

## **INDEPENDENT REVIEW OF THE**

Parliamentary Business Resources Act 2017 and Independent Parliamentary Expenses Authority Act 2017

## **DECEMBER 2021**



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#### Acknowledgements

The Reviewers thank all parliamentarians and MOP(S) staff who contributed their views and insights.

The Reviewers are grateful for the assistance of administering agencies in supporting the Review, in particular the Department of Finance and the Independent Parliamentary Expenses Authority.

## Letter of transmittal

The Hon Ben Morton MP Minister Assisting the Prime Minister and Cabinet Minister for the Public Service Special Minister of State

Parliament House Canberra ACT 2600

#### Dear Minister

In September 2021, we were appointed by the Minister for Finance to review the *Parliamentary Business Resources Act 2017* (PBR Act) and its legislative instruments, and the *Independent Parliamentary Expenses Authority Act 2017* (IPEA Act) and its legislative rules. Both Acts require reviews: under section 56 of the PBR Act, of the operation of the Act every three years; and under section 62 of the IPEA Act, of the operation of the Act and the legislative rules as soon as practicable three years after commencement.

Over the past three months we have undertaken an independent review in accordance with the Terms of Reference issued to us on 9 September 2021. These include:

- whether the PBR Act and any subordinate legislative instruments are achieving the legislative objectives, such as providing appropriate levels of support, accountability and transparency regarding parliamentary business resources, and
- whether the IPEA Act and its legislative rules are achieving the objective of improving transparency and accountability of parliamentary business resources provided to members of Parliament and former members and travel resources for members' staff.

We make 30 recommendations, some of which will require legislative amendments to implement. Our recommendations are made after consultation with current and former parliamentarians and their staff, the Department of Finance, the Independent Parliamentary Expenses Authority, the Department of Parliamentary Services, Chamber Departments and other administering agencies, and the Remuneration Tribunal. We have taken into account their feedback and improvement suggestions when drafting this report. We would like to express our thanks to those who made submissions, completed surveys and met with us and the secretariat, over the course of the Review.

In preparing this report we were assisted by a secretariat drawn from the Department of Finance and the Independent Parliamentary Expenses Authority. We would like to express our thanks and appreciation for their enthusiasm, commitment and insights.

We have completed the Review and it is our pleasure to present to you our report.

Yours sincerely

The Hon Kelly O'Dwyer Independent Reviewer 17 December 2021

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The Hon Kate Ellis Independent Reviewer 17 December 2021

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## **Executive Summary**

## Preface

- 1. The independent statutory review of both the *Parliamentary Business Resources Act 2017* (PBR Act) and the *Independent Parliamentary Expenses Authority Act 2017* (IPEAAct) (Review) was announced by the Morrison Government on 9 September 2021 and was undertaken by the Hon Kelly O'Dwyer and the Hon Kate Ellis (Reviewers).<sup>1</sup>
- 2. Undertaking a single review of the PBR Act, the IPEA Act, and the legislative instruments and legislative rules under them (PBR Framework<sup>2</sup>), allowed the legislative underpinnings of the PBR Framework to be considered holistically, including the original policy intent, as well as the effectiveness of the PBR Framework administration.
- 3. The Reviewers' approach was to consider the legislative framework and whether the legislation is meeting its objectives of improving the accountability and transparency of the public resources that are provided to support parliamentarians in carrying out their parliamentary business, and to consider whether the terms and provision of those public resources meet their legislative objectives or whether there are areas for legislative and/or administrative improvement.
- 4. In carrying out the Review, the Reviewers considered previous reviews as appropriate, including *An Independent Parliamentary Entitlements System Review* (February 2016), which recommended the establishment of a principles-based framework (Conde Tune Review).
- 5. Overall, the Reviewers found that the legislative framework is broadly meeting its objectives, but that there are areas for improvement reflected in the recommendations made in this Report.

## **IPEA Act**

- 6. The Reviewers found that generally the IPEA Act, and Independent Parliamentary Expenses Authority (IPEA) in the performance of its statutory functions, are operating effectively to achieve their objectives. In particular, the IPEA Act supports IPEA's functions, including:
  - IPEA's power to provide private and confidential personal advice that is exempt under the *Freedom of Information Act 1982* (FOI Act) to parliamentarians and their staff about travel expenses and allowances
  - 'safe harbour' arrangements, which protect individuals from debts that would otherwise be recoverable relating to the provision of travel expenses and allowances, if the individual relied on advice provided by IPEA and the advice is incorrect
  - IPEA's information-gathering powers that can be used to obtain information or a document from a person where it is relevant to the performance of IPEA's reporting or audit and assurance functions. Criminal penalties apply if a person does not comply with a request from IPEA to produce information or a document.
- 7. The Reviewers considered that these provisions have enabled IPEA to build a strong culture of supporting parliamentarians and their staff in carrying out parliamentary business. To build on this success, and access the powers provided to IPEA as an independent statutory agency, the Reviewers have recommended that the Government should consider transferring the office expenses administration function to IPEA.

<sup>&</sup>lt;sup>1</sup> Defined terms and acronyms used in this Report are included in the Glossary in Appendix A.

<sup>&</sup>lt;sup>2</sup> As noted in paragraph 34, for the purposes of this Report the 'PBR Framework' means the framework governing parliamentarians' public resources established under the PBR Act and the IPEA Act, including all legislative instruments and legislative rulings made under these Acts, including various determinations made by the Minister.

## **PBR Act**

- 8. Reflecting the reasoning and recommendations of the Conde Tune Review, the PBR Act recognises that parliamentarians should have access to public resources for reasonable expenses incurred in conducting their parliamentary business, but that they have obligations to the public in how they use those resources. To that end, the PBR Act divides remuneration from the public resources that are provided to support a parliamentarian's work, and establishes a compliance framework including debt recovery, penalty and voluntary repayment provisions that apply to public resources provided under Part 3 of the PBR Act.
- 9. Other public resources (the Parliamentary Injury Compensation Scheme and legal assistance for Ministers) are provided under Part 5 of the PBR Act. After stakeholder consultation, the Reviewers have no recommendations concerning these Part 5 public resources.
- 10. In line with the Conde Tune Review, Part 3 public resources are provided according to a principlesbased framework that established overarching obligations on parliamentarians when claiming or using public resources for conducting their parliamentary business: that public resources may only be claimed where they are for the **dominant purpose** of conducting the parliamentarian's parliamentary business; claims provide **value for money**, taking into account the need to conduct their parliamentary business; parliamentarians are **personally responsible and accountable** for their use of public resources including being prepared to **publicly justify** their use of public resources; and parliamentarians must act **ethically and in good faith** in using, and accounting for their use of public resources.
- 11. The Reviewers found generally that the PBR Act is also meeting its objectives, but there is room for improvement, both in terms of retention of some rules-based (rather than principles-based) conditions, and changes to how the PBR Framework is administered.

## **Areas for Reform**

12. Key areas that the Reviewers consider require reform are set out below.

#### Reporting and certification

13. Reporting and certification by IPEA can be enhanced by the inclusion of more detailed, visible and proximate information that contextualises the matters being publicly reported and certified, thus increasing transparency and accountability for the benefit of both parliamentarians and taxpayers. In some instances, reporting would be fairer and more accurate if reported against a particular cohort than individual parliamentarians. It is also imperative that all administering agencies provide the required data and information to IPEA, in a timely manner, to allow IPEA to fulfil its reporting obligations.

#### Joined-up administration

- 14. Agencies need to share information and administer the PBR Framework in a 'joined-up' way. Although the PBR Framework is less legislatively and administratively fragmented than the *Parliamentary Entitlements Act 1990* (PE Act) framework it replaced, administration is still, of necessity, split between several agencies: primarily IPEA, the Department of Finance (Finance), the Department of Parliamentary Services (DPS), and the Departments of the House of Representatives and the Senate.
- 15. Administering agencies need to work collaboratively to achieve clear lines of responsibility and procedures to: provide public resources in a more seamless client-focused manner; resolve issues efficiently; achieve a consistent approach to stakeholders and improve knowledge management. Formal information-sharing protocols, and a form of 'one-stop shop' such as a shared website as a repository for information, guidance and contact-points for the PBR Framework, could improve outcomes for all users (parliamentarians, agencies, and their staff) in navigating a complex framework.

#### Training and guidance

16. There are opportunities to improve training and guidance, which would assist parliamentarians and their staff (and agencies) to understand what public resources are available and the conditions that apply, so that these can be used efficiently and in accordance with relevant obligations.

#### Office expenses

17. 'Office expenses' provided under section 66 of the *Parliamentary Business Resources Regulations* 2017 (PBR Regulations) is a deceptively large and complex area administered by Finance. With the move to the principles-based PBR Framework, it is appropriate to review how office expenses are prescribed and the conditions that apply to them in light of the overarching principles and obligations under the PBR Act, to ensure that any conditions are reasonable and serve a clear purpose.

#### Family responsibilities and large electorates

18. The Conde Tune Review noted that a parliamentarian's job is not family-friendly and poses particular challenges for parliamentarians who are mothers of infants, have young families, and/or represent regional or remote electorates, and without adequate support to parliamentarians there is a risk that the Parliament would be unable to attract and retain talented individuals from a diverse range of backgrounds and stages of life. Stakeholder feedback indicated that there is still work to be done to better support a diverse modern Parliament, including disaggregating accompanying infants and carers travel from Family Reunion Travel and extending support for this cohort of parliamentarians, and considering the nature of support provided to large electorates including parliamentarians and staff in 'satellite' offices.

## Recommendations

The Reviewers make the following recommendations:

## **Recommendation 1**

Clear reporting – Improving accuracy and understanding

Reporting of office facilities should be consistent with reporting of office establishment, relocation and refurbishment expenses. This reporting should be included on the IPEA website. IPEA should update its website to ensure that general contextual information about expenditure is more visible and proximate to the public resource category being reported.

## **Recommendation 2** Reporting – Office facilities

IPEA should publicly report 'satellite' office expenses separately from 'office facilities'.

## **Recommendation 3** Reporting – Committee charter travel

Parliamentary committee charter travel costs should be reported on a cohort basis against the committee rather than as part of an individual parliamentarian's expenditure, provided claims for these costs are supported by a statement from the relevant committee secretariat which indicates the requirement to travel.

## **Recommendation 4** Reporting – Public resources administered by DPS

DPS should provide data for all public resources it administers to IPEA on a regular basis for inclusion in quarterly expenditure reports, in accordance with IPEA's statutory reporting function.

## **Recommendation 5** Special Purpose Aircraft

Review the administration of SPA under the PBR Framework to ensure arrangements are working in a joined-up way to fulfil the PBR Framework's objectives of efficiency, accountability, transparency and value for money and changes necessary to achieve this are reflected in SPA Guidelines, and the Commonwealth Transport Determination if relevant.

## **Recommendation 6** Certification process

IPEA should provide clear information to parliamentarians and their staff about the purpose and process of certifying quarterly expenditure reports, and should ensure that where an administering agency is responsible for expenditure, the parliamentarian is certifying that they have read the certification provided and that their use of public resources is within the legislated purpose. IPEA's website statement should provide additional information explaining this context.

## **Recommendation 7** Travel expenses in connection with MOP(S) staff employment (IPEA Act)

The Government consider amending the definition of 'MOP(S) staff member' to facilitate the payment of expenses associated with attending job interviews, relocating and commencing employment under the MOP(S) Act.

## **Recommendation 8** Personal advice (IPEA Act)

The Government consider amending the IPEA Act to expressly facilitate IPEA providing personal advice about staff use of travel resources to their employing parliamentarian and advice about parliamentarians' use of travel resources to their staff.

## **Recommendation 9** Reporting of voluntary payments (IPEA Act)

The Government consider amending the relevant IPEA Act definitions to refer to Part 4 of the PBR Act to expressly facilitate IPEA reporting on voluntary repayments and penalties with context.

## **Recommendation 10** Scope of audit function (IPEA Act)

The Government should seek detailed legal advice as to how IPEA's audit function could be expanded to encompass all allegations or complaints regarding the use of all public resources under the PBR Framework (including non-travel related MOP(S) staff matters).

## **Recommendation 11** Rulings – Former parliamentarians (PBR Act)

The Government should consider amending the PBR Act to clarify that a former parliamentarian can apply for a ruling and IPEA can make such a ruling.

## **Recommendation 12** Definition of 'transport costs' (PBR Regulations)

The Remuneration Tribunal consider enquiring into the definition of 'transport costs' in section 5 of the PBR Regulations with a view to including costs associated with transport, such as road tolls.

## **Recommendation 13** Formal information-sharing protocols

The Government should require agencies with chief responsibilities for administering the PBR Framework to develop formal information-sharing protocols between them.

## **Recommendation 14** One-stop shop

Administering agencies should establish a 'one-stop shop' to assist parliamentarians and MOP(S) staff to navigate different agencies. The form of a 'one-stop shop' could involve, among other things, a shared website and/or helpline.

## **Recommendation 15** Governance for joined-up administration

Administering agencies should establish governance arrangements to facilitate joined-up administration of the PBR Framework. This could include a high-level steering committee with representation from all major administering agencies to create and oversee a program to identify challenges and solutions to provide joined-up administration and establish and maintain a 'one-stop shop'.

## **Recommendation 16** Induction and ongoing training and guidance

Administering agencies should work together to design training, guidance and factsheets for parliamentarians and staff concerning the PBR Framework generally, as well as discrete elements, such as public resources under the PBR Regulations; explaining administrative responsibilities and processes under the PBR Framework; and available tools and resources.

Induction training should be available in-person as well as online. Training and guidance should be accessible through a single-entry point.

## **Recommendation 17** Budget training

Administering agencies should continue developing training packages on office administration and budgeting (including the tools and resources) to be made available to both parliamentarians and their staff.

## **Recommendation 18** Budget training and potential roll over relief

Consider a small annual rollover of unspent funds from the previous year's office expenses budget up to a maximum of the value of the late delivery impact for goods and services ordered before 30 June, but not delivered until the new financial year.

## **Recommendation 19** Simplifying office expenses into principles-based categories

The Government should consider simplifying the office expense categories in section 66(1) of the PBR Regulations into broader categories based on the overarching principles of the PBR Framework, but these principles should be balanced by specific conditions.

### **Recommendation 20** 'Commercial purposes of another person'

Section 66(4) of the PBR Regulations should be administered, or amended, if necessary, to permit incidental references to another person's commercial purpose. Finance should continue to provide guidance and encourage parliamentarians to seek pre-claim assessments.

## **Recommendation 21** ICT function and budgets

DPS should manage provision of ICT under the EOIT and office expenses budgets as seamlessly as possible, and ensure that parliamentarians are aware of any different arrangements that apply if they need to use their office expenses budget for ICT. Finance and DPS should consider administrative arrangements for the office expenses budget and EOIT budget to improve their functioning, while maintaining the flexibility of allowing additional ICT to be supplied under the office expenses budget.

## **Recommendation 22** DPS' ICT offerings

DPS should regularly reconsider its catalogue of ICT offerings with a view to providing a wider range of appropriate ICT offerings for parliamentarians and their offices and work on the principle of 'if not, why not' when considering parliamentarians' ICT requests.

## **Recommendation 23** Office expenses administration function

The Government should consider moving the office expenses administration function to IPEA.

## **Recommendation 24** Accompanying infants and carers travel

Accompanying infants and carers travel should be:

- · disaggregated from Family Reunion Travel so that it is accessed independently
- · publicly reported on a cohort basis of relevant parliamentarians
- available to parliamentarians who are parents of children up to a consistent school commencement age (say, 6).

## **Recommendation 25** Support for special requirements

The Remuneration Tribunal (and other administering agencies, as appropriate) should inquire into what can be provided to better support parliamentarians with exceptional physical, family or other requirements.

## **Recommendation 26** COMCAR – Shuttle

COMCAR and the Chamber Departments should examine the opportunity for the Shuttle service to leverage CARS to improve the service and ensure that clients' special requirements are captured.

## **Recommendation 27** COMCAR – Service Charter

COMCAR's Service Charter should be amended to ensure that its:

- drivers are appropriately trained to meet reasonable special requirements of clients notified to COMCAR
- service guarantee notes that reasonable special requirements notified to COMCAR will be met; and
- performance against its Service Charter should be regularly reviewed.

## **Recommendation 28** Resourcing for large electorates

The Government should consider a broader range of factors in addition to the geographical size of electorate when considering the nature of support provided for privately-leased offices.

## **Recommendation 29** ICT for satellite offices

If a parliamentarian's privately-leased satellite office premises meet DPS' network connectivity and security requirements, DPS should provide support for any Commonwealth ICT in the office.

## **Recommendation 30** WHS and security for satellite and privately-leased offices

That the Government undertake further work that considers the safety and security of parliamentarians and MOP(S) staff working in satellite and privately-leased offices.

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## 1.1 Establishment of the Review

- 19. On 9 September 2021, the Morrison Government announced the independent review of both the PBR Act and the IPEA Act (Review) would be undertaken by the Hon Kelly O'Dwyer and the Hon Kate Ellis (Reviewers). A copy of the media release is included in Appendix B.
- 20. The Review was supported by a Secretariat in the Department of Finance (Finance), including a secondee from the Independent Parliamentary Expenses Authority (IPEA).

#### Legislative basis

21. Provisions in the PBR Act and the IPEA Act require an independent review of the legislation to be conducted. Section<sup>3</sup> 56 of the PBR Act provides that a periodic review into that Act's operation and whether it should be amended must be conducted every three years. Section 62 of the IPEA Act provides that a review of the operation of that Act and its legislative rules be conducted as soon as practicable, three years after commencement (1 July 2017).

