certification and oversight will also provide greater opportunity for public scrutiny, and formal audit and assurance.
- 4.35 The Committee notes that this approach to fundraising activities is consistent with the interpretation of the terms ‘parliamentary’ and ‘party’ business used in existing eligibility rules governing individual types of work expenses. For example, regulation

17 The Committee notes, however, that the term ‘commercial purpose’ is defined in section 4 of the *Members of Parliament (Life Gold Pass) Act 2002* as ‘a purpose relating to the derivation of financial gain or reward, whether as a board member, an office-holder, an employee, a self-employed person or otherwise’. This definition is also applied by the Remuneration Tribunal in Determination 2012/04 (clause 1.4). Although the Committee considers that this is declaratory of the ordinary meaning of the term, it would not have significant concerns with the adoption of this definition for the purpose of an exclusion from ‘parliamentary business’ if considered desirable to promote certainty and consistency of understanding and application. (The Committee holds the same view in relation to the inclusion of statutory definitions of other terms used in the inclusive definition of ‘parliamentary business’ such as ‘personal benefit’.)

3AA of the Parliamentary Entitlements Regulations provides that the printing and communications allowance is to be used only for parliamentary and electorate purposes, and not party business. 'Party business' is defined as material that 'solicits subscriptions or *other financial support for a member, political party or candidate*' (emphasis added). In its guidance material about the allowance, the Department of Finance states that these terms operate to exclude 'activities relating to internal administration' of a political party, 'for example, pre-selection decisions or fund raising activities'.¹⁸

Commercial and personal purposes

4.36 For the avoidance of doubt, the Committee considers that the exclusion of activities undertaken for the dominant purpose of pursuing commercial interests or obtaining personal benefit should apply to the commercial interests or personal benefit of either the parliamentarian or another person. This would ensure that activities are excluded where undertaken for the dominant purpose of advancing a purely private interest of the parliamentarian or an associate. It would not exclude activities which incidentally confer some commercial or personal benefit on an entity, but which are undertaken for the dominant purpose of parliamentary, electorate or permitted party political duties. For example, a parliamentarian should be recompensed for work expenses incurred in the course of learning about, and advocating in the Parliament and publicly for, a change to the regulation of a commercial market. Although the entities subject to regulation may gain some commercial benefit from a reduction of their regulatory burden, the dominant purpose of the parliamentarian's activities is reasonably characterised as a contribution to the debate of a policy matter in the Parliament. To the extent that the parliamentarian is representing the interests of businesses in or servicing his or her electorate, for the benefit of the electorate, it may also be characterised as electorate duties.

¹⁸ Department of Finance, Ministerial and Parliamentary Services, *Printing and Communications – Definitions*, http://maps.finance.gov.au/printing/Printing_and_Communications_Definitions.htm (accessed 11 December 2015).

Treatment of ‘electioneering’ or election campaigning activities

- 4.37 The Committee considered whether a definition of ‘parliamentary business’ should make express provision for activities directed to ‘electioneering’ or otherwise undertaken during an election campaign,¹⁹ perhaps by way of an exclusion or limitation. For example, in New Zealand, ‘electioneering’ is expressly excluded from the definition of ‘parliamentary business’ for the purpose of providing services and support to parliamentarians.²⁰
- 4.38 Given the Committee’s position that ‘parliamentary business’ should be a purpose-based eligibility requirement for work expenses, the effect of an exclusion or limitation of ‘electioneering’ in the definition would be to apply a uniform exclusion or limitation upon eligibility for all work expenses. In considering whether this is appropriate, the Committee examined the way in which eligibility for work expenses is managed during election campaign periods, and a previous attempt in 2009 to define the term ‘electioneering’ in the Parliamentary Entitlements Regulations for the purpose of the printing and communications allowance.

19 The Committee notes that the ANAO, in Report No. 3 of 2009-10, 74 at [2.48], commented that there would be benefit in the entitlements framework explicitly addressing the question of ‘whether and, if so, to what extent, public money provided for parliamentarians’ entitlements is able to be used for candidate and election campaigning activities’. (See also recommendation 4, 180 at [4.100], that Finance should develop options for reform of the entitlements framework ‘to effectively address the risk of entitlements being used to meet costs associated with parliamentarians: campaigning for their party, their own re-election and/or the election or re-election of other candidates; or campaigning against the election or re-election of another party or candidate.’) The *Belcher Review*, however, declined to re-visit the issue of defining ‘electioneering’ on the basis of its general concern about enacting a definition. It noted the previous attempt to define ‘electioneering’ for the purpose of the printing and communications allowance, commenting it was ‘reluctant to recommend a course of action that carried the risk of similar administrative difficulties in the future’ (at 70).

20 ‘Electioneering’ is relevantly defined in New Zealand as any communication that explicitly: ‘(i) seeks or discourages support for the election of a particular person or people; or (ii) seeks or discourages support for the casting of a party vote for a particular political party or political parties; or (iii) encourages a person to become or discourages a person from becoming a member of a particular political party or political parties; or (iv) solicits subscriptions or other financial support.’ The definition also excludes the publication of certain advertisements with respect to elections during a prescribed period, referred to as the ‘regulated period’ (generally commencing on either the later of the day after notice is given of a polling day or three months before polling day; and ending with the close of the day before polling day): Clause 5, *Directions by the Speaker of the House of Representatives 2014* (amended September 2015). These directions are made by the Speaker of the House, pursuant to the *Members of Parliament (Remuneration and Services) Act 2013* (NZ). The directions apply a statutory definition of ‘electioneering’ found in the *Parliamentary Service Act 2000* (NZ). The ANAO also noted that the US, UK and Canada have adopted, in varying terms, exclusions or limitations upon the use of public funds for the purpose of electioneering: ANAO Report No. 3 of 2009-10, 74 at [2.47] and Chapter 4.

Current arrangements – use of work expenses during election campaign periods

- 4.39 Currently, there is no wholesale exclusion or limitation applying to the usage of work expenses during election campaign periods, or for specific purposes relating to a campaign. Rather, usage is governed by a combination of non-statutory conventions, rules applying to individual categories of work expenses, and the interpretation of purpose-based eligibility requirements applying to particular work expenses. (For example, for ‘parliamentary’, ‘official’ or ‘electorate’ business.)
- 4.40 **Non-statutory conventions:** These apply mainly to limit access by ministers and parliamentary office holders to certain forms of support such as travel allowance and charter.²¹ There are also some conventions allowing the use of work expenses by parliamentarians for the purposes of promoting re-election.²²
- 4.41 **Rules governing the use of certain work expenses during election campaign periods:** Rules governing some work expenses apply specific limitations with respect to election campaigning. For example, the Parliamentary Entitlements Regulations prohibit the use of the printing and communications allowance for the purpose of ‘party business’. This term is defined, for the purpose of the allowance, as the production, communication or distribution of material that is or contains how-to-vote material; or that solicits subscriptions or other financial support for a member, political party or candidate’ (subject to an exclusion for postal vote applications). In addition, from 1 July 2015, the allowance is capped at the amount remaining in a parliamentarian’s office budget for the relevant financial year.²³
- 4.42 The Committee notes that this approach supercedes a previous attempt in September 2009 to expressly exclude ‘electioneering’ from the printing and communications allowance. The term ‘electioneering’ was defined to mean ‘a communication that explicitly: (a) seeks support for, or denigrates or disparages: (i) the election of a particular person or persons; or (ii) a particular political party or political parties; or (b) encourages a person to become a member of a particular political party or political

21 By convention, the ‘election period’ is the part of an election campaign that runs from the day of the relevant party’s campaign launch until the day after polling day. During this period, office holders generally do not claim travelling allowance or charter (excluding use of special purpose aircraft).

22 The ANAO, for example, commented, ‘by convention, such activities have become considered to represent an element of a Senator or Member’s electorate business’ which reflects ‘the not unreasonable view that it is difficult to disassociate a Senator or Member from the positive reflection that may incidentally accrue to himself or herself when undertaking activities in service of their respective electorates’. See ANAO Report No. 42 of 2014-15, 78-85 at [2.79]-[2.95].

23 Regulations 3AA and 3AB.

parties; or (c) solicits subscriptions or other financial support'.²⁴ However, the express exclusion of 'electioneering' was repealed in December 2009 on the basis that it raised interpretive difficulties, and in particular operated to 'inhibit policy debate, which was not the intention of the prohibition against electioneering'. It was replaced by the current exclusion in regulation 3AA of party business.²⁵

4.43 **Interpretation of existing purpose-based eligibility requirements during election**

campaign periods: Some work expenses are subject to a purpose-based eligibility requirement (for example, they must be carried out for the purpose of conducting 'parliamentary', 'official' or 'electorate' business). The Department of Finance has provided guidance to parliamentarians about the interpretation of these purpose-based requirements during election campaigns, which acknowledges the possibility of incidental use on campaign-related activities. For example, in providing guidance about the use of electorate offices, the Department advises that 'there may be some incidental use of the electorate office in the lead up to an election that relates to your own re-election campaign' however 'its primary use should relate to parliamentary and/or electorate business. Were an electorate office to be used as a campaign headquarters, it would be difficult to avoid Commonwealth-provided resources being used for party business'.²⁶

Committee views

4.44 The Committee considers that, on balance, it would not be desirable to insert an express exclusion of 'electioneering' in its recommended definition of 'parliamentary business' for two reasons. First, it is difficult and arguably unnecessary to impose a universal eligibility rule, applying to all work expenses, that excludes activities undertaken for the purpose of furthering a parliamentarian's re-election campaign, or that of another candidate. A parliamentarian's performance of his or her duties (particularly electorate duties, such as serving and representing constituents) will necessarily accrue some benefit to his or her candidacy, or that of other party candidates and the party itself. The Committee considers that its 'dominant purpose' test would provide an adequate means of distinguishing between eligible and non-eligible expenditure – in combination with specific exclusions or limitations in the eligibility rules governing particular types of work expenses.

24 *Parliamentary Entitlements Amendment Regulations 2009 (No 1)*.

25 *Parliamentary Entitlements Amendment Regulations 2009 (No 2)*. See also Explanatory Statement, 3.

26 Department of Finance, Senators and Members Seeking Re-election – Questions and Answers – Office Accommodation, <http://maps.finance.gov.au/Election/Senators-Members-Re-election-Office-Accommodation.htm> (at 11 December 2015).

- 4.45 Second, the Committee notes that its recommendations in chapters 6 and 7 for improved reporting, transparency and oversight of expenditure would strengthen accountability for expenditure during election periods. The Committee's proposed periodic review of the work expenses framework (under core element 11 and recommendation 7 below) would also provide an opportunity for the evaluation of the system's effectiveness in this respect.
- 4.46 Such review would be additional to the external performance audit functions of the ANAO, which may undertake audits of the administration of work expenses (including during election campaign periods), in accordance with the *Auditor-General Act 1997*.

Legal status of an inclusive definition

- 4.47 The Committee considers that the purpose-based eligibility requirement applying to all work expenses should be given legislative effect. Parliamentarians should have a legal right to recompense for their work expenses, provided they are incurred for the dominant purpose of conducting 'parliamentary business' (and any other conditions attaching to the particular type of work expenses are satisfied). This would give all core concepts status as legal requirements or preconditions to the right to receive payment.
- 4.48 The Committee considers that this test and definition of 'parliamentary business', should be enacted in primary legislation, not in subordinate legislation or determinations made under an Act, or merely recorded in extrinsic materials (such as policy documentation). This would ensure that these core concepts are legally authoritative, readily identifiable and accessible, and their existence and substance are not unduly dependent upon the discretionary decisions of the government of the day.
- 4.49 The Committee further recommends an interim measure to realise immediate improvements: an inclusive definition of 'parliamentary business' containing the elements set out in recommendation 6 should be incorporated in relevant Remuneration Tribunal determinations, and in policy and guidance materials – such as the handbooks produced by the Department of Finance – as soon as practicable. This will enable the inclusive definition to be used as an aid to the interpretation of the term, where it is already used in existing legislation, regulations and determinations.

Element 3: guiding principles for decision-making

Recommendation 5

Core elements – principles

The Government should adopt a statement of principles, as set out in chapter 4 (para. 4.52 refers), to support parliamentarians’ decision-making with respect to eligible work expenses under an improved system, and provide assurance to the public about such decisions.

- 4.50 The Committee supports the adoption of principles to encourage, assist and support parliamentarians to make pre-expenditure decisions about the eligibility of their activities or proposed activities. These principles could aid the interpretation of rules governing particular types of support provided within the two broad ‘streams’ of remuneration and work expenses. They should also improve transparency and accountability by providing a clear basis upon which parliamentarians can justify their expenditure publicly. Evidence that a parliamentarian gave due consideration to the principles may be a relevant consideration for administering agencies in determining, after the fact, whether certain expenditure was compliant with the eligibility rules.
- 4.51 The Committee supports legislative recognition of these principles in either primary or subordinate legislation, to ensure they are given appropriate weight and prominence.²⁷ Their application should not, however, be deferred until such time as legislation is enacted. They should be adopted immediately as an interim measure.

Content of principles

- 4.52 The Committee considers that the statement of principles should address the matters set out below. As with the approach to the definition of ‘parliamentary business’ in recommendation 4, the Committee acknowledges that the process of implementing

²⁷ This could be given effect, for example, through a requirement that a parliamentarian must, in claiming or certifying expenditure, apply the decision-making principles (which could either be published by the Special Minister of State from time-to-time, or be set out in primary legislation or regulation). The integration of principles in the New Zealand rules is instructive in this regard: See *Directions by the Speaker of the House of Representatives 2014* (amended September 2015) clause 9 (which provides that parliamentarians must apply the principles set out in the directions in the use of publicly funded resources). Section 16 of the *Members of Parliament (Remuneration and Services) Act 2013* (NZ) also sets out principles to which the Speaker of the House (and the New Zealand equivalent entities to the Remuneration Tribunal and the Special Minister of State) must have regard in making determinations or issuing directions about the quantum and conditions of support. These include a number of high-level objectives – for example, facilitating the delivery of support services in an efficient and effective manner, promoting transparency, maintaining confidence in the integrity of Parliament, and ensuring that support provided is clearly defined and simple to administer.

the principles in recommendation 5 would require detailed consideration of their substance and form, in consultation with relevant stakeholders including parliamentarians.

Principles to guide parliamentarians' decision making on work expenses

Value for money – overarching principle

1. In utilising public resources and expending public funds, parliamentarians are to have regard to whether their expenditure represents value for money. Parliamentarians are to consider, in particular, whether their expenditure, or proposed expenditure, represents an efficient, effective and ethical use of public resources.
2. In assessing whether expenditure or proposed expenditure represents value for money, parliamentarians are to consider matters such as:
 - a. Whether the expenditure is commensurate with the scale and scope of the relevant parliamentary business to which it relates. (For example, is the mode and cost of travel to attend an event proportionate to the benefit or value in attending that event, particularly in terms of the perceived importance of the activity, and its duration?)
 - b. Whether there are other ways of meeting the need, and the relative costs and benefits of each alternative.
 - c. If the work expense relates to goods, consideration of the whole-of-life costs of the asset (such as the up-front, after-purchase and disposal costs).
3. Parliamentarians are to be prepared to justify publicly how their expenditure represents 'value for money'.

Personal responsibility and accountability

4. Parliamentarians are personally responsible and accountable for adhering to the eligibility rules, and for applying the value for money principle.
5. Parliamentarians are to exercise independent judgment about the compliance of their expenditure. While parliamentarians can seek compliance advice or opinions from the Department of Finance, their own staff, or other sources, they are to turn their own minds to, and exercise independent judgment upon, the reasoning in any advice or opinions obtained.
6. In some instances, an expense or proposed expense may be permissible on

the face of the eligibility rules, and may be adjudged by the parliamentarian to represent value for money, but may nonetheless be perceived as controversial by some members of the public. In making decisions about expenditure, parliamentarians are to take into consideration the anticipated reaction of their constituents, the wider public and the Parliament, and be prepared to explain and justify their expenditure.

Fair and reasonable recompense for parliamentary business

7. Parliamentarians have a right to be recompensed for the costs they incur for the dominant purpose of undertaking parliamentary business. This support is central to a healthy, functioning democracy. Parliamentarians should not be required to finance these costs at their own expense, or to refrain from making legitimate claims – which accord with the relevant eligibility rules and are adjudged to represent value for money – for fear of unfounded criticism.
8. ‘Parliamentary business’ is a broad concept that is intended to incorporate, and not place artificial limitations upon, the broad and evolving nature of a parliamentarian’s role. The term covers activities undertaken for the purpose of a parliamentarian performing duties to the Parliament, his or her electorate, and certain party political duties which have a substantial and direct connection to his or her membership of the Parliament.
9. Importantly, a parliamentarian’s duties to the Parliament and his or her electorate can encompass self-education and fact-finding activities on matters of regional, national and global importance, where such activities are necessary for a parliamentarian to represent constituents’ interests, and make an informed contribution to public policy development and debate.

Good faith

10. Parliamentarians are to act in good faith in making decisions about whether expenditure is incurred for the dominant purpose of conducting parliamentary business, and represents value for money. In particular, parliamentarians must not seek to disguise as ‘parliamentary business’ an activity whose dominant purpose is personal or commercial.
11. Parliamentarians are to certify their decision that an activity was undertaken for the dominant purpose of conducting parliamentary business, and should be prepared to justify publicly their reasoning.

Element 4: a single piece of legislation for ‘work expenses’

Recommendation 6

Core elements – legislative framework

The Government should introduce legislation, as soon as possible, to establish the legal framework for an improved system. This legislation should:

- a. establish ‘remuneration’ and ‘work expenses’ as the two streams of support provided to parliamentarians; and
- b. create a single legislative framework for the determination and administration of ‘work expenses’, which provides for the following matters:
 - i. replaces the terms ‘entitlement’ and ‘benefit’ with ‘work expenses’, in line with recommendation 2;
 - ii. sets out the broad categories of ‘work expenses’ and delegates the necessary regulation-making and determination powers to set and amend the quantum and conditions applying to these categories;
 - iii. clarifies and strengthens the division of responsibilities between the Remuneration Tribunal and Special Minister of State with respect to determining work expenses, in line with recommendation 3;
 - iv. establishes a purpose-based eligibility requirement applying to all work expenses, providing that the relevant activities be carried out for the purpose of ‘parliamentary business’ in line with recommendation 4;
 - v. inserts an inclusive definition of ‘parliamentary business’ applying to the above eligibility requirement, in line with recommendation 4;
 - vi. incorporates principles to guide parliamentarians’ decision-making with respect to work expenses, in line with recommendation 5;
 - vii. makes provision for accountability and oversight measures, in line with recommendations 26 and 32; and
 - viii. establishes a periodic review mechanism for the framework, in line with recommendation 7.

- 4.53 The Committee supports the recommendations of previous reviews that a single piece of legislation governing parliamentarians' work expenses should be enacted.²⁸ The Committee considers that this legislation should define the purpose of the work expenses framework, set out the broad categories or types of work expenses, and authorise regulations or determinations to be made with respect to the amounts of, and further conditions applying to, individual categories of expenses.
- 4.54 Consolidating provisions into a single piece of legislation would facilitate transparency and appropriate usage by providing a publicly accessible reference point for all. It would promote flexibility and administrative efficiency by easing identification of provisions for review and amendment including identifying overlapping, conflicting or redundant provisions. That in turn would facilitate consideration of relationships between different types of work expenses; help avoid unintended consequences of individual amendments; and ease assessment of the overall effectiveness of the framework.
- 4.55 The Committee understands that the significant scale of such a task may have precluded implementation of successive recommendations of previous reviews for a single piece of legislation. It nevertheless considers a coherent legislative framework essential to addressing the root cause of the uncertainty and ambiguity in the existing framework. Without reforming the legislative framework, other recommendations will, at best, treat only the symptoms of a deeper, systemic problem.

Element 5: varying levels of remuneration and expenses

Ministers and parliamentary office holders

- 4.56 Consistent with its discussion of the contemporary role of a parliamentarian, the Committee supports retention of divergent remuneration and expense levels for backbenchers, on the one hand, and ministers and other parliamentary office holders, who have additional duties and corresponding resourcing requirements, on the other. The primary focus of this Review is the 'base level' of support provided to backbenchers. The additional support provided to ministers and parliamentary office holders would be suitable for further consideration by government once the 'base level' of support is settled.

²⁸ Recommendations for a single legislative framework have been made by several previous reviews, including the Belcher Review and successive ANAO performance audits, most recently in Report No 42 of 2014-15.

Diverse electorates

4.57 The Committee recommends that categories of work expenses should continue to reflect the diversity of electorates, allowing for different resourcing needs resulting from their geographical size and distance from Canberra. The Committee makes a number of specific recommendations with respect to travel expenses in chapter 5.

Element 6: streamlined, simplified categories of ‘work expenses’

4.58 The Committee supports streamlining and simplification, to the extent possible, of the specific requirements applying to discrete types of ‘work expenses’. This can include consolidation of individual expenses into broader, purpose-based ‘mini-budgets’; rolling into base salary some of the common low-cost expenses; and abolishing provisions regarding use of outdated business practices and technology. The Committee notes that substantial progress has been made towards giving effect to this element with respect to parliamentarians’ office budgets,²⁹ and makes recommendations in chapter 5 to further streamline and simplify the rules applying to travel. As mentioned in chapter 6, the Committee also supports consideration of further opportunities to streamline and simplify categories of work expenses in the course of developing a single legislative framework – including, for example, consolidation with respect to car transport and information and communications technology related budgets.

Element 7: transparent rules and reporting

4.59 Transparency of the contents of relevant eligibility rules, and their usage by individual parliamentarians, promote accountability. Easily identified and understood rules can be applied better by parliamentarians and administrators. The timely public disclosure of information relating to use can facilitate public scrutiny, and inform discussion about the application of relevant rules.

4.60 To this end, the Committee considers that the consolidation of all work expense provisions into a single legislative framework, as per recommendation 6, would promote ‘upfront’ transparency about the existence and contents of the relevant rules. It would ensure that all rules are available publicly, and accessible from a single

²⁹ The Government announced measures which included a consolidated office budget for parliamentarians as part of the 2015-16 Budget. More detail is provided in chapter 6.

source.³⁰ Further, in chapters 6 and 7, the Committee proposes measures to improve transparency of parliamentarians' use of work expenses with respect to expenditure reporting and certification requirements.

Balancing transparency and confidentiality

- 4.61 Accountability to the public, the ultimate arbiter of whether expenditure is reasonable – as distinct from technically compliant – can be achieved through publication of information about the rules and their usage, in a timely and readily accessible way. However, in chapter 6, the Committee accepts there may be a need for a small number of exemptions to reporting requirements for legal, privacy, security and other reasons. It expects such exemptions to have very limited application and to be utilised sparingly and prudently.³¹

Element 8: client service ethos

- 4.62 There is significant scope to improve client service arrangements for parliamentarians with respect to work expenses, particularly regarding pre-expenditure advice and education and training provided by the Department of Finance. The Committee identifies several such opportunities in chapters 6 and 8.

Pre-expenditure advice

- 4.63 Parliamentarians are individually responsible and accountable, in both legal and political terms, for their expenditure decisions. In identifying client service as a core element of an effective system, the Committee does not seek to devolve or otherwise displace this responsibility. Rather, the provision of timely, decisive and robust written pre-expenditure advice to parliamentarians, at their request, can greatly assist them to make sensible, defensible decisions. It is analogous to a private individual's or company's ability to obtain professional advice about compliance with regulatory or taxation requirements.
- 4.64 Advisory opinions would, of course, be provided on the basis of information provided by the parliamentarian, and could be qualified where necessary, for example

30 Namely, publication as a legislative 'series' (a webpage comprising the principal Act and subordinate legislation or legislative instruments made under that Act) on ComLaw (www.comlaw.gov.au), the Australian Government's authoritative online legislation database, in accordance with digital accessibility and quality standards.

31 The Committee notes that there is considerable precedent for such exemptions in other official information disclosure regimes, such as that under the *Freedom of Information Act 1982*. There are also analogous provisions in private professional codes of ethics – for example, the Media Entertainment and Arts Alliance *Journalists' Code of Ethics* (clauses 3 and 11).

through identifying assumptions, contingencies, degrees of uncertainty or differing interpretations. Written advisory opinions should be consolidated, for example, in a centralised database to promote consistency of advice and to build up a body of precedent. De-identified advice could be made available in a publicly accessible online database.

- 4.65 The Committee comments on other models for the delivery of advisory services in chapter 8.

Education and training

- 4.66 The Committee considers ongoing education and training an important component of the system. Parliamentarians, their staff and any persons working in their office in a voluntary capacity (including family members) must have a thorough understanding of current rules and administrative requirements. Training programmes should reflect the fact that parliamentary staff turnover is high, and each federal election can bring a new and inexperienced client-base of parliamentarians, staffers and volunteers. Training and educational forums can also provide an opportunity to gauge users' views on the effectiveness of the system.
- 4.67 In chapter 8, the Committee proposes improvements to education and training arrangements, including a program of 'on-site' induction sessions for each new parliamentarian and staff (including volunteers). These could be delivered at the parliamentarian's office in Parliament House in the first year of their term, and subsequently on an ongoing basis for example, through refresher training or as part of induction arrangements for new staff or volunteers.

Element 9: technology investment and innovation

- 4.68 The system should be supported by appropriate technology. As identified in previous reviews and in chapter 3, current information technology arrangements for processing and reporting on expenditure require significant improvement. The Committee sets out its detailed findings and recommendations in chapter 6.

Element 10: modern, risk-based compliance oversight

- 4.69 The Committee supports the adoption of a modern, risk-based approach to oversight of expenditure, including auditing and enforcement. It outlines its suggested approach in chapter 7. The focus would be on identifying and concentrating efforts on areas deemed at greatest risk of non-compliance or misuse.

- 4.70 In advancing a risk-based approach, the Committee seeks to ensure that finite public resources applied to oversight and compliance processes are proportionate to the risks. The Committee is also concerned to ensure that the nature and degree of oversight does not create an unduly onerous burden for administering agencies, parliamentarians and their staff. The Committee notes that the Department of Finance is not currently equipped with the technologies it would need in order to implement fully risk-based oversight.
- 4.71 In examining ways to modernise and improve oversight and accountability mechanisms in chapter 7, the Committee also examines ways to strengthen public and parliamentary confidence in the impartial and independent consideration of allegations of misuse. The Committee recommends adjustments to the existing arrangements, including the appointment of persons external to the government and parliament to the high level committee convened by the Secretary of the Department of Finance to consider allegations of serious misuse.

Element 11: periodic review

Recommendation 7

Core elements – periodic review

The Government should create a mechanism for the work expenses framework to be reviewed periodically, once during each parliamentary term, with a view to assessing its effectiveness and recommending amendments.

- 4.72 Implementation of core elements 1-10 would effectively address the complexity, inefficiency and inflexibility in the system. To accommodate changing circumstances and help prevent an accumulation of ad hoc amendments, the Committee further recommends a periodic, ‘fit for purpose’ review of the system. This would offer structured evaluation of its effectiveness and any aspects requiring reform.
- 4.73 The Committee considers that a periodic review should be conducted once during each parliamentary term, and that the single legislative framework in recommendation 6 should include a requirement for periodic reviews. A legislative provision would promote transparency and a common understanding of the review requirements and facilitate their implementation. Details of this mechanism, including by whom it should be conducted, to whom it should report and its terms of reference, could be developed further by the Government in consultation with stakeholders.

Application of core elements to reform priorities

4.74 In chapters 5-8, the Committee applies the eleven core elements outlined in this chapter to the aspects of parliamentarians' work expenses it has identified as reform priorities: travel expenses; the administration and reporting of expenditure; and post-expenditure oversight and accountability mechanisms.

5. Travel

- 5.1 Complexity and confusion in the work expenses system can lead to claims made in good faith but falling outside the guidelines. So too, claims falling within the guidelines can be outside reasonable standards, creating confusion and angst amongst parliamentarians and the broader community whom they serve. Travel is particularly problematic. Far from a luxury or indulgence, official travel – far, frequent and 24/7 – is essential to the performance of parliamentary duties.¹ These all-consuming duties, of central importance to the well-being and smooth functioning of Australian society, are numerous and diverse.² Additional to these can be layered responsibilities associated with appointment to a parliamentary, executive, opposition or minor party office. Satisfying constituent needs can be compared to running a small or medium-sized business.³ It is essential that parliamentarians travel by safe and proper means, and their associated and necessary expenses be covered. Yet the travel provisions are an ongoing source of controversy and arguably the aspect of the work expenses system most in need of reform.

