

[REDACTED]
[REDACTED]
17 October 2021

Ms Kelly O'Dwyer and Ms Kate Ellis
Independent Reviewers
Review of Parliamentary Business Resources Act 2017, and
Independent Parliamentary Expenses Authority Act 2017
Parliament House
CANBERRA 2600

Dear Kelly and Kate,

Thank you for the invitation to comment on this review.

Like you, I was serving in the parliament at the time of the introduction of the IPEA.

My Office Manager, who handled my expense claims and reconciliations, considered the change to be positive overall. The forms were an improvement and the process slightly less convoluted.

From my point of view, the definition of parliamentary business remained a grey area. The advice was to consider the front-page test, but that's not straightforward. As a crossbencher, my concerns about the front page were different from the concerns of a member of a major party. What ends up on the front page is also subject to the whims and political leanings of journalists and editors. The Guardian and ABC, for example, would periodically try to conjure up some impropriety by me but never about Sarah Hanson-Young.

I relied on my business experience – if a cost is necessarily incurred in order to do the job, it's legitimate and reimbursable. If it's a private matter, it's not. I never sought to make a profit from expenses, although most members and senators (and their staff) make some profit from travelling allowances. Most importantly, I never forgot that I was spending taxpayers' money.

That said, there is one aspect about the IPEA and its legislation that I wish to draw to your attention.

In late 2018 I travelled from Canberra to Adelaide to attend a court hearing in relation to the defamation case brought by Sarah Hanson-Young. Being a Thursday, I returned to Sydney directly from Adelaide. Flights were booked via the parliamentary travel service.

Once the costs were known (not until February 2019) I reimbursed IPEA for the entire amount except for \$114.42, being the price of a discount Canberra-Sydney flight. Had I remained in Canberra, this cost (or more if a discount flight was not available) would have been incurred.

IPEA concluded that under the legislation I was liable for the whole amount, notwithstanding taxpayers being no worse off, and sought to impose a penalty of \$137.87. I disagreed on both points and have declined to pay.

The relevant points from this are:

1. If, as the IPEA website states, "The primary purpose of the PBR Framework is to ensure that taxpayers' funds are spent appropriately", then its pursuit of me is misguided.

2. Notwithstanding the legislation, I don't believe the IPEA has the legal authority to impose a penalty. It is the equivalent of a fine, something only a court can impose. I acknowledge that a sitting member of senator may feel compelled to pay a penalty rather than risk public criticism, but that is not relevant in my case.
3. By any measure the amounts involved are trivial. They are particularly trivial relative to the effort devoted to pursuing me, including issuing a ruling. IPEA has incurred thousands of dollars of staff resources on this issue. Even if they had succeeded in recovering the money from me, it would not have been a good use of taxpayers' funds.

In my opinion the legislation should be amended to ensure the IPEA is only obliged to act when taxpayers' funds are at stake and not simply because it interprets the legislation in a particular manner. Consideration should also be given to introducing a materiality threshold.

I attach relevant correspondence with the IPEA.

Please feel free to contact me if you would like to discuss this. Kelly has my number.

Yours sincerely,

A large black rectangular redaction box covering the signature area.

David Leyonhjelm