#### **Terms of Reference**

- 22. As outlined in the Terms of Reference for the Review (included in Appendix C), the purpose of the Review is to ensure that the legislation is meeting its objectives of improving the accountability and transparency of parliamentary business resources. Undertaking a single review allows the legislative underpinnings of the parliamentary business resources framework to be considered holistically, including the original policy intention, as well as the effectiveness of administration.<sup>4</sup>
- 23. According to the Terms of Reference and the announcement, the Review's objectives are:
  - To examine whether the operation of the:
    - » PBR Act and any subordinate legislative instruments are achieving the legislative objectives, including providing appropriate levels of support, accountability and transparency regarding parliamentary business resources; and
    - » IPEA Act and legislative rules are achieving the objective of improving transparency and accountability of parliamentary business resources provided to members of Parliament (members<sup>5</sup>) and former members and travel resources for members' staff.
  - To identify legislative, policy or other changes or initiatives necessary to improve the efficiency of administration, transparency and accountability of the use of parliamentary business resources provided to members, and to ensure the framework remains fit for purpose.'

<sup>&</sup>lt;sup>3</sup> For convenience and readability, all references to legislative provisions will be to 'section', rather than subsections, paragraphs, items etc.

<sup>&</sup>lt;sup>4</sup> Review Terms of Reference.

<sup>&</sup>lt;sup>5</sup> For the balance of this report, reference will be made to 'parliamentarians' rather than 'members' (see the Glossary in Appendix A).

- 24. In terms of its scope, the Review was asked to consider the operation and administration of the PBR Act and its subordinate legislative instruments and the IPEA Act and its legislative rules, including, but not limited to:
  - the impact of the PBR Framework on parliamentarians, former parliamentarians and parliamentarians' staff, and administering Commonwealth entities, following their commencement; including the ability of the Framework to support parliamentary business during exceptional circumstances
  - whether the PBR Framework has simplified the administration of parliamentary business resources and enhanced accountability and transparency
  - the operation of IPEA regarding its statutory functions
  - whether administering Commonwealth entities are working in a 'joined-up' way to ensure the consistent application of the PBR Framework.
- 25. Specific matters that the Review considered as relevant to whether the PBR Framework is efficiently and effectively supporting parliamentarians in conducting their parliamentary business included:
  - changing technological capabilities and/or requirements, and how these affect, for example, means of communicating with constituents
  - parliamentarians' family responsibilities
  - the interaction between the dominant purpose test and the prohibition on using some resources for *any* commercial purpose
  - large electorates the Joint Standing Committee on Electoral Matters' report on the *Commonwealth Electoral Amendment (Ensuring Fair Representation of the Northern Territory) Bill 2020* recommended the Government consider the resourcing available to large electorates
  - determinations to provide specified public resources in exceptional circumstances (section 33(2) of the PBR Act and section 77(1) of the PBR Regulations).

## 1.2 Background

26. Prior to 2017, Australia's parliamentary expenses system consisted of a series of complex, prescriptive rules-based requirements that had evolved over time following ad hoc amendments to address specific aspects of the system. Public confidence in the system had eroded and parliamentarians, staff and administering agencies were struggling to navigate the practical complexities of the system. Government recognised that a need for a comprehensive review and consideration of options for reform was required.

#### Conde Tune Review – 2016

- 27. On 2 August 2015, the then Prime Minister, the Hon Tony Abbott, established a Committee to review the framework (of which the central piece of legislation was the PE Act) and provide options for developing an independent parliamentary entitlements system (the Conde Tune Review). The announcement of that review noted that the rules governing the system lacked clarity and transparency and acknowledged that 'the ad hoc and piecemeal reforms adopted by successive governments mean the system is complex, ambiguous and out of step with community expectations'.<sup>6</sup>
- 28. The Conde Tune Review found that '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 that this is happening'.<sup>7</sup>

29. To that end, the Conde Tune Review made a number of recommendations which included structural reform and the development of a principles-based framework with a new definition of 'parliamentary business' that imposed obligations on parliamentarians concerning their use of resources. This approach reflected a significant shift from the prescriptive rules-based approaches of the previous framework, 'allowing the parliamentarian flexibility to apply judgement, choice and personal responsibility when using it, but including obligations to report publicly and be subject to reasonable standards of auditing so as to provide transparency and public accountability'.<sup>8</sup>

#### **Establishment of IPEA**

- 30. On 13 January 2017, the then Prime Minister, the Hon Malcolm Turnbull, announced the establishment of an independent authority to administer travel resources and oversee the use of public resources<sup>9</sup> (travel and other work resources of parliamentarians and travel resources of their staff).<sup>10</sup>
- 31. The *Independent Parliamentary Expenses Bill 2017* (IPEA Bill) proposed a new authority to provide independent oversight and to allow guidance to be provided to parliamentarians and their staff in relation to their public resources, with the objective of ensuring transparency and accountability in the spending of public funds.<sup>11</sup>
- 32. IPEA commenced as an interim executive agency on 3 April 2017 and was established as an independent statutory authority from 1 July 2017. IPEA has advisory, reporting and oversight (audit and assurance) responsibilities to provide greater accountability and transparency of the use of public resources, and to provide advice on and administer travel-related public resources.

#### The PBR Framework

- 33. Following the establishment of IPEA, the *Parliamentary Business Resources Bill 2017* (PBR Bill) outlined a principles-based approach to 'empower parliamentarians to exercise good judgement in respect of accessing public resources, within a simplified system and enhanced accountability framework.'<sup>12</sup>
- 34. The PBR Act commenced on 1 January 2018. It provides the legal framework for a principlesbased approach to provision and use of public resources. For the purposes of this Report, the 'PBR Framework' means the framework governing parliamentarians' public resources established under the PBR Act and the IPEA Act, including all legislative instruments and legislative rulings made under these Acts, including various determinations made by the Minister.

## **1.3 Overview of the PBR Framework**

#### **Purpose**

35. As outlined in the Explanatory Memorandum of the PBR Bill, the PBR Act 'recognises that members of Parliament should be able to access public resources for reasonable expenses incurred in conducting their parliamentary business, but that they have obligations to the public in how they use those resources'.<sup>13</sup> To that end, the PBR Act splits remuneration and public resources – being the public resources provided under Part 3 of the PBR Act to support a parliamentarian's work, with their use subject to overarching obligations.<sup>14</sup> The PBR Act also introduced a compliance framework.

<sup>&</sup>lt;sup>8</sup> Conde Tune Review, page 3.

<sup>&</sup>lt;sup>9</sup> For the balance of this report, reference will be made to 'public resources' rather than 'parliamentary business resources'. 'Public resources' encompasses expenses, allowances, goods, services, premises, equipment and facilities provided under Part 3 of the PBR Act and in this report has the meaning given in section 4 of the IPEA Act (see the Glossary in Appendix A).

<sup>&</sup>lt;sup>10</sup> The Hon Malcolm Turnbull MP, Press conference, Sydney (13 January 2017)

<sup>&</sup>lt;sup>11</sup> IPEA Bill, Explanatory Memorandum, Overview.

<sup>&</sup>lt;sup>12</sup> PBR Bill 2017, Explanatory Memorandum, Outline.

<sup>&</sup>lt;sup>13</sup> PBR Bill 2017, Explanatory Memorandum, Outline.

<sup>&</sup>lt;sup>14</sup> The PBR Act also includes other resources under Part 5 which are not subject to the obligations, such as the Parliamentary Injury Compensation Scheme, commercial insurance arrangements for members, and the legal assistance for Ministers program.

#### **Overarching obligations under the PBR Framework**

- 36. The PBR Framework is principles-based and established five overarching obligations on parliamentarians when claiming or using public resources for conducting their parliamentary business set out in sections 25 to 28 of the PBR Act (emphases added below):
  - Parliamentarians may only claim an expense, allowance or public resource where it is for the **dominant purpose** of conducting their parliamentary business.
  - All claims made by parliamentarians must provide **value for money**, taking into account the need to conduct their parliamentary business.
  - Parliamentarians are **personally responsible and accountable** for their use of public resources including being prepared to **publicly justify** their use of public resources.
  - Parliamentarians must act **ethically and in good faith** in using, and accounting for their use of public resources.
  - Parliamentarians may claim only when the **conditions** for the relevant public resources are met.
- 37. The PBR Act also includes a compliance mechanism under section 38 of the PBR Act that applies penalties should parliamentarians contravene obligations in relation to dominant purpose, value for money and not to make a claim or incur expenses in breach of conditions.

#### **Parliamentary business**

- 38. The PBR Framework provides that parliamentarians may only claim expenses, allowances and public resources for the dominant purpose of conducting their parliamentary business. Section 6 of the PBR Act defines 'parliamentary business' as comprising four core streams:
  - <u>Parliamentary duties</u> activities that relate directly to the parliamentarian's role as a member of the Parliament.
  - <u>Electorate duties</u> activities that support or serve the parliamentarian's constituents.
  - Party political duties.
  - <u>Official duties</u> activities that relate to the parliamentarian's role as an office holder or Minister.
     'Office holder' is defined to mean the President and Deputy President of the Senate, the Speaker and Deputy Speaker of the House of Representatives and a person whom the Minister has determined is an office holder.
- 39. Activities that fall within those four streams are set out in the *Parliamentary Business Resources* (*Parliamentary Business*) *Determination 2017*, issued by the relevant Minister<sup>15</sup>, which prescribes the activities that are (and can prescribe those that are not) parliamentary business.

#### Value for money

- 40. Parliamentarians are required to achieve value for money in their use of public resources, taking into account the need to conduct their parliamentary business. Value for money requires consideration of both financial and non-financial matters, and focuses on using public money:
  - efficiently obtaining maximum value from the resource using a procurement method that is appropriate given the scale, scope and risk
  - effectively the extent to which the required outcome is achieved, taking into account factors such as cost, quality and convenience
  - economically achieving the required outcome while avoiding waste and minimising cost.<sup>16</sup>

<sup>&</sup>lt;sup>15</sup> This may include the Minister for Finance and the Special Minister of State, as applicable.

<sup>&</sup>lt;sup>16</sup> Section 5, PBR Act, definition of 'value for money', and Finance's online guidance as to the meaning of efficiently, effectively and economically.

#### **Conditions on claiming**

- 41. Parliamentarians must only make a claim for, or incur expenses, if they have met all of the relevant conditions which apply to the particular public resource. Conditions may be set out in the PBR Regulations or determinations made under the PBR Act, and may include limits or express restrictions on use. For example, public resources must not be used to produce or communicate material which:
  - includes an advertisement pursuing a commercial purpose
  - solicits applications for or renewals of membership in a political party, or subscriptions or other financial support for a parliamentarian, political party or candidate
  - solicits a vote for a person other than the parliamentarian, or provides instructions on how to complete a ballot paper.

#### Administration

- 42. While the Minister has responsibility for the PBR Framework, the PBR Framework is primarily administered by a number of agencies.
- 43. The Department of the House of Representatives and the Department of the Senate administer the majority of parliamentarians' remuneration (provided under Part 2 of the PBR Act), with minor elements administered by the Finance. The Remuneration Tribunal determines parliamentarians' remuneration (and makes recommendations to the Government for specific office holders).
- 44. Administration of public resources provided under Part 3 of the PBR Act is largely split between Finance, IPEA and DPS. The Remuneration Tribunal determines domestic travel allowance rates<sup>17</sup> but it also enquires into and makes recommendations in relation to domestic travel expenses (except travel on Special Purpose Aircraft).<sup>18</sup> Where the Tribunal makes a recommendation to change these domestic travel matters, regulations must be made reflecting the recommendation (see section 35(4) of the PBR Act). The Government is responsible for all other public resources including international travel.
- 45. Other resources are provided under Part 5 of the PBR Act. Commercial insurance arrangements for members, and some COMCAR services (for security purposes) are provided under Part 5.<sup>19</sup> The Parliamentary Injury Compensation Scheme is largely administered by Comcare. Legal assistance for Ministers is administered by the Attorney-General's Department.

#### Assurance and reporting

- 46. IPEA is mandated to provide greater accountability and transparency over parliamentarians' use of public funds for their public resources to enable them to conduct their parliamentary business.
- 47. Under its assurance function, IPEA monitors travel expenses and travel allowances for parliamentarians and staff employed under the *Members of Parliament (Staff) Act 1984* (MOP(S) staff), and conducts audits relating to:
  - all public resources, travel expenses and travel allowances claimed by parliamentarians
  - travel expenses and travel allowances claimed by MOP(S) staff.<sup>20</sup>
- 48. IPEA prepares and publishes regular expenditure reports on parliamentarians' public resources, travel expenses and travel allowances, and travel expenses and travel allowances claimed by MOP(S) staff.
- 49. IPEA's functions are discussed in more detail in Chapter 2.

<sup>&</sup>lt;sup>17</sup> Section 45, PBR Act.

<sup>&</sup>lt;sup>18</sup> Section 35, PBR Act.

<sup>&</sup>lt;sup>19</sup> Section 42, PBR Act.

<sup>&</sup>lt;sup>20</sup> See the 'Assurance & Audit' part of the IPEA website: < https://www.ipea.gov.au/assurance-audit>, accessed 7 December 2021.

## 1.4 Review Methodology

#### Stakeholder engagement

- 50. Stakeholders were invited to participate in the Review in a number of ways.
- 51. Current parliamentarians and administering agencies were directly invited to participate in the Review through interviews, surveys and/or written submissions. In addition, the Review called for written submissions from the public through the Review's web page. Finance and IPEA sent out tweets on their Twitter pages about the Review and IPEA issued a media release directing stakeholders (including the public) to the Review web page.
- 52. A short discussion paper was published on the Review's webpage. This provided background information about the structure and operation of the PBR Framework, background information about IPEA's functions and set out a number of key matters for consideration to help inform discussions and engagement with the Review. A copy of the discussion paper is included in Appendix D.

#### Interviews

- 53. Interviews were held with key stakeholders, including relevant Ministers, Shadow Ministers, parliamentarians from major and minor political parties (including party whips), as well as independent members of Parliament. In their invitation to participate, parliamentarians were offered the opportunity to meet with the Reviewers.
- 54. Interviews were also conducted with current and former staff of parliamentarians and included both electorate, personal and ministerial staff.
- 55. Multiple interviews were conducted with administering agencies and, where relevant, their governing/oversight bodies.

#### Surveys

- 56. The Review sent two online surveys to stakeholders:
  - Parliamentarians (including former Prime Ministers) and MOP(S) staff. This survey focused on their understanding of and satisfaction with the PBR Framework and interactions with administering agencies.
  - Administering agencies. This survey focused on administering agencies' views on the operation of the PBR Framework, challenges they had and perceived challenges facing parliamentarians and their staff.
- 57. The surveys sought a mixture of quantitative responses and optional free-text answers. The surveys were anonymous, and could be completed individually or at a team level.
- 58. The parliamentarian and MOP(S) staff survey was emailed directly to stakeholders (233 parliamentarians<sup>21</sup> and 1,965 MOP(S) staff<sup>22</sup>). The number of completed surveys was as follows:

	Responses
Parliamentarians	13
MOP(S) staff	69
Total	82

- 59. The administering agencies survey was directed to relevant persons within the administering agencies. Agencies were invited to complete at a team or branch level. Seventeen responses were received.
- 60. Information on survey responses is included in Appendix E.

<sup>&</sup>lt;sup>21</sup> This includes current parliamentarians and former Prime Ministers.

<sup>&</sup>lt;sup>22</sup> The number of persons employed under the MOP(S) Act fluctuates on any given day based on current employment arrangements, including casual employment. The survey was sent to MOP(S) staff current in Finance's MOPS HR system when the survey was issued.

#### Written submissions

61. The Review received 13 written submissions. Some submissions were received from stakeholders that were interviewed and/or surveyed. A list of written submissions for which confidentiality was not sought or sought only in part are included in Appendix F.

	Submissions
Parliamentarians and MOP(S) staff	5
Administering agencies	8
Total	13

## Summary of themes arising from stakeholder consultation

#### Key issues

- 62. The most consistent theme from stakeholder consultation overall is that there are no major issues or concerns with the operation of the PBR Framework, although there are areas for improvement, including matters mentioned below.
- 63. The main themes raised in submissions and consultations focused on:
  - the nature of the PBR Framework as a principle-based framework
  - support for parliamentarians to do their job
  - the split of functions and service delivery between different administering agencies.
- 64. In addition, a number of discrete issues relating to individuals' experience with particular parts of the PBR Framework were raised in submissions and consultations.

#### Parliamentarians and MOP(S) staff

#### **Principles-based framework**

65. Parliamentarians and MOP(S) staff ('respondents') generally supported the principles based nature of the PBR Framework and considered it an improvement on the previous parliamentary entitlements framework. As a corollary, there was a clear preference for more support to improve their understanding of the PBR Framework, including more guidance and training.

#### Office expenses budget

- 66. Some respondents considered that the list of prescribed office expenses under the office expenses budget was inconsistent with the principles-based framework. It was seen as inflexible, not supportive of a modern workplace and had unnecessary rules. Respondents would like to see more flexibility under the office expenses budget with more reliance placed on the overarching obligations to regulate behaviour.
- 67. Concerns were also raised with the mechanics of the office expenses budget, with a number of parliamentarians in favour of some form of rollover from one financial year to the next.
- 68. For further discussion of office expenses see Section 3.3.

#### **Reporting and certification**

- 69. Respondents generally supported reporting arrangements. However, some noted that the arrangements for the use of, and reporting on, Family Reunion Travel were suboptimal. There was support for separating out Family Reunion Travel from the expenses of travel for those with family responsibilities to provide better context. For further discussion see Section 2.4.
- 70. The personal certification of the use of some public resources was noted by a number of parliamentarians. There were concerns they were asked to certify things where they had little or no knowledge or control. For further discussion see Section 2.4.

#### Support for parliamentarians and staff

- 71. Some respondents were of the view that more could be done to support them. There was concern among some parliamentarians that the training they received on their role and responsibilities was limited to an initial briefing with no ongoing professional development, including in office and human resources management.
- 72. This issue was emphasised in the survey results, where there was a clear preference for more guidance (including case studies and fact sheets) and an ability to discuss specific questions with a person in the administering agency.
- 73. For further discussion of training and guidance see Section 3.2.