Duty to travel

Given Australia's size, most electorates are far from Canberra. Many are large by international standards. At least 221 of the 226 parliamentarians must consequently spend extended periods away from home, meeting constituents and attending the Parliament. Some undertake additional travel for duties related to external territories including Cocos (Keeling) Islands, Christmas Island and Norfolk Island. Others travel domestically and internationally as ministers, shadow ministers or office holders, or as part of a parliamentary delegation. Parliamentary committees, on which most parliamentarians serve at some point, meet around Australia.

- 5.2 In recognition of the impact on parliamentarians and their families of the demands of office, including significant periods away from home, a number of travel provisions allow spouses, nominees, designated persons and dependent children to accompany or join parliamentarians on journeys within Australia.

1 Department of Finance, *Submission to Committee - Independent Parliamentary Entitlements System*, October 2015, 3.

2 Remuneration Tribunal, *Review of Remuneration of Members of Parliament, Initial Report* (December 2011) Preface.

3 A Senator's electorate encompasses the whole of a state or territory. Members have electorates of different geographic size within a state or territory.

- 5.3 The travel provisions are so complex and conflicting as to be almost unworkable for parliamentarians and their staff, administrators and policy makers alike. Their complexity derives from issues outlined in chapter 3, compounded by the need to vary transport arrangements for different situations (for example, negotiating the back roads of a rural electorate as opposed to making frequent trips in Canberra, or travelling to Canberra from remote localities as opposed to doing so from western Sydney); differentiate between parliamentarians, those who are ministers or office holders, staff and family members; and accommodate new technology and services.
- 5.4 As outlined in chapter 4, the solution, in the Committee's view, is not a more prescriptive set of rules. It is instead a principles-based system with enhanced public reporting and auditing requirements to aid compliance monitoring. Regulations and determinations would set support parameters and outer limits (hard edges), within which parliamentarians would make choices, informed by legislated rules and guiding principles – notably obligations to act in good faith and for a proper purpose and have regard to the principle of value for money. The parliamentarian's decisions could then be weighed by the public through enhanced transparency measures.
- 5.5 This would give the parliamentarian not only flexibility to make appropriate arrangements without burdensome administration but also the responsibility to do so in a manner which can be judged for good faith and propriety. Chartered aircraft, including helicopters, while not generally an appropriate mode of travel for parliamentarians in metropolitan areas, may be required at times, especially in large, rural or remote electorates or in disaster zones, where there is no viable scheduled alternative.

'Big Six' electorates⁴

Durack (WA)	1,629,858 sq km	Grey (SA)	904,881 sq km
Lingiari (NT)	1,352,371 sq km	Maranoa (QLD)	731,297 sq km
O'Connor (WA)	868,576 sq km	Kennedy (QLD)	568,993 sq km

Due consideration must be given to the geographical size and diversity of constituencies. Members in the 'Big Six' electorates represent constituents widely dispersed over regional centres and rural and remote localities. Durack alone covers roughly one-fifth of the Australian land mass, Grey roughly 90 percent of South Australia and Maranoa and Kennedy combined roughly 75 percent of Queensland. Lingiari covers roughly 99 percent of the Northern Territory. The smallest of the 'Big Six', Kennedy, is more than double the size of the next largest electorate: Parkes, 256,643 sq km. Special travel and other provisions have been introduced over time to ensure constituents in these electorates have reasonable access to their Members.

Value for money parliamentary travel

- 5.6 It is a general employment standard in Australia that employers meet the reasonable expenses of work travel. They must, on the other hand, have confidence that work-related travel expenses represent value for money and are incurred in good faith and for a proper purpose. As outlined in chapter 4, 'value for money' means efficient, effective and ethical use of public resources, taking account of factors such as the scale and scope of the business requirement, the relative costs and benefits of alternatives, and the whole-of-life costs of any asset (e.g. vehicles) leased or purchased.
- 5.7 While parliamentarians are not employees in a legal sense, the same principles should apply to their travel. Conformity with these principles should be a matter of individual judgment because erring parliamentarians will ultimately pay a price, possibly including losing office. As indicated by public submissions and representations to the Committee, a focus of concern is travel 'inside entitlement' but outside reasonable expectations and standards.⁵ This includes extravagant modes of travel, business class travel by children and inter-state family 'holidays' at exotic locations. Regardless

4 These figures are electoral divisions in place as at 29 January 2016, following the determination of new electoral divisions for Western Australia on 19 January 2016 (and for the ACT on 28 January 2016). Electoral divisions for NSW and the Northern Territory are currently undergoing redistribution. Determination of the redistributions may lead to an alteration of some of the geographic areas presented above as the result of a change in the boundaries of electoral divisions.

5 The Hon Tony Abbott MP, 'An Independent Parliamentary Entitlements System', (Media Release, 2 August 2015).

of their legality, such claims are perceived to be inappropriate, and erode public confidence not only in individual parliamentarians but in the system itself. Indeed, such issues led to the establishment of this Review.

Current provisions

- 5.8 Parliamentarians' travel-related expenses derive mainly from the *Parliamentary Entitlements Act 1990*, the Parliamentary Entitlements Regulations, Remuneration Tribunal *Determination 2012/04: Members of Parliament - Entitlements*, and Remuneration Tribunal *Determination 2015/12: Members of Parliament - Travelling Allowance*, which must be read together. M&PS handbooks provide guidance. Overseas travel for ministers is provided under executive power and must comply with guidelines issued periodically by the Prime Minister.
- 5.9 All parliamentarians have broad entitlements to unlimited domestic travel by scheduled commercial services for parliamentary or electorate business or other defined purposes, and car transport for parliamentary business.⁶ These are not subject to a monetary cap because circumstances, in particular the distances some must travel within their electorates and to and from Canberra, vary so markedly.
- 5.10 There are complicated additional travel-related expenses, depending on whether the parliamentarian is a Senator or Member, the electorate's geographic and demographic make-up, and any additional parliamentary, executive, opposition or minor party office held. Some, for example, electorate charter (for transport in large electorates), are capped or, as with travelling allowance for overnight stays within the electorate, limited in number.⁷
- 5.11 Different conditions apply to different forms of transport. Car transport may be by taxi, COMCAR,⁸ short or long-term hire vehicle, or private vehicle (for which private vehicle allowance or a private plated vehicle can be provided, with additional rules and guidelines) and within the ACT the use of the ride sharing service, Uber. For certain forms of travel, such as scheduled commercial air services, a contracted service provider makes the booking and manages payment on behalf of the Commonwealth. In limited circumstances, such as electorate charter travel, parliamentarians or their staff may book directly with the transport supplier.

6 ANAO, *Administration of Travel Entitlements Provided to Parliamentarians*, Audit Report No, 42 of 2014-15, 51.

7 Department of Finance, *Senators and Members' Entitlements* (2015) [1.3.1].

8 COMCAR is the Commonwealth car-with-driver service available to a range of clients, mainly parliamentarians.

- 5.12 Parliamentarians book their own accommodation for work-related travel. The cost, along with meals and incidentals, is claimed from M&PS as travelling allowance. Parliamentarians must nominate the purpose of their overnight stay in accordance with the relevant Remuneration Tribunal determination. For stays in Canberra by parliamentarians whose principal place of residence is not the Canberra region, the Remuneration Tribunal determines a single rate of travelling allowance (currently \$273 per night).⁹ For stays outside Canberra, parliamentarians must claim either a commercial accommodation rate (with evidence of a stay in a commercial establishment) or a lower, non-commercial rate. Certain travelling allowance claims must include additional evidence, for example arrival and departure dates in Canberra or documentation of attendance at a parliamentary committee meeting. M&PS undertakes sample audits.
- 5.13 Travelling allowance is paid directly into a parliamentarian's bank account. M&PS generally pays transport costs, such as airfares, to the service provider or supplier. In some circumstances, the parliamentarian pays the costs and seeks reimbursement.
- 5.14 Overseas travel for official business can arise for parliamentarians holding certain offices, such as ministers, opposition and minor party office holders, and presiding officers, or members of a parliamentary delegation.¹⁰
- 5.15 A number of travel provisions permit a parliamentarian's spouse or nominee, dependent children and designated persons to accompany or join him or her intra-state and in Canberra and other places within Australia.¹¹ The annual Canberra and intra-state family reunion travel budget is calculated on the basis of nine business class return trips to Canberra for a spouse or nominee and three business class return trips for each dependent child. The quantum may be used for travel in

9 The most frequent travel destination for parliamentarians is Canberra. For example, in 2015 the House of Representatives sat for 75 days. The Senate had slightly less sitting days but when combined with Senate Estimates hearings, Senators were also required to be in Canberra for at least 75 days. As a sitting week is generally four days (Monday to Thursday) this means that in 2015 most if not all parliamentarians spent at least 19 weeks in Canberra. In a sitting week inter-state parliamentarians will typically stay in Canberra from Sunday night to Thursday afternoon or evening. Where sitting weeks follow each other some parliamentarians remain in Canberra between sitting weeks as it is more efficient and/or economical to do so. Ministers, shadow ministers, leaders of minority parties and office holders, necessarily, spend much more time in Canberra.

10 Overseas study travel expenses accrued prior to the abolition of such assistance on 15 March 2012 may be used until the end of the current Parliament. The Department of Finance advises round 110 parliamentarians still have overseas study travel balances.

11 Belcher Review (April 2010), 79-80.

any class by any of these family members and/or designated persons.¹² In addition, each parliamentarian may be accompanied or joined by a family member for up to a combined total of three inter-state business class return trips each year. The Senator or Member can choose which combination of a spouse or nominee, dependent child or designated person may access this inter-state provision. These trips may be converted to Canberra or intra-state trips, the basis of the conversion being one trip for one trip.¹³

Recommendations

- 5.16 Consistent with a principles-based approach, the Committee has identified aspects of the travel provisions in need of reform to improve clarity, efficiency and individual accountability. The overarching principle is that parliamentarians be funded for necessary and appropriate work travel but expend those funds in a way which maximises value for money to the Commonwealth. The aim is to provide for work expenses in a manner which better reflects the reality and breadth of parliamentarians' duties.
- 5.17 As explained in chapter 4, we consider that the current division of Senators' and Members' business into 'parliamentary', 'electorate' and 'official'¹⁴ should be collapsed into 'parliamentary business'. From this definition should flow support for travel constituting an obligatory and legitimate part of a parliamentarian's job, including certain party activities. As noted earlier, a parliamentarian should not seek to disguise as parliamentary business activity the principal purpose of which is personal or commercial.
- 5.18 Other recommended changes address restrictions on interrupting journeys and travelling to external territories; increase overall assistance to parliamentarians who are mothers with children up to 12 months old; simplify travelling allowance and electorate charter provisions; assist members from Big Six electorates; ask the Remuneration Tribunal to examine replacing private plated vehicles with access to best practice leasing arrangements; address COMCAR arrangements; and propose changes to family travel, including strengthening the eligibility requirements with respect to inter-state family reunion travel. Further context is provided at Appendix F.

¹² Ibid.

¹³ Ibid.

¹⁴ Remuneration Tribunal *Determination 2012/04* [3.1].

Recommendation 8

Travel – value for money

The Government and the Remuneration Tribunal should promulgate an overarching principle of ‘value for money’ to support parliamentarians’ travel decisions, including, in particular, consideration of whether the expenditure or resource commitment represents efficient, effective and ethical use of resources.¹⁵

Recommendation 9

Travel – travelling allowance

The Remuneration Tribunal should:

- a. simplify and align provisions for domestic travelling allowance to permit it generally to be claimed in relation to eligible travel on parliamentary business within Australia, while maintaining the current ten night per annum limitation on certain types of travel; and
- b. reduce the lodgement deadline for travelling allowance and Canberra expense allowance claims from 60 to 30 days.

5.19 The Remuneration Tribunal sets allowances to cover accommodation, meals and incidentals for each night spent away from a parliamentarian’s home base, when that stay is primarily due to one or more specified parliamentary, electorate or official business activities. The quantum is set by reference to benchmark figures for all Australian employees determined by the Australian Taxation Office (ATO).¹⁶ Although the Committee considers current travelling allowance arrangements to be generally effective and reasonable, they could be simplified.

5.20 Some travelling allowance is limited only by purpose, for example parliamentary committee work, ministerial or office holder business, and travel to and from Canberra for parliamentary purposes. For other business activities, the maximum number of eligible nights per annum is prescribed, with a cap of ten nights for electorate business outside of the electorate and party political-related activities (for example state and national conferences) and higher caps for in-electorate overnight stays for parliamentarians representing large or remote electorates

¹⁵ See, for example, the requirements in *Public Governance, Performance and Accountability Act 2013*.

¹⁶ The figures currently used by the Remuneration Tribunal are taken from *Taxation Determination TD 2015/14*.

(including allowance for a number of nights for overnight transit stops).¹⁷

- 5.21 The cap on in-electorate travel is administratively burdensome and unnecessary, given the Committee's view that parliamentarians generally travel no more than they must. If they travel more than they should, it will be obvious. Usage patterns, as reported in the six-monthly Department of Finance reports, show that very few use their full annual allocation for electorate business. The Committee believes removing most of these caps under an overarching principle of 'value for money' would increase efficiency and flexibility without leading to more claims. If a parliamentarian is travelling excessively and inappropriately, that 'offending' behaviour would be evident with the increased transparency recommended in this Review.
- 5.22 The Committee recommends that parliamentarians be permitted to claim travelling allowance for each overnight stay outside their home base while travelling on 'parliamentary business',¹⁸ but with retention of the ten night cap for meetings outside Canberra of a parliamentarian's political party or its executive, committees, or national or state conferences, and for meetings outside the parliamentarian's electorate for electorate-related business. The ten night cap has been maintained for the latter purposes to ensure confidence that travelling allowance provisions are not susceptible to overuse.
- 5.23 Not affected by the ten night cap would be:
- i. office holders (including shadow ministers and whips) undertaking business connected with those roles;
 - ii. parliamentary committee members on committee business;
 - iii. parliamentarians on single night stopovers outside their electorates which facilitate travel within their electorates;¹⁹ and
 - iv. in certain circumstances parliamentarians interrupting their journey when travelling to and from Canberra where a separate one night stopover would be allowed for travelling allowance purposes.

17 Above n 13, [3.15] – totals vary between 16 and 90 nights per annum.

18 Whether that travel provision is in a Remuneration Tribunal determination or in the *Parliamentary Entitlements Act 1990* framework.

19 For example, Western Australian parliamentarians representing some large electorates spend nights in Perth as the most efficient means of travelling from one point to another within their electorates.

- 5.24 Parliamentarians would still be able to claim for overnight stays within their electorate while away from their home base.
- 5.25 For stays in Canberra by parliamentarians whose principal place of residence is elsewhere, the Remuneration Tribunal has for many years adopted a flat rate, currently \$273 per night, which is considerably below ATO benchmarks.²⁰ The Committee considers the flat rate allowance to be the most effective method of addressing the work expenses parliamentarians incur in spending around 20 weeks (or more) a year at a second work location. Parliamentarians can use the \$273 to support whatever accommodation arrangement they may have, provided they do actually stay in the Canberra area and for parliamentary business purposes.
- 5.26 Given that the parliamentarians who qualify for this allowance must fund accommodation (and related work expenses) in Canberra while maintaining a principal place of residence outside of Canberra, the Committee considers the current arrangements are reasonable. It also considers that how parliamentarians use the flat rate allowance to support their accommodation in Canberra is a matter for them.
- 5.27 Parliamentarians representing ACT electorates or those adjacent, whose principal residence is within 30 kilometres of Parliament House, are not eligible to claim travelling allowance for parliamentary business in Canberra. They can, however, claim an expense allowance – currently \$86 – for each day spent in Canberra for parliamentary sittings, meetings of the parliamentarian’s party or its executive or committees, or meetings of parliamentary committees of which the parliamentarian is a member, or in respect of official business as a minister or office holder, to cover meals and other incidental costs.
- 5.28 The Committee recommends that parliamentarians travelling to or from Canberra under the provision for travel for parliamentary business be permitted to interrupt their journey, where necessary (for example, to conduct parliamentary business or due to airline schedules). Where travelling allowance is claimed, a limit of one night would apply. If an interruption is primarily for personal purposes and travelling allowance is thus not claimed, the interruption could be for any number of nights before claimable travel resumed, provided there is no additional cost to the Commonwealth. As noted above, interruptions would not count towards the ten night cap.

²⁰ Using the benchmark figures that the Remuneration Tribunal normally uses the Canberra rate would be \$412 for Ministers and \$374 for others.

- 5.29 Travelling allowance should continue to be paid as an allowance given that it is the least administratively burdensome method of providing funds to frequent travellers.
- 5.30 The Remuneration Tribunal determination currently allows parliamentarians to claim travelling allowance up to 60 days from completion of travel. Similarly, parliamentarians claiming the Canberra expense allowance must claim that allowance within 60 days of attendance. The Committee, noting recommendations elsewhere in this Review for more frequent reporting as a transparency and compliance tool, recommends a reduced lodgement deadline of 30 days for both travelling allowance and the Canberra expense allowance.

Recommendation 10 Travel – additional travelling allowance for spouses

The Remuneration Tribunal should abolish the additional \$10 per night travelling allowance in respect of spouses who accompany ministers and office holders on travel.

- 5.31 Since the early 1980s, ministers and office holders have been able to claim an additional \$10 per night travelling allowance²¹ in respect of spouses who accompany them on travel. This stems from a time when hotels routinely charged higher rates for double occupancy and the allowance has not been revised for many years. The Committee considers it is anachronistic.

Recommendation 11 Travel – scheduled commercial transport for parliamentary business

The Remuneration Tribunal should extend eligible travel on scheduled commercial transport for parliamentary business within Australia to all external territories (excluding Antarctica).

- 5.32 In recognition of their need for extensive travel, parliamentarians can utilise scheduled commercial transport without limitation. Long distance travel for work purposes is usually by commercial airline, principally scheduled but in some circumstances chartered services (particularly in large electorates).
- 5.33 The Committee considers appropriate the current provision that the maximum allowable fare on domestic flights be business class, as it enables parliamentarians to use their considerable travel time productively by working semi-privately. Where

²¹ Remuneration Tribunal *Determination 2015/12* [3.10].

other forms of transport are used, the maximum allowable amount should remain the business class airfare for the same trip by the most reasonable and usual route between the departure and destination points, or full economy class where no business class fare is published. In the Committee's opinion, a parliamentarian should be able to use any form of transport that represents value for money within the maximum allowable amount.

- 5.34 While travel by the most direct route should be the norm, the Committee recognises there will be circumstances in which it is appropriate for parliamentarians to interrupt a trip to or from Canberra. This should be permissible, with all legs of the journey considered allowable travel; but if travelling allowance is claimed only one night of travelling allowance should be allowed per journey.
- 5.35 Under the more contemporary definition of 'parliamentary business', the eligible travel and allowance will cover what is currently described as parliamentary, electorate and official business, including party business such as meetings of a Senator's or Member's party, its executive or committees, and its national and state conferences. It would not include activities for personal or commercial benefit or certain party activity as discussed in chapter 4.
- 5.36 The Committee recommends treating travel to all external territories, with the exception of Antarctica, as domestic, noting such travel must constitute 'parliamentary business' to be eligible for support.

Recommendation 12

Travel – electorate charter (transport in large electorates)

The Remuneration Tribunal should:

- a. allow, within the current limits of approved expenditure, greater discretion in respect of driver hire and vehicle type, and additional passengers;
- b. examine whether the quantum of the current monetary caps on the existing Electorate Charter budget is appropriate; and
- c. substitute the term 'Electorate Charter' in Determination 2012/04 with 'Transport in Large Electorates' to render the purpose of the provision more transparent.

- 5.37 The Committee considers the provisions governing Electorate Charter, including car hire, appropriate but unreasonably complex. It recommends lifting restrictions on who can be hired as a driver, and on the type of aircraft or vehicle hired. Such decisions are best made by the parliamentarian within a principles-based value for money system with transparency and reporting requirements.
- 5.38 We have not examined whether the quantum of the current caps for Electorate Charter are appropriate, and recommend the Remuneration Tribunal undertake such an examination. We recommend replacing the term ‘Electorate Charter’ in Remuneration Tribunal Determination 2012/04 with ‘Transport in Large Electorates’ to render the purpose more transparent.
- 5.39 A parliamentarian chartering transport for travel within and for the service of an electorate may be accompanied by a spouse, staff and other parliamentarians. Other passengers are permitted to accompany the parliamentarian (with arrangements for cost recovery as required), provided this does not necessitate a larger aircraft or vehicle. The Committee recommends abolishing this restriction, as it can prevent sensible group travel arrangements and is unnecessary in a principles-based value for money system with transparency and reporting requirements.
- 5.40 Consistent with the above, we recommend abolishing the rule preventing the hire of a parliamentarian’s staff or family member as an accredited relief driver.

Recommendation 13

Travel – car with driver transport

The Remuneration Tribunal should prohibit use by parliamentarians of car with driver transport, including COMCAR, for journeys which are primarily personal.

- 5.41 The Committee proposes to leave largely unchanged the current provisions for car with driver use, noting that they will be clearer with the revised definition of parliamentary business. When a parliamentarian travels away from their home base for parliamentary business, as newly defined, and that travel is funded, the transfer sections of that travel, for example transport between airport and hotel or place of business, should continue to be covered.
- 5.42 Using car with driver transport primarily for private purposes, on the other hand, including *en route* (for example, diverting to a restaurant where no parliamentary business is to be transacted), is inappropriate and is not consistent with the proposed

dominant purpose test outlined in chapter 4. Parliamentarians receive personal remuneration and can be expected to fund personal activity themselves. We accordingly recommend replacing the provision permitting car with driver transport for personal services with a prohibition on the use of such transport for journeys which are primarily personal.²² This would largely apply, but not be limited, to the use of car with driver transport in Canberra.

Recommendation 14 Travel – Canberra parliamentary COMCAR ‘shuttle’

The Government should:

- a. re-examine the Canberra parliamentary COMCAR ‘shuttle’ service operating during sitting periods with a view to obtaining better value for money;
- b. match COMCAR fee structures for parliamentarians with those charged to COMCAR’s other clients, ensuring they reflect actual costs; and
- c. amend reporting on COMCAR costs and usage figures to represent the actual cost to the Commonwealth.

COMCAR ‘shuttle’

COMCAR is the Commonwealth car with driver service provided to a range of eligible clients mainly parliamentarians. COMCAR provides services in all metropolitan and country areas 24 hours a day, 7 days a week. COMCAR is generally administered by M&PS in the Department of Finance. However, during parliamentary sitting weeks, a parliamentary shuttle operates and COMCAR transport for parliamentarians to and from Parliament House becomes the responsibility of transport offices within the Departments of the Senate and House of Representatives. These departments assess the numbers of cars required, taking into account factors such as large events and the pattern of Parliament. These cars are then available in a rank at Parliament House or the airport. Parliamentarians can either book in advance through the transport offices or be allocated the next available car. The Department of Finance funds shuttle service cars and drivers.

²² This is not intended to preclude Senators and Members from being accompanied by passengers such as family members during allowable journeys.

- 5.43 The Committee recommends re-examination of the COMCAR ‘shuttle’: that is, the lines of COMCAR vehicles available to parliamentarians at Canberra airport on the Sunday night preceding a sitting week and outside Parliament House during certain peak times,²³ somewhat like a taxi rank for parliamentarians. Whilst convenient for them, it is inefficient. And its full cost is not transparent. It is not reported by the Department of Finance or the parliamentary departments on either an aggregate or individual basis. The booking system used by the parliamentary departments is very paper-based. As there is no electronic connection to COMCAR’s national booking system, usage data is not electronically recorded by COMCAR and cannot be included in the Department of Finance’s six-monthly reporting on parliamentarians’ expenditure.
- 5.44 If the COMCAR shuttle is to be retained, its costs should be made transparent. Shuttle bookings should be integrated into COMCAR’s booking system with the aim of reporting individual parliamentarians’ shuttle use in the same manner currently used to report their other COMCAR use. This would require information technology solutions and in the interim the Department of Finance should collaborate with the parliamentary departments to report the aggregate cost on a quarterly basis.
- 5.45 The Committee is not, however, convinced the COMCAR shuttle, as currently configured aligns with contemporary practice or represents value for money. Measures that could be taken include integrating the shuttle into COMCAR’s national booking service, transferring (to the extent possible) aspects of the shuttle to the Department of Finance, excising COMCAR’s Sunday evening airport service from the shuttle,²⁴ reducing the lunch period shuttle service,²⁵ making parliamentarians responsible for their own bookings, and introducing shuttle buses and sharing arrangements for trips to the airport at the end of parliamentary sitting weeks or during peak times.

23 For example, the House of Representatives service runs on sitting Mondays, Wednesdays and Thursdays from 6am to 10am, 12pm to 2pm and 6pm to 11.30pm (or one hour after the House rises); on sitting Tuesdays from 6am to 2pm and 6pm to 11.30pm (or one hour after the House rises); sitting Fridays from 5am to 9am; and Sundays before sitting weeks from 4.00pm to 10.30pm.

24 Parliamentarians routinely book COMCAR transport for travel to and from airports to their accommodation or place of business, and the adoption of this approach for arrival into Canberra on sitting weeks could be managed in the same way, with costs included in the parliamentarians’ expenditure reports.

25 The Committee has recommended that any travel that is primarily of a personal nature should not be met at Commonwealth expense. The shuttle service operating during the lunch period should be reduced to reflect that it should only be used by parliamentarians conducting parliamentary business at that time.

5.46 More generally, we note COMCAR's fees for usage by parliamentarians are well below those charged to other COMCAR clients and have not been adjusted for some years. For example the current COMCAR rate per hour for parliamentarians is \$78.60 as opposed to \$111.00 for other clients.²⁶ As a result, the reporting of parliamentary COMCAR cost and usage does not represent the real cost of travel. Consistent with the objectives of enhanced reporting and transparency, the Committee recommends that COMCAR align the fees it charges parliamentarians with those charged to other COMCAR clients, and that car cost and usage figures reported for parliamentarians be amended to represent the actual cost to the Commonwealth.

Recommendation 15

Travel – private plated vehicle

The:

- a. Remuneration Tribunal should examine replacing the provision for government-funded private plated vehicles with a vehicle leasing option, funded through a commensurate increase in Electorate Allowance; and
- b. Government could facilitate access to a vehicle leasing option for parliamentarians through a group agreement with an appropriate private provider.

5.47 Parliamentarians are provided with a vehicle for business and private – though not commercial – use, typically in the electorate. The Commonwealth funds running costs, registration, insurance, maintenance and fuel. Parliamentarians can elect instead to receive additional Electorate Allowance²⁷ to access other forms of in-electorate transport.

5.48 The rules regarding private plated vehicles are lengthy and bureaucratic.²⁸ They place the administrative onus on the Commonwealth, rather than the parliamentarians who use the vehicle. The current provision accords with the Australian Public Service (APS) Executive Vehicle Scheme (EVS) but it has for most officers been replaced by an allowance for private vehicle arrangements in recent years. The APS' replacement of the EVS reflects broader contemporary public and private sector practice in Australia.

²⁶ Data provided by the Department of Finance (M&PS).

²⁷ Currently \$19,500 per annum.

²⁸ Department of Finance, *Guidelines on Provision of Private-Plated Vehicles of Senators and Members*, (2012) <http://www.finance.gov.au/sites/default/files/2012_Guidelines_PPVs.pdf>.

- 5.49 For these reasons, the Committee recommends the Remuneration Tribunal examine replacing the private plated vehicle provision with access to best practice private leasing arrangements equivalent to those available to senior public office holders. The Commonwealth could, as it has for senior public office holders, facilitate leasing through a group agreement between the parliamentarian and a private leasing provider (preferably as part of the Department of Finance's outsourced contract with private providers when it is next tendered).
- 5.50 The cost to the parliamentarian of funding the lease and associated expenses would be offset by an appropriate increase in Electorate Allowance as determined by the Remuneration Tribunal. Parliamentarians could lease any vehicle within the allowance, for example a four-wheel drive in rural electorates. Alternatively, they could opt to purchase a vehicle or use the increase in Electorate Allowance for other official purposes.

Electorate Allowance

Each parliamentarian is paid a base rate of Electorate Allowance (currently \$32,000), with members of geographically larger lower House electorates also receiving additional amounts of \$6,000 or \$14,000.