#### Framework administration

- 74. Respondents raised a number of matters concerning the administration of the PBR Framework.
  - <u>Different service delivery approaches</u> respondents generally expressed a preference for IPEA's approach to provide more certain advice. For further discussion see Section 2.3.
  - <u>Confusion</u> results in the survey indicated that there was a degree of confusion over administrative responsibility for certain elements of the PBR Framework. Some also found dealing with multiple administering agencies difficult, with frustration in resolving issues that involved more than one agency. Support was expressed for a 'one-stop shop' in interacting with administering agencies. For further discussion see Section 151.
  - <u>Division of functions</u> respondents expressed a number of ideas in relation to the division of functions, including IPEA taking responsibility for administering office expenses and DPS being wholly responsible for administration of ICT. For further discussion see Section 3.3.
  - <u>Parliamentary Expenses Management System (PEMS)</u> a variety of views were expressed regarding PEMS. Most respondents considered it an improvement, but noted there were limitations. Some users expressed frustration on the timeliness of reimbursements that left parliamentarians out-of-pocket.

#### Administering agencies

#### **Principles-based framework**

75. Administering agencies also supported the principles-based intent of the PBR Framework and considered it an improvement on the previous parliamentary entitlements framework.

#### Office expenses budget

- 76. Administering agencies also raised issues with the existing office expenses budget arrangements.
  - Finance noted that office expenses are prescribed under a mix of principles and rules, without there always being a clear rationale for retention of rules from the previous PE Act framework, which has meant some public resources, as expressed, have struggled to keep pace with modern working arrangements.
  - DPS and Finance noted that ICT arrangements were confusing, with two budgets available with differing requirements.
- 77. For further discussion see Section 3.3.

#### Framework administration

- 78. Administering agencies acknowledged there was some confusion over the division of functions between agencies. They expressed a range of views on the reasons for the confusion and how these could be addressed, including changing the division of functions. Both Finance and IPEA noted that any change should be carefully scoped and considered to ensure any confusion was minimised, also bearing in mind:
  - service delivery differences between agencies is to some degree due to their different legislated powers (in particular, IPEA has specific legislated powers, as discussed in Sections 2.3 and 3.3)
  - any changes to the division of functions should represent a demonstrable improvement for service delivery and/or administrative efficiencies.
- 79. A number of administering agencies considered that a 'one-stop shop' for users may have merit. For further discussion see Section 151.

#### Reporting

80. Some administering agencies considered that reporting could be more detailed and more closely aligned with functions and different public resources provided under the PBR Framework. The Chamber Departments noted reporting arrangements for parliamentary committee travel could be reconsidered. For further discussion see Section 2.4.

#### Other

- 81. The Reviewers note that Finance is currently leading an ICT Project specifically to replace systems that administer expenses provided by the PBR Framework. Expected to be delivered in 2022, the new system is expected to provide enhanced ICT capability for parliamentarians and their staff, and to assist agency administration. Some Review recommendations, if accepted, will impact system requirements and appropriate resourcing should be provided to support both system and agency implementation.
- 82. In conducting this Review, the Reviewers have been greatly assisted by the contributions of stakeholders through interviews and written submissions. Some matters raised have not been addressed in this report, in circumstances where they are outside the scope of the Review or do not otherwise require specific discussion or suggestions for reform.

## **Consideration of other reviews**

- 83. Where applicable, the Review considered several reviews of both the current PBR Framework and its predecessor framework. In particular:
  - The Australian Human Rights Commission's recent review by the Sex Discrimination Commissioner, Ms Kate Jenkins, Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces (November 2021) (Jenkins Review).
  - The ANAO's recent performance audit Administration of Parliamentary Expenses by the Independent Parliamentary Expenses Authority (March 2021).
  - An Independent Parliamentary Entitlements System Review (February 2016), which recommended the establishment of the PBR principles-based framework (Conde Tune Review).
  - The Joint Standing Committee on Electoral Matters' report on the Commonwealth Electoral Amendment (Ensuring Fair Representation of the Northern Territory) Bill 2020.

## **2. IPEA and the IPEA Act Review**

## 2.1 Legislative basis and Terms of Reference

- 84. The IPEA Act provides that a review of the operation of that Act and its legislative rules<sup>23</sup> be conducted as soon as practicable, three years after commencement (1 July 2017).<sup>24</sup> Unlike the PBR Act which is subject to a periodic review every three years<sup>25</sup>, this Review is the single legislatively required review of the IPEA Act.
- 85. As outlined in Chapter 1, the Terms of Reference note that undertaking a single review of the PBR Act and the IPEA Act allows the legislative underpinnings of the PBR Framework to be considered holistically, including the original policy intention, as well as the effectiveness of administration.<sup>26</sup>

## 2.2 Statutory functions

86. Section 12 of the IPEA Act outlines IPEA's statutory functions:

- providing personal advice to parliamentarians and MOP(S) staff about travel expenses and allowances
- issuing general advisory documents about matters relating to the travel expenses and allowances of parliamentarians and MOP(S) staff
- monitoring travel expenses and allowances claimed by parliamentarians and MOP(S) staff
- preparing and publishing regular reports on 'MP work resources' (as defined in section 4 of the IPEA Act) and travel expenses and travel allowances claimed by MOP(S) staff
- conducting audits (including a range of assurance activities) in relation to 'MP work resources', and 'MOP(S) travel (as defined in section 4 of the IPEA Act)
- processing claims for travel expenses and allowances made by parliamentarians and MOP(S) staff
- issuing rulings in respect of travel expenses and allowances under section 37 of the PBR Act.

## 2.3 General overview

87. Regarding the Terms of Reference, the Reviewers consider that generally the IPEA Act, and IPEA in the performance of its statutory functions, are operating effectively to achieve their objectives of improving the accountability and transparency of public resources.

## **Auditor-General's Report**

88. The Reviewers note the findings of the Auditor-General in the report of the *Administration of Parliamentary Expenses by the Independent Parliamentary Expenses Authority*. In particular, that IPEA's administration of parliamentary expenses has been largely effective; IPEA's assurance and reporting functions improved the accountability and transparency of parliamentary expenses; and IPEA's public reporting of parliamentary expenditure has contributed to improving the transparency of the PBR Framework.<sup>27</sup>

<sup>&</sup>lt;sup>23</sup> There has only one been one legislative rule made under the IPEA Act, the *Independent Parliamentary Expenses Authority (President of the Remuneration Tribunal Fees and Allowances) Rule 2017.* This rule has no application in relation to current former parliamentarians or MOP(S) staff and does not otherwise have any broader impact on the PBR Framework.

<sup>&</sup>lt;sup>24</sup> Section 62, IPEA Act

<sup>&</sup>lt;sup>25</sup> Section 56, PBR Act

<sup>&</sup>lt;sup>26</sup> Review Terms of Reference

<sup>&</sup>lt;sup>27</sup> Auditor-General Report No. 33 2020-21, Administration of Parliamentary Expenses by the Independent Parliamentary Expenses Authority, page 7.

89. The Reviewers also note the recommendations made by the Auditor-General which were all agreed by IPEA.<sup>28</sup> The Reviewers understand IPEA has, and is continuing, to undertake activities to address those recommendations.

### **Stakeholder views**

- 90. Stakeholders have specifically commented that the IPEA Act and the creation of IPEA 'has improved the clarity, transparency and accountability of parliamentary expenses which were key objectives of the IPEA reforms.'<sup>29</sup>
- 91. Feedback from stakeholders has been consistently positive regarding the operation of IPEA's functions, particularly in relation to the clarity of the personal advice IPEA provides parliamentarians and their staff about travel expenses and allowances.

### **IPEA's powers**

- 92. IPEA's personal advice function is supported by a number of legislative provisions in the IPEA Act.<sup>30</sup> These include:
  - 'safe harbour' arrangements, which protect parliamentarians from debts that would otherwise be recoverable relating to the provision of travel expenses and allowances, if the parliamentarian relied on advice provided by IPEA and the advice is incorrect.<sup>31</sup>
  - IPEA may give a ruling to determine whether a parliamentarian has breached certain provisions of the PBR Act.<sup>32</sup>
- 93. Additionally, travel-related personal advice provided by IPEA is private and confidential. IPEA is exempt from providing information under the FOI Act in relation to any travel-related personal advice it has provided.<sup>33</sup> The intention of the FOI Act exemption was to allow IPEA to give frank advice to parliamentarians and their staff about their travel expenses and allowances and to encourage early engagement with IPEA on these matters.<sup>34</sup>
- 94. The provisions appear to be working as intended to support the performance of IPEA's advice function. Stakeholder views reflect that IPEA has established a strong culture of assistance, with parliamentarians and their staff regularly contacting IPEA for personal advice in relation to travel. IPEA's client satisfaction survey results for the past three years indicate that approximately 82 per cent of clients are very satisfied with the service and role of IPEA.<sup>35</sup>
- 95. In addition, IPEA has important powers to protect taxpayers' money. IPEA was established to provide greater accountability and transparency concerning use of public resources. It does this at arm's length from government. IPEA's audit and assurance and reporting functions under the IPEA Act apply to *all* public resources claimed by parliamentarians under the PBR Act and MOP(S) travel resources. This includes public resources administered by other entities such as Finance.
- 96. IPEA's approach to audit and assurance is outlined in IPEA's *Protocol Dealing with Allegations of Misuse of Parliamentary Work Expenses*, and its *Fact Sheet Statutory Audit Function*, including conducting a preliminary assessment of use and potential misuse, an assurance review, and/or an audit.

<sup>&</sup>lt;sup>28</sup> Auditor-General Report No. 33 2020-21, pages 10-11.

<sup>&</sup>lt;sup>29</sup> PM&C, Submission to the PBR and IPEA Acts Review (2021).

<sup>&</sup>lt;sup>30</sup> Associated provisions relating to personal advice are also set out in the PBR Act (see sections 37 and 58 of the PBR Act).

<sup>&</sup>lt;sup>31</sup> Section 58, PBR Act

<sup>&</sup>lt;sup>32</sup> Section 37, PBR Act.

<sup>&</sup>lt;sup>33</sup> Schedule 2, Part II, Division 1, FOI Act.

<sup>&</sup>lt;sup>34</sup> IPEA Bill 2017, Explanatory Memorandum.

 $<sup>^{\</sup>scriptscriptstyle 35}$  IPEA, Submission to the PBR and IPEA Acts Review (2021).

- 97. Under Part 5 of the IPEA Act, IPEA has information-gathering powers that can be used to obtain information or a document from a person where it is relevant to the performance of IPEA's reporting or audit and assurance functions. Criminal penalties apply if a person does not comply with a request from IPEA to produce information or a document.
- 98. IPEA may refer a matter to the Australian Federal Police at any point during the assessment, review or audit process, where compelling prima facie evidence of fraud or other criminal conduct is identified.
- 99. As outlined above, IPEA currently performs both administration and oversight functions in relation to travel expenses and allowances including processing claims, providing personal advice and conducting assurance activities.<sup>36</sup> Given these multiple functions, there is recognition within IPEA of the potential for conflicts of interest to arise. IPEA is appropriately structured to ensure the necessary separation between the processing and advice functions and the assurance function and clear lines of administrative responsibility have been established. If the office expenses administration function is moved to IPEA (see Recommendation 23) similar arrangements would need to be in place to ensure any risks were appropriately mitigated.

## **IPEA's perspective**

- 100. IPEA's submission to the Review notes that in relation to the performance of its functions, the principles-based approach of the PBR Framework has proven to be flexible and adaptable. It has catered for bushfires, the pandemic, an election and floods and is well accepted by parliamentarians and MOP(S) staff.<sup>37</sup>
- 101. The Reviewers understand that during a typical non-COVID year, IPEA processes travel-related expense claims totalling approximately \$62 million (in excess of 200,000 transactions), and received approximately 10,000 contacts in 2019-20. IPEA also provides in excess of 4,000 reports on public resources and undertakes a program of assurance activities across all public resources.<sup>38</sup>
- 102. IPEA has also focused on education in relation to travel-related expenses including IPEA-Ed, an online training tool capturing the processes and decision making for claiming travel expenses, which is aligned to the principles-based framework and is publicly available through IPEA's website. Training, in the context of the PBR Framework more generally, is discussed in Section 3.2.

## Improvements to enhance the IPEA Act

- 103. Taking into account feedback from stakeholders, the Reviewers consider that from a legislative perspective, IPEA's functions appear to be operating effectively to achieve the overall objective of improving the accountability and transparency of public resources.
- 104. However, noting IPEA's success to date, as well as the need for simplification of the system for users and administrators, there is scope to expand IPEA's role by joining-up like functions. The Reviewers consider that administration of office expenses is one such area that should be considered (see further discussion in Section 3.3).
- 105. PBR Framework matters which go to enhancing the joined-up administration of administering agencies and do not require legislative amendment of IPEA's functions, are discussed in Section 151. Administrative recommendations to streamline the public reporting of expenditure are discussed below.
- 106. Legislative amendment to the IPEA Act would be required for discrete technical matters and more substantive reforms, such as a change to the administration of office expenses.<sup>39</sup>

<sup>&</sup>lt;sup>36</sup> As noted above, the scope of IPEA's assurance function is broader than travel expenses and allowances and includes all public resources claimed by parliamentarians under the PBR Act and MOP(S) travel resources.

<sup>&</sup>lt;sup>37</sup> IPEA, Submission to the PBR and IPEA Acts Review (2021).

<sup>&</sup>lt;sup>38</sup> IPEA, Submission to the PBR and IPEA Acts Review (2021).

<sup>&</sup>lt;sup>39</sup> Specifically section 12, IPEA Act.

## 2.4 Reporting and certification

## Key elements of the PBR Framework

107. Public reporting of expenditure, and certification by parliamentarians as to the use of public resources, are key elements of the principles-based PBR Framework. These are mechanisms through which the legislative objectives of increasing transparency (through reporting) and accountability (through certification) of public resources, are achieved.

## **Current reporting arrangements**

- 108. IPEA has statutory functions to prepare and publish regular reports about matters relating to public resources.<sup>40</sup>
- 109. IPEA prepares and publishes expenditure reports for current (and former) parliamentarians (including their staff travel expenses) on a quarterly basis.<sup>41</sup> Expenditure reports include payments made and repayments received within the relevant reporting period. For privacy reasons, staff travel expenses are publicly reported as an aggregate.
- 110. DPS partially reports public resources that it administers (ICT and services, including mobile phone, data services and multifunction printer lease expenses are reported; photographic services are not) on its website.<sup>42</sup> DPS does not directly report information about expenditure for these public resources to IPEA.

## **Clear reporting**

#### Improving accuracy and understanding

- 111. IPEA provides some contextual information on its website regarding parliamentarians' published expenditure reports, including:
  - 'Explanatory Notes' for the different categories of expenditure reported on the 'Parliamentarians' Expenditure' page
  - 'Further background' information that explains why expenditure for some parliamentarians may be higher. For example, contextual information about comparing parliamentarians' travel expenditure appears on IPEA's website adjacent to reporting of 'Parliamentarians' Expenditure' and again under 'Background on Expenditure Reporting'.
- 112. During stakeholder consultation, a number of parliamentarians raised concerns that the information currently reported by IPEA does not include sufficient context about particular public resources (including the extent to which the parliamentarian has knowledge or control over incurring expenditure, which may be limited where the Commonwealth provides public resources<sup>43</sup>), which may lead to misconceptions about a parliamentarian's expenditure.
- 113. The Reviewers note comments made by the Conde Tune Review with regard to the need for enhanced expenditure reporting to be subject to some caveats (including confidentiality requirements) and to 'clearly identify non-discretionary expenditure attributed to individual parliamentarians, over which they have no control'.<sup>44</sup> Since 2016, expenditure for establishment, relocation and refurbishment of offices has been reported separately as Commonwealth expenditure administered by Finance, not in the expenditure reports of individual parliamentarians.<sup>45</sup> This is stated on the IPEA website under 'Background on Expenditure Reporting'.

<sup>43</sup> See section 5, PBR Act for definitions of 'public resources' and 'provides public resources'.

<sup>45</sup> Conde Tune Review, Recommendation 28.

<sup>&</sup>lt;sup>40</sup> Sections 12(1)(e) and 12(1)(f), IPEA Act.

<sup>&</sup>lt;sup>41</sup> Parliamentarians have the opportunity to review and check their expenditure on a monthly basis through Monthly Management Reports (MMRs) prepared by IPEA. Parliamentarians and their authorised staff can also request up to date budget reports at any time through IPEA's website. These reports are automated as at close of business the previous day. MMRs and budget reports allow parliamentarians to have ongoing visibility and awareness of their expenditure which assists them when being asked to certify their quarterly expenditure reports, ahead of them being published.

<sup>&</sup>lt;sup>42</sup> <https://www.aph.gov.au/About\_Parliament/Parliamentary\_Departments/Department\_of\_Parliamentary\_Services/Publications/ telcomexpenditure>, accessed 19 November 2021

<sup>&</sup>lt;sup>44</sup> Conde Tune Review, p144.

114. Most expenditure in the 'office facilities' category of expenditure reports is expenditure over which a parliamentarian has little or no knowledge or control. For example, property operating expenses, such as leasing, cleaning and maintaining office accommodation, are incurred under contracts procured and paid by Finance. The Reviewers understand that some of this expenditure, including rent, can be significant and can vary considerably between rural and city locations and according to market conditions. Similarly, cleaning contracts, procured and managed by Finance, can be a sensitive issue in smaller regional communities. Given this, the Reviewers consider that reporting these ongoing 'office facility' expenses should be consistent with office establishment, relocation and refurbishment expenses. The Reviewers also note that reporting on expenditure under the PBR Framework should be prominently displayed on the IPEA website with appropriate context to enhance reader understanding.<sup>46</sup>

## **Recommendation 1** Clear reporting – Improving accuracy and understanding

Reporting of office facilities should be consistent with reporting of office establishment, relocation and refurbishment expenses. This reporting should be included on the IPEA website. IPEA should update its website to ensure that general contextual information about expenditure is more visible and proximate to the public resource category being reported.

#### Reporting 'satellite' offices expenses

115. The reimbursement for privately-leased ('satellite') offices is included within a lump sum reported figure for 'office facilities'. This is quite different in nature to offices which are 'public resources provided by the Commonwealth'.<sup>47</sup> The Reviewers consider that, for transparency, reimbursement of 'satellite' office expenses should be publicly reported separately from 'office facilities'.