The allowance is paid to parliamentarians with their salary. There is no specific statement about what the allowance covers, but the ATO has issued various advices that identify expenses that might be claimed, including:

- attendance at functions in the electorate (e.g. tickets, donations, purchases at fetes);
- donations to appeals and organisations;
- expenses associated with patronage of an organisation;
- presentations for school speech days, sporting clubs, senior citizens awards etc;
- telephone and postage costs beyond those met by the Commonwealth;
- newspaper and periodical subscriptions beyond those provided by the Commonwealth;
- subscriptions to organisations (e.g. political, parliamentary and professional);

- replacement of, or cost of capital additions to, equipment for use in discharging parliamentary or electorate duties where not provided by the Commonwealth (e.g. home computer and software);
- replacement of, or cost of additions to, a professional library;
- replacement of home office facilities in a room set aside for official duties, and lighting and heating of a home office;
- additional full-time, part-time or casual secretarial assistance and wages to spouse for electorate duties performed from time to time;
- accommodation and meals while travelling on business throughout the electorate;
- spouse costs when representing a member at official functions in special circumstances (e.g. illness) and specifically allowable functions; and
- additional fares, accommodation, meals and transport associated with official overseas travel other than where met by the Commonwealth.

The Electorate Allowance does not have to be publicly acquitted, and is there for the parliamentarian to spend as he or she determines. This is so parliamentarians can fund minor expenses without excessive administrative burden. Any amount not declared as expenses is retained by the parliamentarian and assessed as taxable income.

The above is based on information in the Remuneration Tribunal *Review of the Remuneration of Members of Parliament* (2011) 255-56.

5.51 Figures published in the 2014 APS Remuneration Report²⁹ indicate the base amount which could be added to the Electorate Allowance would be around \$27,500 per annum. This figure includes running costs. Thus, a parliamentarian who currently receives the basic Electorate Allowance of \$32,000 would receive an Electorate Allowance of around \$59,500 (in lieu of a Commonwealth funded private plated vehicle). The increase in Electorate Allowance would need to be higher in large electorates, due to requirements for four-wheel drives, greater travel distances (and associated maintenance/running costs) and the price of fuel in regional and remote areas.³⁰ This could be around \$42,000 (including running costs).

²⁹ APSC, *APS Remuneration Report* (2014) <<http://www.apsc.gov.au/publications-and-media/current-publications/remuneration-surveys/aps-remuneration-report-2014>>.

³⁰ Some members in the largest electorates have reported driving up to 100,000 kilometres in a year, with the need to purchase fuel at higher prices in outback locations.

- 5.52 The Committee notes that, under Queensland’s new parliamentary expenses system, one of three general allowances covers motor vehicles. State parliamentarians receive an allowance based on three payment bands (\$25,500, \$32,000 and \$42,000³¹), determined by the size of their electorate, in quarterly instalments. They make their own vehicle arrangements, subject to acquittal and reporting requirements.³²
- 5.53 It should be noted that the increase to Electorate Allowance would not constitute a new benefit, but rather offset the loss of the private plated vehicle and associated work expenses; and Electorate Allowance does not count as salary for superannuation purposes.
- 5.54 Parliamentarians representing the largest electorates could, as currently, continue to lease a second vehicle using their Electorate Charter travel budget.³³
- 5.55 Reimbursement for terminus parking fees would remain, for example where it is more reasonable and efficient to use a personal vehicle to access an airport than to use other transport options. But parliamentarians would be required to pursue value for money, and there must be no additional cost to the Commonwealth.

Recommendation 16

Travel – private vehicle allowance

If the Remuneration Tribunal adopts a vehicle leasing option pursuant to recommendation 15, the Tribunal should abolish the private vehicle allowance, which provides a per kilometre rate to a Senator or Member using his or her personal vehicle on travel for parliamentary business, concurrently with the increase to Electorate Allowance proposed in recommendation 15(a).

31 Queensland Independent Remuneration Tribunal Determination 9/2015, 5 [28].

32 Queensland Independent Remuneration Tribunal, Submission to the *Review Committee – An Independent Parliamentary Entitlements System* (16 September 2015).

33 As per Recommendation 12 the Review Committee considers the term ‘Electorate Charter’ in Remuneration Tribunal *Determination 2012/04* should be replaced with the term ‘Transport in Large Electorates’ to render the purpose more transparent.

5.56 The Committee notes the effect of adopting recommendation 15 would be that each parliamentarian's Electorate Allowance would increase to fund private arrangements in respect of vehicles or such other transport arrangements considered appropriate. The increase in Electorate Allowance would incorporate the costs of obtaining and running a leased vehicle. In these circumstances permitting parliamentarians to claim a per kilometre rate for use of a private vehicle would open up the risk of double-dipping. Accordingly, the Committee considers that the private vehicle allowance should be abolished concurrently with the increase in Electorate Allowance proposed in recommendation 15. This would mean that where a parliamentarian elects to travel by vehicle from, say, Sydney to Canberra for parliamentary business they would have an incentive to use their leased vehicle, thereby reducing costs to the Commonwealth.

Recommendation 17

Travel – Canberra and intra-state family travel

The Remuneration Tribunal should maintain three return fares for each dependent child, but use full fare economy class to determine this portion of the family travel budget.

5.57 Family travel provisions recognise the 'non family friendly' character of a parliamentarian's job. Parliamentarians generally work long hours when at home, and the vast majority are away from home for a minimum of 20 weeks a year. The demanding nature of parliamentary life poses particular challenges for parliamentarians who are mothers of infants, have young families, and/or represent regional or remote electorates. There is strong evidence that the work of a parliamentarian puts significant strain on his or her family relationships. There is a risk that some parliamentarians will not be able to do their job properly or the Parliament will be unable to attract and retain talented individuals from a diverse range of backgrounds and stages of life.

5.58 The Committee considers the Canberra and intra-state family reunion travel should be maintained so as to facilitate family life but not constitute an indulgence. The intention is to allow parliamentarians to spend time with family.³⁴

³⁴ Belcher Review (April 2010) 80.

- 5.59 The current provision is for an annual budget or pool of money, based on the value of nine business class return fares for a spouse or nominee from the parliamentarian's home base to Canberra and three business class return fares for each dependent child, which the parliamentarian can use to pay for various forms of eligible travel for as many journeys as desired between the relevant home base and Canberra, or from the relevant home base to another destination within the same state, so long as the member is at that destination for parliamentary business.
- 5.60 The Committee recommends maintaining three return fares for each dependent child but using full fare economy class to calculate this portion of the budget or pool of money. While the budget or pool may be used for travel by any family member at the class of travel selected by a parliamentarian, the Committee considers that dependent children should generally travel economy class (unless the dependent child is an infant or minor who must, for example consistent with airline policy, sit with a parliamentarian, spouse, nominee or designated person in business class).
- 5.61 When travelling to or from Canberra, the spouse, nominee, designated person or dependent children of a parliamentarian from Western Australia, the Northern Territory or Queensland (if at least 1,100 km flight distance from Brisbane) should be permitted to interrupt the journey under the same terms as those recommended above for the parliamentarian.

Recommendation 18

Travel – 'dependent child'

The Government and the Remuneration Tribunal should:

- a. update the definitions of 'dependent child' in, respectively, the *Parliamentary Entitlements Act 1990* and Remuneration Tribunal determinations to ensure they are uniform and contemporary; and
- b. ensure the definitions provide for a maximum age of 18, consistent with the Government's approach in the Parliamentary Entitlements Legislation Amendment Bill 2014.

- 5.62 Section 3 of the *Parliamentary Entitlements Act 1990* essentially defines 'dependent child' as someone under 16 in the custody, care and control of the officer or to whom the officer has access; or someone under 25 in full-time education and wholly or substantially dependent upon the officer. The Parliamentary Entitlements Legislation Amendment Bill 2014 would lower the age in the second category to 18. Remuneration

Tribunal Determination 2012/04, clause 1.4 applies the same definition, without the requirement that a dependent child between 16 and 25 be in full-time education.

- 5.63 The Committee prefers the definition of ‘dependent child’ in section 5(2) of the *Social Security Act 1991*: a child under 16 (i) in the care of an adult who is legally responsible (alone or jointly) for the child’s ‘day-to-day care, welfare and development’; or (ii) wholly or substantially in the adult’s care and not the dependent of another.
- 5.64 The Committee endorses, as according with reasonable standards, the Amendment Bill’s lowering of the maximum age of a ‘dependent child’ in full-time education to 18.

Recommendation 19

Travel – Inter-state family reunion travel

The:

- a. Remuneration Tribunal should review and tighten eligibility requirements with respect to the combined total of three inter-state business class return trips provided each year pursuant to Remuneration Tribunal Determination 2012/04 for use by the spouse, nominee, designated person or dependent children of a Senator or Member including by:
 - i. incorporating a requirement that such travel be for the dominant purpose of reunion with a Senator or Member who is at a location for the dominant purpose of conducting ‘parliamentary business’ as defined pursuant to recommendation 4; and
 - ii. prohibiting use of the provisions to undertake an inter-state family holiday.
- b. Government should similarly review and tighten eligibility requirements with respect to the single business class return trip to any place within Australia provided each year pursuant to the *Parliamentary Entitlements Act 1990* for use by a dependent child of a Senior Officer (minister, opposition office holder or presiding officer).

- 5.65 The inter-state family travel provisions for Senators and Members provided under Remuneration Tribunal Determination 2012/04 (see para. 5.15 above) are an example of provisions whose origins lie in a time during which Parliament set parliamentarians' remuneration and opted to address actual or perceived salary deficiencies with new 'allowances', thereby conflating remuneration with work expenses. They are also indicative of the way family travel provisions have been broadened over the years to such a degree that they are inconsistent, ambiguous and open to perceived or actual misuse.
- 5.66 While the Committee considers family reunion travel to and from Canberra (the parliamentarians' place of work for upwards of 20 weeks a year) should essentially be maintained in its current form, it takes a more limited view with respect to inter-state family reunion (i.e. other than that to and from Canberra). As currently configured, the latter provisions are imprecise, confuse salary with work expenses and no longer appear commensurate with reasonable private and public sector employment practices. Moreover, even when used 'within entitlement', the inter-state family reunion travel provisions are an ongoing source of controversy because a particular trip can readily be portrayed, fairly or unfairly, as a fully-funded family holiday at a luxury or exotic destination.
- 5.67 The Committee has carefully considered this issue. One option would simply be to abolish the inter-state family reunion travel provisions. However, having regard to its previous observations about the impact of parliamentary duty on parliamentarians' families, the Committee is concerned that such an approach would be too blunt. It would have a disproportionate and unreasonable impact on Senators and Members, particularly with young children, who use the provisions within entitlement, and travel long distances for parliamentary business and are often away from home longer and correspondingly more reliant on family reunion. Another option is to limit access, or calibrate the provisions to apply only or largely, to Senators and Members from the more distant electorates, states or geographic areas. This approach has been applied in the past to various travel provisions; but the Committee is concerned it would heighten the complexity of travel provisions and thus undermine the objective of a simpler, more transparent expenses system, as articulated in chapter 4.

- 5.68 The Committee considers, on balance, that Senators and Members should retain access to inter-state family reunion travel, as per Remuneration Tribunal Determination 2012/04, but the Remuneration Tribunal should review and limit the provisions so they can only be used by Senators and Members to spend time with their family while undertaking legitimate - not contrived - parliamentary business. The Committee recommends this be achieved through a purpose-based eligibility requirement that inter-state family reunion travel be for the dominant purpose of reunion with a Senator or Member who is at a location for the dominant purpose of conducting ‘parliamentary business,’ as defined in Chapter 4. The Committee also recommends the Determination be amended to prohibit explicitly use of the provisions to undertake an inter-state family holiday.
- 5.69 The Committee has also examined the separate provision for inter-state family travel for Ministers and office holders under the *Parliamentary Entitlements Act 1990*. Consistent with our approach to Remuneration Tribunal Determination 2012/04, the Committee recommends the current provision under that Act for one business class return visit to any place within Australia each year for a dependent child of a Senior Officer (defined as a minister, opposition office holder or presiding officer) be similarly reviewed and tightened by the Government.³⁵
- 5.70 Having regard to the official and quasi-official roles performed by the spouses of a Senior Officer and the amount of time that Senior Officers spend away from home, the Committee considers that the current provision for uncapped inter-state spouse travel for official purposes under the *Parliamentary Entitlements Act 1990* should be maintained.

³⁵ The current *Parliamentary Entitlements Act 1990* provision for dependent children of Senior Officers to travel to Canberra would be maintained.

The Remuneration Tribunal should:

- a. extend eligible travel to the spouse, nominee or designated person accompanying or joining a parliamentarian, who is the mother of a dependent child up to 12 months old, travelling on parliamentary business; and
- b. determine that the class of air travel under this schedule be full fare economy.

5.71 The Committee, noting that parliamentarians have no access to maternity leave or related employment benefits, recommends that, for parliamentarians who are mothers of a dependent child or children up to 12 months old, the provision for eligible travel for parliamentary business be extended to a spouse, nominee or designated person accompanying or joining the parliamentarian to assist in caring for the child.³⁶ This provision should be used in a manner which respects the principle of value for money. Travel under the schedule would be full fare economy class.

5.72 The Committee considers it appropriate that parliamentarians who are mothers be eligible to draw on this provision for up to twelve months from the birth of their child, which aligns with the period for which Australian employees can access parental leave under s 70 of the *Fair Work Act 2009*.

36 The Remuneration Tribunal issued Determination 2015/15 on 25 November 2015 which amends the existing family reunion provisions in Principal Determination 2012/04 to include a specific provision for Senators and Members who are breastfeeding a child. The provision applies where the breastfeeding Senator or Member has exhausted her existing entitlement to be accompanied or joined at Commonwealth expense on inter-state travel by a spouse or nominee; and is travelling inter-state on parliamentary, electorate or official business at Commonwealth expense while breastfeeding her child. The additional provision specifies that the parliamentarian may be accompanied or joined by her spouse, nominee or designated person travelling economy class to support her to breastfeed her child. In its Reasons for the determination the Remuneration Tribunal has noted that it will review Determination 2015/15 within twelve months in light of any Government recommendations arising from the report of the Review Committee into an Independent Parliamentary Entitlements System.

The Remuneration Tribunal should reduce the provision for post-retirement travel for former parliamentarians, who do not qualify for the Life Gold Pass, from five return trips to Canberra or their former electorate office in six months to three full fare economy return trips to Canberra or their former electorate office in three months.

- 5.73 Post-retirement travel provisions were once viewed as a significant part of a parliamentarian’s remuneration package, but are no longer – another example of the Parliament providing benefits as an alternative to increasing parliamentary salaries. In its submission to the Belcher Review, the Remuneration Tribunal said:

... the LGP (Life Gold Pass) has become an anachronism – it is hard to envisage any other employer structuring a remuneration package so as to provide travel entitlements to an ex-employee...

- 5.74 Legislation passed in 2012 closed the Life Gold Pass scheme to new entrants, and the Government introduced the Parliamentary Entitlements Legislation Amendment Bill 2014 which would effectively close down the scheme within the next few years (other than for former Prime Ministers). Whatever the outcome of this legislation, the Life Gold Pass scheme has a finite life (other than for former prime ministers). Currently, 169 former parliamentarians can access travel under the Life Gold Pass scheme, and 47 current parliamentarians would be able to do so were they to retire under the existing legislation. Under the proposed legislation, the number of former parliamentarians accessing the scheme would be significantly reduced.³⁷
- 5.75 That said, the Committee’s view is that post-retirement travel should be retained at its current level for former Prime Ministers. They remain public figures for the rest of their lives, subject to frequent calls on their time for public purposes. It is in the community’s interests to facilitate drawing upon their experience.

37 The proposed legislation seeks, *inter alia*, to end retirement travel for parliamentarians who retired prior to 13 May 2011 (other than former ministers, former presiding officers and leaders of the Opposition (“Senior Office Holders”)), and retirement travel for Senior Office Holders who retired prior to 13 May 2008. Other key changes include the removal of all accompanying spouse travel (other than for a former prime minister), introduction of a purpose test, and a requirement for a parliamentarian (other than a former prime minister) to retire before 1 January 2020 in order to be eligible for parliamentary retirement travel.

- 5.76 The Committee recommends that, during the three-month period following retirement from parliament, former parliamentarians not qualifying for the Life Gold Pass be funded for up to three return trips between their home base and either Canberra or the location (or locations) of their former office provided by the Commonwealth, rather than the currently available five return trips within six months and that these should be based on full economy airfares, rather than business class airfares.³⁸
- 5.77 We consider this proposed approach is reasonable and note that post-retirement or post-severance travel arrangements are not common employment conditions. Former parliamentarians would still be able to undertake some funded travel to wind up their parliamentary business and smooth their transition to life beyond parliament.
- 5.78 Data on usage of the current provision suggests the reduction would have a limited impact on former parliamentarians. A high number of those eligible to use the provision do not come close to utilising it fully.³⁹
- 5.79 The Committee notes that parliamentarians who retired from the Parliament before 15 March 2012 and did not qualify for a Life Gold Pass also had access to a ‘severance’ travel benefit with limited durations depending on years of service. The Remuneration Tribunal abolished this severance travel benefit in 2012; but persons who had accrued it were allowed to retain accrued benefits. Eligibility for these benefits will be exhausted by mid-2016. The Committee has, therefore, made no findings with respect to severance travel.

38 The cost of a return trip is limited to the cost of the business class airfare for the most reasonable and usual route between the departure and destination points, or the economy class airfare where no business class fare is published (other than where a former Senator or Member cannot travel by air on medical grounds, in which case the Special Minister of State may approve payment of the full fare on an alternative mode, or modes, of transport).

39 M&PS information indicates that of the 31 former parliamentarians eligible for post-retirement travel in 2013-14 only 16 parliamentarians accessed it with only three of those 16 using the full 5 trip provision. The total trips utilised was 32.5 per cent. Travel was evenly spread over the entitlement period with a quarter of trips taken in the first month and just over half (53.8 per cent) utilised in the first three months.

The Government should provide, through the Department of Finance, guidance and training to parliamentarians, including office holders, which specifies that use of charter transport must constitute value for money, and in particular that, in the absence of compelling reasons, helicopters cannot be chartered to cover short distances.

- 5.80 Beyond the general travel provisions for all parliamentarians, certain office holders, including presiding officers, are able to charter transport (for example aircraft) for work travel under the *Parliamentary Entitlements Act 1990*. There are additional ‘executive’ provisions for ministers.
- 5.81 The principles-based approach recommended by the Committee, with its emphasis on value for money, reducing complexity and increasing transparency and accountability, should ensure appropriate use of these travel charter provisions. But common sense and good judgment must always be exercised. This should be made explicit in guidance and training provided to parliamentarians, including office holders, and staff.
- 5.82 The guidance and training should specify that in the absence of compelling reasons, helicopters cannot be chartered under the *Parliamentary Entitlements Act 1990* to cover short distances in metropolitan and urban areas. Compelling reasons might include natural disasters or national security considerations.

The:

- a. Government should provide members from the Big Six electorates with a land area of more than 500,000 square kilometres with a third, staffed electorate office; and
- b. Remuneration Tribunal should:
 - i. review the quantum of the Electorate Allowance and Electorate Charter budget for members of the Big Six electorates;
 - ii. provide travelling allowance for any night spent by a Big Six member outside his or her electorate in the course of staging from one point in his or her electorate to another; and
 - iii. maintain the eligibility of members of Big Six electorates to obtain a second vehicle offset against their Electorate Charter Budget.

5.83 As outlined on page 74, Australia has six electorates that have a land area of more than 500,000 square kilometres, some with considerably more. As electorates are of approximately equal size by population, rural electorates may grow in area as their population remains static or declines and that of the nation generally continues to shift to cities. No matter how large geographically, each electorate is represented in the House of Representatives by a single member, who must provide services to, and represent the interests of, constituents to a standard commensurate with those in an urban electorate. This entails constant, lengthy and demanding travel.

5.84 The Committee considers travel could be reduced or facilitated if parliamentarians representing electorates above 500,000 square kilometres had a third electorate office and one additional electorate staff member to maintain it.

5.85 These largest electorates should continue to attract an adequate budget for Electorate Allowance and charter travel. This should be subject to regular Remuneration Tribunal review. On account of their special travel requirements, parliamentarians representing these large electorates should not have to count single night stop-overs outside their electorates which facilitate their intra-electorate travel against the ten night limit on travelling allowance outside the electorate.

- 5.86 This is because the geographical size and diversity of the largest electorates mean the closest airport (with scheduled commercial services) and accommodation to a remote locality within a parliamentarian's electorate is sometimes outside the electorate itself. Travelling through these centres will usually represent the best value for money option. For example, in order to use scheduled commercial services, parliamentarians representing large Western Australian electorates (Durack, O'Connor) will often need to stage through Perth to visit localities within their electorates. Similarly, Birdsville in the electorate of Maranoa, Queensland, is a logical staging point for intra-electorate travel in north eastern South Australia by the member for Grey.
- 5.87 The Committee considers that if the Remuneration Tribunal's examination results in the replacement of private plated vehicles with private leased vehicles, the offset in the largest electorates through an increased Electorate Allowance should be set at a level commensurate with the geographical size and requirements of these electorates. As noted above, this could be around \$42,000 (including running costs).
- 5.88 Members from the largest electorates (and Northern Territory Senators) can currently obtain a second vehicle by offsetting its costs against their Electorate Allowance or charter travel budget. This should be maintained. Recommendation 15 envisages that arrangements whereby the Commonwealth leases vehicles on behalf of Senators and Members would cease. The lease of a second vehicle would thus need to be arranged by the Senator or Member privately (using a Commonwealth-funded common-user agreement) with the costs offset against his or her Electorate Allowance or Electorate Charter⁴⁰ budget.⁴¹ The value of the second vehicle could not be converted to cash by the parliamentarian.

40 As per recommendation 12, the Review Committee considers the term 'Electorate Charter' in Remuneration Tribunal *Determination 2012/04* should be replaced with the term 'Transport in Large Electorates' to render the purpose more transparent.

41 To use this provision to lease a second vehicle a parliamentarian would certify that they had already used their Electorate Allowance to lease a first vehicle.

6. Transparency, streamlining and information technology

Introduction

6.1 The proposed principles-based system entails a balance. Parliamentarians and their staff need clearer rules and processes, and flexibility to make optimal choices. Those administering and overseeing the system must be able to ensure those choices secure value for money and meet reasonable standards. Transparency is central to this balance. It should be embedded as an accountability and compliance tool to ensure:

- parliamentarians and the public can ascertain applicable laws, regulations and conventions;
- administrators have the technological means to access, process, report on and publish expenditure information; and
- the public can monitor routine expenditure reports to make its own judgments about value for money and hold parliamentarians to account.

6.2 Streamlining administrative arrangements and upgrading information technology would contribute to the balance. Parliamentarians, staff and administrators could spend less time on redundant paperwork and processes without compromising accountability. A fit-for-purpose online digital expenses system would allow the Department of Finance to reduce manual processing significantly. It could then support higher quality client service.

Recommendation 24

Improving transparency – publish all key documents online

The Government should ensure that all rules and practices relating to interpretation and operation of the work expenses framework are published together online, along with guidance material.

Transparency

- 6.3 If parliamentarians are to be expected to comply with the rules, and the public is to hold them to account, everyone has to know what the rules are. Yet the rules and conventions are not easily accessed or gathered into a single source. As the ANAO has identified, it can be unclear whether a claim which was paid should have been, in accordance with the rules and conventions,¹ or indeed if a particular claim is being fairly challenged.
- 6.4 There have been significant improvements in the past few years in the way the rules are explained to parliamentarians and the public, with the Department of Finance publishing a suite of handbooks and summaries on the M&PS website, with links to source documents. But more can be done to make the system easier to negotiate. The Committee therefore recommends the Government ensure all of the rules and conventions relevant to the interpretation and operation of the expenses framework are collated and made available online, supported by guidance material (augmented as appropriate). This should include relevant administrative decisions of general application made from time to time by the Special Minister of State, and the conventions that apply during election periods.

Recommendation 25 Improving transparency – more frequent reporting

The Government should publish:

- a. details of work expenses of parliamentarians and their staff; and
- b. a parliamentary expenses dataset on data.gov.au.

The Government should do so quarterly, pending implementation by the Department of Finance of an integrated digital system proposed in recommendation 30, and from then on monthly.

- 6.5 Twice a year, the Department of Finance compiles reports detailing individual parliamentarians' use of specific work expenses (office facilities and administrative costs) and travel-related claims (including domestic travel, car costs, overseas travel, travelling allowance and family travel). It bases the reports on data drawn from the systems with which it administers the framework, and provides them in draft form to each parliamentarian for review and certification before release.

¹ ANAO, *Administration of Travel Entitlements Provided to Parliamentarians*, Audit Report No. 42 of 2014-15 (4 June 2015) 91.

- 6.6 These reports allow the public to judge whether a parliamentarian is operating in accordance with expectations. As the reports will play a central role in a principles-based approach, under which parliamentarians will publicly need to justify their work and travel expenses according to stricter criteria, the Committee recommends a number of changes be made to their character and timing.
- 6.7 The Committee recommends they be released monthly, so as to compel parliamentarians to consider more carefully the consistency of their expenses with community expectations and to permit more accurate comparison with expenditure patterns across the parliamentary cohort. This will require implementation of the integrated digital information technology system envisaged in recommendation 30 and, pending that, reports should be published quarterly.
- 6.8 The reports should be released as a dataset on data.gov.au² to assist users and the public to monitor expenses more regularly and across various periods.³ The data should be made available in a machine-readable format so that it is compatible with various technologies.
- 6.9 Finally, the reports should provide a more complete and accurate picture of a parliamentarian's expenses. At present, they include only payments made and receipts received by the Department of Finance within a six month period, though not all expenses a parliamentarian may have incurred during that period. In addition, there is typically a substantial delay between the end of a period and the report's actual release. For example, reports for 1 January to 30 June 2015 were released in December 2015. In 2013, the Department of Finance advised the Special Minister of State that:

Reducing the reporting lag would improve the transparency of the framework and also bring the administration of the framework into line with international standards such as those operational in the United Kingdom, France, and the United States (where reporting lags have been reduced to less than one month, providing higher and more immediate levels of transparency).⁴

2 Data.gov.au provides an easy way to find, access, and reuse machine-readable data from across government. Users are encouraged to leverage data published on data.gov.au to develop tools and applications that benefit all Australians.

3 This often happens where a parliamentarian may have booked travel during one reporting cycle but travelled during another cycle.

4 ANAO, above n 1, 164.

- 6.10 The Committee agrees. If the system is to be principles-based and provide parliamentarians with greater flexibility, it will need to afford them and the public access to expenditure information on a more routine and reliable basis. When the Department of Finance’s integrated digital system is implemented all relevant monthly expenditure data should be available within the report for that month, and within a reasonable period after the end of that month.

Recommendation 26

Improving transparency – more detailed travel reporting

The Government should:

- a. require parliamentarians to identify in their claims for flights (including air charter) and travelling allowance that the purpose of travel falls within at least one of the work streams covered by the inclusive definition of ‘parliamentary business’ recommended in chapter 4; and
- b. ensure this identification is included in published expenditure reports.

- 6.11 More detailed expenditure reports will improve transparency and accountability. Parliamentarians will be able to demonstrate, and administrators and the public judge, adherence to the rules and value for money. The requirement should be set out in legislation.

- 6.12 In considering the appropriate level of detail, the Committee weighed the benefits of disclosure against the risk of imposing an undue administrative burden. Compelling the reporting of complete itineraries and what portions were spent on parliamentary business would be impractical and overly intrusive. The Committee recommends parliamentarians instead be required to identify certain aspects of their travel (flights including air charter, and travelling allowance) as falling, according to a dominant purpose test, within at least one of the work streams in the inclusive definition of ‘parliamentary business’ recommended in chapter 4:

- parliamentary duties;
- official duties of parliamentarians, ministers and parliamentary office holders;
- electorate duties; and
- party political duties (as set out in paragraph 4.21 above).

6.13 While not full transparency, this would assist audit and compliance processes and public examination. That could in turn prompt a request for a parliamentarian to provide more information to administrators or others seeking to resolve perceived or actual anomalies. It would create the conditions for accountability, encouraging parliamentarians to consider carefully the purpose and merits of their travel. It would also build a body of data allowing general comparisons and trend analysis. The generic nature of such certification means exemptions at this stage should not be necessary.