## **Recommendation 2** Reporting – Office facilities

IPEA should publicly report 'satellite' office expenses separately from 'office facilities'.

<sup>&</sup>lt;sup>46</sup> <https://www.ipea.gov.au/expenditure-reporting/background-expenditure-reporting>, accessed 29 November 2021.

<sup>&</sup>lt;sup>47</sup> Reimbursement for 'satellite' offices is provided under section 71 of the PBR Regulations; (electorate, ministerial and office holder) offices are prescribed by sections 72 and 73 of the PBR Regulations as a public resource which the Minister may determine the Commonwealth must provide to a parliamentarian.

#### Parliamentary Committee travel

- 116. Charter travel for parliamentary committees is funded under the PBR Framework. Parliamentarians are individually responsible for meeting their obligations under the PBR Framework including that their travel was for the dominant purpose of parliamentary business.
- 117. When undertaking committee travel, committee members may either enter into a cost sharing arrangement (IPEA provides a template), manage costs individually (as commercial transport) or in some cases a member may make the booking (as charter transport) and have the entire cost allocated against themselves. Where a cost sharing arrangement is adopted, committee travel is shared by the members of the travelling party. IPEA includes this expenditure in the published quarterly expenditure reports, in accordance with the option selected.
- 118. Stakeholders commented that, in practice, decisions concerning committee charter travel are generally made by the committee rather than individual parliamentarians. Individual submissions and interviewees explained that costs for chartered flights are often divided amongst committee members travelling, but when individuals are unable to attend, the total cost of the travel is redistributed against the remaining individuals without contextual information (including the number of parliamentarians who originally agreed to undertake the charter travel) to help the public understand the reason for the (sometimes) higher cost of travel.
- 119. The Reviewers consider that parliamentary committee charter travel expenditure could be reported on a cohort basis against the committee rather than as part of an individual parliamentarian's expenditure to help provide a more appropriate basis for understanding committee travel costs. In order for this to be achieved, it may be that claims for charter travel costs would need to be supported by a statement from the relevant committee secretariat which indicates the requirement to travel. Each parliamentarian should remain individually responsible for meeting their obligations under the PBR Framework including certifying that their travel was for the dominant purpose of parliamentary business and represents value for money.

## Recommendation 3

### **Reporting – Committee charter travel**

Parliamentary committee charter travel costs should be reported on a cohort basis against the committee rather than as part of an individual parliamentarian's expenditure, provided claims for these costs are supported by a statement from the relevant committee secretariat which indicates the requirement to travel.

#### Reporting of ICT-related expenditure

120. Currently public resources administered by DPS including ICT and services<sup>48</sup> and photographic services (parliamentarians are prescribed two sessions of photographic services at Parliament House each financial year)<sup>49</sup> are partially reported by DPS on its website (photographic services are not reported), rather than by IPEA which reports all other expenditure in relation to 'MP work resources' incurred under the PBR Framework.<sup>50</sup> As they fall within the scope of IPEA's statutory reporting function, the Reviewers consider that DPS should provide data for all public resources DPS administers to IPEA on a regular basis so it can be included in quarterly expenditure reports.

## **Recommendation 4** Reporting – Public resources administered by DPS

DPS should provide data for all public resources it administers to IPEA on a regular basis for inclusion in quarterly expenditure reports, in accordance with IPEA's statutory reporting function.

<sup>&</sup>lt;sup>48</sup> Section 66(1)(pc), PBR Regulations.

<sup>&</sup>lt;sup>49</sup> Section 69, PBR Regulations.

<sup>&</sup>lt;sup>50</sup> The only exception is Special Purpose Aircraft for which IPEA, on its website, links to the Department of Defence website.

#### Reporting of Special Purpose Aircraft expenditure

- 121. Special Purpose Aircraft (SPA) are a form of transport operated by the Department of Defence (Defence). The travel is taken in accordance with SPA Guidelines which are set by the Minister for Defence. Section 8(2) of the PBR Regulations provides for travel by Commonwealth transport in accordance with the *Parliamentary Business Resources (Commonwealth Transport) Determination 2017* (Commonwealth Transport Determination).
- 122. Governance, use, cost recovery and reporting requirements for SPA are set out in the *Guidelines for the use of the Special Purpose Aircraft 2013* (SPA Guidelines). The SPA Guidelines require updating to recognise IPEA and the PBR Framework. The Reviewers understand that the process for updating the SPA Guidelines has commenced.
- 123. Defence holds an appropriation<sup>51</sup> to fund the provision of SPA travel for parliamentarians and personal staff. Defence reports SPA travel. A small number of trips undertaken by employees subject to the Electorate Support Budget and family members subject to Family Reunion Travel budgets are identified by IPEA by reference to flight manifests and then administered under the PBR Framework. As relevant travellers are not identified in flight manifests by position, relationship or purpose of travel; fulfilling the PBR Framework's legislative objectives of efficiency, accountability, transparency and value for money is difficult.
- 124. The Reviewers recommend administration of SPA under the PBR Framework is reviewed to ensure that arrangements are working in a joined-up way to fulfil the PBR Framework's objectives of efficiency, accountability, transparency and value for money and changes necessary to achieve this are reflected in SPA Guidelines, and the Commonwealth Transport Determination if relevant. The Reviewers note this issue goes to both the administration of the PBR Framework and reporting on SPA travel.

## **Recommendation 5** Special Purpose Aircraft

Review the administration of SPA under the PBR Framework to ensure arrangements are working in a joined-up way to fulfil the PBR Framework's objectives of efficiency, accountability, transparency and value for money and changes necessary to achieve this are reflected in SPA Guidelines, and the Commonwealth Transport Determination if relevant.

### **Current certification arrangements**

- 125. There are three circumstances where parliamentarians are asked to make a certification in relation to public resources:
  - Individual certification of claims and payments at the time a claim is submitted the relevant administering agency requires a parliamentarian to certify that a claim (for example, for travel allowance or printing) complies with their obligations under the PBR Act.
  - Individual certification of claims and payments for some expenses after a claim has been processed and paid – the relevant administering agency requires a parliamentarian to certify that a claim complies with their obligations under the PBR Act (during a post-payment check).
  - Certification that all public resources listed in a quarterly expenditure report are within the legislated purpose.

- 126. As stated, certification (in all three forms) is a mechanism by which parliamentarians are held accountable for their use of public resources, which is a fundamental element of the PBR Framework. Additionally, it is a process through which administering agencies further the legislative objectives of the PBR Framework (to increase transparency and accountability of public resources).
- 127. IPEA reports that rates for certification of quarterly reports for the last three quarters (starting from the most recent) were 98.3 per cent, 96.6 per cent and 95.3 per cent.
- 128. The Reviewers note that while the compliance rate for certification of quarterly expenditure reports is high, clarifying the purpose and the process of certifying these reports would assist parliamentarians and their staff.<sup>52</sup>

#### Clarifying the purpose of certifying quarterly expenditure reports

- 129. Feedback to the Review from parliamentarians indicates there are some misunderstandings about the nature of certification of quarterly expenditure reports, with some parliamentarians concerned that they are being asked to certify the quantum of every claim or reimbursement, even where they have little or no knowledge or control over the expenditure, such as the rent for their electorate office, which is paid under a lease procured and managed by Finance and reported under 'office facilities' by IPEA. In such circumstances, the parliamentarian is wholly reliant on the expenditure notified to them by Finance.
- 130. The expenditure parliamentarians are asked to certify in their quarterly expenditure reports includes public resources over which parliamentarians have little or no knowledge or control such as 'office facilities' expenditure. They are asked to certify that those public resources are 'within the legislated purpose'. In this sense, the certification goes to the *use* of a public resource (which is within a parliamentarian's control) rather than the specific quantum of expenditure. IPEA's website states above Parliamentarians' certification details: 'Parliamentarians are asked to certify that their usage was in accordance with the parliamentary work expenses framework'.
- 131. The Reviewers consider that any hesitation on the part of parliamentarians to engage with the certification process could be overcome by IPEA ensuring that information provided is clear as to its purpose. The Reviewers consider certification should be expressed so it is clear that, where the administering agency is responsible for the procurement and payment of expenses, the parliamentarian is *not* certifying the quantum of expenditure, but *is* certifying that taxpayer funds have been expended in accordance with the legislated purpose; i.e. they certify, in regard to such public resources, that they have read the certification provided and that their use is within the legislated purpose. IPEA's website statement should provide additional information explaining this context.

## **Recommendation 6** Certification process

IPEA should provide clear information to parliamentarians and their staff about the purpose and process of certifying quarterly expenditure reports, and should ensure that where an administering agency is responsible for expenditure, the parliamentarian is certifying that they have read the certification provided and that their use of public resources is within the legislated purpose. IPEA's website statement should provide additional information explaining this context.

## 2.5 Technical matters

132. There are a number of discrete technical matters which relate to specific provisions of the IPEA Act or the PBR Act. Discussion of these matters and specific recommendations to address them are outlined below.

#### Section 4, IPEA Act – Definition of 'MOP(S) staff member'

- 133. The IPEA Act provides that a 'MOP(S) staff member means a person **employed** [emphasis added] under Part III or IV of the *Members of Parliament (Staff) Act 1984*'. In conjunction with relevant travel allowance provisions, the definition does not currently provide for the payment of expenses incurred by a person in connection with MOP(S) staff employment, prior to, post and immediately adjacent to being 'employed'.
- 134. It is established practice that the Commonwealth pay the travel expenses for an individual to attend an interview for a position as a personal employee of a Minister, Assistant Minister or specified office holders from the Opposition and Minor Parities although this is not expressly provided for in the legislation.
- 135. The Reviewers recommend Government consider amending the definition of 'MOP(S) staff member' to facilitate the payment of expenses associated with attending job interviews, relocating and commencing employment under the MOP(S) Act.

## **Recommendation 7** Travel expenses in connection with MOP(S) staff employment (IPEA Act)

The Government consider amending the definition of 'MOP(S) staff member' to facilitate the payment of expenses associated with attending job interviews, relocating and commencing employment under the MOP(S) Act.

#### Section 12(1)(a), IPEA Act – Personal advice

- 136. Section 12(1)(a) does not clearly provide for IPEA to give personal advice to MOP(S) staff about their employing parliamentarian's use of travel resources. The provision also does not expressly provide for parliamentarians to obtain personal advice about MOP(S) travel resources.
- 137. This may have implications as to whether the advice is subject to the exemption under the FOI Act, although to date this has not been a specific problem.
- 138. The Reviewers consider that parliamentarians and MOP(S) staff would benefit from clarity around this issue. The Reviewers recommend that Government consider amending the IPEA Act to expressly facilitate IPEA providing personal advice about staff use of travel resources to their employing parliamentarian and advice about parliamentarians' use of travel resources to their staff. It would provide certainty to parliamentarians and their staff that the advice is subject to the exemption under the FOI Act.

## **Recommendation 8** Personal advice (IPEA Act)

The Government consider amending the IPEA Act to expressly facilitate IPEA providing personal advice about staff use of travel resources to their employing parliamentarian and advice about parliamentarians' use of travel resources to their staff.

#### Section 12(1), IPEA Act - Reporting of penalties imposed and voluntary repayments

- 139. The IPEA Act does not expressly provide for IPEA to prepare or publish specific reports on voluntary repayments and penalties under Part 4 of the PBR Act. Section 12(1) of the IPEA Act provides that IPEA can prepare and publish reports that relate to 'MP work resources' and 'MOP(S) travel resources' as defined in section 4 of the IPEA Act. The Reviewers note that if IPEA was able to expressly report on voluntary repayments or penalties it would increase transparency of public resources.
- 140. The Reviewers are also conscious of the need to ensure that no disincentive to self-reporting is created.
- 141. The Reviewers recommend that Government consider amending the relevant IPEA Act definitions to refer to Part 4 of the PBR Act to expressly facilitate IPEA reporting on voluntary repayments and penalties giving context as to the genesis of the repayment, that is, self-reported or part of an IPEA audit/investigation.

## **Recommendation 9** Reporting of voluntary payments (IPEA Act)

The Government consider amending the relevant IPEA Act definitions to refer to Part 4 of the PBR Act to expressly facilitate IPEA reporting on voluntary repayments and penalties with context.

#### Section 12(1)(i), IPEA Act – Scope of audit function

- 142. IPEA's audit function and assurance powers apply to all 'MP work resources' and 'MOP(S) travel resources' (as defined in section 4 of the IPEA Act), in respect of which IPEA has legislated information gathering powers under section 53 of the IPEA Act.
- 143. The Reviewers note that Government may wish to consider whether IPEA's audit function could be expanded to encompass allegations or complaints regarding the use of all public resources under the PBR Framework (including non-travel related MOP(S) staff matters for example, use of office resources by a staff member for private or party political purposes). The Reviewers also note that this is a matter that may be considered as part of the response to the Jenkins Review, and the recommendation below may be subsumed by that response.
- 144. The Reviewers recommend that the Government should seek detailed legal advice as to how such an expansion could be legislatively and practically achieved and any associated risks.

## **Recommendation 10** Scope of audit function (IPEA Act)

The Government should seek detailed legal advice as to how IPEA's audit function could be expanded to encompass all allegations or complaints regarding the use of all public resources under the PBR Framework (including non-travel related MOP(S) staff matters).

#### Section 37, PBR Act - Rulings

- 145. IPEA can make a ruling on its own initiative or if a current parliamentarian applies for a ruling. Currently, the IPEA Act is unclear as to whether a *former* (emphasis added) parliamentarian can apply for a ruling in relation to travel expenses or travel allowances concerning travel undertaken while they were still a parliamentarian.<sup>53</sup>
- 146. The Reviewers consider there is no apparent reason why a former parliamentarian should not be able to apply for a ruling in relation to travel undertaken while they were still a parliamentarian.
- 147. The Reviewers recommend the Government consider amending the PBR Act to clarify that a former parliamentarian can apply for a ruling and IPEA can make such a ruling.

#### **Recommendation 11** Rulings – Former parliamentarians (PBR Act)

The Government should consider amending the PBR Act to clarify that a former parliamentarian can apply for a ruling and IPEA can make such a ruling.

#### Section 5 – PBR Regulations – Definition of 'transport costs'

- 148. The definition of 'transport costs' in section 5 of the PBR Regulations does not include road tolls for travel by hired vehicle commercial transport, including hire cars. As such, road tolls costs are **not** (emphasis added) payable under the PBR Framework when used by a parliamentarian (although the cost of a hire car is payable).
- 149. Under the previous rules-based PE Act framework, road tolls were not payable. The Reviewers consider that road toll costs are incidental to the cost of a hire car. Other incidental costs are payable, including parking, fuel, excess reduction insurance or for relief drivers. The Reviewers therefore consider it is appropriate that road tolls are also payable.
- 150. The Reviewers recommend the Remuneration Tribunal consider enquiring into the definition of 'transport costs' in section 5 of the PBR Regulations with a view to including costs associated with transport, such as road tolls.

#### **Recommendation 12** Definition of 'transport costs' (PBR Regulations)

The Remuneration Tribunal consider enquiring into the definition of 'transport costs' in section 5 of the PBR Regulations with a view to including costs associated with transport, such as road tolls.

# **3. The PBR Framework and its administration**

- 151. Section 56 of the PBR Act provides that a periodic review into that Act's operation and whether it should be amended must be conducted every three years.
- 152. As outlined in Chapter 1, the Terms of Reference note that undertaking a single review of the PBR Act and the IPEA Act allows the legislative underpinnings of the PBR Framework to be considered holistically, including the original policy intention, as well as the effectiveness of administration.<sup>54</sup>
- 153. Chapter 3 of this Report examines the PBR Framework, from the perspectives of its administration and operations.
- 154. The Reviewers note that from a technical legislative point of view there are no significant areas of concern regarding the PBR Framework. Some changes to the provisions regarding office expenses and family responsibilities are recommended, but overall the legal basis of the PBR Framework is largely effective. This view was shared by the majority of stakeholders.
- 155. The Reviewers consider that more work can be done administratively to efficiently and effectively fulfil the objectives of the PBR Framework. In particular, there is room to improve the way administering agencies work together to support parliamentarians and MOP(S) staff and also in the provision of training and guidance. See Sections 3.1 and 3.2.

#### 3.1 Joined-up administration

- 156. Administrative responsibilities for the provision of public resources under the PBR Framework are primarily divided between Finance, IPEA and the parliamentary departments (specifically the Departments of the House of Representatives and the Senate, and DPS). The parliamentary departments undertake relatively minor roles in comparison to Finance and IPEA. In addition, portfolio departments provide support to their Ministers. Other agencies, including the Department of Home Affairs, Comcare and the Attorney-General's Department have specific responsibilities in relation to other aspects of the PBR Framework (security arrangements, the Parliamentary Injury Compensation Scheme, and legal assistance for Ministers, respectively).
- 157. The number of agencies providing services in relation to the PBR Framework, can result in service fragmentation and work against a seamless, efficient, client-focused delivery of services. For example, multiple agencies provide advice, guidance and training and different service delivery arrangements according to the areas they administer under the PBR Framework.
- 158. The Reviewers are of the view that there is scope for key administering agencies in particular Finance, IPEA and DPS to work together in a more joined-up way to better achieve the following outcomes:
  - clear lines of responsibility and procedures to provide parliamentary business resources in a more seamless client-focused manner
  - efficient resolution of issues
  - consistent approach to stakeholders
  - improved knowledge management.
- 159. During stakeholder consultation, both parliamentarians and MOP(S) staff, and administering agencies, identified this as an opportunity. Key administering agencies also acknowledged that more collaboration could provide better support for parliamentarians and MOP(S) staff.

<sup>54</sup> Review Terms of Reference

160. The Reviewers note that the Jenkins Review has recommended a number of changes to the administration of services to parliamentarians and MOP(S) staff, including the establishment of a new entity for MOP(S) staff staffing and culture.<sup>55</sup> Any work to better join-up administration of the PBR Framework should also take into account any such machinery of government changes.

#### **Information sharing**

- 161. The Reviewers consider that joined-up administration would be aided by improving arrangements for information sharing between administering agencies, including the background referral of parliamentarians and staff to the correct area.
- 162. Information sharing is currently limited between administering agencies. Finance and IPEA have a legislated process under the IPEA Act whereby the Secretary of the Department of Finance and IPEA CEO are required to give each other information.<sup>56</sup> This is operationalised generally by Finance providing data through PEMS and other IT platforms to IPEA in order for IPEA to fulfil its reporting function.
- 163. Outside of these IPEA/Finance arrangements, there are no legislated requirements to provide information, other than IPEA's power to compel the production of information or documents. The Reviewers understand that other entities do not routinely share information with each other in any formalised way, either in writing or through a face to face liaison. This is evident in areas including the provision and administration of ICT equipment and services under different sections of the PBR Regulations, which has caused confusion for parliamentarians, their staff and the administering agencies, DPS (EOIT budget and ICT for Ministerial offices, office holder offices and temporary office accommodation in Commonwealth Parliament Offices) and Finance (office expenses budget) (see further discussion in Section 3.3).
- 164. The lack of formalised arrangements means information is not always provided in a consistent and timely fashion to parliamentarians and their staff in response to requests, nor to IPEA to assist timely and accurate reporting, and also results in ad hoc information exchanges and can lead to a reliance on personal relationships between administering agency staff to obtain relevant information. This is a risk should key staff leave or a dispute arise regarding the sharing of information, given there is no formal dispute resolution mechanism between IPEA and agencies other than Finance.

#### Confusion

- 165. This Review has received mixed data that parliamentarians and MOP(S) staff are confused over who to contact when they have a question about a PBR Framework issue. More than 40 per cent of respondents to the survey (24 of 56 respondents) were not confident of who to contact with a PBR Framework question (compared to 30 per cent who were confident). However, data from IPEA indicated only two per cent of almost 4,900 client contacts in 2020-21 were for non-IPEA related purposes.
- 166. Several respondents to the parliamentarians and MOP(S) staff survey suggested that administering agencies should work together to provide a more client-focused approach. Some respondents to the administering agencies survey also acknowledged that improvements could be made in the handling of queries between agencies.
- 167. The Reviewers are of the view that if there is confusion over PBR Framework responsibilities, it is reasonable for parliamentarians and staff to expect administering agencies will work together to resolve their issue, including forwarding a request to or providing a specific contact in the appropriate agency. Agencies should also provide clear contact information to each other.

168. The Reviewers are of the view that better information-sharing protocols in the form of Memoranda of Understanding should be established between the agencies chiefly responsible for administering the PBR Framework, particularly Finance, IPEA and DPS. These protocols should set out the types of information to be shared, arrangements for transferring queries between agencies and expectations for timeliness. The protocols must take into account Privacy Act obligations and not impact on IPEA's statutory independence.

# **Recommendation 13** Formal information-sharing protocols

The Government should require agencies with chief responsibilities for administering the PBR Framework to develop formal information-sharing protocols between them.

# **One-stop shop**

- 169. Given the division of functions between administering agencies, parliamentarians and MOP(S) staff must navigate each agency's service delivery arrangements, including websites, intranets, help desks, paper and web-based forms, standalone platforms and different approaches to advice and issue resolution. This can be confusing, time consuming and frustrating.
- 170. The Reviewers consider there is an opportunity to better assist parliamentarians and MOP(S) staff with this complexity through consideration of a 'one-stop shop' for major administering agencies. Such arrangements have become more common across multiple jurisdictions to better support citizens and clients.<sup>57</sup> It is beyond the scope of this Review to determine how a 'one-stop shop' should be established. However, a solution should reflect the following principles:
  - <u>timely</u> time should be the shortest necessary for the agency to provide accurate services
  - <u>client-centric</u> services should be driven by client outcomes, not agency processes
  - <u>responsive</u> services should seek continuous improvement
  - <u>integration</u> there should be no 'wrong door' policy for the client in using the 'one stop shop'
  - <u>choice</u> there should be multiple channels for service delivery.<sup>58</sup>
- 171. The Reviewers note a number of different approaches are available for consideration including one or more of these:
  - a portal website, with links to administering agencies' individual websites and a sophisticated search function or Artificial Intelligence assistant that can deliver relevant information and tools to clients
  - a single helpline, with interactive voice response that can direct clients to the relevant administering agency for assistance.
  - a single customer relationship management platform for multiple agencies to assist in the tracking of client interactions.
- 172. Finance and IPEA were open to the general concept of a 'one-stop shop', while noting that it would not resolve different service delivery approaches resulting from structural differences between administering agencies. A number of respondents to the parliamentarians and MOP(S) staff survey suggested a single-entry point would help support them.

 $^{\rm 57}$  For example, Service NSW and Service Canada.

<sup>&</sup>lt;sup>58</sup> These principles are adapted from the following PWC paper: <a href="https://www.pwc.com.au/pdf/transforming-the-citizen-experience-one-stop-shop-feb12.pdf">https://www.pwc.com.au/pdf/transforming-the-citizen-experience-one-stop-shop-feb12.pdf</a>>, accessed 17 November 2021

# **Recommendation 14** One-stop shop

Administering agencies should establish a 'one-stop shop' to assist parliamentarians and MOP(S) staff to navigate different agencies. The form of a 'one-stop shop' could involve, among other things, a shared website and/or helpline.

#### Governance

173. Successful joined-up administration will require buy-in from all major administering agencies. A highlevel steering committee with representation from all major administering agencies could provide a means to create and oversee a program to identify challenges and solutions to provide joined-up administration and establish and maintain a 'one-stop shop'.

# **Recommendation 15** Governance for joined-up administration

Administering agencies should establish governance arrangements to facilitate joined-up administration of the PBR Framework. This could include a high-level steering committee with representation from all major administering agencies to create and oversee a program to identify challenges and solutions to provide joined-up administration and establish and maintain a 'one-stop shop'.

# 3.2 Training and guidance

# **Current training**

- 174. The Conde Tune Review noted that education and training for parliamentarians and their staff are an important part of the system, and programs should take into account that parliamentary staff turnover is high.<sup>59</sup>
- 175. Likewise, the Jenkins Review recommends training for parliamentarians and senior MOP(S) staff to strengthen individual leadership to ensure a safe and respectful workplace and help ensure they have the skills to prevent and respond to misconduct.<sup>60</sup>
- 176. Under the PBR Framework, training is prescribed as a resource for offices and the provision of training is determined by the Minister, except ICT training, which has been delegated to the Presiding Officers.<sup>61</sup> Finance has indicated that there are no specific determinations made in relation to a parliamentarian undertaking any training additional to the induction sessions that are available to all parliamentarians.

<sup>59</sup> Conde Tune Review, paragraph 4.66.

<sup>60</sup> Jenkins Review, recommendations 4 and 14

<sup>61</sup> Parliamentary Business Resources (Minister for Finance) Delegation (No. 1) 2021

#### Induction sessions

- 177. On commencement of their parliamentary career, parliamentarians are offered induction sessions by Finance, IPEA, DPS and the Chamber Departments. The Finance and IPEA sessions provide a high-level overview of arrangements for parliamentarians, including the PBR Framework and the MOP(S) Act Framework. Sessions are usually scheduled shortly before or after a parliamentarian is sworn in, and are provided as a service to parliamentarians (i.e. outside the PBR Framework).
- 178. Limitations with these sessions include:
  - <u>time</u> sessions usually take several hours with a significant amount of information presented, which may lead to information overload
  - <u>competing priorities</u> at commencement parliamentarians have many competing priorities, including establishing their office, hiring staff and liaising with constituents.
- 179. No specific in-person or online program of professional development training is offered to parliamentarians, either in relation to administrative matters, including budgeting, staff management, or, more broadly, policy development. Similarly, parliamentarians are not offered basic budget accounting packages as part of their induction which feedback indicates would be helpful in giving them the tools to better manage their office, resources and taxpayer money.

#### Training packages currently offered

#### Finance – Introduction to the PBR Framework training

180. Finance offers *Introduction to the Parliamentary Business Resources Framework* training as an ondemand resource through *MOP(S) Learning*, designed to assist MOP(S) staff who are involved in decisions on use of public resources under the PBR Act by parliamentarians and their staff.

#### Finance - Safe and respectful workplace training

181. In response to the *Review of the Parliamentary Workplace: Responding to Serious Incidents* inperson and face-to-screen training on safe and respectful workplaces specifically targeted to those working in the parliamentary environment has been made available to all parliamentarians and MOP(S) staff.<sup>62</sup>

#### **DPS – ICT training**

182. Parliamentarians and MOP(S) staff have access to online and in-person<sup>63</sup> ICT training through DPS, as determined by the Presiding Officers pursuant to section 74 of the PBR Regulations.

#### **IPEA – PBR Framework training**

183. IPEA offers online and in-person training and guidance on travel-related expenses for parliamentarians and MOP(S) staff covering the PBR Framework, travel, budget, reporting and assurance functions, and guidance on planning travel.

#### Guidance

- 184. Guidance is a critical part of educating and supporting parliamentarians and staff to understand the PBR Framework. Finance and IPEA provide guidance on their areas of PBR Framework responsibility. The type of guidance differs reflecting the agencies' different service delivery approaches.
  - Finance has responsibility for a broad range of non-travel related services, resources and expenses<sup>64</sup> and typically provides substantial guidance on its website covering all aspects of the PBR Framework for which it is responsible.<sup>65</sup>
- <sup>62</sup> <https://maps.finance.gov.au/safe-and-respectful-workplace-culture/safe-and-respectful-workplaces-training>, accessed 17 November 2021.

 $<sup>^{\</sup>rm 63}$  DPS advise due to COVID-19 Health Orders, in-person ICT training is not available.

<sup>&</sup>lt;sup>64</sup> Finance is also responsible for certain types of remuneration for Parliamentarians, including private-plated vehicles and residential internet and telephone services

<sup>&</sup>lt;sup>65</sup> MaPS released a new website on 28 June 2021 based on feedback from internal and external stakeholders, including parliamentarians and their staff.

- IPEA's public guidance is less detailed, reflecting that parliamentarians and staff are encouraged to contact IPEA for personal advice that is specific to the particular circumstances of travel, exempt from FOI and will not give rise to a debt if the advice relied upon is incorrect, in accordance with its statutory functions (see Section 2.3).
- 185. Publicly available guidance is necessarily generic, which also reflects that the PBR Framework is principles-based and relies on parliamentarians considering their overarching obligations.
- 186. Respondents to the survey expressed a preference for more specific guidance particularly in the form of factsheets and case studies.

# **Future opportunities**

#### Induction and ongoing training

- 187. The Reviewers consider that administering agencies should work together to design training, guidance and factsheets for parliamentarians and staff concerning the PBR Framework generally, as well as discrete elements such as public resources under the PBR Regulations; explaining administrative responsibilities and processes under the PBR Framework; and available tools and resources. Induction training should be available in-person as well as online, with consideration given to providing a single online entry point for training and guidance as part of a potential 'one-stop shop' (see Section 3.1).
- 188. The Reviewers note that:
  - the Jenkins Review recommends improved mandatory induction programs for parliamentarians covering their role as a parliamentarian (including daily duties and operational matters) and role as an employer.<sup>66</sup> The Jenkins Review noted that Finance is already undertaking work to develop a new induction program for all new MOP(S) staff.<sup>67</sup>
  - further work to provide guidance and training to new parliamentarians and staff to strengthen their understanding of the roles and operation of parliamentarians, Parliament and the Australian Public Service is being considered by the Reference Panel on Strengthening Ministerial and APS Partnerships.<sup>68</sup>

# **Recommendation 16** Induction and ongoing training and guidance

Administering agencies should work together to design training, guidance and factsheets for parliamentarians and staff concerning the PBR Framework generally, as well as discrete elements, such as public resources under the PBR Regulations; explaining administrative responsibilities and processes under the PBR Framework; and available tools and resources.

Induction training should be available in-person as well as online. Training and guidance should be accessible through a single-entry point.

<sup>66</sup> Jenkins Review, p194.

<sup>67</sup> Jenkins Review, p72.

<sup>&</sup>lt;sup>68</sup> <https://www.apsc.gov.au/about-us/who-we-are/media-releases/reference-panel-strengthening-ministerial-and-aps-partnerships>, accessed 26 November 2021.

#### Budget training

- 189. Several stakeholders expressed the view that training with a focus on the budgets parliamentarians have to manage, including the EOIT budget, office expenses budget and Electorate Support Budget would assist parliamentarians, some of whom arrive in the role without relevant experience in operating an office. They drew a comparison with the training provided to MOP(S) staff through the Professional Development Program (PDP) and their access to ad hoc training funded by the Commonwealth. Finance has indicated that parliamentarians have been permitted to attend or access PDP when it is offered to staff in their office (but other training is not provided to individual parliamentarians). Finance also indicated that where a parliamentarian requests budget training, advice or guidance, Finance provides it to them but this is not widely known and is currently not offered as standard training.
- 190. The Reviewers note that the Jenkins Review recommended 'offering structured induction and ongoing training opportunities to all members of the CPW [Commonwealth Parliamentary Workplaces] community particularly to MOP(S) Act employees and parliamentarians who may currently receive more limited opportunities than their departmental colleagues'<sup>69</sup> and consider that parliamentarians and taxpayers would benefit from parliamentarians having access to targeted training to support them to efficiently and effectively manage their office and achieve value for money in their use of public resources.
- 191. The Reviewers consider that training packages should be developed that cover the budget lifecycle, including how to develop an estimated expenditure forecast, how to monitor the budget and how to integrate it with other tools (including budget reports from Finance or IPEA and accounting software). Such training should be developed in light of the capabilities of PEMS as it is rolled out. The Reviewers understand such training is being developed for MOP(S) staff and parliamentarians.
- 192. Several stakeholders also noted that having access to basic accounting software would assist them with their budgeting. This could be an alternative, or additional, element to the training packages above.

# Recommendation 17 Budget training

Administering agencies should continue developing training packages on office administration and budgeting (including the tools and resources) to be made available to both parliamentarians and their staff.

- 193. The Reviewers note that stakeholders also suggested arrangements be made to provide a grace period after the end of the financial year for the previous financial year's budget to be used, in part because items ordered and delivered in one financial year may be delivered late due to congestion in supply chains and logistics impacting claims. If delivered after 1 July, this can impact the following financial year's budget management.<sup>70</sup> The Reviewers consider this issue can be addressed in two ways.
  - Firstly, through better training on budget management and through the introduction of PEMS, which will allow for faster processing and current budget information to be made available.
  - Secondly, by conducting an analysis of the median financial impact of supply chain and logistics factors on goods and services ordered under parliamentarians' office expenses budget over the last two years ('late delivery impact') and giving consideration to a small annual rollover of unspent funds from the previous year's office expenses budget up to a maximum of the value of the late delivery impact for good and services ordered before 30 June, but not delivered until the new financial year.
- 69 Jenkins Review report, p200.

<sup>&</sup>lt;sup>70</sup> Parliamentarians are able to claim expenses for good and service against an annual financial year budget for when the expense has been rendered (when the goods or services are received or completed).

# **Recommendation 18** Budget training and potential roll over relief

Consider a small annual rollover of unspent funds from the previous year's office expenses budget up to a maximum of the value of the late delivery impact for goods and services ordered before 30 June, but not delivered until the new financial year.

# 3.3 Office expenses and resources

# **Background and current division of functions**

- 194. The Conde Tune Review recommended that 'work expenses' under the new framework be set out in broad categories rather than the previous highly detailed arrangements<sup>71</sup> and supported the use of broad purpose-based budgets.<sup>72</sup> Two broad categories under the PBR Framework are:
  - office expenses provided pursuant to section 32(1) of the PBR Act
  - resources for offices provided pursuant to section 33(1) of the PBR Act.

#### Office expenses

- 195. Parliamentarians are provided with an annual budget (under section 67 of the PBR Regulations) for office expenses (prescribed by section 66(1) of the PBR Regulations) for the conduct of their parliamentary business, with specific conditions and exclusions in sections 66(2) to (5).<sup>73</sup> In the 2020-21 financial year:
  - the budget for Senators was \$113,229.78, and for members of the House of Representatives \$141,468.96 plus a distribution component of \$1.054 multiplied by the number of enrolled voters within the Member's electorate (meaning each Member has a different budget)
  - the total value of office budgets was \$47,259,067, of which \$40,538,223 (85.8 per cent) was used.
- 196. Twenty-three separate categories of claimable office expenses are currently prescribed under section 66(1) of the PBR Regulations, with five added since the commencement of the PBR Regulations via legislative amendments, and a further three approved for all parliamentarians by the Minister. The categories range from broad in nature (such as 'communicating and distributing printed and electronic material and audio posters'<sup>74</sup> and 'office stationery and supplies'<sup>75</sup>) to quite narrow and prescriptive (such as 'wreaths'<sup>76</sup> and 'conducting interactive voice response phone surveys'<sup>77</sup>).
- 197. The Reviewers understand that during the development of the PBR Act and subordinate legislation, the categories of claimable expenses and conditions relating to office expenses under the previous PE Act framework were largely preserved, with some simplification such as removal of a highly prescriptive list of claimable office supplies, and stationery and monetary limits.

<sup>76</sup> Section 66(1)(ha), PBR Regulations

<sup>&</sup>lt;sup>71</sup> Conde Tune Review, recommendation 6(b)(ii).

<sup>&</sup>lt;sup>72</sup> Conde Tune Review, page 29.

<sup>&</sup>lt;sup>73</sup> If any of the conditions applicable to office expense are contravened, a member is unable to claim expenses for the item (section 28 PBR Act) and the Commonwealth is not liable to pay (section 29, PBR Act).