6.14 If administrators request particulars, the parliamentarian should be required to provide them. There may be limited circumstances where a parliamentarian could reasonably decline to substantiate a particular expenses claim. A member of a parliamentary committee, for example, might travel to gather evidence from a member of the public who might withhold that information if not guaranteed confidentiality. The system could allow exemptions in such cases, drawing on information disclosure regimes including the *Freedom of Information Act 1982* and the doctrine of public interest immunity. The claiming of an exemption should be publicly recorded. The Committee notes that past practice has been that information should not be revealed if it could:

- prejudice legal proceedings;
- prejudice law enforcement investigations;
- damage commercial interests;
- constitute an unreasonable invasion of privacy;
- disclose deliberations of the Executive Council or Cabinet;
- prejudice Australia's national security, defence or international relations; or
- prejudice relations between the Commonwealth and the States.⁵

⁵ See Harry Evans & Rosemary Laing (eds), *Odgers' Australian Senate Practice* 13th edn (2012) 598.

Streamlining

Recommendation 27

Improving efficiency – electorate office maintenance threshold

The Government should consider, within current contractual arrangements, what can be done to permit parliamentarians to organise minor maintenance and refurbishment of their electorate offices, without ministerial approval but through a market-based process.

- 6.15 Accountability does not always require, nor is efficiency always served by, centralised control. At present, parliamentarians have little flexibility or control over how they equip and fit-out their offices and cannot approve minor repairs or refurbishments. Currently, expenditure on electorate office maintenance and refurbishment is not subject to a monetary cap, as market conditions vary widely. Approval by the Special Minister of State is required, followed by a complex and time-consuming administrative process to ensure works meet legislative requirements (including commercial building codes and work, health and safety standards) and Commonwealth procurement rules. The Department of Finance has contracted a national provider to assist with delivery of property management services including lease negotiations, office fit-outs and maintenance; but the attendant administrative processes can be burdensome.⁶
- 6.16 The Committee believes a market process permitting parliamentarians to arrange and oversee minor property work themselves, up to a maximum of \$50,000 per annum, would provide flexibility, reduce the administrative burden and allow parliamentarians greater opportunity to use local providers. Guidelines concerning, for example, a requisite number of quotations and work, health, safety and security specifications, and expenditure reporting requirements would ensure appropriate standards and accountability. This approach would allow parliamentarians to direct work and claim reimbursement which would be reported as part of their individual work expense. Other, non-discretionary, property-related expenditure would be separately reported pursuant to recommendation 28 below.

⁶ Appendix H refers.

The Government should:

- a. amend the reporting regime so that required expenditure on the establishment, relocation and refurbishment of offices appears as Commonwealth expenditure administered by the Department of Finance, not in the expenditure reports of individual parliamentarians; and
- b. initiate a motion to refer the issue of the high cost of outfitting electorate offices under existing arrangements to the Joint Committee of Public Accounts and Audit for examination and possible inclusion in the Parliament's audit priorities advised to the Auditor-General.

- 6.17 The Committee is not of the view that a principles-based system requires or benefits from the inclusion in individual parliamentarians' expense reports of items over which they have little or no control. As noted above, one such item is the cost of establishing, relocating or refurbishing electorate office accommodation, a responsibility of the Department of Finance.⁷ This expenditure is not made solely at the parliamentarian's discretion. Nevertheless, this expenditure is currently attributed directly to the parliamentarian in the six-monthly expenditure report.
- 6.18 The Committee recommends these costs appear collectively in reports on Commonwealth expenditure administered by the Department of Finance.
- 6.19 In the course of conducting its review, the Committee heard substantial evidence of the high cost to the Commonwealth of outfitting offices around the country. It is concerned about the significant amounts involved, and recommends the Government initiate a motion that both Houses of Parliament refer this matter to the Joint Committee of Public Accounts and Audit for consideration, including as a potential audit priority of the Parliament to be advised to the Auditor-General. (Alternatively, the Auditor-General may wish to independently consider this matter for inclusion in his office's audit priorities, although the Committee considers there would be benefit in bipartisan parliamentary support for such an audit).

⁷ The Department of Finance is also responsible for providing office accommodation outside Parliament House to a range of office holders including ministers, opposition office holders, presiding officers and former Prime Ministers.

The Government should consider developing further arrangements for pooling similar purpose categories of parliamentary work expenses into single budgets including with respect to aspects of car transport, home telephone services and information technology.

- 6.20 As part of the 2015-16 Budget, the Government announced measures which included the establishment of an ‘office budget’ for parliamentarians through the consolidation of various narrower categories of work expenses including publications, office requisites and stationery, flags, printing and communications, and software. The Government also announced the establishment of a general electorate support budget equivalent to the combined value of the former electorate staff travel budget and relief staff budget.⁸
- 6.21 The Committee considers further, targeted, pooling of work expenses would allow parliamentarians greater flexibility and adaptability to employ differing means of servicing constituents, in accordance with market conditions and changing technology.⁹ For instance, aspects of car transport could be simplified through the provision of a capped allowance that covers use of hire cars, COMCAR, taxis and vehicles in the electorate; the ‘office budget’ could be expanded to include the home telephone and associated services provided to parliamentarians under Remuneration Tribunal Determination 2012/04; and there could be further consolidation of other categories of information technology and communications expenses. Enhanced transparency and disclosure requirements and the value for money principle would encourage parliamentarians to make appropriate decisions within the pooled category.

8 See 2015-16 Budget Paper No 2, 92 and the *Parliamentary Entitlements (Office Budget) Regulation 2015* (made on 25 June 2015 to amend the work expenses provided for in Schedule 1 to the Parliamentary Entitlements Act accordingly). See also recommendation 4 of the Belcher Review, which supported capped allocations for work expenses, based on real costs and patterns of actual use, with flexibility to be increased if necessary.

9 Department of Finance, Submission to *the Review Committee – An Independent Parliamentary Entitlements System* (October 2015) 12.

Information technology

Recommendation 30 Information technology – integrated digital system

The Department of Finance should urgently develop for Government consideration a business case for a fit-for-purpose, integrated online work expenses system.

- 6.22 A more transparent system with monthly reports would need the support of a modern expenses management system. Unfortunately, the complexity of the existing work and travel expenses framework has made it difficult for the Department of Finance to acquire simple, agile, off-the-shelf technology solutions. Instead, M&PS relies on a number of heavily customised and bespoke applications to perform relatively simple tasks, such as:
- managing and recording contact with parliamentarians;
 - entering and processing work expense claims;
 - tracking and paying invoices;
 - providing human resources (HR) services to parliamentarians and their staff; and
 - generating monthly and six-monthly work expense reports.
- 6.23 As noted in chapter 3, these applications are ageing and do not meet the business needs of parliamentarians and their staff.¹⁰ They rely on labour-intensive manual handling and processing of paperwork. An ensemble of makeshift technical solutions, they do not ‘talk to each other’. The current system is depicted at Appendix G.
- 6.24 Change is needed, and the Department of Finance should urgently develop a business case for a fit-for-purpose system that meets the needs of those who will use it and those who need to administer a more flexible expenses system.

¹⁰ M&PS’ administration system also covers personnel employed under the *Members of Parliament (Staff) Act 1984*. Reforming M&PS’ system would benefit parliamentarians not only in terms of administration of their work expenses but also in overseeing their staff’s human resources arrangements.

Current M&PS information technology systems

chris21

This HR management system is the principal repository for Department of Finance data on parliamentarians, their families and nominees, and *Members of Parliament (Staff) Act 1984* staff. It allows parliamentarians and their staff to access online HR services, manage their office budget and confirm eligibility to claim expenses.

As chris21 is heavily customised, M&PS relies on technology suppliers for support and upgrades. Employment forms are in hard copy, with manual data entered by M&PS staff. Data might be handled multiple times, and the process delayed if information is incomplete or incorrect.

Entitlements Management System (EMS)

This custom-built application for capturing, processing and reporting on expense claims has some capacity for bulk claims processing, but most must be entered manually from scanned or photocopied forms (samples provided at Appendix I) faxed or emailed to M&PS. Claims are generally entered by one M&PS processing officer, then verified by another. Parliamentarians certify their six monthly reports through EMS; without access to a real-time record, many find it challenging to monitor their expenses, advise of errors in a timely manner and stay within capped budgets.

As a bespoke application, EMS has very limited in-house maintenance support. Problems have either not been addressed or been the subject of manual workarounds which, over time, have diverted resources which could otherwise have been used for system enhancements. The lack of integration with chris21 makes it difficult for the Department of Finance to support the provision of expenses which attract a tax liability.

Ministerial and Parliamentary Services website

M&PS' website is its principal means for conveying expenses advice to parliamentarians, former parliamentarians and *Members of Parliament (Staff) Act 1984* employees. It contains, among other things:

- the legislation and instruments comprising the expenses framework;
- handbooks and summary materials;
- approximately 70 forms for claiming and certifying expenses;

- circulars advising of changes to policy or administration of expenses; and
- contact details for M&PS Entitlement Managers, the Department of Finance help desk and contracted service providers.

This ‘front door’ to the framework is essentially an information repository, providing limited on-line and self-service capability.

The information above is provided by the Department of Finance.

An integrated solution

6.25 An integrated solution to support the administration of parliamentary expenses is long overdue. The current system of disparate and ageing information technology applications, manual processes and workarounds is a complicated web of patches and fixes which barely support service delivery and cripple administration.

6.26 The Committee understands the Department of Finance is developing a solution. This could entail substantial investment; but current arrangements warrant an urgent and significant overhaul. The Committee supports implementation of an integrated solution which would:

- include a client portal;
- provide parliamentarians with ready access to the information they need;
- allow parliamentarians and their staff to lodge claims electronically;
- allow M&PS to process claims online without having to re-key data into another system;
- support real-time information for clients and M&PS;
- enable publication of monthly expenditure reports on data.gov.au (in a form compatible with various technologies used to access web content);
- enable M&PS staff to respond more efficiently and accurately to questions from parliamentarians and their staff;
- support risk-based monitoring and auditing; and
- keep pace with legislative and regulatory changes to the framework.

The Government should require the Ministerial and Parliamentary Services Division of the Department of Finance to adopt a service charter which includes a commitment to meet the Government’s Digital Service Standard by 1 July 2018, subject to implementation of the single legislative framework and integrated digital system as recommended in this Review.

- 6.27 For some time now, the Australian Public Service has been replacing paper-based forms and labour-intensive manual processes with digital technologies which automate complex tasks. Service delivery agencies have thus been able to streamline ‘backroom’ tasks and refocus efforts on providing better quality services. By reducing manual processing and adopting more contemporary technology, the Department of Finance could simultaneously improve the quality of the service it provides to parliamentarians and the efficiency with which it does so. Ideally, M&PS would adopt an agile, cloud-based platform able to keep up with future system and technological change.
- 6.28 The Committee considers it advisable for the Department of Finance to develop and adopt a service charter setting out its commitment to provide a higher standard of service to parliamentarians. Development and implementation of a new technological solution would be disruptive for M&PS and for parliamentarians. A service charter would demonstrate M&PS’ commitment to minimising disruption.
- 6.29 The service charter should include a commitment to meet the Digital Service Standard to support simpler, faster and more easily used digital services.

Digital Service Standard

The Digital Service Standard aims to make government services simpler, faster, and easier to use. Developed by the Digital Transformation Office, the Standard will be required of most government services.

In order to meet the Standard, agencies are expected to follow a number of steps, including:

- researching user needs;
- establishing sustainable, multi-disciplinary teams that can design, build, operate, and iterate the service (led by an experienced service manager with decision-making responsibility); and
- ensuring the services they operate are accessible to all users regardless of their abilities or environment.

The Standard is currently in draft. A copy can be accessed at www.dto.gov.au.

7. Oversight and accountability

Introduction

- 7.1 For a principles-based work expenses system to be effective, parliamentarians must be publicly, legally and politically accountable for their expenditure of Commonwealth funds in the course of performing their duties. Accountability promotes public trust and confidence in the propriety of their actions, and more generally in the system.
- 7.2 The measures proposed in previous chapters would facilitate public accountability through improved transparency and clarity in the content and application of expense rules. This chapter examines post-expenditure oversight, accountability and enforcement mechanisms which provide formal assurance of compliance and identify and deal with instances of non-compliance. It examines:
- internal mechanisms – Department of Finance processes and practices covering parliamentarians’ certification of expenditure, pre-payment and post-payment checking of expenditure, and internal audits of claims and their processing; and
 - external mechanisms – practices for handling allegations of misuse, and the administration of civil and criminal sanctions for breaches.
- 7.3 The Committee’s recommendations would implement a more modern, risk-based approach to oversight and enforcement, focusing on areas posing the greatest risk of misuse.

Internal mechanisms

Certification

Recommendation 32

Oversight and accountability – certification

The Government and the Department of Finance should undertake the following improvements to certification arrangements:

- a. the Government should introduce legislation creating a requirement that parliamentarians certify that their official expenditure accords with the eligibility rules;

- b. the Government should introduce legislation creating a requirement that parliamentarians certify the purpose of travel provided pursuant to recommendation 26;
- c. the Department of Finance should publish certification reports quarterly pending implementation of the integrated digital information technology system proposed in recommendation 30, and then monthly;
- d. the Department of Finance should include in its certification reports any reasons provided by parliamentarians for not complying with certification requests, instances of failure to provide reasons, and details of any qualified certifications; and
- e. the Department of Finance should apply the improved information technology arrangements in recommendations 30 and 31 to its administration and reporting of certifications.

7.4 Central to accountability is parliamentarians' certification that their official expenditures were in accordance with the rules. This is currently an administrative practice rather than a legal requirement, and the Department of Finance relies upon it to check compliance.

7.5 'Periodic' certifications are requested every six months and cover all expenses claimed. The Department of Finance publishes details of these certifications on its website, alongside the six monthly expenditure reports. 'Transactional certifications' are requested for particular work expenses (primarily those relating to travel) at the time the parliamentarian submits a claim. These certifications are generally a pre-condition for payment.

7.6 In its most recent performance audit of the Department of Finance's administration of parliamentarians' travel, the ANAO found there had not been full compliance with requests for periodic certification.¹ It also identified a practice by a number of parliamentarians of providing certifications in qualified terms, such as 'to the best of my knowledge' or 'based on the limited information available to me and on the advice of my staff.'² These findings bear out parliamentarians' complaints to the Committee

1 ANAO, *Administration of Travel Entitlements Provided to Parliamentarians*, Audit Report No 42 of 2014-15 (4 June 2015), 137 [3.124].

2 Ibid, 138-139 [3.127]-[3.128]. The ANAO noted this may be symptomatic of uncertainty or misunderstanding as to the matters to which certifications relate (namely, that all expenditure within the previous six months was in accordance with legislative requirements, and not the specific transactions and values in the accompanying expenditure report): at 142 [3.140].

that the ‘patchwork’ of expense arrangements, ambiguous categories of expense and absence of definitions make it difficult to certify definitively. The Committee seeks to address these concerns through recommendations elsewhere in this Review.

- 7.7 The Committee shares the ANAO and Belcher Review position that there is a need to improve incentives for compliance with certification obligations.³ It recommends that certification for parliamentarians’ work expenses be made a legal requirement,⁴ and that Department of Finance expenditure reports include, in addition to their current provision of the names of parliamentarians who have not certified their expenditure, any reasons they provide or the fact they did not provide reasons.
- 7.8 The Committee recommends in chapter 6 that Department of Finance expenditure reports be published quarterly (pending implementation of the integrated digital information technology system proposed in recommendation 30, whereupon publication will be monthly) to aid transparency and accountability. The Committee recommends that certification reports should be published at the same intervals as expenditure reports (that is, initially quarterly then monthly after implementation of recommendation 30). Similarly, in line with the Committee’s recommendation that parliamentarians should report on the purpose of their travel (recommendation 26), it also recommends that a corresponding certification requirement should apply to the purpose of travel.
- 7.9 The Committee notes that periodic certification reports do not distinguish between qualified and unqualified certifications. This may create the incorrect impression that

3 See recommendation 13 of the Belcher Review (at 73), which recommended that the Special Minister of State, on the recommendation of the Department of Finance, table in Parliament information including ‘regular reports setting out each Senator and Member’s compliance with the requirement for certification that entitlements have been accessed in accordance with the relevant legislation, including any justification given by the Senator or Member for non-compliance with the requirement.’ This has been partially implemented since November 2011 through the publication of six monthly reports on expenditure and periodic certifications. However, as the ANAO observed in Audit Report No 42 of 2014-15, these reports do not identify parliamentarians’ reasons for non-compliance: 137-138 [3.125]-[3.126]. The ANAO recommended the reports address this matter: per recommendation 1 (144). The Department of Finance agreed in principle and planned a review of the certification process: 144 [3.147].

4 The Department of Finance’s submission to the Belcher Review supported ‘a legislative underpinning for certification, and a public reporting mechanism for those Senators and Members who do not properly certify their expenses.’ See also ANAO, ‘Administration of Parliamentarians’ Entitlements by the Department of Finance and Deregulation’, Audit Report No 3 of 2009-10 (8 September 2009) recommendation 1, p. 91 [2.92], that a review of the entitlements framework consider options for accountability requirements, such as certification, to be mandated. See further, ANAO Audit Report No 42 of 2014-15, 132 [3.112].

all certifications are unqualified.⁵ In the interests of transparency, the Committee agrees with the ANAO that reports on certifications should identify any qualifications, including the terms of those qualifications and any reasons provided for giving a qualified certification.

- 7.10 Current certification documentation, largely paper-based, is onerous to complete, as several parliamentarians commented to the Committee, and requires manual processing and cross-checking by the Department of Finance. The improved information technology arising from recommendations made in chapter 6 would facilitate paperless completion and processing of certifications, and automated compilation and correlation of expenses.

Assurance and audit activities

Recommendation 33 Oversight and accountability – assurance and audit

The Department of Finance should ensure that appropriate resources are allocated to conducting contemporary assurance and audit activities related to parliamentary work expenses claims, and taking action on the findings of these activities.

- 7.11 The Department of Finance conducts an internal assurance program, based on parliamentarians' certifications. It includes a range of pre-payment and post-payment checks and a rolling program of internal audits. The checks, conducted on randomly selected claims, focus on confirming eligibility under the relevant head of authority (including that any caps or limitations are not exceeded) and some cross-checking of claims (for example, travel and travelling allowance claims in relation to single trips). A provider contracted by the Department of Finance conducts audits on the processing of claims and the pre-payment and post-payment checks applied.
- 7.12 The checking and audit activities are informed by a risk assessment framework overseen by a Department of Finance internal governance committee. The framework focuses oversight on areas identified as presenting the highest risk of misuse, and on implementing effective controls. Potential misuse is identified through data analytics and risk criteria such as correlation of travel dates with holidays and major sporting and other events; allegations of misuse; amounts of expenditure; spending beyond caps; and debts raised in relation to overpayments.

⁵ ANAO, above n 1, 139 [3.130].

7.13 The Committee concurs with the findings of the ANAO in its 2014-15 performance audit about the importance of allocating adequate resources to conducting contemporary assurance and audit activities and taking timely action on their findings.⁶ It is critical to a risk-based system that it be continuously active and supported by an appropriate staff complement. It is equally important that action be taken, both to pursue individual instances of non-compliance and to identify and to address underlying causes, including broader limitations or shortcomings in the rules governing particular work expenses or aspects of their application or administration.

External mechanisms

7.14 Ineligible use or potential misuse of parliamentary work expenses can lead to civil, administrative and criminal law enforcement action. It can be identified through:

- *Complaints* by members of the public, the media, other parliamentarians or their staff, political parties, and public or parliamentary service employees. Complaints can be made to the Department of Finance, the Special Minister of State (or his or her office) and the Australian Federal Police (AFP).
- *Media reporting* including of public expenditure reports and information obtained through freedom of information requests.
- *Parliamentary processes* such as question time, debate and committee inquiries and Senate Estimates.
- *Internal assurance and audit activities* of the Department of Finance.
- *External audit activities* such as ANAO performance audits.

6 ANAO, above n 1, 152 [4.17]. The ANAO examined a sample of post-payment assurance processes with respect to parliamentarians' travel. This included an analysis of travel data to identify activities that exhibited specific characteristics and therefore risk factors, warranting further consideration. The ANAO commented that 'a risk based approach of this nature to undertaking post-payment assurance procedures across a broad cohort of Parliamentarians is a more robust process than the department has previously applied.' However, it noted that action had not been taken or completed in relation to the findings of specific exceptions or risk factors, and commented that 'the utility of the analysis undertaken will be reliant upon the application of resources to appropriately examine the resulting data'.

The Protocol

Recommendation 34

Oversight and accountability – the Protocol

The Government should:

- a. amend the *Protocol followed when an Allegation is Received of Alleged Misuse of Entitlement by a Member or Senator* (the Protocol) to:
 - i. reflect current practices in relation to allegations of misuse;
 - ii. incorporate the arrangements announced on 9 November 2013 for the Special Minister of State to table in Parliament the names of parliamentarians who do not comply with requests to provide information;
 - iii. replace the term ‘entitlement’ consistent with recommendation 2; and
 - iv. expand the membership of the high-level committee responsible for considering ‘more serious’ matters to include two independent members, one of whom should be a retired judicial officer of an Australian Court (Federal, State or Territory); and
- b. table the amended Protocol in Parliament.

7.15 Since 1998, allegations of misuse have been managed under an administrative process established by the *Protocol followed when an Allegation is Received of Alleged Misuse of Entitlement by a Member or Senator* (the Protocol).⁷ The Protocol is not a legislative instrument and has no legal status. It is designed to ensure impartiality and transparency in administrative arrangements for the consideration of alleged misuse.

7.16 The Protocol’s processes can lead to civil, administrative or law enforcement action. Following an internal examination by the Department of Finance ‘to ascertain whether the allegations are credible (rather than being only malicious or vexatious)’, a matter can be assessed as ‘relatively minor’, in which case the Senator or Member is invited to provide an explanation to the Department. Allegations considered to be ‘more serious’ or involving ‘a high incidence of transgression’ are considered by a high-level departmental committee, chaired by the Secretary of the Department of Finance. Following the committee’s consideration and consultation with the Secretary of the Attorney-General’s Department, the Secretary of the Department of Finance can refer a matter to the AFP for criminal investigation.

⁷ A copy of the Protocol is provided at Appendix J.

- 7.17 The Committee strongly supports the object of the Protocol to ensure that allegations of misuse are addressed through a transparent and non-partisan process. It notes, however, that successive ANAO performance audits and the Belcher Review have recommended the Protocol be updated to reflect contemporary practice.⁸ The Committee supports this recommendation. The update should incorporate replacement of the term ‘entitlements’, consistent with recommendation 2.
- 7.18 The Committee also considers that the Protocol’s processes should be improved to:
- create stronger incentives for parliamentarians to comply with requests to provide information; and
 - strengthen arrangements for the consideration of ‘more serious’ matters by expanding the membership of the high-level committee and increasing its independence.

Improving compliance with requests for information

- 7.19 On 9 November 2013, the Government endorsed the Belcher Review recommendation that the Special Minister of State, acting on the advice of the Department of Finance, should table in Parliament the names of any parliamentarians who have not substantially complied within a reasonable period with a request for information about their expenditure.⁹ The Committee recommends this provision be incorporated expressly in the Protocol.
- 7.20 The Committee acknowledges there may be cases in which it would not be appropriate to disclose publicly that a parliamentarian’s actions are under consideration or investigation, for example when a matter has been, or may be, referred to the AFP and disclosure could prejudice an investigation (for instance, through compromise of evidence or interference with witnesses). Provision for deferred disclosure, or exemptions from disclosure, should be made for such cases.

8 These practices relate to the consideration of the credibility of complaints (as distinct from specific consideration of whether they are vexatious or malicious); administrative arrangements for seeking an explanation from the relevant parliamentarian via the Special Minister of State; and administrative arrangements for briefing the Special Minister of State on the Secretary’s decisions to refer matters to the AFP. See Belcher Review (April 2010), recommendation 12, pp. 71-72. See also ANAO Audit Report No 42 of 2014-15, 165-167 [4.60].

9 The then Special Minister of State, Senator the Hon Michael Ronaldson, ‘Strengthening the Rules Governing Parliamentarians’ Business Expenses’ (Media Release, 9 November 2013). (See further, recommendation 13 of the Belcher Review, April 2010.)

'More serious' matters

- 7.21 The high-level committee within the Department of Finance is an effective mechanism for review of more serious matters under the Protocol. In the Committee's view, however, it would benefit from being able to draw upon broader expertise and to demonstrate greater independence from the executive. The Committee therefore recommends the high-level committee's membership be expanded to include two independent members, one of whom should be a retired judicial officer (of any Australian court). A retired judicial officer's record of exercising sound judgment in objectively deciding matters of fact and law and status in the community would also promote public confidence in the integrity of the high-level committee.
- 7.22 To signify its changed composition, the high-level committee could be renamed, for example the 'high-level review panel'. The Committee envisages appointment of the independent members under fixed, renewable, terms by the Special Minister of State, following consultation with the Prime Minister and Opposition. The Secretary of the Department of Finance should continue to chair and convene it, and following consultation with the Secretary of the Attorney-General's Department, decide whether a matter should be referred to the AFP.

Penalties for misuse

Recommendation 35

Oversight and accountability – penalty loadings

The Government should move amendments to the Parliamentary Entitlements Legislation Amendment Bill 2014 to apply a penalty loading of 25 per cent to adjustments of parliamentarians' claims for all work expenses (other than those made following Department of Finance error), not just those relating to travel.

Parliamentary Entitlements Legislation Amendment Bill 2014

- 7.23 The House of Representatives passed this Bill on 28 October 2014, and the Government introduced it into the Senate the next day. It would amend the *Parliamentary Entitlements Act 1990* to establish a 25 per cent penalty loading on any adjustment (voluntary or involuntary) of a claim for travel benefits prescribed in regulations. The penalty is not applied where the adjustment is made within 28 days of the claim, or the overpayment is attributable to administrative error within the Department of Finance. The Bill establishes a statutory mechanism for the recovery of

payments made or benefits provided ‘outside entitlement’ (including for the recovery of any penalty loading applicable). These amounts would become debts to the Commonwealth, recoverable in a court of competent jurisdiction or, at the discretion of the Secretary of the Department of Finance following consultation with the relevant parliamentarian, through a reduction in the amount of future benefits.¹⁰

- 7.24 The Senate Finance and Public Administration Legislation Committee recommended that the Senate pass the Bill, subject to amendments to provisions concerning former parliamentarians’ travel. The Senate Committee did not comment substantively on the penalty loading measures.

Parliamentary Expenses Amendment (Transparency and Accountability) Bill 2015

- 7.25 Senator Nick Xenophon introduced a Private Senator’s Bill on 13 August 2015 which would amend the *Parliamentary Entitlements Act 1990* to provide penalties for ineligible claims for ‘travel benefits’, defined as benefits ‘for the costs of travel, whether the travel is by the member or another person’. In contrast to the Government Bill, imposition of penalty loadings would not require individual types of work expenses to be prescribed by regulation. The Bill does not provide for penalty loadings in relation to non-travel work expenses. It would apply significantly higher loadings than the Government Bill – 200 per cent where the parliamentarian has made no more than one incorrect claim over the previous 12 months, and 400 per cent if the parliamentarian has made more than one incorrect claim. It would require the Department of Finance to publish quarterly reports on penalties and confer an independent oversight function on the Commonwealth Ombudsman.
- 7.26 As mentioned in chapter 1, the Senate Finance and Public Administration Legislation Committee recommended on 26 November 2015 that the Senate not pass the Bill, as its proposals were best considered by the Review Committee.¹¹

10 These measures were announced by the then Special Minister of State as part of a package of reforms to ‘strengthen a range of measures governing the function of Parliamentarians’ work costs’: Special Minister of State, Senator the Hon Michael Ronaldson, ‘Strengthening the Rules Governing Parliamentarians’ Business Expenses’, (Media release, 9 November 2013).

11 Senator Xenophon provided a dissenting report, recommending that the Senate pass the Bill, on the basis that ‘while the Independent review offers the opportunity for discussion, this Bill provides for prompt and sensible measures that can be put in place immediately, concurrently with the broader review process’.