<sup>74</sup> Section 66(1)(e), PBR Regulations

<sup>75</sup> Section 66(1)(i), PBR Regulations

<sup>77</sup> Section 66(1)(pa), PBR Regulations

#### Resources for offices

- 198. Section 74 of the PBR Regulations prescribes the public resources reasonably required for the conduct of a member's parliamentary business in offices provided by the Commonwealth, as determined by the Minister ('office resources'). The broad categories may include 'office equipment'<sup>78</sup> and 'information and communications technology and services'.<sup>79</sup> The Minister's power to determine ICT has been delegated to the Presiding Officers<sup>80</sup>.
- 199. Office resources must not be used for 'commercial purposes', regardless of whether the dominant purpose is parliamentary business.<sup>81</sup>

#### Division of functions

#### Policy and administration

- 200. Finance is responsible for providing policy advice to government on the PBR Framework including office expenses and office resources. Finance administers office expenses and office resources (including providing advice to parliamentarians, procuring and managing contracts with providers, and processing claims) apart from:
  - ICT and services provided by DPS, which are administered by DPS
  - postage stamps and stamped envelopes provided in Parliament House to parliamentarians by the Chamber Departments.<sup>82</sup>

#### **Reporting and assurance**

201. IPEA reports on office expenses and office resources on the basis of information provided by Finance, other than EOIT. EOIT is reported by DPS.

#### Simplifying office expenses

#### Principle-based categories

- 202. As noted above, the categories of office expenses prescribed under section 66(1) of the PBR Regulations range from broad in nature to very specific, with restrictions such as printing on 'paper weighing no more than 700 grams per square metre, or flat magnetised material'.<sup>83</sup> The Reviewers understand there is no clear rationale for this, other than there was a desire to ensure that all existing categories of office expenses under the previous PE Act framework were retained (and nothing would be lost) under the PBR Framework.
- 203. With the move to the principles-based PBR Framework, which the Reviewers have noted is broadly supported, the Reviewers consider that office expenses prescribed through principle-based categories is appropriate. This has the advantages of:
  - better alignment with a principles-based framework there would be greater flexibility for parliamentarians to claim office expenses needed to conduct their parliamentary business, provided the expense fits within prescribed broader categories and complies with the overarching obligations (dominant purpose, value for money, good faith) and any specific conditions.
  - describing goods and services by reference to purpose and capability rather than particular forms, media or technologies, thereby providing appropriate flexibility and obviating the need for ad hoc amendments to the PBR Regulations or the approval from the Minister under section 66(1)(pd) as technologies change.

<sup>82</sup> Section 66(5), PBR Regulations.

<sup>&</sup>lt;sup>78</sup> Section 74(2)(c), PBR Regulations

<sup>&</sup>lt;sup>79</sup> Section 74(2)(b), PBR Regulations

<sup>&</sup>lt;sup>80</sup> This excludes fixed telephone lines, data cabinets, or cabling from the data cabinets to workstations in electorate offices. These are provided under the Minister's section 33(1), PBR Act determination of resources prescribed by section 74, PBR Regulations.

<sup>&</sup>lt;sup>81</sup> Resources under section 74, PBR Regulations are provided under section 33(1), PBR Act, which is subject to section 26(4), PBR Act.

<sup>&</sup>lt;sup>83</sup> Section 66(1)(a)(i)(ii), PBR Regulations.

- 204. The Reviewers are aware that a number of considerations should be taken when developing any amendments to section 66(1):
  - a detailed review of existing items to identify relevant policy, legal and administrative considerations
  - any simplification of categories must take into account specific conditions applicable to certain office expenses and the reasons for these
  - the shifting of risk towards parliamentarians as they are provided with more flexibility, and where administrative processes can help parliamentarians manage this risk (for example, with prevetting and/or post-vetting checks and audits) and enhanced assurance and reporting processes to ensure the use of taxpayer funds is transparent and accountable.
- 205. Based on feedback to the Review that more education and training are desired, simplification of office expenses categories is also likely to require additional support for parliamentarians and MOP(S) staff to ensure the use of office expenses and attendant risks are understood, to minimise the risks of inadvertent misuse or public criticism of use.
- 206. Some stakeholders suggested the PBR Framework should permit claims for all office expenses that meet the overarching obligations. At this stage, the Reviewers are not advocating this approach. However, while not providing a final view on each possible broader category of office expense, the Reviewers note that 'like' provisions could be brought together. In particular, numerous sections of section 66(1) relate to various forms of printing, production, communication and distribution (see, for example, sections 66(1)(a) to (e), (f), (g), (p), (pa) and (pb)) that could become a broader principles based category that is not unnecessarily restricted by the form or nature of the technology used.
- 207. Parliamentarians still seek significant levels of guidance on the framework and want clear advice. Providing this support is more difficult for administering agencies where there are fewer guideposts as to the categories of permitted office expenses, particularly in the area of printing and communications (see further discussion in the section 'reviewing conditions' below). It may also be more difficult for those administering agencies that do have legislative protections in relation to the advice they provide. Finance reports that over the years under the previous PE Act framework various legislative and administrative measures were put in place seeking to support parliamentarians by balancing access to financial support against managing these risks, and the stringency of legislative conditions has ebbed and flowed accordingly. Conditions in section 66(1)(a) and sections 66(2) to (5) to varying degrees reflect this history.

#### **Recommendation 19** Simplifying office expenses into principles-based categories

The Government should consider simplifying the office expense categories in section 66(1) of the PBR Regulations into broader categories based on the overarching principles of the PBR Framework, but these principles should be balanced by specific conditions.

#### **Reviewing conditions**

- 208. As noted above, the conditions in sections 66(2)-(5) of the PBR Regulations mostly reflect those that existed under the previous PE Act framework. As a general principle, any condition must have a clear purpose. The potential consequences of removing conditions must be considered. This may shift risk towards parliamentarians as is recognised in the PBR Act provisions that, in conducting their parliamentary business, parliamentarians are personally responsible and accountable for their use of public resources; must be prepared to publicly justify their use of public resources; and must act ethically and in good faith in using, and accounting for their use of, public resources.<sup>84</sup>
- 209. For these reasons the Reviewers consider that while specific conditions under section 66 of the PBR Regulations should remain, others should be reviewed for how they can be amended or omitted.

# Sections 66(2) and (2A) – limits on use of office expenses to pay for production or placement of content for broadcasting on television or radio

- 210. Section 66(2) provides office expenses must not be used to pay for production or placement of content for broadcasting on television. Section 66(2A) provides office expenses must not be used to pay for production or placement of content for broadcasting on radio except for certain services for certain regional members of the House of Representatives.
- 211. These prohibitions result in a number of inconsistencies.
  - they do not apply to production or placement of content on other forms of electronic media, including websites, social media platforms and online streaming services
  - they result in inconsistent treatment of in-office facilities to produce electronic material: if the facilities are for television or radio they cannot be claimed, but if for other electronic media the facilities can be claimed.
  - the exception in section 66(2A) results in two tiers of permitted office expenses for different parliamentarians. This is not replicated elsewhere in section 66.
- 212. Stakeholders raised concerns that the way technologies are identified in section 66(1) of the PBR Regulations and the specific prohibitions against payment for production or placement of content for broadcasting on television or radio is unnecessarily limiting and anachronistic. The Reviewers note that an amendment to remove the limits was disallowed by the Senate in April 2019. However, in the intervening period the internet's role in the provision of information (including social media) has further increased.<sup>85</sup> Balanced against this, the Reviewers note that there is a substantial cost differential in purchasing television and radio broadcasting services across different electorates.
- 213. The Reviewers consider that, given the many ways in which people now access information, it is timely to review the television and radio broadcasting provisions to ensure that any limitations serve a clear purpose.

# Section 66(3) – office expenses must not be used to produce, communicate or distribute material that solicits a vote etc

- 214. Office expenses must not be used to produce, communicate or distribute material that solicits a vote for another person; solicits subscriptions, other financial support or non-financial support (other than volunteering) for a parliamentarian, political party or candidate; solicits applications for or renewals of membership in a political party; or provides instructions on how to complete a ballot paper.
- 215. These provisions recognise that incumbency is a significant advantage for a parliamentarian before and during election campaigns, and seek to limit any unfair advantage from using office expenses for a parliamentarian's own re-election or for party political purposes. The strictly confined meaning of the 'party political duties' component of 'parliamentary business' recognises similar limitations on how Commonwealth money should be used.<sup>86</sup>
- 216. The Reviewers consider that the condition in section 66(3) of the PBR Regulations should be retained.

<sup>&</sup>lt;sup>85</sup> For example, the internet has overtaken television as Australian's main source of news: Roy Morgan, 'It's official: Internet is Australia's main source of news; TV remains most trusted' (Press release, 21 August 2020)

<sup>&</sup>lt;sup>86</sup> The four streams of 'parliamentary business' are defined in section 6(1), PBR Act, and the Minister has determined activities within those streams in the *Parliamentary Business Resources (Parliamentary Business) Determination 2017* pursuant to section 6(4), PBR Act.

# Section 66(4) – office expenses must not be used to produce, communicate or distribute any material that includes an advertisement pursuing a commercial purpose of the member or another person

- 217. Finance has indicated that in 2020-21, on average, Senators used 79.8 per cent of their office expenses budget, and Members 88 per cent<sup>87</sup>, for 'printing and communications'. Not only is 'printing and communications' heavily used by parliamentarians, but by its nature has traditionally been an area that has attracted media attention, public criticism, and allegations of misuse requiring consideration under the *Protocol handling of misuse of non-travel related work expenses by the Department of Finance*<sup>88</sup> (and earlier iterations of that protocol).
- 218. It is against this background, together with the purpose of the PBR Framework, that the condition proscribing the use of office expenses to produce, communicate or distribute any material that includes an advertisement pursuing a commercial purpose of the member or another person has been included.
  - The definition of 'parliamentary business' in section 6(2) of the PBR Act also provides that an activity is not a parliamentarian's 'parliamentary business' if it is for the dominant purpose of 'pursuing commercial purposes of the member or another person'.
  - Section 5 of the PBR Act defines 'commercial purpose' as 'a purpose relating to the derivation of financial gain or reward'.
- 219. The Explanatory Statement for the PBR Regulations states: 'for example, office expenses cannot be used to produce a newsletter that would contain an advertisement for a local business, or cannot feature an advertisement that has been paid for by a third party – however, this would not exclude the promotion of not-for-profit organisations and groups, nor would it exclude the promotion of charity activities and events that may be sponsored by commercial businesses, for example a fun run that raises money for cancer research that is sponsored by a local business'.
- 220. Finance's online guidance (on MaPS' website) states 'Parliamentarians should be careful not to promote/advertise (or be seen to promote/advertise) for-profit businesses in any way. Any references to for-profit business should be incidental only'. The guidance recognises that there is a grey area around what constitutes 'an advertisement pursuing a commercial purpose of the member or another person' and provides examples to illustrate how Finance interprets the provision, such as:
  - a newsletter that 'promotes a charity activity or event, sponsored by Big Bank, (e.g. the inclusion of a fun run logo that includes the logo/branding of the Big Bank and/or photos of the event that include logos/branding of the Big Bank that are incidental in nature)' complies with s66(4), but
  - a newsletter that 'promotes a charity activity or event, sponsored by Big Bank, and on several pages of the newsletter has references to 'the Big Bank and its logo' does not comply.
- 221. To help parliamentarians negotiate this 'grey area', Finance provides optional pre-claim assessments of printing, photography, design and artwork and samples for Facebook commercial services.
- 222. Despite the guidance and support provided by Finance, consultation indicated ongoing confusion amongst some stakeholders as to what may constitute 'an advertisement pursuing a commercial purpose', particularly 'of... another person'.<sup>89</sup>
- 223. The Reviewers consider that it is a core element of a parliamentarian's parliamentary business to engage with their constituents and to support their local community including local businesses, provided this does not pursue the parliamentarian's own commercial purposes such that the parliamentarian would derive a direct or indirect financial gain from the activity, nor directly advertise the commercial purpose of another. Therefore, if the parliamentarian's activity is for the dominant purpose of their parliamentary business and otherwise satisfies their obligations under the PBR Act, the Reviewers consider that incidental references to local businesses should be permitted. The PBR Act principles that parliamentarians are 'personally responsible and accountable for their use of public resources for conducting their parliamentary business', and 'must be prepared to justify publicly their use of public resources for conducting their parliamentary business an unfair advantage.
- <sup>87</sup> Finance has advised the average usage across categories may change from year-to-year, including years in which federal elections are held.

<sup>89</sup> Around 25 per cent of respondents to the parliamentarians and MOP(S) staff survey indicated they desire either more clarity on the definition of commercial purposes or more guidance.

<sup>&</sup>lt;sup>88</sup> Protocol – handling of misuse of non-travel related work expenses by the Department of Finance tabled by the Special Minister of State on 24 October 2017.

224. For these reasons, the Reviewers consider that section 66(4) of the PBR Regulations should be administered, or amended if necessary, to permit incidental references to another person's commercial purposes. As the judgements involved are subjective, Finance should continue to provide guidance and encourage parliamentarians to seek pre-claim assessments. Additionally, the Reviewers note that any change will need to be complemented by an increase in the number and scope of IPEA's assurance activities to ensure the use of taxpayer funds is consistent with the PBR Framework. This should be supported by appropriate resourcing.

#### **Recommendation 20** 'Commercial purposes of another person'

Section 66(4) of the PBR Regulations should be administered, or amended, if necessary, to permit incidental references to another person's commercial purpose. Finance should continue to provide guidance and encourage parliamentarians to seek pre-claim assessments.

# Section 66(5) – office expenses must not be used to pay for postage stamps or stamped envelopes, other than those provided by a Parliamentary Department

225. This condition was carried over from the previous PE Act framework, and is intended to limit risks given postage stamps and stamped envelopes are readily convertible to legal tender. The Reviewers consider this condition should remain.

# Information and Communications Technology

#### Split of functions

- 226. ICT is primarily provided by DPS under section 74(2)(b) of the PBR Regulations as an office resource subject to an administrative Electorate Office IT (EOIT) budget. However, additional 'ICT and services provided by DPS' are available as office expenses under section 66(1)(pc) of the PBR Regulations. Separately, parliamentarians may claim 'accessories for information and communications technology (such as storage devices, portable power banks and camera lenses for mobile devices)' as an office expense under section 66(1)(k) of the PBR Regulations. While ICT must be purchased via DPS, such accessories need not be purchased through DPS.
- 227. MaPS's website guidance states:
  - 'DPS provides hardware to connect each electorate, ministerial and office holder office and Commonwealth Parliament Offices to Parliament House through the Australian Parliament House (APH) Network (commonly referred to as the Extended Parliamentary Network) ... the equipment and services available to [parliamentarians], include:
  - desktop computers and peripherals
  - portable computers (including laptops and tablets) and peripherals
  - smartphones, mobile phones and mobile phone plans
  - mobile broadband devices and plans
  - printers (including label and copy printers), scanners and multi-function devices
  - digital remote access tokens
  - ICT training, including face-to-face and eLearning'.

228. The additional ICT and services available under the office expenses budget are intended to supplement the EOIT budget. The Reviewers understand that DPS provides an itemised invoice and Finance deducts the relevant amounts from individual parliamentarians' budgets. MaPS' website guidance states:

<sup>'Where</sup> your ICT requirements go beyond the items generally provided to you by DPS, additional ICT equipment and services may be sourced and provided by DPS as an office expense. The cost of these additional resources will be debited against your office budget. Additional ICT equipment and services not procured through DPS are not claimable as an office expense.<sup>'90</sup>

- 229. The split in the provision of ICT equipment and services creates administrative challenges. For example:
  - DPS provides multi-function devices to offices as EOIT, but consumables such as toners may be purchased as an office expense through the Whole-of-Australian Government Stationery and Office Supplies panel administered by Finance
  - a mobile phone provided by DPS as an office expense under section 66(1)(pc) is subject to different accounting arrangements than a mobile phone provided by DPS as EOIT under section 74(2).
- 230. Nearly 40 per cent of respondents to the parliamentarians and MOP(S) staff survey indicated they were confused about which of the administering agencies are best to contact with questions, including concerning ICT equipment and support services.
- 231. DPS reported complexities in managing ICT assets provided under two different budgets, because similar ICT assets are treated differently: the EOIT budget is treated on a cash basis, whereas the office expenses budget is managed on an accrual basis. Using two budgets creates challenges for administrators and parliamentarians, such as:
  - individual ICT assets cannot be split between budgets a parliamentarian may have sufficient funding in the two budgets overall to purchase an item, but not enough in either budget, meaning the item cannot be acquired
  - the ICT asset is owned by the agency that manages the relevant budget despite administering ICT provided under the office expenses budget, DPS loses control over the asset's life-cycle, which has an impact, for example, if DPS wishes to refresh ICT for improved security capability.
- 232. While the availability of ICT through two budgets is a complicating factor not seen elsewhere in the framework, the Reviewers consider that the ability to use the office expenses budget to acquire additional ICT items provides flexibility for parliamentarians that should remain, and DPS should manage provision of ICT under either the EOIT or office expenses budget as seamlessly as possible, including ensuring that parliamentarians are aware of any different arrangements that apply if they need to use their office expenses budget for ICT.
- 233. However, administrative arrangements should be reviewed to identify means to improve the functioning of the budgets. For example, it may be possible for some of a parliamentarian's office expenses budget to be recognised as part of the EOIT budget (i.e. funding could be moved from the office expenses budget to the EOIT budget), which would help parliamentarians to separate ICT out from their office expenses budget and help DPS better manage ICT assets it supplies.

# **Recommendation 21** ICT function and budgets

DPS should manage provision of ICT under the EOIT and office expenses budgets as seamlessly as possible, and ensure that parliamentarians are aware of any different arrangements that apply if they need to use their office expenses budget for ICT. Finance and DPS should consider administrative arrangements for the office expenses budget and EOIT budget to improve their functioning, while maintaining the flexibility of allowing additional ICT to be supplied under the office expenses budget.

#### Modernising service offerings

- 234. DPS has established a catalogue of ICT products from which parliamentarians can choose products. Stakeholder feedback was that DPS' offerings are limited and inflexible, but parliamentarians cannot, under the PBR Framework, purchase ICT outside of DPS' offerings. It is acknowledged that DPS seeks to control its ICT offerings to manage cybersecurity risks and cannot be expected to provide support for myriad devices. It is also understandable that parliamentarians and MOP(S) staff may wish to use ICT products that are not in DPS' catalogue and may not have been considered by DPS.
- 235. The Reviewers acknowledge the concerns of DPS and parliamentarians, and consider that parliamentarians should have access to new technologies and software for the conduct of their parliamentary business. DPS should regularly reconsider its catalogue with a view to providing a wider range of modern, appropriate ICT offerings for parliamentarians and their offices, and work on the principle of 'if not, why not' when considering parliamentarians' ICT requests.

# **Recommendation 22** DPS' ICT offerings

DPS should regularly reconsider its catalogue of ICT offerings with a view to providing a wider range of appropriate ICT offerings for parliamentarians and their offices and work on the principle of 'if not, why not' when considering parliamentarians' ICT requests.

#### Exceptional circumstances

- 236. In line with the Terms of Reference, the Reviewers considered the ability of the PBR Framework to support parliamentary business during exceptional circumstances. Generally, stakeholders did not raise any particular concerns in relation to this issue. IPEA indicated that the PBR Framework has proven to be flexible and adaptable, noting it catered for bushfires, the pandemic, an election and floods and is well accepted by parliamentarians and MOP(S) staff (see Chapter 2).
- 237. Under the PBR Framework the Minister can make one-off determinations to provide specified public resources that are not otherwise covered by the PBR Act or subordinate instruments if satisfied that exceptional circumstances justify the determination (s33(2) of the PBR Act).<sup>91</sup>
- 238. The Reviewers understand that the majority of requests for exceptional circumstances have related to natural disasters and the COVID-19 pandemic. However, a number of the requests related to ICT livestreaming equipment and services. The Reviewers note that if Recommendations 19 and 22 are accepted, this may reduce the number of requests for exceptional circumstances for ICT equipment because it may be easier to access the required resources. Consequently, there may be flow-on effects in relation to the administration of the EOIT budget that should be considered during implementation.

#### **Division of functions – office expenses**

- 239. The Reviewers are of the view that the current division of functions should be partly realigned to build on the success of IPEA and to bring to office expenses the legislative protections that attach to administration by IPEA.
- 240. Since its inception, IPEA has developed a strong foundation for supporting parliamentarians and staff. It has been able to focus on developing expertise in travel, a key part of the PBR Framework, as well as undertaking reporting and assurance activities with clear statutory backing. This represents a significant improvement on the previous administrative arrangements.

<sup>91</sup> Determinations cannot be made retrospectively for expenses already incurred (see section 33(3), PBR Act).

- 241. Based on this strong foundation, the Reviewers believe that it is timely to expand IPEA's responsibilities to other parts of the PBR Framework. In particular, administration of office expenses would benefit from being subject to the same protections and audit and assurance powers that apply to IPEA's administration of travel. In making this recommendation, the Reviewers wish to stress that they are in no way criticising Finance's current administration of office expenses; rather, the advantages of the functions residing in IPEA make it a more appropriate agency going forward.
- 242. No major in-principle objections were raised to this proposal, noting that there are a range of implementation issues discussed later in this report.

#### Protections for personal advice

- 243. A significant benefit of moving responsibility for office expenses is the protection offered by IPEA's personal advice function: under section 58 of the PBR Act, a parliamentarian is not liable for a debt that would otherwise be recoverable if the parliamentarian relied on advice provided by IPEA and the advice is incorrect ('safe harbour'<sup>92</sup>). IPEA is also exempt from providing information under the FOI Act in relation to any travel-related personal advice it has provided, which could be extended to non-travel related advice. These protections have helped IPEA to build a more open client-focused culture, as parliamentarians and their staff are encouraged to engage early and openly with IPEA to receive frank advice that is specific to their circumstances. (See further discussion in Chapter 2: IPEA.)
- 244. Administering agencies and parliamentarians do not have the benefit of these legislative arrangements as regards non-travel related public resources. However, Finance has used, for example, its detailed online guidance and 'pre-print' checking service to help provide assurance to parliamentarians and their staff as regards printing and communications under the office expenses budget. However, the lack of the safe harbour protections can have serious practical impacts for parliamentarians:
  - <u>Personal liability</u> incorrect advice can result in parliamentarians being personally responsible for costs. There is a real risk, for example, of a parliamentarian relying on Finance advice, such as a pre-print check of a proposed publication, expending a large sum on printing, then Finance finding at pre-payment that the original assessment of compliance with the PBR Framework inadvertently missed disqualifying elements. In this instance a debt arises under section 57 of the PBR Act, leaving the parliamentarians personally liable for the costs.
  - <u>Incomplete information</u> the potential for advice to be subject to FOI requests may result in
    parliamentarians providing incomplete information when seeking advice, or choosing to discuss
    issues in generalities. This can make it more difficult for Finance to give accurate, specific advice
    and for parliamentarians to have confidence in relying on the advice.
- 245. These issues can be addressed by making IPEA the administering agency, responsible for advising on and processing office expenses claims.

#### Assurance

- 246. IPEA already has a statutory function to undertake assurance activities on the potential misuse of public resources under the PBR Framework. However, as part of the transition to the PBR Framework, the *Protocol handling of misuse of non-travel related work expenses by the Department of Finance* was developed by Finance given Finance's continued responsibility for non-travel related work expenses. Under this protocol, Finance undertakes preliminary administrative reviews into potential misuse, which it refers to IPEA for matters of a more serious nature.
- 247. If IPEA was to administer office expenses, IPEA should still be responsible for investigating potential misuse of office expenses, for which IPEA has statutory information gathering powers (see Section 2.3). This is likely to improve the efficiency and effectiveness of reviews into allegations of misuse of office expenses.

<sup>&</sup>lt;sup>92</sup> As of this Report, IPEA's 'safe harbour' provisions have not been relied upon.

#### Policy

248. The Reviewers consider that all policy-related functions, including proposals for legislative change, should continue to reside in Finance as the Department of State responsible for advising government on the PBR Framework.

#### Procurement

249. For clarity, the Reviewers consider that all procurement-related functions regarding office facilities should remain with Finance.

#### Implementation

- 250. The Reviewers note that there are a range of implementation issues to be considered should IPEA become responsible for office expenses, including existing administrative arrangements that affect the office expenses budget and the distribution of administrative work to non-Canberra-based agency officials. A feasibility study may be required to identify and resolve such issues.
- 251. In any case, the Reviewers consider that IPEA must be given appropriate resourcing to undertake any additional functions relating to office expenses, including any strengthening of audit and assurance arrangements.
- 252. The Reviewers note that the Jenkins Review has made a proposal concerning 'key functions and services provided by a centralised people and culture model' which would place 'property management', ICT and 'allowances/non travel related entitlements' together in a Shared Services section of a new Office of Parliamentarian Staffing and Culture.<sup>93</sup> The Reviewers acknowledge that the following recommendation may be overtaken by the response to the Jenkins Review; however, the discussion under this Section 3.3 remains relevant to consideration of issues concerning the administration of office expenses under the PBR Framework.

#### **Recommendation 23** Office expenses administration function

The Government should consider moving the office expenses administration function to IPEA.

# **3.4 Family responsibilities and other requirements**

#### Background

- 253. The Conde Tune Review noted that a parliamentarian's job is not family friendly, requiring long work hours at home and, for most, a minimum of 20 weeks a year away from home, which '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'.<sup>94</sup>
- 254. Further noting that parliamentarians have no access to maternity leave or related employment benefits, recommendation 20 of the Conde Tune Review was to extend eligible economy class 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.'
- 255. The Conde Tune Review's recommendation is picked up in section 21 of the PBR Regulations, which provides for transport costs for the child and spouse, nominee or designated person to accompany or join a parliamentarian who is the mother of a child up to 12 months old who is travelling interstate for parliamentary business. Section 21 applies if 'there are no further fares available for the member's family under section 17', although section 21 is uncapped.

#### Accompanying infants and carers travel

- 256. The Discussion Paper issued with the invitation for submissions to this Review identified parliamentarians with family responsibilities as one of the matters for specific consideration about whether the PBR Framework efficiently and effectively supports parliamentarians in conducting their parliamentary business. The Reviewers consulted with a broad range of agencies and parliamentarians, including a number of current and former parliamentarians with young families and those who are or have been eligible for 'accompanying infants and carers' travel under section 21.
- 257. Stakeholder feedback indicated a range of concerns with the current accompanying infants and carers provisions.
  - The PBR Regulations link section 21 and section 17 travel, as the Family Reunion Travel under section 17 must be exhausted before accompanying infants and carers travel under section 21 applies.
  - Accompanying infants and carers travel is publicly reported as part of Family Reunion Travel, not separately. Anecdotal evidence indicated that because Family Reunion Travel may be perceived to be an indulgence or an opportunity for a family holiday at taxpayers' expense, some parliamentarians do not claim it. A number of parliamentarians stated that they have not claimed accompanying infants and carers travel because it would be reported as Family Reunion Travel and may appear disproportionately high compared to other parliamentarians.
  - Because accompanying infants and carers' provisions cannot be accessed until Family Reunion Travel is exhausted, it is possible that travel with an infant will exhaust section 17 so that there is little or no Family Reunion Travel available for an older child or children.
- 258. The recent Jenkins Review found that travel provisions could be reviewed to support parliamentarians with caring responsibilities, including arrangements for carers, including 'the accessibility of travel options and arrangements for carers'.<sup>95</sup>
- 259. The Reviewers consider that section 21 travel should be disaggregated from section 17 travel, so that these are accessed and reported independently. In addition to the recommendations on reporting discussed above (see Section 2.4), for privacy reasons and due to the nature of the travel, the Reviewers consider it is appropriate that section 21 travel is publicly reported on a cohort basis (of relevant parliamentarians), rather than on individual parliamentarians' quarterly expenditure reports.
- 260. Accompanying infants and carers provisions are limited to parliamentarians who are mothers, and to infants up to 12 months old. However, in a modern, diverse parliament, the Reviewers consider that it should apply to 'parents', and to children up to school age (for example, age 6, to address the variable commencement age across states and territories).

# **Recommendation 24** Accompanying infants and carers travel

Accompanying infants and carers travel should be:

- disaggregated from Family Reunion Travel so that it is accessed independently
- · publicly reported on a cohort basis of relevant parliamentarians
- available to parliamentarians who are parents of children up to a consistent school commencement age (say, 6).

# **Other opportunities**

#### **PBR Framework**

- 261. The Reviewers are of the view that there are other opportunities under the PBR Framework to better support a diverse modern parliament:
  - Accompanying infants and carers travel could be extended to parliamentarians who themselves have exceptional physical, family or other requirements.
  - Consideration could also be given to what non-travel related assistance should be provided under the PBR Framework. When asked what, if any, additional family friendly arrangements could be established to better support parliamentarians, approximately 35 per cent of respondents to the parliamentarian and MOP(S) staff survey said improved ICT to support modern communications (including video conferencing in electorate offices).
  - Stakeholders also identified family-friendly facilities in electorate offices and at the Australian Parliament House as a mechanism for better supporting parliamentarians.
  - Stakeholders raised the possibility of extended access to COMCAR. For example, in Canberra, consideration could be given to whether dedicated drivers and/or cars fitted appropriately for the needs of their passengers (including, properly fitted child seats wheel-chair friendly vehicles) can be provided for individual or a select cohort of identified parliamentarians.
- 262. In light of the above, the Reviewers consider that the Remuneration Tribunal (and other administering agencies including Finance, DPS and the Chamber Departments, as appropriate) should, inquire into what can be provided to better support parliamentarians with exceptional physical, family or other requirements (special requirements). This work could form part of the business of the steering committee discussed at paragraph 173.

#### **Recommendation 25** Support for special requirements

The Remuneration Tribunal (and other administering agencies, as appropriate) should inquire into what can be provided to better support parliamentarians with exceptional physical, family or other requirements.

#### COMCAR and the Parliamentary Shuttle

- 263. COMCAR is the primary car-with-driver transport service provided to parliamentarians for the use of their parliamentary business through the COMCAR Automated Resource System (CARS) operated by Finance.
- 264. The Parliamentary Shuttle (the Shuttle) is a service that is provided to parliamentarians on sitting weeks and primarily provides transport between APH, residences, local venues and the Canberra Airport by the Chamber Departments. The Shuttle operating hours are managed by the Chamber Departments with COMCAR providing requested vehicles and drivers. Shuttle bookings are made through various entry points (from parliamentarian 'walk-ups' to formal requests) of which of all are coordinated by the Chamber Departments, who pass details including special requests on to COMCAR drivers. The Chamber Departments do not make use of the CARS for the management of Shuttle bookings. Shuttle costs are not publicly reported.
- 265. After discussion with stakeholders and COMCAR, the Reviewers are of the view that there are significant opportunities to improve COMCAR and the Shuttle's operations to better support parliamentarians with special requirements (such as, where children are accompanying parliamentarians and child restraints are required or parliamentarians with a disability require access to particular vehicles).

- 266. There was feedback from stakeholders that despite efforts to improve the service offering, parliamentarians may still arrive in Canberra with small infants only to have the wrong car seats, car seats that were not secured safely, and for parliamentarians to have to wait with children that needed to be settled into night time routines or feeds. This experience is also common when coming from, and going to, Parliament House. Feedback from some current and former parliamentarians indicated that some parliamentarians had purchased their own car in Canberra to solve this issue.
- 267. The Reviewers note that during sitting periods, parliamentarians who are nursing have a disproportionate day-to-day reliance on the Shuttle and COMCAR to fulfil their role as a parliamentarian and as a carer for their infant. Lack of timely service, inappropriate or ill fitted child restraints, can make nursing a much harder and stressful experience than it should be.
- 268. The current Shuttle operating model, which does not use the CARS to make bookings, perpetuates this issue, as COMCAR drivers may not have visibility of client needs until the client is ready for departure. If Shuttle bookings were made via the CARS, clients could specify any special requirements and the responding COMCAR can arrive set up to meet those requirements.
- 269. The Reviewers consider that, whilst the responsibility for and reporting of the Shuttle service should remain with the Chamber Departments, the Shuttle could leverage the CARS to improve the service. COMCAR suggested that this could be achieved by either COMCAR providing Shuttle services in accordance with requests made by the Chamber Departments, or the Chamber Departments could use COMCAR's systems, and that this can be reflected in the Memorandum of Understanding between COMCAR and the Chamber Departments.

# **Recommendation 26** COMCAR – Shuttle

COMCAR and the Chamber Departments should examine the opportunity for the Shuttle service to leverage CARS to improve the service and ensure that clients' special requirements are captured.

- 270. The Reviewers recommend that COMCAR's Service Charter should be amended to ensure that its:
  - drivers are appropriately trained to meet reasonable requirements of clients notified to COMCAR (such as the appropriate seats for children of a particular age and the safe fitting of those seats).
  - service guarantee notes that reasonable special requirements notified to COMCAR will be met; and
  - performance against its Service Charter should be regularly reviewed.

# **Recommendation 27** COMCAR – Service Charter

COMCAR's Service Charter should be amended to ensure that its:

- drivers are appropriately trained to meet reasonable special requirements of clients notified to COMCAR
- service guarantee notes that reasonable special requirements notified to COMCAR will be met; and
- performance against its Service Charter should be regularly reviewed.

#### The Parliament

- 271. While it is not the subject of nor directly within the scope of this Review, given the importance of the issues outlined above, the Reviewers note that the Australian Parliament could be doing more to ensure that Parliament is reflective of a diverse and modern Australia, and in particular to better support parliamentarians who are mothers of infant children.
- 272. Generally speaking, although breastfeeding is now permitted in both chambers of the Parliament and accredited breastfeeding facilities, change tables and cots are available upon request to the Chamber Departments, working conditions for parliamentarians have not kept pace with those available to their constituents working in a private practice or the public service. Particular challenges still exist including the breastfeeding provisions introduced into the House of Representatives (such that a vote can count in the chamber if breastfeeding or expressing) still not being in place in the Senate; the lack of any formal policy or advice around parental leave; and nursing mothers continuing to rely upon unreliable pairing arrangements, particularly at night. The Reviewers consider these issues require detailed consideration and action by the Parliament.
- 273. These matters have also been acknowledged by the Jenkins Review, which made:
  - comments around needs for parental leave, childcare, chamber-specific measures and remote and flexible working arrangements, and
  - recommendations to advance diversity among parliamentarians, and increase access and inclusion.
- 274. Arguably, adequate support for parliamentarians with family responsibilities encourages greater diversity of elected representatives which in turn, is likely to be more representative of the Australian community.

#### 3.5 Resourcing of Large Electorates

- 275. The Joint Standing Committee on Electoral Matters' report on the *Commonwealth Electoral Amendment (Ensuring Fair Representation of the Northern Territory) Bill 2020* recommended that the Government consider the resourcing available to large electorates. As such, the issue was specifically included in the Terms of Reference for this Review.
- 276. Currently 46 members of the House of Representatives are eligible for additional resources under the PBR Framework as a result of representing a large electorate. Other than the two Senators for the Northern Territory who are eligible for an additional four-wheel-drive private-plated vehicle and a larger staff travel component to their Electorate Support Budget, Senators are not provided with additional resources as a result of representing a large electorate.
- 277. The additional resources provided to the members of the House of Representatives vary depending on the geographical size of their electorate. Tables outlining the additional resources available for four geographic bands, and details of the changes (since 2016) to resources provided to members representing large electorates, are included at Appendix G.
- 278. These additional resources include additional (Commonwealth-leased) offices in the member's electorate together with public resources for offices (including furniture and fittings, office equipment, car parking and signage) as determined by the Minister.<sup>97</sup> These offices must be used for the dominant purpose of conducting the member's parliamentary business, and cannot be used for commercial purposes (see further discussion of 'commercial purposes' in Section 3.3).<sup>98</sup> The provision of ICT equipment and services for electorate offices has been delegated by the Minister to the Presiding Officers and is administered by DPS.