Committee view on penalty loadings

- 7.27 The Committee supports the application of penalty loadings to the repayment of work expenses claimed outside eligibility. This would provide a compliance incentive and send a strong public signal about the responsibility and accountability expected of parliamentarians in incurring and claiming work expenses. The Committee generally supports the approach adopted in the Government Bill over that proposed in the Private Senator's Bill, in particular a flat penalty loading of 25 per cent and a 28-day adjustment period. In addition, the Committee supports application of penalty loadings to all work expenses claimed outside eligibility, not just to travel expenses or expenses prescribed by regulation. This broader application should be included in primary legislation.
- 7.28 To ensure a new scheme of penalty loadings is established as soon as practicable, the Government could consider moving amendments to its Bill when it is debated in the Senate. If the Bill is passed, the scheme would subsequently require consequential amendment were the Government to implement the Committee's recommendation for a single legislative framework governing parliamentarians' work expenses in recommendation 6.

Criminal investigation and law enforcement

- 7.29 Some instances of misuse of work expenses may constitute a criminal offence – for example, the offences of dishonesty or fraud against the Commonwealth in Part 7.3 of the *Criminal Code 1995*. The AFP is responsible for investigating offences against Commonwealth law. Matters may be referred to it under the Protocol or following complaints by third parties. The AFP makes an independent determination of whether to accept a matter for investigation in accordance with its legislative and operational governance framework.
- 7.30 Two main issues arose in the Committee's consultations with the AFP:
- managing inaccurate public and political perceptions of the AFP's handling of complaints; and
 - challenges in the investigation and enforcement of offences, relating to proof of their elements to the criminal standard.
- 7.31 On the first issue, the AFP noted that many complaints contain 'allegations based on media speculation' and 'rarely are provided with any supporting evidence'. It commented there had been incorrect suggestions that it had taken an inconsistent

or arbitrary approach to accepting or rejecting such matters for investigation.¹² The AFP noted that its practice is to direct reports of alleged misuse of parliamentary entitlements, without supporting evidence, to the Department of Finance for consideration under the Protocol. The Secretary of that Department can then decide to refer the matter to the AFP under the Protocol, after appropriate consideration if that is necessary. Conversely, if a third party makes a complaint with supporting evidence, the AFP undertakes an evaluation and determines whether to accept a matter for investigation. The AFP and the Department of Finance entered into an agreement in 2013 which documents these arrangements, and the Committee supports their continuation. The AFP and Department of Finance may, however, wish to publish details of the 2013 agreement to promote transparency and improve public understanding.

- 7.32 Successful prosecution of a dishonesty or fraud-related offence requires proof, beyond reasonable doubt, that the parliamentarian did not incur the relevant expense for the purpose of conducting parliamentary business. This onerous burden of proof has been the subject of recent judicial comment.¹³ The necessarily broad and evolving meaning of ‘parliamentary business’ makes it difficult to prove, to the criminal standard, that an activity falls outside its scope. The AFP also noted that obtaining admissible evidence may be difficult given the potential application of parliamentary privilege to some evidence.¹⁴ The AFP commented that these factors support the case for ‘clear definition of parliamentary business’ and ensuring that governance arrangements for parliamentarians’ work expenses aim to avert, to the greatest extent possible, the need for recourse to the criminal law by promoting the

12 Australian Federal Police, Submission to *Review Committee – An Independent Parliamentary Entitlements System*, October 2015, 1-2.

13 *Slipper v Turner* [2015] ACTSC 27 (17-18 December 2014, Burns J) especially paragraphs [57]-[61], [71] and [72]. The Supreme Court of the Australian Capital Territory upheld an appeal against conviction under subsection 135.1(5) of the Criminal Code for dishonestly causing a risk of loss to a Commonwealth entity, knowing or believing that there was a substantial risk of the loss occurring. The conduct constituting the alleged offence was the claiming of payment for travel expenses (the use of hire cars) for journeys to wineries which were alleged to have been undertaken for purely personal purposes, and for which the defendant allegedly knew there was no entitlement to travel at public expense. The Court held that the prosecution had not negated, to the legal standard, the possibility that the travel could have been undertaken for the purpose of parliamentary business.

14 Australian Federal Police, above n 12, 4. (This form of privilege protects parliamentary proceedings from impeachment or question in judicial proceedings. It may have the effect that documents or other things in a parliamentarian’s possession are immune from seizure under search warrant for the investigation of an offence relating to the misuse of entitlements, and are inadmissible as evidence in any prosecution. This is provided that the documents or things are for the purpose of, or incidental to, proceedings in Parliament – for example, a parliamentarian’s contribution to the debate of a matter, or an inquiry of a parliamentary committee.)

lawful use of public funds.¹⁵

- 7.33 The Committee agrees that an effective system would focus on promoting lawful and publicly accountable expenditure decisions, with law enforcement a measure of last resort. Parliamentarians are invested with a significant degree of trust to exercise judgment about what activities are necessary for them to perform their duties. They are accountable to Parliament and the public for their judgments. It is appropriate that criminal law responses be reserved for cases in which there is no reasonable possibility that a parliamentarian's activities were undertaken for the purpose of conducting parliamentary business, and that the requirements and standard of proof are commensurately rigorous. Adoption of an inclusive statutory definition of parliamentary business, pursuant to recommendation 4, may assist in those cases in which a law enforcement response is contemplated.

¹⁵ Ibid.

8. Independence

Introduction

- 8.1 Under its 2 August 2015 terms of reference the Committee was asked to examine whether the existing work expenses system could be made more independent. To that end, the Committee has examined the most prominent independent parliamentary expenses model: that operating in the UK and overseen by the Independent Parliamentary Standards Authority (IPSA). This, however, is only a preliminary examination, as IPSA itself is in the midst of a further tranche of changes following the 2015 UK general election and so it would be premature to attempt a final assessment of this model.
- 8.2 The Committee's considered view of the current IPSA model is that it is unnecessary and inappropriate to implement in Australia the major and costly structural changes introduced in the UK as a 'greenfield' approach in response to the 2009 British Members of Parliament (MPs) expenses scandal. While aspects of the IPSA model have some merit, we are concerned it might not be readily applied to Australian conditions – particularly the implications of applying a reimbursement system to the significant travel costs generated by the size and diversity of Australian electorates. Aspects of the IPSA model could be assessed further after the Government has considered the recommendations in this Review and the next tranche of IPSA-related change is complete.
- 8.3 In keeping with its aim of providing options to facilitate early reform, the Committee canvasses in this chapter other models for achieving independence (along with improved functionality), but focuses on utilisation of existing mechanisms – in particular a strengthened Ministerial and Parliamentary Services Division (M&PS) within the Department of Finance.

Independent Parliamentary Standards Authority

Functions

- 8.4 IPSA was established as an urgent response to fundamental dysfunction in an essentially unregulated¹ parliamentary expenses system. Revelations of systematic and longstanding abuse by certain MPs² – including ‘residence flipping’³ and claims for moat cleaning, a ride-on lawn mower, jellied eels and a duck house⁴ – prompted legislation establishing IPSA⁵ as the body to determine what parliamentarians can claim and to administer and audit those claims. It was a strong reaction to a situation which the former British Prime Minister Gordon Brown called the ‘biggest parliamentary scandal for two centuries’.⁶
- 8.5 IPSA combines regulatory and administrative roles, determining and adjudicating on British MPs’ business costs and expenses and setting their pay and pensions; paying claims and suppliers; administering payroll; and providing information and advice to parliamentarians and their staff.⁷ Its *MPs’ Scheme of Business Costs and Expenses*⁸ (known as ‘the Scheme’) sets out in plain english the rules for funding MPs in support of their parliamentary functions. The Scheme is easily amended as it is not enshrined in legislation.
- 8.6 The Scheme’s reimbursement character means MPs make claims, within a fixed period (normally 90 days), after expenditure on their constituency office, staff, travel, subsistence, accommodation (if their constituency is outside London) and a number of other work expenses.⁹ To help them manage cash flow, there are mechanisms intended to allow MPs to avoid paying up front from their own resources, including

1 Prior to the establishment of IPSA, British MPs determined their own salaries and allowances. The Fees Office in the House of Commons was responsible for providing support to MPs on all aspects of their pay, pensions and allowances.

2 Jennifer vanHeerde-Hudson and Orlanda Ward, *The Political Costs of the 2009 British MPs Expenses Scandal* (2014), 2-4.

3 Ibid 2.

4 Ibid.

5 The *Parliamentary Standards Act 2009 (UK) as amended by the Constitutional Reform and Governance Act 2010* (UK).

6 Above n 2, 4.

7 IPSA, *A quick guide to the MPs’ Scheme of Business Costs and Expenses*, (1 April 2015). <<http://parliamentarystandards.org.uk/IPSAMPs/Scheme/Documents>>. Note also: IPSA does not cover funding for Ministers and parliamentary committees.

8 Ibid.

9 MPs also receive some support from the House of Commons authorities, including an office in Westminster, IT, stationery and insurance expenses.

invoicing arrangements, direct IPSA payments to suppliers (e.g. for rent and stationery), payment cards, interest-free loans and contingency funding. If a claim is rejected as falling outside the Scheme's provisions, it is not paid and is published as unpaid. If an MP goes over budget, there is no reimbursement.

- 8.7 IPSA reviews the Scheme annually and invites comments from MPs and the public. The Scheme's General Conditions and Fundamental Principles apply across the board and are intended to guide MPs. They list activities not considered parliamentary functions, and, among other things, require that MPs 'always behave with probity and integrity when making claims on public resources' and 'not exploit the system for personal financial advantage'. A compliance officer housed within, but operating independently of, IPSA reviews complaints by MPs about rejected claims and investigates complaints that MPs have been reimbursed incorrectly. IPSA publishes claims information every two months (four to five months in arrears) and expenditure information for every MP annually.¹⁰

Composition

- 8.8 Independent of both the government and parliament, IPSA has significant autonomy. With a board, chief executive, senior management team and around 50 staff members (public servants it recruits directly), it is not accountable to a Minister. The Board sets the strategic vision; determines the Scheme's content; approves the corporate plan, annual report and accounts; reviews organisational performance; and holds IPSA's executive to account. Members are appointed 'on merit on the basis of fair and open competition' by the Queen on address from the House of Commons. Although a statutory Speaker's Committee provides some oversight, including of budgets and appointments, the Board is independent. IPSA's administrative functions are led by the Chief Executive.

¹⁰ Available at: <http://www.parliamentary-standards.org.uk>.

Features and applicability to Australian system

- 8.9 Positive features of IPSA include the clarity, simplicity and transparency arising from its establishment under a single legislative source. As a single entity for determining and administering parliamentary expenses, it can provide definitive answers and consistent advice, over time developing a body of usable, authoritative guidance. Examples of such development are the Scheme (reviewed and adapted annually); the IPSA website; IPSA's regular, frequent and readily searchable reports on expenditure; and its promulgation of the General Conditions and Fundamental Principles on which it bases its advice.
- 8.10 IPSA is, however, an evolving model, created rapidly 'from scratch'¹¹ following the expenses scandal. It experienced 'early teething problems' and 'difficult relationships'.¹² It has had limited time to refresh and review itself in the period since its establishment. Its current challenges include reducing the cost, complexity and administrative burdens of a system not yet fully automated and therefore still resource intensive; fully streamlining and integrating heavily customised components; enhancing client service, including faster claims processing in a reimbursement context; managing complexities arising from its dual role as regulator and administrator¹³ and maintaining public confidence while supporting British MPs in the performance of their functions.¹⁴
- 8.11 Whatever improvements IPSA undergoes, it will remain a bespoke system tailored to UK circumstances (notably size, geography and transportation systems), not likely to translate readily and well to the Australian context. Australia's parliamentary expenses system, while in need of reform and not immune to abuse, is not in the state of unregulated disrepair IPSA was designed to address. Introduction of a principles-based approach and enhanced guarantees of transparency and accountability in Australia, as recommended in this Review, would be a more proportionate response to the shortcomings in the Australian system and pick up appropriately on key elements of the IPSA reforms. Furthermore, the perception of inappropriate closeness between British parliamentarians and the House of Commons office which had responsibility for administering the business expense system prior to IPSA, and lack

11 IPSA, *Strategy 2015-2020*, 4 <<http://parliamentary-standards.org.uk/Pages/default.aspx>>

12 Ibid.

13 Oonagh Gay, 'The New Regime: The Role of IPSA' in Jennifer vanHeerde-Hudson and Orlanda Ward (ed) *The Political Costs of the 2009 British MPs' Expenses Scandal* (2014) 191-2

14 John Fisher and Jennifer vanHeerde-Hudson, 'Conclusions: a Very British Episode' in Jennifer vanHeerde-Hudson and Orlanda Ward (ed) *The Political Costs of the 2009 British MPs' Expenses Scandal* (2014) 198.

of public access to expenditure records, which IPSA was designed to correct, are not apparent in the Australian system.

- 8.12 In addition, the Australian system already operates independently from Parliament, to a significant extent. The Remuneration Tribunal – an independent statutory body whose decisions, with respect to parliamentarians cannot be disallowed – determines parliamentary salaries and many expenditure provisions, particularly concerning travel. The Protocol, under which the Department of Finance’s high-level committee considers ‘more serious’ allegations of misuse of expenses, is an ‘arm’s length’ process to ensure allegations made in relation to Senators and Members are handled in a way which could not invite a perception of partisanship.¹⁵ (The reforms proposed by the Committee in chapter 7 will further enhance the high-level committee’s arms-length status.) In addition, M&PS’ administration of the system is subject to performance audits by the Australian National Audit Office, a statutory agency.
- 8.13 IPSA’s reimbursement-based process would potentially leave Australian parliamentarians, including those representing rural, remote and large electorates, who typically travel far greater distances than their UK counterparts, vulnerable to significant upfront travel costs and attendant cash flow challenges. IPSA mechanisms to ameliorate the imposition on MPs’ own funds, such as invoicing, payment cards and interest free loans might not be sufficient to support Australian parliamentarians facing the extensive demands of continental travel and different financial circumstances from those in the UK.

Alternative models

- 8.14 A number of structures and mechanisms less elaborate than an independent statutory authority or board could be employed to separate the key elements of the parliamentary expenses system from Parliament. A key element of this separation would be pre-expenditure advice or guidance. A particular concern of parliamentarians is that they cannot currently obtain detailed, authoritative advice about interpretation of the rules and their application to particular claims. A principles-based system, conferring on parliamentarians the responsibility to exercise good judgment and putting those who do not at risk of public exposure and criticism, would highlight this deficiency.

¹⁵ Belcher Review (April 2010) 72.

Parliamentary commissioner

8.15 Some jurisdictions have appointed commissioners as independent officers of the parliament to advise parliamentarians on ethical matters and in some instances support the investigation of possible breaches of rules or guidelines. The Australian Capital Territory's (ACT) Ethics and Integrity Adviser is appointed from outside the Legislative Assembly by the Speaker, on resolution of the Assembly, as a part-time office holder for the life of each Assembly (and the period of the months after each election). The Adviser provides Members with confidential¹⁶ advice (excluding legal advice) about issues relating to their roles, including travel and work expenses.¹⁷ Tasmania's Parliamentary Standards Commissioner, established by the *Integrity Commission Act 2009* (Tas), provides advice about conduct, propriety and ethics, and the interpretation of codes of conduct and guidelines.¹⁸ The advice may be provided on a confidential basis.¹⁹ The Canadian Senate's Ethics Officer encourages Senators to seek advice, particularly where the facts are complex and the relevant provisions require interpretation and analysis. Opinions and advice are provided on a confidential basis, unless the recipient agrees to publication.

8.16 In these ways, the parliamentary commissioner acts as an independent, learned sounding board, whose advice reduces prospects of an ineligible claim. The fact the advice was sought and followed helps deflect criticism in the event of an external challenge. But the parliamentarian must still exercise independent judgment about the conclusions and reasoning expressed in such advice, and take responsibility for the decision to claim an expense. As the above-mentioned models demonstrate, though, parliamentary commissioners typically advise confidentially and perform a range of additional oversight functions. While having merit, the Committee considers that the parliamentary commissioner model would not provide adequate transparency and, like the IPSA model, would be a disproportionate response to the issues addressed in this Review. There are quicker, lower cost solutions.

16 The ACT Ethics and Integrity Adviser is required to maintain confidentiality in advice given but may make public any advice if the person who requested it, gives consent; ACT Legislative Assembly, Continuing Resolution 6A: Ethics and Integrity Adviser (10 April 2008, amended 21 August 2008) cl 2. The Adviser publishes an annual report, describing generally and anonymously the advice which has been sought by parliamentarians. The Tasmanian Parliamentary Standards Commissioner is not required to report such matters.

17 ACT Legislative Assembly, Continuing Resolution 6A: Ethics and Integrity Adviser (10 April 2008, amended 21 August 2008).

18 *Integrity Commission Act 2009* (Tas) s 28(1)(a). (The Commissioner has additional advisory functions relating to: disclosures and conflicts of interest; guidance and training on matters of conduct, integrity and ethics; and the operation of codes of conduct and guidelines: ss 28 (1) (b)-(d).)

19 *Ibid* s 28(2).

Strengthened Ministerial and Parliamentary Services

Recommendation 36

Advice – strengthened Ministerial and Parliamentary Services Division

The Department of Finance should mandate and empower Ministerial and Parliamentary Services Division to:

- a. reallocate resources freed up by information technology and other reforms recommended in this Review to create an efficient and effective advice cell, led by senior officers;
- b. provide detailed, definitive, authoritative advice, in writing, to parliamentarians and their staff about expense eligibility; and
- c. undertake and publicise regular client surveys.

8.17 The simplest and arguably most cost-effective way to ensure parliamentarians can obtain authoritative upfront expenses advice is to empower M&PS to provide it. Reforms recommended in this Review would address the opacity and fragmentation in the current system which underlie much of M&PS' difficulty in serving its clients. But it is also necessary to address directly the complaint that much M&PS advice is too general and cautious to assist parliamentarians to get their claims right and demonstrate afterwards that the parliamentarian took reasonable steps to do so.

8.18 To ensure authoritative and consistent advice, M&PS should be empowered to build its capacity to interpret the expenses system's rules and guidance and to provide more proactive advice. This advice, at least on sensitive issues, should come, in writing, settled by appropriate senior officials who are responsive and appreciate the sensitivities attaching to expenses in a political environment. Those officials should be willing and able to troubleshoot in a timely fashion, and to take responsibility. Their authority should be recognised. To support development of expertise and recognised authority, they would ideally lead a team of experts, including those with relevant legal expertise, dedicated to this area. The parliamentarian would, of course, remain ultimately responsible for the decision to claim an expense. And M&PS could only provide definitive guidance on strict legality, not whether proposed expenditure is ethical or meets reasonable standards.

8.19 Other reforms to M&PS which would strengthen its independence and capacity to assist parliamentarians include:

- Streamlined, simplified documentation. Many parliamentarians told us they and their staff are currently obliged to complete a large number of forms, many of them overly legalistic, in order to make expenses claims.
- An advice and decisions ‘precedents’ database, which M&PS and parliamentarians and their staff can access for guidance in similar circumstances. M&PS staff currently rely heavily on corporate memory (although M&PS maintains some precedent records). This not only invites inaccuracy but impedes the development of a body of precedent. M&PS would have complete access to these records; but the information accessible by parliamentarians and their staff would, like that in the separate M&PS website accessible by the public, be ‘de-identified’ to remove details allowing identification of individuals.
- Enhanced and more frequent training for parliamentarians, their staff, and any persons working in their office in a voluntary capacity (including family members) about the expenses framework, coordinated but not necessarily delivered by M&PS. A number of parliamentarians commented on the insufficient availability of such training. M&PS should develop a training strategy, in consultation with parliamentarians, their staff and other stakeholders, which includes evaluation and improvement.
- A realignment of resources to increase client focus. One area which could be improved is contact with each parliamentarian. There is currently an initial meeting when a parliamentarian commences, but this is not formally followed up. M&PS could more proactively arrange regular meetings, particularly during a parliamentarian’s first 12 months in the job.
- Regular client surveys. These augment M&PS’ understanding of parliamentarians’ needs and deficiencies in M&PS service. Seeking regular feedback is essential to improving service. One strength of the IPSA system is its Annual User Surveys, which, among other things, invite MPs and their staff to rate IPSA’s service overall. The findings of these surveys are published. M&PS last undertook a client satisfaction survey in 2010.
- Adoption of a Service Charter emphasising client focus, as suggested in chapter 6.

9. Further work

Taking stock

- 9.1 The Committee has focused on identifying and making recommendations to address those aspects of the system in most pressing need of reform. Through its analysis and consultations, the Committee identified the following broad areas as reform priorities:
- the architecture of the legislative and regulatory framework governing the system (with an emphasis on parliamentarians' work expenses);
 - the rules governing parliamentarians' travel expenses, as a category of work expenses; and
 - strengthening transparency, oversight and accountability in the usage and administration of work expenses.
- 9.2 Chapters 4 to 8 contain measures suitable for immediate implementation,¹ and measures suitable for implementation in the medium term – recognising that such proposals require extensive legislative and administrative reforms, major procurement exercises and the injection of resources to strengthen service delivery, oversight and assurance functions.² Where possible, the Committee has recommended interim measures to realise immediate improvements while work is undertaken on implementing the substantive reforms over the medium term.³

Matters for possible future examination

- 9.3 The Committee has identified some other areas which, although not assessed as requiring urgent reform, may benefit from examination by the Government in the future.

1 In particular, the measures in chapter 5 relating to parliamentarians' travel.

2 In particular, the majority of proposals in chapters 4 and 6-8, especially: the single legislative framework for work expenses recommended in chapter 4; the development of a new information technology system recommended in chapter 6; and the appointment of two external or independent members to an (expanded) high-level committee under the Protocol as recommended in chapter 7.

3 For example, the recommendations in chapter 4 to incorporate the definition of 'parliamentary business' and the principles to guide parliamentarians' decision-making in policy and guidance materials, in advance of their inclusion in legislation. The majority of recommendations in chapters 6 and 7 in relation to expenditure reporting and certification requirements can also be implemented administratively, in advance of being placed on a legislative basis.

Work expenses

9.4 Implementation of the reformed framework and an outcomes-based regulatory approach will require a methodical examination of all categories of existing work expenses, to ensure that their respective eligibility rules, any specific oversight and accountability requirements,⁴ and the division of responsibilities for their administration⁵ align with the new approach. The Committee notes that there are other elements of the system it has not considered in this Review, including:

- work expenses provided to ministers by their portfolio departments, which are additional to the ‘base’ level of work expenses provided to all parliamentarians;
- those work expenses provided to parliamentary office holders in addition to the ‘base’ level provided to all parliamentarians;
- the eligibility rules governing individual types of work expenses, particularly those relating to information and communications technology, to ensure that they keep pace with technological developments, and remove any references to outdated or obsolete forms of technology; and
- the use by parliamentarians of Special Purpose Aircraft operated by the Royal Australian Air Force, in accordance with the *Commonwealth Government Guidelines for the Use of Special Purpose Aircraft*,⁶ including the practical application of, and compliance with, these guidelines.

9.5 The Committee is concerned about the absence of Commonwealth-funded death and permanent disability insurance cover for Senators and Members. The Committee considers that there would be value in the Government exploring options to obtain such cover, to the extent it is not already incorporated in the parliamentarians’ injury compensation scheme announced as part of the 2015-16 Budget, which is to commence on 1 January 2016.⁷

4 For example, the terms of specific certifications and the integration of these forms of expense into a risk-based framework for conducting checks and audits of expenditure.

5 In particular, the division of responsibilities as between the Remuneration Tribunal’s determinations and legislation and regulations administered by the Special Minister of State (and discretionary decision-making by the Special Minister of State with respect to individual cases – for example, those involving exceptional circumstances).

6 Reproduced in Appendix A of the *Senators and Members’ Entitlements Handbook* produced by the Department of Finance at http://maps.finance.gov.au/entitlements_handbooks/senators-and-members/Appendix_A_Guidelines_for_the_Use_of_Special_Purpose_Aircraft.asp (accessed 8 December 2015).

7 See Commonwealth, *2015-16 Budget Paper No 2*, 92.

Revisiting previous reviews

9.6 Some of the Committee's recommendations have built upon recommendations of previous reviews. In addition, as part of or incidental to implementing the new work expenses framework recommended in this Review, there could be benefit in revisiting some outstanding recommendations of previous reviews to assess their continuing relevance, including those relating to:

- the ongoing monitoring of the use of the printing and communications allowance during election campaign periods, with a view to determining whether any limitations or amendments to the conditions of use are required;⁸ and
- a legislative basis for the provision of benefits to former prime ministers.⁹

Matters for the Remuneration Tribunal under its existing statutory functions

9.7 For completeness, the Committee does not consider it necessary that the following forms of support be reviewed:

- Work expenses provided to senior Commonwealth officials (such as statutory office holders and senior public servants such as Secretaries of Departments of State). The Committee is of the view that adequate provision is made for the determination and review of these expenses by the Remuneration Tribunal, under the *Remuneration Tribunal Act 1973*. The Remuneration Tribunal's determinations have been informed by its recent reviews of the office and remuneration of Secretaries, and a work value assessment, in 2010-11.¹⁰

8 See especially recommendation 15 of the Belcher Review, which recommended removal of access to the printing and communications entitlement from the date of the announcement of a federal election to the day after the corresponding polling day (and undertaking a future assessment of the use of the work expense, with a view to determining whether there is a need to further remove access for a period prior to the announcement of an election). Recommendation 16 also supported consequential amendments to the *Members of Parliament (Staff) Act 1984* to remove access to travelling allowance by persons employed under that Act, in respect of travel undertaken independently of their employer to the city in which their employer's party campaign is based. See also recommendation 14, which supported the removal of the printing and communications allowance to produce and distribute postal vote applications.

9 See recommendation 35 of the Belcher Review, which supported a legislative head of authority for the provision of benefits to former Prime Ministers at the discretion of the Prime Minister of the day. (Recommendation 36 also supported a specific head of legislative of authority with respect to the provision of benefits to former Governors-General.)

10 See Remuneration Tribunal, *Review of the Office of Secretary - Report Part I* (2010) and Egan Associates, *Secretaries Work Value Review* (2010). See also Remuneration Tribunal, *Review of Remuneration for the Office of Secretary - Report Part II* (2011) and Egan Associates, *Review of Secretaries' Remuneration* (2011).

- Remuneration provided to parliamentarians, noting that this is determined and reviewed (or recommended, in the case of additional salary paid to Ministers) independently by the Remuneration Tribunal, in accordance with its statutory functions.

Concluding remarks

- 9.8 It is important that timely action is taken on the priority areas identified in this Review. Such action need not, and should not, await an exhaustive review of the system in entirety. Several of the Committee's recommendations address the root causes of the complexity, ambiguity and lack of transparency in the present system. Until these causes are addressed, significant and lasting improvement is unattainable.
- 9.9 Incremental measures, addressing merely the symptoms of a deeper problem, will serve only to perpetuate the cycle of 'scandals' prompting the establishment prospectively of ad hoc reviews or extraordinary responses – and are likely to traverse the same or substantially similar ground.
- 9.10 The Committee acknowledges that the magnitude of the task ahead is significant. There is, however, a strong case for reform – which is likely to be made more difficult to implement by inaction.

Appendix A - Terms of Reference

AN INDEPENDENT PARLIAMENTARY ENTITLEMENTS SYSTEM

TERMS OF REFERENCE

The Government has asked Mr David Tune AO PSM and Mr John Conde AO to co-chair a committee to develop and propose models to deliver an independent parliamentary entitlements system.

The Government believes an independent framework should be created to set and monitor parliamentary entitlements so that the system is more transparent and accountable.

The Government acknowledges that the ad hoc and piecemeal reforms adopted by successive governments mean the system is complex, ambiguous and out of step with community expectations.

Rather than another series of changes that merely tinker at the edges of the system, it is time for fundamental reform aimed at inserting independence into the system that sets and monitors the use of parliamentary entitlements.

The objective will be to establish a workable system for authorising potentially contentious expenditure before it has occurred.

PURPOSE

The committee will provide options for the creation of an independent parliamentary entitlements system.

In developing options for independent oversight, the committee will consider:

- Reducing ambiguity in what constitutes official business;
- Providing clarity to members of Parliament and their staff about their entitlements and how to use them appropriately;
- Improving transparency of the rules and entitlement usage;
- Acknowledging the role of party business in parliamentary business;
- How to deal more effectively with alleged misuse of entitlements; and
- How best to support and enable Members of Parliament to conduct their varied duties within clearly defined rules.

In considering this framework, the committee should also examine whether other senior officials, subject to Remuneration Tribunal determinations on salary and entitlements should also fall under a new independent system.

APPROACH

The committee will consider and present options to implement an independent parliamentary entitlements system.

In so doing, it will consider the operation and interaction of the current Remuneration Tribunal determinations and relevant Acts, Regulations, Ministerial determinations and Department of Finance rules and guidelines.

It will give due consideration to the diverse nature of Australia's federal constituencies and the different activities of Members and Senators.

The committee will look at international best practice across comparable parliamentary systems and will call for submissions from interested parties.

This committee will be supported by a Secretariat in the Department of the Prime Minister and Cabinet, and will provide a report to me in the first half of next year.

2 August 2015

Appendix B - The Prime Minister's letter



PRIME MINISTER

17 OCT 2015

Mr John Conde AO
Mr David Tune AO PSM
Co-Chairs, Review Committee
An Independent Parliamentary Entitlements System
PO Box 6500
CANBERRA ACT 2600

Dear Mr Conde and Mr Tune

Thank you for the briefing I have received through my Department on your views about the future work of the Parliamentary Entitlements Review. I appreciate the work that the Review has done to date and commitment of the Review members to engaging with the complex issues around parliamentary entitlements.

I note that the Terms of Reference for the Review which were issued on 2 August 2015 are wide ranging and envisage a single report in the middle of 2016.

I understand, however, from the briefing that the Review's preliminary work suggests that there are many aspects of the current system that are working effectively and that there would be merit in the Review concentrating its work on those aspects of the system which are not and therefore have greater priority for reform.

I would be grateful therefore if the Review could provide an interim report with recommendations by the end of the year addressing the priority areas you have identified, including travel related issues.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mal Turnbull', written in a cursive style.

MALCOLM TURNBULL

Parliament House CANBERRA ACT 2600

Appendix C - Stakeholder views

Summary of stakeholder views: submissions and consultations

Stakeholder engagement

On 22 August 2015, the Committee issued a call for submissions on its website (also advertised in major national, regional, and metropolitan newspapers).

A total of 74 submissions were received from: individual members of the public and community groups; current and former parliamentarians; Commonwealth departments and agencies; local governments; industry peak bodies; and the Commonwealth Remuneration Tribunal and the remuneration tribunals of two states (Queensland and Western Australia).

The Committee held consultations with 60 key stakeholders, including current and former parliamentarians, party secretariats and current and former public servants. The Committee and Secretariat also liaised with officers from the Department of Finance, the Remuneration Tribunal Secretariat, Parliamentary Departments and the Australian Federal Police.

Key issues

The main issues raised in submissions and consultations focused on:

- the nature and quantum of support provided to parliamentarians by way of ‘work expenses’, particularly travel; and
- the complexity of, and lack of transparency in, the current system for the provision and oversight of work expenses (both the rules themselves, and their usage and administration).

Most stakeholders agreed that there is a need for substantial reform of the system, but differed in their reasons and preferred approaches.

Nature and quantum of work expenses

Stakeholder views were divided on the appropriate nature and quantum of work expenses. Some submitters – generally individual community members and community groups – argued that current work expenses, particularly travel, are out-of-step with community expectations. The following key views were advanced.

- The quantum of support available to parliamentarians should be reduced significantly. Expenditure should require pre-approval by an independent authority; or be provided only in the form of reimbursement within a capped work expenses budget; or parliamentarians should be required to meet all work expenses from their salaries.
- The above position was advanced largely as a remedial response to particular instances of misuse or alleged misuse reported in the media, and a general perception that the current quantum of support exceeds what is reasonably necessary for parliamentarians to perform their duties, and promotes a ‘culture of entitlement’.
- These submitters generally identified family reunion travel, overseas travel, the class of travel, the use of non-commercial accommodation and attendance at party political events as areas of particular concern to them. A small number of submitters also identified the use of the printing and communications allowance, particularly during election campaigns, as an issue of concern. They supported either a prohibition, or additional limitations, on its use during election campaigns.
- Some submitters argued that there was no longer a material difference between the role of a parliamentarian and many roles in private enterprise – emphasising increased travel requirements (for example, the ‘fly-in-fly-out’ workforce model) and a general decline in job security, consequent upon economic conditions (for example, the impact of the global financial crisis). It was suggested that parliamentarians’ work expenses should be aligned more closely with those applying to most Australian employees in private enterprise, as well as their superannuation and post-retirement support.

Conversely, other stakeholders commented on the importance of ensuring that parliamentarians are supported adequately to perform their duties, which were identified as being diverse and evolving, and significantly different to other roles in the private or public sector. The following were identified as key objectives of the work expenses system:

- Recognising the diverse range of duties performed by a parliamentarian that are meritorious of public funding, including some aspects of party political business.
- Recognising the importance of parliamentarians being supported, within limits, to undertake self-education and fact-finding on matters of national importance beyond the boundaries of their individual electorates, to inform their views on matters that are, or may come, before the Parliament.
- Ensuring that remuneration and work expenses are provided at a level that enables talented candidates from all walks of life to serve, and prevents dependence on external sources of funding (such as private industry or lobby groups).

- Acknowledging the valuable support provided by parliamentarians' family members (both offering moral support and performing employment-like duties on a voluntary basis), and the social policy reasons for providing family reunion travel and making provision for parliamentarians with infant children.
- Recognising the special needs of parliamentarians representing non-capital city electorates, and those who have portfolio responsibilities which require them to travel regularly to rural, regional and remote parts of the country.

Streamlining and improving clarity of the rules

Notwithstanding the division of stakeholder views about the nature and quantum of support provided, there was broad consensus on the need to streamline and improve clarity of the existing rules. Key comments included the following.

- A complex, opaque parliamentary expenses system poses a reputational risk to parliamentarians (both individually and collectively) and undermines public trust in the system.
- The absence of consistent and clear terminology – particularly the terms ‘parliamentary’, ‘electorate’ and ‘official’ business – makes it difficult for parliamentarians to make decisions about whether an expense is within the rules, and for their expenditure decisions to be scrutinised.
- Not all of the rules and practices or conventions that govern the current work expenses system are simple to find or interpret. The system would be easier to understand if it was supported by a single legislative framework, consolidating all of the rules, and removing duplication or overlap of responsibilities for determining work expenses.
- The current system is not aligned with contemporary practices in the private sector, particularly with respect to information technology systems (such as paperless expenditure reporting and administration) and enabling the use of innovative business practices (for example, ride sharing services or public transport).
- There is scope to improve flexibility and reduce prescription in the content of rules. Some stakeholders argued in favour of a single capped budget for ‘work expenses’; or the removal of ‘work expenses’ as a separate stream of support and a significant increase in salary. Other stakeholders made more modest proposals, including giving individual parliamentarians greater control over property-related expenditure (including electorate office fit-outs and minor procurements) in order to obtain greater value for money by engaging local providers.

Improving system administration – transparency, efficiency and client service

- There was strong support for more frequent, detailed and readily searchable periodic reports of parliamentarians' expenditure, so that members of the public can identify and compare particular categories or types of expenditure between parliamentarians. (It was noted, for example, that some media organisations create their own interactive online databases as part of their coverage of parliamentarians' expenditure, with data sourced from the six-monthly expenditure reports published by the Department of Finance.)
- This reflected a view that the public is, and should remain, the ultimate arbiter of whether a parliamentarian's expenditure is legitimate – not merely technically compliant with relevant rules.
- Some stakeholders emphasised the need for enhanced expenditure reporting to be subject to some caveats. For example, it should take account of confidentiality requirements which may arise in limited cases (such as details about the precise locations or persons with whom a parliamentarian may meet). Expenditure reports should also clearly identify non-discretionary expenditure attributed to individual parliamentarians, over which they have no control, such as security upgrades.
- It was acknowledged that there is a need to improve the information technology systems administered by the Department of Finance to support the recording, management, and public reporting of parliamentary work and travel expenses. The system is so complex that the Department processes many expense claims manually because off-the-shelf technology solutions are inadequate to the task. Manual processing imposes a greater administrative burden on all concerned.
- There is scope to strengthen client service provided to parliamentarians. It was acknowledged that parliamentarians are personally responsible for their expenditure decisions, and must apply their own judgment and common sense. However, it was also suggested that parliamentarians could be better supported in their decision-making through more robust compliance advice from the Department of Finance, where requested, about proposed expenditure.

Strengthening accountability – oversight and review

Some stakeholders supported various amendments to current arrangements, including:

- The establishment of an independent entity to set and apply the rules for determining parliamentarians' eligibility. Some stakeholders suggested that a new entity should be required to pre-approve annual budgets submitted by each parliamentarian, and should develop formal duty statements for Senators, Members and parliamentary office holders to inform decision making about their eligibility. Some stakeholders also suggested that this new entity should be responsible for investigating allegations of misuse.
- The imposition of financial penalties for incorrect claims, including penalty loadings and reductions of future amounts payable.
- Periodic reviews of the work expenses system (indicatively once every Parliamentary term) to assess its effectiveness and propose reforms.

Appendix D - Sources of Authority

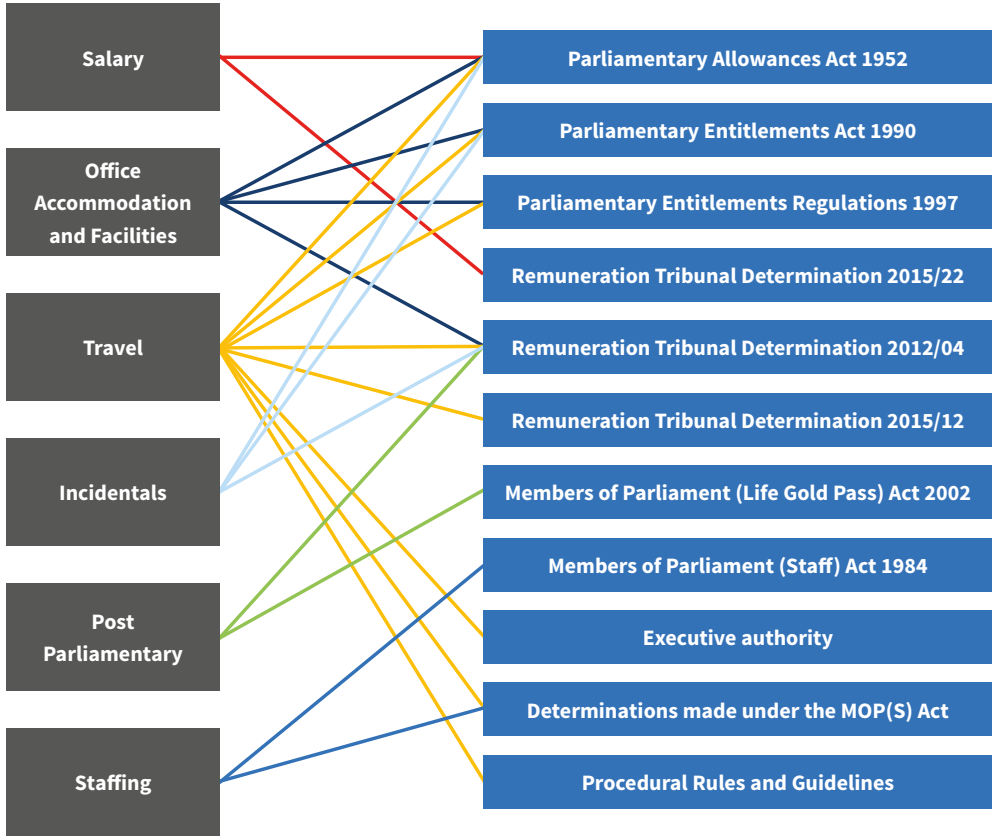


Diagram provided by the Department of Finance.

Appendix E - Summary of current work expenses

Summary of current work expenses*

Group	Source	Item	Applies to	Purpose	Comment
Office and residential facilities	PE Act Schedule 1, Part 1 Item 7(1)	Electorate office accommodation	All senators and members	Parliamentary, electorate or official business, but not commercial business	Office accommodation (including for personal staff) in the electorate together with equipment, facilities, office requisites and stationery as necessary to operate the office, as approved by the Special Minister of State.
Office and residential facilities	PE Act Schedule 1, Part 2 Item 5	Office accommodation in a capital city	Opposition office holder, Presiding Officer or leader of a minority party		Office accommodation in a capital city, together with equipment and facilities as approved by the Special Minister of State.
Office and residential facilities	PE Act Schedule 1, Part 1 Item 1	Bulk papers	All senators and members		Provides for the transfer of bulk papers to and from Parliament House and the senator or member's electorate office.
Office and residential facilities	PE Act Schedule 1, Part 1 Item 2	Constituents' Request Program	All senators and members	For presentation to constituents	Provides Australian flags and printed material related to national symbols.
Office and residential facilities	PE Act Schedule 1, Part 1 Item 5	Government publications	All senators and members		Provides the cost of acquiring Australian Government publications as approved by the Presiding Officers.
Office and residential facilities	PE Act Schedule 1, Part 1 Item 6	Photographs	All senators and members		Provides photographic services at Parliament House.

* This is an update version of the 'Entitlements Summary' at Appendix 3 of the Belcher Review Report

Office and residential facilities	PE Regs. Part 2A, Reg 3F	Photographic services	Leader of the Opposition	Provides photographic services as approved by the Prime Minister.
Office and residential facilities	PE Regs. Part 2AA, Reg 3ED	Office budget for a financial year	All senators and members	Sets out the basis for calculating the office budget for a financial year. The budget can be used for publications, office requisites and stationery, flags, printing and communications and software.
Office and residential facilities	PE Act Schedule 1, Part 1 Item 7A(1-2)	Publications	All senators and members	The cost of purchasing publications, including electronic publications, under 7A(1) for financial year cannot exceed the remainder of the office budget as defined in reg 2 of the PE Regs 1997.
Office and residential facilities	PE Act Schedule 1, Part 1 Item 7(2)	Office requisites and stationery	All senators and members	Limits cost of office requisites and stationery, for a financial year on or after 1 July 2015 to the lesser of the \$50,000; and the remainder of the office budget as defined in reg 2 of the PE Regs 1997.
Office and residential facilities	PE Act Schedule 1, Part 1 Item 7(3)	Software allowance	All senators and members	Limits cost of software for a financial year starting on or after 1 July 2015 to the remainder of the office budget as defined by reg 2 of the PE Regs 1997.
Office and residential facilities	PE Act Schedule 1, Part 2 Item 7	Postage	Ministers, parliamentary secretaries, opposition office holders, Presiding Officers, leaders of minority parties, government and opposition whips	Cost of postage in relation to official business, other than for bulk mail-outs.

Office and residential facilities	PE Regs. Part 2, Sub-reg 3AA(1) – (1.1)	Printing and communications – general provisions	All senators and members	Parliamentary or electorate purposes. Must not be used for party business (as defined) or commercial purposes.	Provides for cost of printing, production of e-material, communication and distribution of printed material and e-material, establishment and maintenance of websites, production and maintenance and distribution of audio posters, proscribes production and placement of television or radio content. Prescribes material to be printed on, the details that can be printed on personalised letterhead stationery and limits postal vote application numbers.
Office and residential facilities	PE Regs. Part 2, Sub-reg 3AB	Printing and communications – amount	All senators and members	Parliamentary or electorate purposes. Must not be used for party business (as defined) or commercial purposes.	Provides that the cost of commercial services to which a member can claim under regulation 3AA for a financial year starting on or after 1 July 2015 cannot exceed the remainder of the office budget.
Office and residential facilities	PE Regs. Part 2, Reg 3A	Supplement of capped entitlements in exceptional circumstances	All senators and members	Parliamentary or electorate business	The Special Minister of State may approve a supplement to a capped entitlement up to \$20,000, where the senator or member has expended a substantial amount of a capped entitlement and because of a disaster (eg fire or flood), requires a supplement to enable him or her to conduct their electorate or parliamentary business.
Office and residential facilities	RT Det 2012/04 – Entitlements, CI 11.1 - 11.2	Residential telephone services	All senators and members		Provides the full costs associated with two telephone lines, answering facilities and ADSL (or equivalent) internet connection.

Office and residential facilities	PE Act Schedule 1, Part 2 Item 6(1)	Residential telephone services	Senior Officers	Full cost of a home telephone service in a private residence in Canberra and at the nominated principal place of residence.
Office and residential facilities	PE Act Schedule 1, Part 2 Item 6(2)	Residential telephone services	Leader of a minority party	Full cost of a home telephone service in Canberra.
Office and residential facilities	PE Regs. Part 2, Reg 3E	Mobile telephone services	Independent senators and members	Cost of mobile telephone services.
Office and residential facilities	PE Regs. Part 2A, Reg 3G	Mobile telephone services	Specified office holders	Provides for the cost of mobile telephone services, as approved by the Minister, for the staff of the Leader of the Opposition in the House of Representatives, the Leader of the Nationals in the Senate, a leader of a minority party and party whips.
Office and residential facilities	PE Regs. Part 2, Reg 3EB	Insurance cover	All senators and members, spouse of a Prime Minister or another minister or of a Presiding Officer	Specifies the insurance cover arrangements in place for senators and members and spouses of certain office holders.
Office and residential facilities	PE Regs. Part 2, Reg 3EC	Insurance of personal effects	Prime Minister	Provides for the cost of insurance of personal effects at the official establishments.
Office and residential facilities	Executive Authority	Equipment and services provided by portfolio agencies	All ministers and parliamentary secretaries	Portfolio agencies provide a range of benefits to ministers and parliamentary secretaries under executive authority. This arrangement allows each Commonwealth agency to provide their minister(s) with equipment and services that other agencies could not provide (e.g. access to the agency network).

Salary	RT Det 2015/22: Members of Parliament – Base Salary, Additional Salary for Parliamentary Office Holders, and Related Matters	Base salary	All senators and members	Sets out the base salary for parliamentarians and specifies the portion of salary that is not parliamentary allowance for the purposes of the <i>Parliamentary Contributory Superannuation Act 1948</i> .
Salary	RT Report 1/2015 – Report on Ministers of State - Salaries Additional to the Basic Parliamentary Salary	Ministers – salary	All ministers and parliamentary secretaries	The Remuneration Tribunal is required under its legislation to report to government annually on the additional salary payable to ministers. Under the Constitution, the salaries of ministers are a matter for decision by executive government, and do not require legislative action for implementation. The <i>Ministers of State Act 1952</i> , as amended, makes provisions for an annual appropriation which is apportioned in annual salaries to the ministry (including parliamentary secretaries).
Salary	RT Det 2015/22: Members of Parliament – Base Salary, Additional Salary for Parliamentary Office Holders, and Related Matters	Office holders – additional salary	Specified office holders	Specifies the percentage of base salary payable as additional salary to a range of office holders. The 62 rates specified cover positions including opposition office holders, Presiding Officers, shadow ministers, chairs of committees, and whips.

Salary	RT Det 2012/04: Members of Parliament – Entitlements - cl 2.1	Electorate allowance	All senators and members	Provides for a base rate of electorate allowance (currently \$32,000 pa). The allowance is paid monthly and unspent funds are retained by the senator or member and are subject to taxation. All senators and 96 members receive the base rate only.
Salary	RT Det 2012/04: Members of Parliament – Entitlements - cl 2.2	Electorate allowance – supplementary amount	Members for electorates between 2,000km ² and 4,999km ² , inclusive	Provides for a supplementary electorate allowance payment (currently \$6,000 pa) for eight members in the House of Representatives.
Salary	RT Det 2012/04: Members of Parliament – Entitlements - cl 2.3	Electorate allowance – supplementary amount	Members for electorates over 5,000km ²	Provides for a supplementary electorate allowance payment (currently \$14,000 pa) for 46 members of the House of Representatives.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - Schedule A	Travelling allowance	All senators and members	Sets out rates of travelling allowance.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 2.3	Travelling allowance – office holders	Specified office holders	Provides a higher rate of travelling allowance for specified office holders including ministers, leaders of the government business in the House of Representatives and the Senate, Presiding Officers, opposition office holders, leaders of recognised parties, and whips.

Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.1-3.6	Travelling allowance – administrative conditions	All senators and members	As specified in the determination	Sets out conditions of payment including the requirement to submit claims within 60 days of completion of travel, requirement for documentary evidence for payment of Canberra rate of travelling allowance, sets the non-commercial travelling allowance rate at one-third of commercial rate. Requires evidence for payment of commercial rate.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 2.2, 3.7 and 3.9	Travelling allowance – Prime Minister	Prime Minister and a minister when acting Prime Minister		The Prime Minister is provided with accommodation and sustenance for each overnight stay in a place other than an official establishment or his or her home base. Accommodation and sustenance at official establishments is provided at government expense. The non-commercial rate is one-third of the commercial rate. Clause 3.9 provides for the same rate to be paid to a Minister when acting Prime Minister.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.8	Travelling allowance – ministers and office holders	Ministers (other than the Prime Minister) and office holders	As specified in the determination	Sets out circumstances for which payment of travelling allowance can be made to ministers and specified office holders. A reduced rate of travelling allowance is paid where the Commonwealth has paid a minister's accommodation costs.

Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.10	Ministers and office holders	Travelling allowance – spouse payment	Where a minister or office holder is accompanied by a spouse, the relevant travelling allowance rate will be increased by \$10 per overnight stay.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.11	Ministers and office holders	Travelling allowance – break in journey	Travelling allowance is payable for stopovers when travelling between Western Australia or the Northern Territory and Canberra on parliamentary business only where the minister or office holder certifies that the break in journey was caused by there being no same-day connecting flight reasonably available.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.12	All senators and members	Travelling allowance – senators and members	Sets out the circumstances in which travelling allowance can be paid to senators and members.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.13	All senators and members	Travelling allowance – break in journey	Travelling allowance is payable for stopovers when travelling between Western Australia or the Northern Territory and Canberra on parliamentary business only where the senator or member certifies that the break in journey was caused by there being no same-day connecting flight reasonably available.

Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.15	Travelling allowance – in-electorate travel	Specified senators and members	Electorate business	Sets out travelling allowance provisions (and limits) within the electorate for all senators, members for electorates over 10,000km ² , and certain members for electorates that contain islands. If a senator or member receives a supplement under the PE Regs 1997, the number of nights available in the next year is reduced unless the Special Minister of State waives this requirement.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.16	Travelling allowance – ACT-based senators and members	Senators and members, ministers and office holders whose principal place of residence is within a 30km radius of Parliament House	Parliamentary, specified party business or official business as minister or office holder	Sets out a daily expense allowance, currently \$86, for senators and members based in Canberra or an adjoining electorate.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.17-3.20	Travelling allowance – external territories	Specified senators and members	Electorate or parliamentary business	Provides for travelling allowance to be paid to certain senators and members when travelling to external territories on electorate or parliamentary (including committee) business.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.21-3.22	Travelling allowance – party leader travel	Leader and deputy leader of a recognised party	Business as leader or deputy leader of a recognised party	Sets out provisions for travelling allowance for the leader and deputy leader of a recognised party travelling on business connected with their office.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.23-3.24	Travelling allowance – whip travel	Chief whips in the House, and Senate, any whip travelling at the request of the Chief Whip	Business as a whip	Sets out provisions for travelling allowance for various whips travelling on business connected with their office.

Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.25	Travelling allowance – chair of a parliamentary committee	Chairs of parliamentary committees	Committee business	Provides for the chair of a parliamentary committee to be paid travelling allowance in respect of each overnight stay in a place other than his or her home base when travelling on parliamentary committee business.
Travelling Allowance	RT Det 2015/12: Members of Parliament – Travelling Allowance - cl 3.26 - 3.28	Travelling allowance – shadow ministers	Shadow ministers	Business as a shadow minister	Sets out provisions for travelling allowance for shadow ministers travelling on business connected with their office. Provides that the Opposition can pool the maximum number of nights payable to shadow ministers, to be allocated at the discretion of the Leader.
Travel	PE Act Schedule 1, Part 1, Item 8	Domestic travel	All senators and members	Parliamentary or electorate business	Provides for scheduled commercial services, the use of car-with-driver services, and the use of special purpose aircraft as approved by the Defence Minister.
Travel	PE Act Schedule 1, Part 1, Item 9	Overseas delegation travel	Senators and members, in accordance with a program of visits approved by the Prime Minister	Delegation	Sets out conditions for travel overseas as a member of a parliamentary delegation, other than an Inter-Parliamentary Union or Commonwealth Parliamentary Association delegation which are funded separately by the Parliament.
Travel	PE Act Schedule 1, Part 1, Item 9(1)(f)	Overseas delegation travel – staff travel	Leader of a minority party, with approval by the Prime Minister	Delegation	Provides for a leader of a minority party to be accompanied by a member of staff while on a delegation.

Travel	PE Act Schedule 1, Part 1 Item 9(2)	Overseas delegation travel – downgrading class of travel	Senators and Members with approval for official delegation travel	Delegation	Class of travel may be downgraded to extend delegation travel or to be accompanied by a spouse.
Travel	PE Act Schedule 1, Part 2, Item 1(1)(a)	Domestic travel	Any parliamentary office holder	Official business	The cost of first class scheduled commercial services.
Travel	PE Act Schedule 1, Part 2 Item 1(1)(b)	Domestic travel – car transport	Leader of the Opposition in the House of Representatives	Official business	The use of an official car with driver in Canberra and in the capital city of his or her home state or territory.
Travel	PE Act Schedule 1, Part 2, Item 1(1)(d)	Domestic travel – car transport	Any parliamentary office holder	Official business	The use of car-with-driver services.
Travel	PE Act Schedule 1, Part 2, Item 1(1)(e)	Domestic travel – charter transport	Opposition office holder or Presiding Officer	Official business	The cost of charter transport. Can be accompanied by spouse and one staff member and, subject to certain conditions, other passengers.
Travel	PE Act Schedule 1, Part 2, Item 1(1)(f)	Domestic travel – charter transport	Leader of a minority party	Official business	The cost of charter transport; not exceeding annual cap. Can be accompanied by spouse and one staff member and, subject to certain conditions, other passengers.
Travel	PE Act Schedule 1, Part 2, Item 1(1)(g)	Special purpose aircraft	Any parliamentary office holder	Official business	The use of special purpose aircraft with the approval of the Defence Minister.
Travel	PE Act Schedule 1, Part 2, Item 1(2)	Representational travel	Any senator or member representing a senior Officer	Official business	Provides for a senator or member representing a Senior Officer to receive the same benefits under sub-item (1) as the person being represented.

Travel	PE Act Schedule 1, Part 2, Item 1(3)	Special purpose aircraft	Any parliamentary office holder	Campaign business during election campaigns	The use of special purpose aircraft for travel within Australia during election campaigns, on campaign business, with the approval of the Defence Minister.
Travel	PE Act Schedule 1, Part 2, Item 2A(1) - 2A(3) and 2A(4)(a)	Overseas travel	Leader of the Opposition and other members of the Opposition as approved by the Leader of the Opposition	Official business	Provides for an annual budget overseas travel on official business equal to the cost of four scheduled first class around-the-world airfares for use by the Leader of the Opposition and other Opposition members. Travel is to be no higher than business class.
Travel	PE Act Schedule 1, Part 2, Item 2A(4) (b) and 2A(5)	Overseas travel – fares	Leader of the Deputy Leader of the Opposition in the House of Representatives	Official business	Provides that if a second staff member accompanies a Leader or Deputy Leader of the Opposition travelling overseas using the benefit in subitem (1), the cost of that staff member's travel will be met from overseas travel budget. Travel must be at business class or lower.
Travel	PE Act Schedule 1, Part 2, Item 2A(4) (c)	Overseas travel – fares	Members of the Opposition other than the Leader of Deputy Leader of the House of Representatives	Official business	Provides that if an Opposition member is travelling overseas using the benefit in subitem (1), the cost of travel of up to two staff members travelling at business class or lower will be met from the overseas travel budget.
Travel	PE Act Schedule 1 Part 2 Item 2A(4)(d)	Overseas travel – equipment and clothing allowances	Leader of the Opposition or other Opposition members	Official business	Specifies equipment and clothing allowances that will be paid when travelling overseas.

Travel	PE Act Schedule 1 Part 2, Item 2A(5)	Overseas travel – accompanying staff	Leader or Deputy Leader of the Opposition	Official business	Provides that if the Leader or Deputy Leader of the Opposition travel using the benefit in subitem (1), the additional cost of travel for one accompanying staff member will be met (without deduction from the overseas travel budget).
Travel	PE Act Schedule 1 Part 2, Item 2A(6)	Overseas travel – medical and hospital services	Leader of the Opposition or other members of the Opposition	Official business	Specifies medical costs that will be met when travelling overseas.
Travel	PE Act Schedule 1 Part 2, Item 2B(1) – 2B(4)(a).	Overseas travel – fares	Leader of a minority party or other members of the minority party	Overseas travel	Provides for an annual budget for overseas travel on official business equal to the cost of one scheduled first class around-the-world airfare for use by the Leader of a minority party or by other members of the minority party approved by the Leader. Travel is at no higher than business class.
Travel	PE Act Schedule 1 Part 2, Item 2B(4) (b) and 2B(5)	Overseas travel – accompanying staff	Leader of a minority party	Official business	Provides that the cost of travel for one accompanying staff member will be met by the Commonwealth. If a second staff member accompanies the Leader, the cost must be met from the overseas travel budget. Travel is at no higher than business class.
Travel	PE Act Schedule 1 Part 2, Item 2B(4) (c)	Overseas travel – accompanying staff	Members of a minority party	Official business	Other members of a minority party who travel using the benefit in subitem (1) may have the cost of travel of up to two staff members accompanying the member met from the overseas travel budget. Travel is at no higher than business class.

Travel	PE Act Schedule 1 Part 2, Item 2B(4)(d)	Overseas travel – equipment and clothing allowances	Leader of a minority party and other members of that party	Official business	Specifies equipment and clothing allowance that will be paid when travelling overseas.
Travel	PE Act Schedule 1 Part 2, Item 2B(6)	Overseas travel – medical and hospital services	Leader of the minority party or other members of that party	Official business	Specifies medical costs that will be met when travelling overseas.
Travel	PE Act Schedule 1 Part 2, Item 3(1)(a)	Overseas travel – spouse fares	Spouse of a minister or Presiding Officer	Official business	Provides for the cost of fares for travel overseas by a spouse when accompanying a minister or Presiding Officer. Travel is at the same class as the minister or Presiding Officer.
Travel	PE Act Schedule 1 Part 2, 3(1)(b) - (c)	Overseas travel – spouse accommodation and incidentals	Spouse of a minister or Presiding Officer	Official business	Provides for the cost of accommodation, meals and incidentals to be paid for a spouse when accompanying a minister or Presiding Officer.
Travel	PE Act Schedule 1 Part 2, 3(1)(d)	Overseas travel – medical and hospital services	Spouse of a minister or Presiding Officer	Official business	Provides for the cost of emergency medical and hospital treatment overseas.
Travel	PE Act Schedule 1, Part 2, Item 2(1)(a) - 2(1)(b)	Overseas travel	Presiding Officer	Official business	The cost of business class fares, accommodation, meals and incidentals. Travel itinerary must be approved by the Prime Minister.
Travel	PE Act Schedule 1, Part 2, Item 2(1)(c) - 2(1)(d)	Overseas travel – accompanying staff	Presiding Officer	Official business	Provides for the cost of overseas travel at business class for one staff member accompanying the Presiding Officer. If there is no accompanying spouse, with the approval of the Prime Minister, the cost of travel for a second staff member may be met.

Travel	PE Act Schedule 1, Part 2 Item 2(1)(e)	Overseas travel – medical and hospital services	Presiding Officer	Official business	The cost of medical and hospital services received by the Presiding Officer.
Travel	PE Act Schedule 1, Part 2, Item 2(1)(g)	Overseas travel – equipment and clothing allowances	Presiding Officer	Official business	Specifies equipment and clothing allowances that will be paid when travelling overseas.
Travel	PE Act Schedule 1, Part 2, Item 2(2)	Overseas travel – representational travel	Senator or member representing a Presiding Officer	Official business	Provides for a senator or member who is representing a Presiding Officer on official travel overseas, with the approval of the Prime Minister, to the same benefits that would apply to the Presiding Officer.
Travel	PE Act Schedule 1, Part 2, Item 4	Domestic travel – dependent child	Child of a Senior Officer	Official business	Provides each dependent child with 3 economy class return visits between Canberra and the electorate each year; and one return visit to any place in Australia each year; travel to and from parliamentary functions in Canberra attended by the Officer or spouse, and return visits between the nominated principal place of residence and Canberra when the Officer and spouse are in Canberra for lengthy periods.
Travel	PE Regs. Part 2, Reg 3B	Overseas travel – representational	A senator or member representing a minister or the Government overseas	Official business	Subject to the approval of the Prime Minister, the cost of travel overseas, to represent a minister or the government. Spouse may accompany, subject to Prime Minister's approval.

Travel	PE Regs. Part 2, Reg 3C	Overseas travel – representational	A senator or member representing Australia overseas	Official business	Subject to the Prime Minister's approval, provides for the cost of travel overseas to represent Australia. Spouse may accompany with approval from the Prime Minister.
Travel	PE Regs. Part 2, Reg 3C	Overseas travel – representational	Leader and Deputy Leader of the Opposition representing Australia overseas	Official business	Provides for the cost of travel for a staff member of the Leader of the Opposition and Deputy Leader of the Opposition, who are representing Australia overseas under Reg 3C.
Travel	PE Regs. Part 2, Reg 3D	Overseas travel – special purpose aircraft	A senator or member representing a minister, the government or Australia overseas under Regulation 3B or 3C	Official business	Provides for the issue of special purpose aircraft with the approval of the Prime Minister.
Travel	RT Det 2012/04: Members of Parliament – Entitlements - Cl 3.1 - 3.2	Domestic travel – travel at government expense	All senators and members	For parliamentary, electorate or official business, and specified party business	Travel within Australia (excluding the external territories) at Commonwealth expense. Specified party business - meetings of a parliamentary political party, or of its executive, or of its committees, and the national conference of a political party, of which he or she is a member.

<p>Travel</p>	<p>RT Det 2012/04: Members of Parliament – Entitlements - cl 3.3</p>	<p>Domestic travel – scheduled commercial services and charter-in-lieu</p>	<p>All senators and members</p>	<p>For parliamentary, electorate or official business, and specified party business</p> <p>Limits the modes of travel under clause 3.1 to scheduled commercial services and charter services in lieu of scheduled commercial services. If charter in lieu is used, the senator or member must meet the difference between the charter cost and the rate of private vehicle allowance that would be payable for the trip. Includes cost of transporting a vehicle on a ferry service within a senator or member's electorate.</p>
<p>Travel</p>	<p>RT Det 2012/04: Members of Parliament – Entitlements , cl 3.4</p>	<p>Domestic travel – special charter</p>	<p>All senators and members</p>	<p>May not be used where the purpose of the travel could be covered by the electorate charter entitlement</p> <p>The Special Minister of State may approve the use of charter transport in special cases, where there are no scheduled commercial services or a Senator or Member would be unduly delayed by the use of scheduled services.</p>
<p>Travel</p>	<p>RT Det 2012/04: Members of Parliament – Entitlements - cl 3.5.</p>	<p>Domestic travel – additional travel</p>	<p>Specified senators and members and office holders</p>	<p>Parliamentary, electorate or official business</p> <p>A Northern Territory senator and the Member for Lingiari may travel to the Cocos (Keeling) Islands (CKI) or Christmas Island (CI) on electorate business. An ACT senator and the Member for Canberra may travel to Norfolk Island (NI) on electorate business. A leader of a recognised party of at least 5 members in the Parliament may travel within Australia and to the CKI, CI and NI on business connected with the office of Leader. A parliamentary committee member may travel to the CKI, CI or NI on committee business. A shadow minister with responsibility for external territories may travel to the CKI, CI or NI on business connected with their shadow portfolio.</p>

Travel	RT Det 2012/04: Members of Parliament – Entitlements - cl 3.6.	Domestic travel – fare limits	All senators and members	All travel	Travel within Australia at Commonwealth expense is capped at the cost of a business class airfare or if a business class airfare is not published for the destination point, the cost must not exceed an economy fare. The Special Minister of State may approve an exception on medical grounds.
Travel	RT Det 2012/04: Members of Parliament – Entitlements - cl 3.7.	Domestic travel – luggage	All senators and members	Air travel to and from Canberra on parliamentary business	The Commonwealth will meet the cost of an additional piece of luggage within airline size limits.
Travel	RT Det 2012/04 – Entitlements - cl 3.8 and 3.11	Domestic travel – family reunion travel	All senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Provides in certain circumstances that a senator or member can be accompanied or joined by a spouse or nominee, dependent child or designated persons (defined in cl 1.4) when travelling on parliamentary, electorate or official business. Travel is on scheduled commercial services by any mode of transport, by the most direct route to the intended destination without voluntary stopovers, or on special purpose aircraft, subject to approval by the Minister for Defence.
Travel	RT Det 2012/04 – Entitlements - cl 3.9	Domestic travel – family reunion travel	All senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Requires that when travelling under cl 3.8, a family member(s) must arrive at a destination no more than 24 hours before the senator or member arrives, and depart no more than 24 hours after the senator or member departs.

Travel	RT Det 2012/04 – Entitlements - cl 3.10(a)	Domestic travel – family reunion travel	All senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Provides for the family member(s) to remain in Canberra without the senator or member between adjoining sitting weeks provided the senator or member returns to Canberra for the second sitting week.
Travel	RT Det 2012/04 – Entitlements - cl 3.10(b)	Domestic travel – family reunion travel	Presiding Officers and deputy Presiding Officers	Parliamentary or official business	Provides for the family member(s) to remain in Canberra at any time that the Presiding Officer or deputy Presiding Officer is temporarily absent on parliamentary or official business related to the office.
Travel	RT Det 2012/04 – Entitlements - cl 3.12	Domestic travel – stopovers on long journeys	All senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Allows a one-night stopover in a capital city for family members of a senator or member from Western Australia, the Northern Territory, or Queensland at least 1,100km flight distance from Brisbane, when travelling to or from Canberra only where the stopover is necessary as there is no same-day connecting flight reasonably available and the journey is completed the following day.

Travel	RT Det 2012/04 – Entitlements - cl 3.13 - 3.15	Domestic travel – Canberra and intra-state family travel budget	All senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Provides for a Canberra and intra-state family travel budget - based on 9 return business class trips to Canberra from the spouse or nominee's principal place of residence and 3 business class return trips to Canberra from the principal place of residence for each dependent child. Senators and members based within 150km of Canberra receive a combined value of 9 business class return trips between Canberra and Sydney for the spouse or nominee, and 3 business class return trips between Canberra and Sydney for each dependent child. Within the cost limitation, family members can travel to Canberra, from Canberra to the senator or member's electorate or home base, on intra-state trips or from the spouse or nominee's principal place of residence to the electorate.
Travel	RT Det 2012/04 – Entitlements - cl 3.16 - 3.19	Domestic travel – inter-state family travel	All senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Specifies a combined total of 3 inter-state business class return trips per year, that may be used by family members or converted to Canberra or intra-state trips.

Travel	RT Det 2015/15 – Entitlements - cl 3.17A	Domestic travel – inter-state family travel	Breastfeeding senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Amends Determination 2012/04 to include an additional provision for senators and members who are breastfeeding a child. This arrangement will be reviewed within 12 months. The amendment provides for breastfeeding senators and members to have additional support when travelling inter-state on parliamentary, electorate or official business, once they have exhausted the existing entitlement referred to above. Travel for this purpose is at economy class.
Travel	RT Det 2012/04 – Entitlements - cl 3.20	Domestic travel – representational travel	All senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Provides for a spouse or nominee to represent the senator or member in circumstances where the senator or member is prevented by illness or parliamentary or family reasons from attending certain functions. Specifies cost to be met from Canberra and intra-state family travel budget.
Travel	RT Det 2012/04 – Entitlements - cl 3.21	Domestic travel – additional travel	All senators and members	Official government, parliamentary or vice-regal functions	Provides for travel by a senator or member's spouse or nominee in order to attend official government, parliamentary or vice-regal function as an invitee. This provision is uncapped and additional to the family reunion travel entitlements.
Travel	RT Det 2012/04 – Entitlements - cl 4.1 to 4.3	Domestic travel – car transport	All senators and members	Parliamentary, specified party and official business	Sets out the purposes and locations for which car transport can be used. Although not specified in the determination, car transport is understood to mean COMCAR and other car-with-driver services, taxis and self-drive hire cars.

Travel	RT Det 2012/04 – Entitlements - cl 4.4	Domestic travel – car transport - specified passengers	All senators and members	Parliamentary, specified party and official business	Provides that a senator or member may be accompanied by his or her spouse or nominee, staff and other senators and members.
Travel	RT Det 2012/04 – Entitlements - cl 4.5	Domestic travel – car transport - other accompanying passengers	All senators and members	Parliamentary, specified party and official business	Provides that other persons may accompany a senator or member as long as the passenger's travel is relevant to the purpose of the travel, for compassionate reasons, for public interest reasons, and/or to enable a senator or member to be accompanied by a dependent child.
Travel	RT Det 2012/04 – Entitlements - cl 4.6	Domestic travel – car transport - Special Minister of State	All senators and members	Parliamentary, specified party and official business	Provides that the Special Minister of State may prescribe modes of car transport to be made available for cl 4.1.
Travel	RT Det 2012/04 – Entitlements - cl 4.7	Domestic travel – car transport - private use of hire car	All senators and members	Private, but not commercial purposes	Allows a short-term hire car in Canberra to be used on the weekend for private purposes provided the senator or member meets fuel costs.
Travel	RT Det 2012/04 – Entitlements - cl 4.8 to 4.9	Domestic travel – Canberra self-drive car	All senators and members	Private, but not commercial purposes	A senator or member with a Canberra private-plated vehicle may use it for private purposes but not commercial purposes. Provides for the Special Minister of State to issue guidelines for vehicle use.
Travel	RT Det 2012/04 – Entitlements - cl 4.10	Domestic travel – car transport - travel from nearest airport providing suitable services	All senators and members	Parliamentary, specified party, official and committee business.	Allows a senator or member to use car transport to travel to the nearest airport or railway station offering reasonable services.

Travel	RT Det 2012/04 – Entitlements - cl 4.11.	Domestic travel – car transport - break in journey at electorate office	All senators and members	Parliamentary or electorate business	Allows a senator or member to break a car journey at the electorate office when travelling between the airport and home.
Travel	RT Det 2012/04 – Entitlements - cl 4.12	Domestic travel – car transport - break in journey	All senators and members	Parliamentary business	Allows a senator or member who is required to break a journey to or from Canberra to be provided with car transport from the airport/ railway station to the place of overnight accommodation and from there to the airport/railway station for connecting transport.
Travel	RT Det 2012/04 – Entitlements - cl 4.13	Domestic travel – car transport in capital city of home state	Shadow Ministers and Leaders of minority parties	Duties connected with office	Allows car transport to be used in the capital city of home state.
Travel	RT Det 2012/04 – Entitlements - cl 4.14 - 4.15	Domestic travel – unaccompanied family travel	All senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Sets out conditions for taxi or hire car transport for a spouse or nominee travelling without the senator or member.
Travel	RT Det 2012/04 – Entitlements - cl 4.16	Domestic travel – car transport - unaccompanied family travel	All senators and members	Parliamentary, electorate or official business, and not for commercial purposes	Sets out conditions for car transport for dependent children and designated persons travelling without the senator or member.
Travel	RT Det 2012/04 – Entitlements - cl 5.1 - 5.2, 5.4 - 5.5	Domestic travel – private vehicle allowance	All senators and members	Parliamentary business	Provides that a senator or member who uses their private vehicle to travel from their home base to Canberra or return (or part way) can be paid a private vehicle allowance. Also provides for a family member to be paid a private vehicle allowance when travelling to or from Canberra by private motor vehicle.

Travel	RT Det 2012/04 – Entitlements - cl 5.3	Domestic travel – car parking costs	All senators and members	Parliamentary business	Sets out conditions for payment of parking costs of up to \$240 when a senator or member drives to a terminus to undertake a trip under the determination.
Travel	RT Det 2012/04 – Entitlements - cl 6.1 - 6.3, 6.5, 6.7 - 6.8.	Domestic travel – standard and non-standard private-plated vehicle	All senators and members	Parliamentary, electorate, official business, family travel and private purposes. Not for commercial purposes.	Senators and members may be provided with an Australian made private-plated vehicle, as advised by the Special Minister of State. Members in large electorates (300,000km ² or more) may be provided with a four-wheel drive vehicle rather than a standard vehicle. Non-standard vehicles may be provided on request to senators and members subject to certain criteria as advised by the Special Minister of State, and provided any additional lease cost is met from the electorate allowance or charter budget.
Travel	RT Det 2012/04 – Entitlements - cl 6.4 and 6.6	Domestic travel – additional private-plated vehicle	Members representing electorates of more than 300,000 km ² and senators for the Northern Territory	Parliamentary, electorate, official business, family travel and private purposes. Not for commercial purposes.	An additional four-wheel drive private-plated vehicle may be provided on request to certain senators and members in addition to the private-plated vehicle provided under cl 6.1 or 6.2. The lease cost is met from the senator or member's electorate allowance or charter budget.

Travel	RT Det 2012/04 – Entitlements - cl 6.9 to 6.11	Domestic travel – allowance in lieu of a private-plated vehicle	All senators and members	Electorate business	Provides for a senator or member to elect to receive additional electorate allowance of \$19,500 per annum in lieu of a private-plated vehicle to meet the costs of transport within and for the service of the electorate. Includes transport by taxis, hire cars and public transport.
Travel	RT Det 2012/04 – Entitlements - cl 7.1 - 7.4	Domestic travel – electorate charter	All senators, except those for the ACT. Members for electorates of 10,000km ² and larger.	Electorate business	Sets out conditions and rates of electorate charter allowance available to charter aircraft and other modes of transport within and for the service of the electorate. Includes capacity to carry forward 20 per cent of unspent funds each year, hire a driver independent of car hire arrangements and engage or dismiss charter outside the electorate.
Travel	RT Det 2012/04 – Entitlements - cl 7.5 - 7.9	Domestic travel – electorate charter - specified passengers	All Senators, except those for the ACT. Members for electorates of 10,000km ² and larger.	Electorate business	Sets out conditions for carrying passengers on electorate charter transport. Entitled passengers include a spouse, member(s) of staff and other senators or members. Other passengers can travel provided a more expensive aircraft or vehicle is not required.
Travel	RT Det 2012/04 – Entitlements - cl 7.10 - 7.12	Domestic travel – electorate charter - supplement	All senators and members	Electorate business	Sets out arrangements where a senator or member has received a supplement under Reg 3A of the PE Regs 1997, for the charter allowance to be reduced by the amount of the supplement, unless waived by the Special Minister of State.

Travel	RT Det 2012/04 – Entitlements - cl 10.1 - 10.4	Overseas study travel	All senators and members that had completed three years of service, up to the 43rd Parliament	For studies and investigations of matters related to a senator or member's duties and responsibilities as a member of the Parliament	Sets out conditions for accessing overseas study travel, costs that will be met by the Commonwealth, reporting requirements and the administrative arrangements for reimbursement. This entitlement lapses when the 44th Parliament is prorogued.
Travel	RT Det 2012/04 – Entitlements - cl 12.1 - 12.2	Airline loyalty points	All persons with an entitlement under the determination who accrue airline loyalty points at Commonwealth expense		Requires airline loyalty points accrued at Commonwealth expense to be used only to reduce the cost of future travel under the determination or to be redeemed for a donation to charity. Details of usage must be reported to the Special Minister of State.
Travel	Executive authority	Ministerial travel – domestic	All ministers	Ministerial business	Ministers may travel anywhere within Australia, including by charter transport.
Travel	Executive authority	Ministerial travel – overseas	All ministers	Ministerial business	Ministers may travel overseas, including by charter transport, with the Prime Minister's prior approval. A number of related costs, such as insurance and medical costs, are met at Commonwealth expense.
Former parliamentarians	PE Act Schedule 1, Part 1 – Item 10	Benefits for former office holders as approved by the Prime Minister.	Specified former office holders		Additional facilities may be provided to former prime ministers, former leaders of the Opposition in the House of Representatives and former leaders of the Nationals in the House of Representatives while they remain in the Parliament.

<p>Former parliamentarians</p>	<p><i>Life Gold Pass Act 2012</i> as amended by <i>Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act 2012</i></p>	<p>Former members and senators who were in receipt of a parliamentary allowance prior to 1 July 2012</p>	<p>Retirement travel</p>	<p>The Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act closed the scheme to members who joined parliament after 1 July 2012 and reduced the number of trips from 25 to 10 for former parliamentarians and spouses. Former Prime Ministers are entitled to a maximum of 40 domestic return trips per year.</p>
<p>Former parliamentarians</p>	<p>RT Det 2012/04 – Entitlements - cl 8.1 - 8.3.</p>	<p>Senators and members in receipt of a parliamentary allowance prior to 1 July 2012.</p>	<p>Retirement travel</p>	<p>Retired senators and members who meet the qualifying periods set out in the determination are eligible for a Life Gold Pass issued under the <i>Life Gold Pass Act 2002</i>.</p>
<p>Former parliamentarians</p>	<p>RT Det 2012/04 – Entitlements - cl 8.4 - 8.5</p>	<p>Life Gold Pass holders</p>	<p>Retirement travel</p>	<p>Requires airline loyalty points accrued at Commonwealth expense to be used only to reduce the cost of future travel under the Life Gold Pass and only by the person who accrued the points. Points may be donated to charity.</p>
<p>Former parliamentarians</p>	<p>RT Det 2012/04 – Entitlements - cl 9.1 - 9.5.</p>	<p>Retired senators and members who are not eligible for a Life Gold Pass</p>	<p>Post-retirement travel</p>	<p>Sets out limited travel provisions for retired senators and members who are ineligible for a Life Gold Pass. Provides for a maximum of five return trips within the first six months after retirement from Parliament.</p>
<p>Former parliamentarians</p>	<p>RT Det 2012/04 – Entitlements - cl 9.6 - 9.8.</p>	<p>Certain retired senators and members</p>	<p>Post-retirement</p>	<p>Sets out a payment for certain retired senators and members whose retirement was involuntary and who are not able to access a pension or superannuation benefit under the <i>Parliamentary Contribution Superannuation Act 1948</i> immediately upon leaving Parliament.</p>

Appendix F - Proposed Senators and Members' work expenses*

Travel

In utilising public resources and expending funds on travel, all Senators and Members are to have regard to the overarching principle of 'value for money' – and in particular whether the expenditure or resource commitment represents the efficient, effective and ethical use of public resources.

Unrestricted Travel on Scheduled Commercial Transport for Parliamentary Business

Maximum cost of travel is the business class airfare, for the most reasonable and usual route between the departure and destination points, or economy class airfare where no business class fare is published.

All Senators and Members

Unrestricted travel on scheduled commercial transport for 'parliamentary business' within Australia#.

'Parliamentary business' includes, but is not limited to, activities carried out by a parliamentarian for the dominant purpose of performing duties of the following kind:

1. **Parliamentary duties** – activities directly related to the parliamentarian's membership of the Parliament, and his or her participation in current or future proceedings in Parliament, such as:
 - a. attending or participating in, or preparing to attend or participate in, sittings of the House of Parliament of which the person is a member; and
 - b. attending or participating in, or preparing to attend or participate in, meetings or other business of a parliamentary committee of which the parliamentarian is a member.
2. **Official duties of parliamentarians, ministers and parliamentary office holders** – activities undertaken by a parliamentarian, minister or parliamentary office holder in, and by reason of, that capacity, which do not relate directly to proceedings in Parliament, such as:
 - a. attending an official government, parliamentary or vice-regal event, function or meeting;
 - b. attending another event, function or meeting to which a parliamentarian is invited, or attends, in his or her capacity as a member of the Parliament (or in his or her capacity as a minister or parliamentary office holder); or
 - c. attending an event, function or meeting as a representative of a minister or parliamentary office holder (provided that the minister or parliamentary office holder has made, or approved the making of, a request to provide representation, and the request is made in writing, or a written record is made of an oral request).
3. **Electorate duties** – activities undertaken by a parliamentarian in support of, in service to, or out of duty to the parliamentarian's constituents, such as:

* This table is a Review Committee adaptation of the Department of Finance's summary of Senators and Members work expenses as they relate to travel.

<p>a. participating in public debate, or attending meetings, functions or events, relating to matters of importance or interest to constituents (including matters that do not relate exclusively to the parliamentarian's constituents, such as matters of national importance);</p> <p>b. communicating with constituents; and</p> <p>c. representing the views or interests of constituents.</p>	<p>4. Party political duties – participation by a parliamentarian in the activities of the political party of which he or she is a member, where the activity has a direct and substantial connection to the parliamentarian's membership of the Parliament, and the parliamentarian participates in the activity in, and by reason of, his or her capacity as a parliamentarian, such as:</p> <p>a. attending formal meetings of a political party of which the parliamentarian is a member (including meetings of the party executive or subcommittees); and</p> <p>b. attending the following conferences of a political party of which the parliamentarian is a member:</p> <ol style="list-style-type: none"> i. a national party conference; ii. a state or territory party conference of the state or territory in which the parliamentarian's electorate is located; and iii. a state or territory conference other than that of the state or territory in which the parliamentarian's electorate is located, if the parliamentarian is a minister, parliamentary office holder or a member of a parliamentary committee and is attending the conference in, and by reason of, that capacity.
<p>'Parliamentary business' does not include activities which are undertaken, or could reasonably be considered to be undertaken, for the dominant purpose of one of the following:</p> <ol style="list-style-type: none"> 1. administration or management of a political party, such as managing the party's membership (including preselection), its funds (including fundraising), its property or its compliance with applicable legal and regulatory requirements; 2. providing personal benefit to the parliamentarian or another person; or 3. pursuing the commercial interests of the parliamentarian or another person. 	<p># 'Australia' includes all external territories except Antarctica.</p> <p>While travelling to/from Canberra, a Senator or Member would be permitted to interrupt their journey. If Travelling Allowance is claimed a limit of one night per journey would apply (see also Travelling Allowance Note (4) below).</p>
<p>All Senators and Members who are the mothers of a dependent child or children up to twelve months old</p>	<p>Eligible travel would be extended to the spouse, nominee or designated person accompanying or joining a parliamentarian, who is the mother of a dependent child up to 12 months old and is travelling on parliamentary business to assist in caring for the child.</p> <p>The class of air travel under this Schedule would be full fare economy.</p> <p>Parliamentarians would be eligible to draw on this provision for up to twelve months from the birth of the child, which aligns with the period for which Australian employees can access parental leave under s.70 of the <i>Fair Work Act 2009</i>.</p>

Special Charter

All Senators and Members When travelling on parliamentary business in special cases, such as where no scheduled commercial services exist or a Senator or Member would be unduly delayed by the use of scheduled services, the Special Minister of State may approve the use of chartered transport by a Senator or Member. This form of charter cannot be used for travel that would be covered by the Electorate Charter provision.

Electorate Charter (to be renamed 'Transport in Large Electorates')

Notes:

Covers the charter of aircraft and hire of other vehicles for travel within and for the service of the electorate.

Includes the hire of an accredited driver to provide relief driving services.

Unused allowance, up to a maximum of 20 per cent of the annual budget, can be rolled over from one year to the next.

A Senator or Member can be accompanied by his or her spouse, staff, and other Senators and Members. Other passengers may also travel and cost recovery arrangements may apply.

Northern Territory Senators \$65,760 per year.

Queensland or Western Australian Senators \$26,490 per year.

New South Wales, Victorian, South Australian or Tasmanian Senators \$14,860 per year.

Members representing electorates 300,000km² or more in size \$120,000 per year.

Members representing electorates 100,000km² to 299,999km² in size \$38,190 per year.

Transport in Large Electorates

Members representing electorates 25,000km² to 99,999km² in size \$21,160 per year.

Members representing electorates 10,000km² to 24,999km² in size \$10,420 per year.

Unrestricted Car with Driver Transport

All Senators and Members When travelling away from the home base on parliamentary business, transport:

- a. between home, electorate office, or place of business and the nearest airport, bus station or railway station (or the nearest airport or railway station which provides reasonable transport services for the travel)
- b. in Canberra and locations within a 30km radius of Parliament House
- c. in other capital cities and regional centres, except within the city/centre in which the Senator or Member resides or has an electorate office, and between capital cities and regional centres
- d. on visits in the course of parliamentary committee business.

Car with driver services, including in Canberra, cannot be used for journeys which are primarily personal. (This is not intended to preclude Senators and Members from having passengers such as family members during allowable journeys.)

Note:

The existing Canberra parliamentary COMCAR 'shuttle' service operating during sitting periods would be re-examined with a view to obtaining better value for money. COMCAR fee structures for parliamentarians would be matched with those charged to COMCAR's other clients. Reporting on COMCAR costs and usage figures would represent the actual cost to the Commonwealth.

Travelling Allowance

All Senators and Members

Senators and Members are eligible to claim a travelling allowance for each overnight stay in a place other than the Senator or Member's home base while travelling for parliamentary business within Australia, where the costs of travel could be met under the provision for unrestricted travel on scheduled commercial transport for parliamentary business, with the proviso that a maximum limit of ten nights of travelling allowance per year in total is available for:

1. meetings outside of Canberra of a Senator or Member's parliamentary political party, its executive, its committees, its national conference, or its state conference; and
2. meetings outside the Senator or Member's electorate on business undertaken as an elected representative in support of, or in service or out of duty to, the Senator or Member's constituents and electorate.

Notes:

1. Nights spent in the following circumstances would not count against the ten night cap:
 - a. office holders (including shadow ministers and whips) undertaking business connected with those roles;
 - b. parliamentary committee members on committee business;
 - c. parliamentarians on single night stopovers outside their electorates which facilitate travel within their electorates; and
 - d. in certain circumstances, parliamentarians interrupting their journeys to and from Canberra where a one night stopover would be allowed for travelling allowance purposes.
2. Senators and Members would still be eligible to claim travelling allowance for each overnight stay within their state/electorate while away from their home base.
3. ACT Senators or Members or a Member representing an electorate adjacent to the ACT whose principal place of residence is within a 30km radius of Parliament House would not be eligible to claim travelling allowance for parliamentary business in Canberra, but would be eligible to claim a daily expense allowance of \$86 per day for each day that he or she attends in Canberra for:
 - a. sittings of Parliament;
 - b. meetings of the Senator or Member's parliamentary political party, its executive, or its committees;
 - c. meetings of a parliamentary committee of which the Senator or Member is a member; and
 - d. in respect of official business as a minister or office holder.
4. While travelling to and from Canberra under the provision for unrestricted travel for parliamentary business, a Senator or Member is permitted to interrupt their journey where necessary (for example, to conduct parliamentary business or due to airline schedules). If travelling allowance is claimed a limit of one night of travelling allowance per journey would apply.
5. The lodgement deadline for travelling allowance and Canberra daily expense allowance claims would be reduced from 60 days to 30 days.

Private-Plated Vehicle

All Senators and Members The Remuneration Tribunal should examine replacing the current provision for government funded private plated vehicles with a car leasing option similar to those available to senior public office holders, funded through a commensurate increase in Electorate Allowance.

The increase in Electorate Allowance would need to be higher in large electorates due to requirements for four-wheel drive vehicles and higher maintenance and running costs.

Note:

The largest electorates would still be able to use their Electorate Charter provision to lease a second vehicle if they chose.

Private Vehicle Allowance

All Senators and Members If the Remuneration Tribunal examination results in the adoption of a vehicle leasing option to replace the current government funded private plated vehicle arrangements, the Committee proposes that the provision for Private Vehicle Allowance should be abolished as part of the changes and commensurate increase in Electorate Allowance.

Parking

All Senators and Members Reimbursement of up to \$240 for parking the Senator or Member's private-plated vehicle, or a privately-owned vehicle, at a terminus (e.g. an airport, bus station or railway station). Senators and Members should be mindful of the relative costs of parking and seek value for money for the Commonwealth.

Overseas Study Travel

Note:

Effective from 15 March 2012, there is no further accrual of an entitlement to financial assistance for overseas travel. While there has been a carryover of the previous entitlement in some cases from the last Parliament to the current Parliament, there will be no further capacity for any Senator or Member to access travel under this scheme after the end of the current (44th) Parliament.

Overseas Delegation Travel

All Senators and Members The cost of travel overseas as a member of a parliamentary delegation within a program approved by the Prime Minister including: fares no higher than business class, charter travel for the delegation, accommodation of an appropriate standard, meals, equipment and clothing allowance and official hospitality.

The class of travel may be downgraded to extend the overseas travel or offset the cost of an accompanying spouse.

Canberra and Intra-state Family Reunion Travel

Notes:

Provisions not available to Australian Capital Territory Senators and Members.

Travel must be to accompany or join the Senator or Member in Canberra or intra-state only.

Travel may be at economy or business class for a spouse/nominee/designated person.

Travel should generally be economy class for dependent children.

Budget for family travel to be limited to the combined value of nine business class return trips per year from their principal place of residence to Canberra for a spouse or nominee and three full fare economy class return trips per year from their principal place of residence to Canberra for each dependent child.

This budget is pooled and can be used to offset as a maximum the cost of various forms of eligible travel.

Dependent children should generally travel economy class (unless the dependent child is an infant or minor who must, for example, sit with a parliamentarian in business class).

Canberra and Intra-state Family Reunion Travel

Spouse or nominee

Subject to the limits of the family reunion travel budget, travel by any mode of scheduled commercial service or, with the approval of the Minister for Defence, special purpose aircraft:

- a. to Canberra
- b. from Canberra to the Senator or Member's electorate or their principal place of residence
- c. on intra-state trips within the Senator or Member's home state or territory (conditions apply)
- d. from the spouse or nominee's principal place of residence to the Senator or Member's electorate.

Where travel is by a special purpose aircraft, the cost is recovered against the family travel budget.

Car transport can be claimed in connection with the above travel for journeys:

- a. between home, electorate office, or place of business and the nearest airport or railway station (or the nearest airport, bus station or railway station which provides reasonable transport services for the travel)
- b. between the airport, bus station or railway station in Canberra and the Canberra destination
- c. between Parliament House and place of accommodation in Canberra or Queanbeyan.

These car transport expenses (a. to c. immediately above) are not deducted from, or subject to the limits of, the family travel budget.

Spouse or nominee of a Senator or Member from Western Australia, the Northern Territory or Queensland (at least 1,100km flight distance from Brisbane)

When travelling to or from Canberra, the spouse or nominee of a Senator or Member from Western Australia, the Northern Territory or Queensland (at least 1,100km flight distance from Brisbane) may interrupt their journey.

Car transport can be claimed in connection with the stopover between the airport and the overnight accommodation.

Dependent child or designated person	<p>Subject to the limits of the family travel budget, travel by any mode of scheduled commercial service or, with the approval of the Minister for Defence, special purpose aircraft:</p> <ul style="list-style-type: none"> a. to Canberra b. from Canberra to the Senator or Member's electorate or their principal place of residence c. on intra-state trips within the Senator or Member's home state or territory (conditions apply). <p>Where travel is by a special purpose aircraft the cost is deducted against the family reunion travel budget.</p> <p>Taxi or hire car transport in connection with the above travel to and from any station or terminal. A dependent child under the age of 16 must be accompanied by a person over the age of 18.</p> <p>Taxi or hire car costs are not deducted from, or subject to the limits of, the family travel budget.</p>
Dependent child or designated person of a Senator or Member from Western Australia, the Northern Territory or Queensland (at least 1,100km flight distance from Brisbane)	<p>When travelling to or from Canberra, the dependent child or designated person of a Senator or Member from Western Australia, the Northern Territory or Queensland (at least 1,100km flight distance from Brisbane) may interrupt their journey.</p> <p>Taxi or hire car transport in connection with a stopover to and from any station or terminal. A dependent child under the age of 16 must be accompanied by a person over the age of 18.</p> <p>Taxi or hire car costs are not deducted from, or subject to the limits of, the family travel budget.</p>

Inter-state Family Travel

Spouse or nominee
dependent child or
designated person

The Remuneration Tribunal should review and tighten eligibility requirements with respect to the combined total of three inter-state business class return trips provided each year pursuant to Remuneration Tribunal Determination 2012/04 for use by the spouse, nominee, designated person or dependent children of a Senator or Member including by:

- i. incorporating a requirement that such travel be for the dominant purpose of reunion with a Senator or Member who is at a location for the dominant purpose of conducting 'parliamentary business' as defined pursuant to recommendation 4; and
- ii. prohibiting use of the provisions to undertake an inter-state family holiday.

The Government should similarly review and tighten eligibility requirements with respect to the single business class return trip to any place within Australia provided each year pursuant to the Parliamentary Entitlements Act 1990 for use by a dependent child of a Senior Officer (minister, opposition office holder or presiding officer).

Note:

Provision available to all (including ACT) Senators and Members, and is in addition to any Canberra and intra-state family travel entitlement. Travel must be to accompany or join the Senator or Member.

Travel to an Official Government, Parliamentary or Vice-Regal Function

Spouse or nominee Travel by any mode of scheduled commercial service or, with the approval of the Minister for Defence, special purpose aircraft, to attend an official government, parliamentary or vice-regal function as an invitee.

Car transport in Canberra to attend an official government, parliamentary or vice-regal function as an invitee, or to attend other functions as approved by the Special Minister of State.

Representational Travel

Spouse or nominee Subject to the limits of the family travel budget, where a Senator or Member has an entitlement to travel and is prevented from attending any of the following functions due to illness, parliamentary or family reasons, travel to represent the Senator or Member at:

- a. a funeral;
- b. a function where the spouse or nominee accepts an award or honour on behalf of the Senator or Member;
- c. a function within the electorate to which the Senator or Member has been invited;
- d. any other function as approved by the Special Minister of State.

Post-retirement travel

All Senators and Members who retired from the Parliament on or after 15 March 2012 who did not qualify for a Life Gold Pass on retirement

Former Senators and Members not qualifying for a Life Gold Pass should be funded for up to three return trips within the three month period following retirement between the former Senator or Member's home base and either Canberra or the location (or locations) of their former office provided by the Commonwealth rather than the currently available five return trips within six months.

The cost of a return trip is limited to the cost of a full economy airfare for the most reasonable and usual route between the departure and destination points.

Note:

Severance Travel – Senators and Members who retired from the Parliament before 15 March 2012 who did not qualify for a Life Gold Pass on retirement also had access to a “severance travel” benefit with limited durations depending on the years of service. The last former parliamentarian with any severance travel benefit loses that from 30th June 2016. The Committee has therefore made no findings with respect to “severance travel”.

Life Gold Pass Provisions

Legislation passed in 2012 closed the Life Gold Pass scheme to new entrants and the current Government introduced further legislation in 2014 which would effectively close down the scheme within the next few years. Whatever be the outcome of this 2014 legislation the Life Gold Pass scheme has a finite life and the Life Gold pass provisions have ceased to have relevance to most Senators and Members since March 2012.

Appendix G - The Current IT System

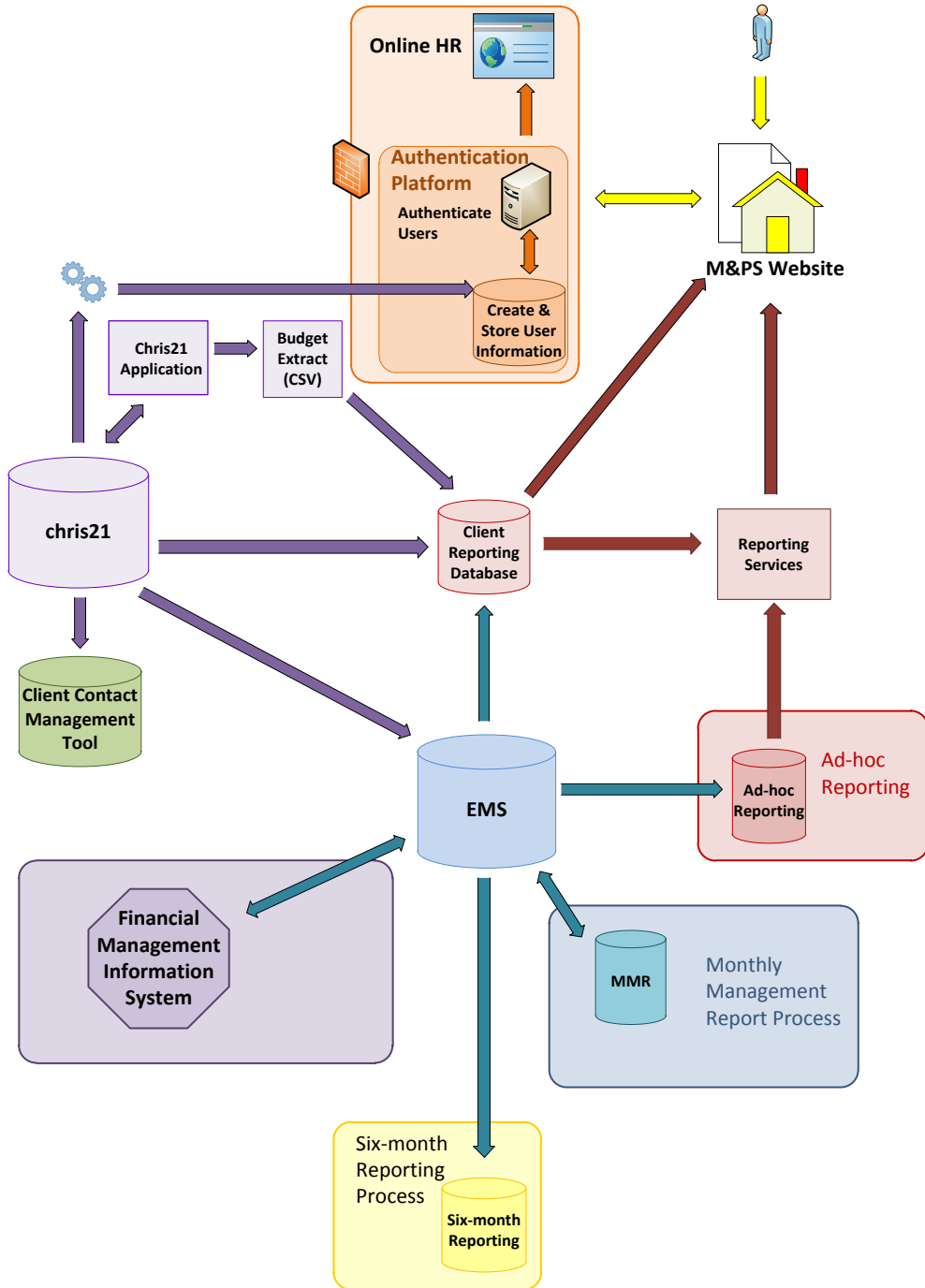
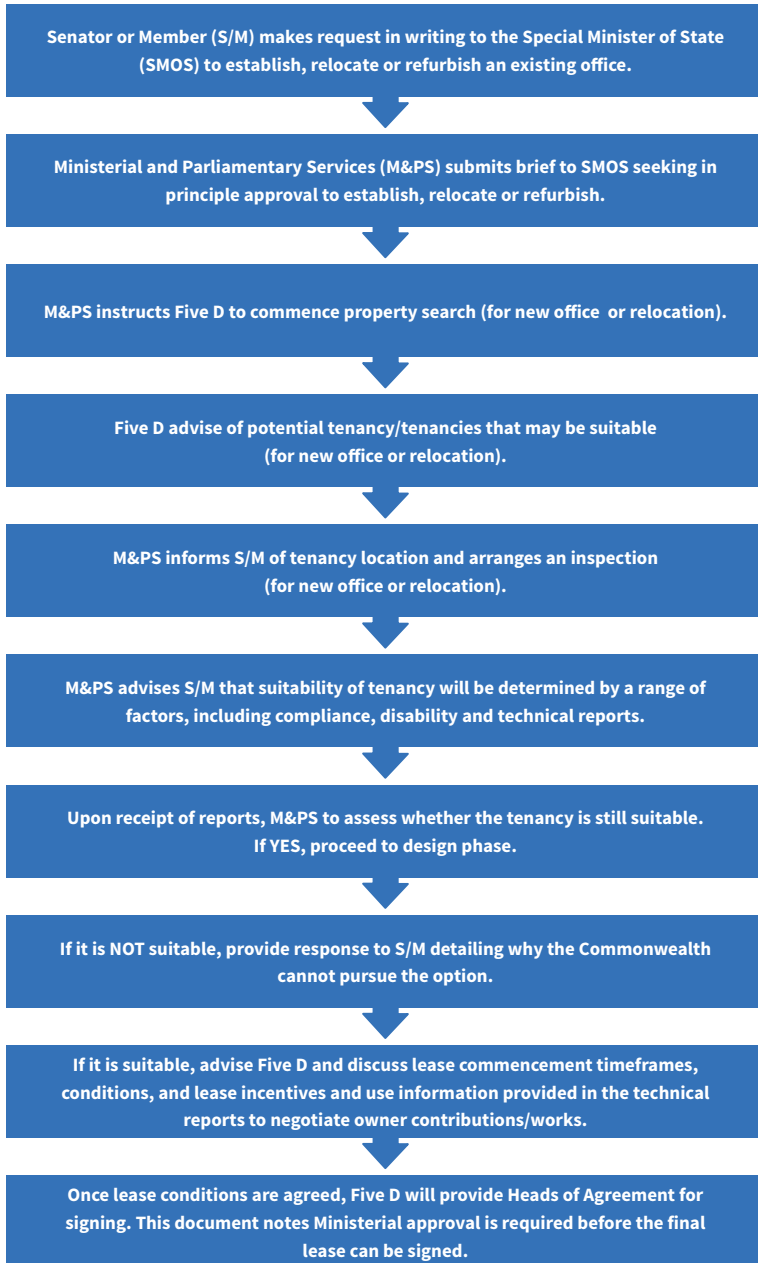


Diagram provided by Department of Finance

Appendix H - Process Diagram

Process Diagram: establish, relocate, or refurbish an electorate office.



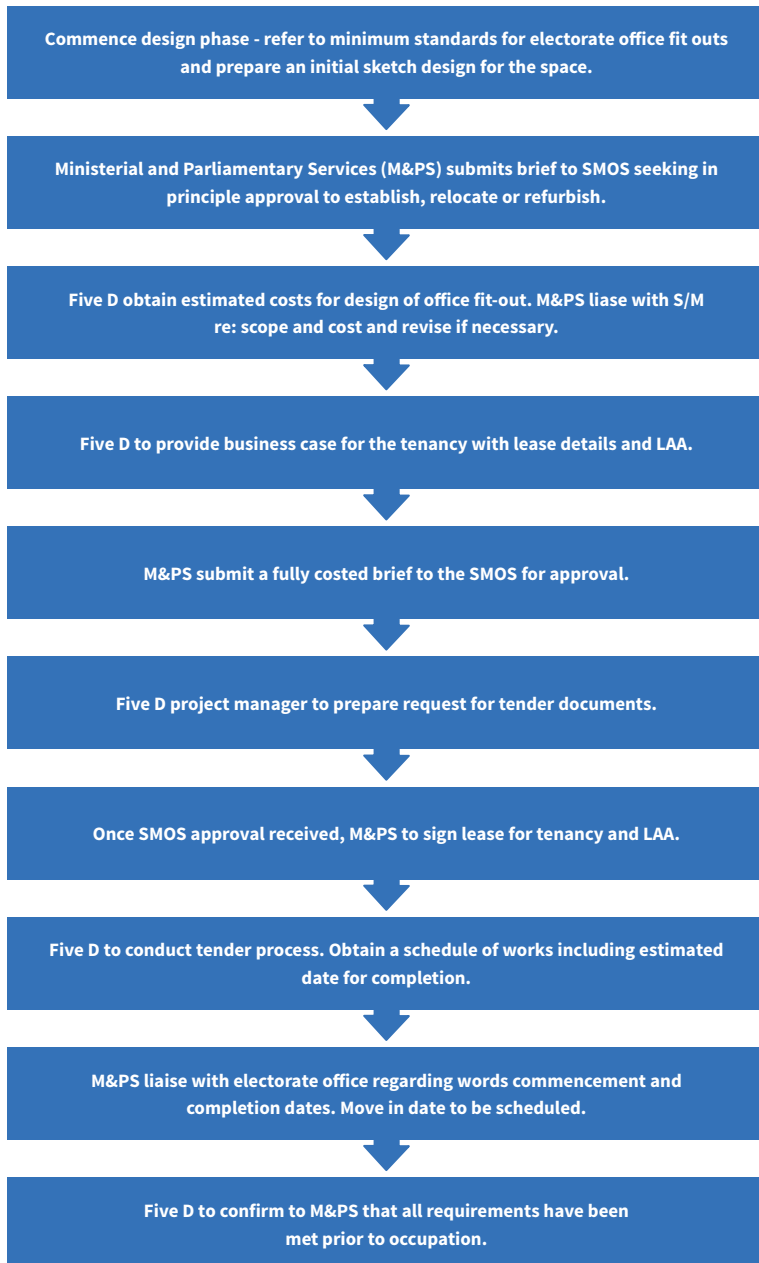


Diagram provided by Department of Finance

TRAVELLING ALLOWANCE ENTITLEMENT		
DETERMINATION 2015/12 – SUMMARY OF TRAVELLING ALLOWANCE CLAUSES		
Reason	Clauses	
	Minister/ Parl Sec Office Holder	Member/ Senator
Prime Minister	2.2	
Parliamentary sittings	3.8(a)	3.12(a)
Official business as a Minister or Office Holder	3.8(b)	
Parliamentary committee meetings or business	3.8(c)	3.12(b)
Meetings in Canberra of parliamentary party, its executive or committees	3.8(d)	3.12(d)
Parliamentary party executive meetings outside Canberra	3.8(e)	3.12(e)
Meetings other than in Canberra of parliamentary party, its executive or committees or attendance at the National and State conferences of a political party of which you are a member and direct travel to or from such meetings and meetings outside electorate on electorate business	3.8(f)*	3.12(f)*
Official government, parliamentary or vice-regal functions		3.12(g)
Minister acting as Prime Minister	3.9	
Representing a Minister or Presiding Officer		3.12(c)
Meetings of non-statutory body as representative of Parliament		3.12(h)
Meetings of government advisory committees or taskforces		3.12(i)
Required break in journey between Western Australia or Northern Territory and Canberra on parliamentary business where the break in journey was caused by there being no same-day connecting flight reasonably available	3.11	3.13
Overnight stay in electorate by a Member whose electorate is 10,000km ² or more in area, or a Senator, in a place other than home base		3.15*
Overnight transit stops by a Member whose electorate is 300,000km ² or more, where direct travel is not available within electorate		3.15.1*
Electorate business for Members whose electorate is less than 10,000km ² in area, where the electorate includes islands or separate regional areas located outside boundaries		3.15.2*
Member for Bowman visiting North Stradbroke Island on electorate business		3.15.3*
Senator or Member from the ACT attending parliamentary sittings		3.16(a)
Senator or Member from ACT attending meeting of parliamentary party, its executive or committees in Canberra		3.16(b)
Senator or Member from ACT attending parliamentary committee in Canberra		3.16(c)
Senator or Member from the ACT undertaking official business as a Minister or Office Holder in Canberra		3.16(d)
Senator for Northern Territory or Member for Lingiari visiting Cocos (Keeling) Islands or Christmas Island on electorate business		3.17(a)*
Senator for ACT or Member for Canberra visiting Norfolk Island on electorate business		3.17(b)*
Senator for Northern Territory or Member for Lingiari breaking journey to Cocos (Keeling) Islands or Christmas Island on electorate business		3.18
Senator or Member visiting an external territory (other than Antarctica) on parliamentary business		3.19
Senator or Member visiting an external territory on parliamentary committee business as submitted to the Special Minister of State		3.20
Leader of a recognised party of at least five members travelling as Leader		3.21*
Deputy Leader of a recognised party of at least five members travelling as Deputy Leader		3.22*
Chief/Primary Whips (Senate and House of Representatives) travelling to Canberra in connection with office	3.23	
Chief Government and Opposition Whips (House of Representatives) travelling outside home base or Canberra in connection with office	3.23.1*	
Chief Government and Opposition Whips (Senate) travelling outside home base or Canberra in connection with office	3.23.2*	
Whips travelling to Canberra in connection with office at the request or to replace the Chief Whip		3.24
Chairs of parliamentary committees when travelling on committee business		3.25
Shadow Ministers travelling in connection with office of shadow minister		3.26*

* Numerically limited entitlement

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SENATORS AND MEMBERS

ELECTORATE CHARTER CERTIFICATION

Please complete all relevant sections.

A separate Charter Certification should be completed for each vehicle hired, i.e. if a charter aircraft is hired to get you to a location and then a hire car is required, two Charter Certifications should be completed.

The itinerary should only contain those legs which were travelled in the chartered vehicle. Please ensure that all individual legs are listed.

Please forward the completed form to Ministerial and Parliamentary Services.

Send to	Ministerial and Parliamentary Services Department of Finance John Gorton Building King Edward Terrace PARKES ACT 2600
Contacts	Entitlements Management Branch Phone: (02) 6215 3542 Fax: (02) 6267 3337

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SENATOR/MEMBER	▶ Name	<input type="text"/>
	▶ State/Electorate	<input type="text"/>

CHARTER DETAILS	▶ Mode of transport: Aircraft <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other <input type="text"/>
	▶ Travel booked through travel services provider? Yes <input type="checkbox"/> No <input type="checkbox"/> Attach a copy of the charter invoice

Date	From	To

ENTITLED PASSENGERS	▶ Accompanied by: Spouse <input type="checkbox"/>
	Members of your staff <input type="checkbox"/> Give names <input type="text"/>
	Other Senators and Members <input type="checkbox"/> Give names <input type="text"/>

CONTINUED OVERLEAF ▶

OTHER PASSENGERS

► Details of passengers for whom cost recovery should occur

NOTE:

- Additional passengers may only accompany a Senator or Member if no additional cost is involved.
- It is the Senator or Member's responsibility to advise accompanying passengers that recovery arrangements will apply for their portion of travel.
- The Senator or Member will be responsible for the cost of travel by accompanying passengers, where the Senator or Member does not obtain prior consent of accompanying passengers to paying their own travel costs.
- The amount to be recovered from non-entitled accompanying passengers will be the equivalent scheduled commercial airfare, or where there are no scheduled services, the actual cost of the charter, pro rated for each passenger.

Name	Address	Legs of charter undertaken

► Details of passengers for whom cost recovery should be waived and justification

Name	Justification			
	a) relevant to the purpose of the travel	b) compassionate reasons	c) public interest reasons	d) dependent child under 25
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CERTIFICATION

► I certify that:

- this charter was used within and for the service of my electorate/State or Territory;
- I personally travelled on the service described above;
- the charter was NOT used for taxis or hire car transport in the metropolitan areas of capital cities;
- the inclusion of the passengers listed above did not result in the need for a more expensive charter aircraft/vehicle; and
- where I have indicated that cost recovery should be waived, the justification is for the reasons indicated.

► I understand that:

- knowingly giving false or misleading information is a serious offence under the Criminal Code Act 1995.

► I accept that:

- payment will only be made to the limit of my entitlement and that any accounts in excess of entitlements will be my personal responsibility.

► **Signature of Senator/Member**

Date

Appendix J - The Protocol



Protocol followed when an Allegation is Received of Alleged Misuse of Entitlement by a Member or Senator

(As tabled in the Senate by the then Special Minister of State on 31 October 2000)

The Protocol was approved by the then Special Minister of State, on 23 June 1998, following an exchange of correspondence with the Attorney-General. Underlying the change (since the old system placed directions with the Minister responsible for Ministerial and Parliamentary Services and the Australian Federal Police) was that an 'arms length' process should be put in place to ensure allegations against politicians were handled in a way which could not invite allegations of partisanship.

The process is as follows:

Internal Audit

- When an allegation of or other event which suggests misuse of entitlement occurs, the Department undertakes an internal investigation to ascertain whether the allegations are credible (rather than being only malicious or vexatious).
- If the matter is relatively minor, the Member or Senator will be invited to provide an explanation to the Department.

Departmental Committee

- In the event of a more serious allegation or high incidence of transgression (or further investigation would involve interviewing members of the public) the matter is referred to a high level Departmental Committee chaired by the Secretary.
- The Committee may decide to, or not to, seek an explanation from the Member or Senator.
- The Committee, provided it is satisfied that each action is appropriate, seeks the advice of the Secretary, Attorney-General's Department, as to whether the matter warrants referral to the Australian Federal Police.
- If such advice is positive, the Special Minister of State would be provided with appropriate background material and a recommendation would be made to note that, subject to a further analysis by the Committee, the matter may be referred to the Australian Federal Police by the Secretary.
- The Minister for Justice is advised of the intended referral.
- The Secretary makes the decision as to whether the allegation against the Member or Senator is to be referred to the Australian Federal Police.
- Any further action would then be a matter for the Australian Federal Police.

On 12 August 2003 the then Special Minister of State agreed that the Protocol should also be used for allegations of misuse of entitlements involving *Members of Parliament (Staff) Act 1984* employees.