#### 'Satellite' offices

- 279. Members of the House of Representatives may also claim reimbursement of certain expenses (including rent, utilities and insurance) in relation to one privately-leased office ('satellite' office) in the electorate. The office must be used for the dominant purpose of parliamentary business, and cannot be used for commercial purposes. No reimbursement is payable for any costs that give rise to any ownership or residual value held by the member in furniture or equipment. The member must lease the office in their personal capacity for at least three months, and the office must be, or be part of, a permanent building. Maximum amounts that can be reimbursed for costs to lease, operate, maintain, establish or vacate a satellite office are indexed, and are currently:
  - \$53,328.06 per annum for electorates between 3,500km2 and 25,000km2
  - \$21,331.23 per annum for electorates in excess of 25,000km2.<sup>99</sup>
- 280. The reimbursement for satellite offices was introduced in 2017. The PBR Regulations have been amended several times to extend the provisions to more eligible electorates, and to reduce the lease term to a minimum of three months. The PBR Regulations were also amended to clarify that claims applied to a single lease at any one time.<sup>100</sup> The lower amount that can be claimed by electorates in excess of 25,000km2 reflects that these are already eligible for an additional one or two Commonwealth-leased electorate offices.
- 281. A small number of stakeholders sought an increase to funding and staffing of satellite offices. It was also suggested that reimbursement could apply over more than one office at a time. Stakeholders also raised the possibility of the Commonwealth providing and supporting ICT equipment and services for satellite offices. In particular, the network connectivity for these offices can be poor.
- 282. As these offices are privately-leased, the Commonwealth does not fit out, nor provide dedicated furnishings or ICT equipment and services, for satellite offices. Finance's guidance states that 'members are personally responsible for all arrangements, statutory obligations and expenses for privately leased satellite offices, including work health and safety obligations and the payment of rent and service costs. The limit of the Commonwealth's involvement is the reimbursement of eligible expenses'.<sup>101</sup>
- 283. The Reviewers consider that it is appropriate for parliamentarians to be able to service large electorates with some Commonwealth support. While the current arrangements under the PBR Framework for large electorates and satellite offices appear to work well on the whole, some parliamentarians have queried whether a broader range of factors ought to be considered when setting conditions, than merely the geographical size of an electorate. For example, factors such as the geographical shape, road conditions and distribution of significant population bases within the electorate may mean that a smaller electorate may have a distance between major population bases of hundreds of kilometres or many hours' road travel, or both. Whilst there is some flexibility under the existing provisions of the PBR Framework to deal with this, there may be other factors that could be considered to reduce exceptions and create a consistent framework.

# **Recommendation 28** Resourcing for large electorates

The Government should consider a broader range of factors in addition to the geographical size of electorate when considering the nature of support provided for privately-leased offices.

99 Section 71(2) to (5), PBR Regulations

<sup>100</sup> Section 71(6), PBR Regulations

<sup>101</sup> Refer <https://maps.finance.gov.au/offices-resources-and-budgets/office-management-property/office-types-and-office-resources>, accessed 8 December 2021.

284. The Reviewers consider that if a parliamentarian's privately-leased satellite office premises meet DPS' network connectivity and security requirements, that DPS should provide support for any Commonwealth ICT in the office.

#### **Recommendation 29** ICT for satellite offices

If a parliamentarian's privately-leased satellite office premises meet DPS' network connectivity and security requirements, DPS should provide support for any Commonwealth ICT in the office.

285. The Reviewers note the Jenkins Review recommends work be undertaken to improve the understanding, clarity and applicability of Work Health and Safety (WHS) duties in Commonwealth Parliamentary Workplaces and also consider ways to address WHS risks in these workplaces.<sup>102</sup> The Reviewers are mindful that satellite and privately-leased offices be included in this work, given they may have different risks or risk profiles to Commonwealth-funded offices (for example, physical security arrangements or MOP(S) staff isolation).

#### **Recommendation 30** WHS and security for satellite and privately-leased offices

That the Government undertake further work that considers the safety and security of parliamentarians and MOP(S) staff working in satellite and privately-leased offices.

# 4. Conclusion

# **General findings**

- 286. The Reviewers consider that the PBR Act is broadly meeting its objectives, including providing appropriate levels of support, accountability and transparency regarding public resources. Similarly, the IPEA Act is broadly achieving its objective of improving transparency and accountability of public resources provided to current and former parliamentarians and travel resources for members' staff.
- 287. The principles-based framework under the PBR Act allows parliamentarians to apply judgement when using public resources to support them in carrying out their parliamentary business, and requires them to take personal responsibility for their decisions by imposing overarching obligations.
- 288. This is complemented by provisions of the PBR and IPEA Acts that give legislative support for transparency and accountability measures support that was absent in the previous framework, for measures such as:
  - debt recovery and a penalty loading where obligations have been contravened;
  - IPEA's powers and functions to provide personal advice, issue rulings, prepare and publish reports, conduct audits and gather information.

<sup>102</sup> Jenkins Review, recommendation 25.

60 III Independent review of the PBR and IPEA Acts 2017

# **Opportunities to improve**

- 289. This Review has, however, found that there are opportunities to improve the efficiency of administration, transparency and accountability of the use of public resources.
- 290. The Reviewers have made a number of suggestions for reform relating to joined-up administration, training, guidance, reporting, certification, and family responsibilities and resourcing for large electorates, which they consider will increase confidence in users, and ultimately taxpayers, that public resources are being accessed appropriately, and that public resources that are provided are appropriate to supporting modern parliamentarians, and, in turn, a modern, diverse parliament that is reflective of the community it represents.
- 291. In particular, the agencies with chief responsibility for administering various aspects of the PBR Framework<sup>103</sup> (Finance, IPEA, DPS and the Chamber Departments), need to work in a more joined-up way collaboratively and with a client-focus to assist parliamentarians, MOP(S) staff, and staff of agencies (such as portfolio agencies) to navigate a large and complex area.
- 292. While the PBR Framework is a considerable improvement on the prescriptive rules-based and fragmented previous system, due to the nature of the political landscape and the various roles of different agencies, the Reviewers note that the PBR Framework must, of necessity, retain a degree of complexity. This heightens the need for agencies to work together to administer the PBR Framework as seamlessly as possible, both in consideration of entry points to the framework, and in the guidance and training provided to parliamentarians and MOP(S) staff and (where relevant) staff of agencies about the PBR Framework and use of public resources under it.
- 293. The most significant suggestion for reform, is to move the administration of office expenses from Finance to IPEA. Provided agencies work in a joined-up way before, during and after such a move, the Reviewers consider that IPEA's legislative powers and functions mean IPEA is the appropriate agency to administer office expenses, with the complexities and risks that arise especially around printing and communication. While this will increase its administration function, IPEA already administers travel-related public resources and manages the necessary separation between its processing and advice functions and its assurance function, between which clear lines of responsibility have been established.
- 294. The Reviewers have also identified opportunities to consider simplifying certain public resources, such as some of the rules retained in office expenses, while balancing conditions that help provide public resources in a way that recognises that particular requirements can vary across electorates.

#### **Future considerations**

- 295. The Reviewers recognise that many of the recommendations require legislative or administrative changes. They recognise there would be short, medium and longer-term operational impacts on administering agencies including staffing, and acknowledge appropriate resourcing would be required to effectively implement what has been suggested. This applies in particular, to the recommendation to move the administration of office expenses to IPEA.
- 296. In the relatively short timeframe for conducting this Review, the Reviewers have been greatly assisted by the contributions of stakeholders through interviews and written submissions. Some matters raised have not been addressed in this Report, in circumstances where they are outside the scope of, or do not otherwise require specific discussion or suggestions for reform in the context of, this Review. However, there may be opportunities to consider any such suggestions along with measures suggested by this Review.

<sup>&</sup>lt;sup>103</sup> As noted at paragraph 34, for the purposes of this Report the 'PBR Framework' means the framework governing parliamentarians' public resources established under the PBR Act and the IPEA Act, including all legislative instruments and legislative rulings made under these Acts, including various determinations made by the Minister.

# **Appendix A: Glossary**

**Defined terms:** terms which are defined in the IPEA Act, PBR Act or the PBR Regulations have the meaning as defined in that legislation and are marked with \*.

Term	Meaning
Administering agencies	The entities responsible for administering parts of the PBR Framework, which may include policy, advice, guidance, training, processing, reporting and assurance functions. Finance (through MaPS) and IPEA are the main administering agencies
ANAO	Australian National Audit Office
APH	Australian Parliament House
Chamber Departments	Department of the Senate and the Department of the House of Representatives.
COMCAR	A car-with-driver transport service operated by the Commonwealth, determined by the Minister to be a form of Commonwealth Transport provided in accordance with the Commonwealth Transport Determination
Commercial purpose*	Commercial purpose means a purpose relating to the derivation of financial gain or reward (section 5 of the PBR Act)
Commonwealth Transport Determination	Parliamentary Business Resources (Commonwealth Transport) Determination 2017
Conde Tune Review	Independent Parliamentary Entitlements System Review (February 2016)
CPOs	Commonwealth Parliament Offices - visiting suites, conference rooms and facilities provided for the conduct of parliamentary business
Defence	Department of Defence
DPS	Department of Parliamentary Services
Electorate Support Budget	An annual budget for parliamentarians determined under the MOP(S) Act to fund electorate staff travel and relief electorate staff
EOIT	Electorate Office Information Technology
Expenditure report	The report of a parliamentarian's expenditure published quarterly on IPEA's website.
	family member of a member means any of the following:
Family member*	<ul> <li>(a) the member's spouse or nominee;</li> <li>(b) a dependent child of the member;</li> <li>(c) a designated person in relation to the member.</li> </ul>
	Note 1: For <b>spouse</b> and <b>dependent child</b> , see section 5 of the Act. Note 2: Nominee and designated person are defined in this section.
	(section 4 of the PBR Regulations)
	<i>family reunion purposes</i> , in relation to travel, has the meaning given by section 6.
	A family member of a member travels for <b>family reunion purposes</b> if:
<b>—</b>	<ul> <li>(a) the member is travelling within Australia for the dominant purpose of conducting the member's parliamentary business; and</li> </ul>
Family reunion* travel	(b) the family member travels to accompany or join the member; and
	(c) the travel by the family member is for the dominant purpose of facilitating the family life of the member's family.
	(sections 4 and 6 of the PBR Regulations)
Finance	Department of Finance
FOI and FOI Act	Freedom of information, and Freedom of Information Act 1982
IPEA	Independent Parliamentary Expenses Authority

Term	Meaning
IPEA Act	Independent Parliamentary Expenses Authority Act 2017
IPEA Bill	Independent Parliamentary Expenses Authority Bill 2017
Jenkins Review	Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces (November 2021)
Large Electorates	Electorates that are eligible for additional public resources according to specified size and demographic details as set out in Appendix G
MaPS	Ministerial and Parliamentary Services Division within the Department of Finance
MOP(S) Act	Members of Parliament (Staff) Act 1984
MOP(S) Staff	Persons employed under the MOP(S) Act.
	MOPS travel resource means:
	(a) an expense that is:
	<ul> <li>(i) incurred in connection with travel by a MOPS staff member at the expense of the Commonwealth; and</li> <li>(ii) authorised by or under, or by an agreement made under, a law of the Commonwealth (other than this Act); or</li> </ul>
MOP(S) travel resource*	(b) an allowance that is:
	<ul> <li>(i) payable to a MOPS staff member in connection with travel by the MOPS staff member; and</li> <li>(ii) authorised by or under, or by an agreement made under, a law of the Commonwealth (other than this Act).</li> </ul>
	(section 4 of the IPEA Act)
MOU	Memorandum of Understanding
	MP travel resource means:
	(a) a travel expense payable under section 30 of the Parliamentary Business Resources Act 2017; or
	(b) a travel allowance payable under section 31 of that Act; or
MP travel resource*	(c) an allowance or expense in connection with the travel of a former member of parliament that is payable under section 15 of that Act; or
	(d) a Parliamentary Retirement Travel Entitlement under the Parliamentary Retirement Travel Act 2002.
	(section 4 of the IPEA Act)
	MP work resource means:
	(a) MP travel resource; or
	(b) an allowance or expense that is payable under section 15 of the Parliamentary Business Resources Act 2017; or
MP work resource*	(c) goods, services, premises, equipment or any other facility that is provided under section 16 of that Act; or
	(d) a public resource that is provided by the Commonwealth under Part 3 of that Act.
	(section 4 of the IPEA Act)
Office expenses budget	Annual budget for office expenses under section 67 of the PBR Regulations 2017.
Parliamentary business*	Parliamentary business means an activity determined by the Minister under the following four duty streams; parliamentary duties, electorate duties, party political duties; and official duties (section 6 of the PBR Act and the Parliamentary Business Determination)
Parliamentary Business Determination	Parliamentary Business Resources (Parliamentary Business) Determination 2017

Term	Meaning
PBR Act	Parliamentary Business Resources Act 2017
PBR Bill	Parliamentary Business Resources Bill 2017
PBR Framework	For the purposes of this Report the 'PBR Framework' means the framework governing parliamentarians' public resources established under the PBR Act and the IPEA Act, including all legislative instruments and legislative rulings made under these Acts, including various determinations made by the Minister.
PBR Regulations	Parliamentary Business Resources Regulations 2017
PE Act	Parliamentary Entitlements Act 1990 (repealed)
PEMS	Parliamentary Expenses Management System
Presiding Officers	The President of the Senate and the Speaker of the House of Representatives
Privacy Act	Privacy Act 1988
	public resources means:
	(a) any expenses or allowances paid under Part 3; or
Public resources*	<ul><li>(b) any goods, services, premises, equipment or any other facility provided or paid for under that Part.</li></ul>
	(section 5 of the PBR Act)
Remuneration Tribunal	The Remuneration Tribunal is the independent statutory body that handles the remuneration of certain commonwealth officers
Remuneration Tribunal Act	Establishes the Remuneration Tribunal (the Tribunal) as an independent statutory
1973	authority.
Review	This 2021 independent statutory review of the PBR Act 2017 and the IPEA Act 2017
'Safe harbour'	Travel-related personal advice to parliamentarians is subject to 'safe harbour' arrangements, which protect parliamentarians from any debts that would otherwise be recoverable (section 57 PBR Act) relating to the provision of travel expenses and allowances, if the parliamentarian relied on IPEA advice and the advice is incorrect (section 58 PBR Act)
'Satellite' office	An office leased by a parliamentarian in their personal capacity for which certain costs are payable in accordance with section 71 of the PBR Regulations
SPA	Special Purpose Aircraft operated by the Department of Defence, determined by the Minister to be a form of Commonwealth Transport provided in accordance with the Commonwealth Transport Determination
	<i>travel expenses</i> : without limiting the ordinary meaning of the expression, the travel expenses of a member include:
	(a) an expense incurred in connection with travel by the member; and
	(b) an expense incurred in connection with travel by any person for the purpose of:
Travel expenses	<ul> <li>(i) accompanying the member when the member is travelling; or</li> <li>(ii) joining the member; or</li> <li>(iii) representing the member at a funeral or function; or</li> <li>(iv) attending an official government, parliamentary or vice regal function as an invitee.</li> <li>Note: See section 9 for examples of expenses incurred in connection</li> </ul>
	(section 5 PBR Act)
	value for money: expenses that are incurred, allowances that are claimed, or public resources that are claimed or provided, provide value for money if:
Value for Money*	<ul> <li>(a) the payment by the Commonwealth of the expenses that are incurred; or</li> <li>(b) the payment by the Commonwealth of the allowances that are claimed, or the provision of the public resources by the Commonwealth;</li> <li>uses public money efficiently, effectively and economically.</li> </ul>

# Appendix B: Media Release – Minister for Finance

#### **MEDIA RELEASE**

Review of PBR Act and IPEA Act

**Senator the Hon. Simon Birmingham** Minister for Finance Leader of the Government in the Senate Senator for South Australia

Date: Thursday, 9 September 2021

The Morrison Government has today announced the required statutory review of the *Parliamentary Business Resources Act 2017* (PBR Act) and *Independent Parliamentary Expenses Authority Act 2017* (IPEA Act) will be undertaken by the Hon Kelly O'Dwyer and the Hon Kate Ellis.

Ms O'Dwyer and Ms Ellis are former Ministers of the Commonwealth and were both members of Parliament prior to and during the operation of the PBR Act and IPEA Act.

Finance Minister Simon Birmingham said the Review would meet requirements to examine the legislative framework that oversees the administration and use of parliamentary business resources by members of Parliament.

"The PBR Act and IPEA Act provides important scrutiny and oversight to the provision of resources, such as office accommodation and travel expenses, to elected representatives to carry out their parliamentary business," Minister Birmingham said.

"This Review will consider how the current legislative framework provides appropriate levels of accountability and transparency to the use of taxpayers' money.

"I thank both Ms O'Dwyer and Ms Ellis for agreeing to undertake this review and trust their diverse experience within the public and private sectors will hold them in good stead to examine whether the operation of the current legislative framework and administrative arrangements is effective."

The Reviewers will consult with key stakeholders, including current and former parliamentarians, MOP(S) Act employees, the Department of Finance, IPEA (including Members of the Authority) and the Remuneration Tribunal, to inform the Review.

The Department of Finance will provide secretariat support to assist Ms O'Dwyer and Ms Ellis to conduct the Review.

Given the subject of the Review, it is important to note that in their capacity as former members of Parliament, Ms O'Dwyer and Ms Ellis do not receive, or are eligible for, any ongoing financial or other benefit (such as travel) from the Commonwealth.

The Review will report by 31 December 2021.

More information on the Review including the terms of reference can be found at: https://www.finance.gov.au/publications/reviews/PBRAct2017andIPEAAct2017

[ENDS]

# **Appendix C: Review Terms of Reference (9 September 2021)**

#### Independent Review into the operation of the *Parliamentary Business* Resources Act 2017 and the operation of the *Independent Parliamentary Expenses Authority Act 2017* and legislative rules

#### **Terms of Reference**

#### Context

The *Parliamentary Business Resources Act 2017* (PBR Act) and *Independent Parliamentary Expenses Authority Act 2017* (IPEA Act) require periodic reviews:

- Section 56 of the PBR Act requires that an independent review into its operation occur every three years.
- Section 62 of the IPEA Act requires that an independent review be conducted of the operation of the IPEA Act and the legislative rules as soon as practicable after the end of three years after the section commenced.

#### **Purpose of Review**

The Explanatory Memorandum of the PBR Bill advises that the purpose of periodic independent reviews is to ensure the Act continues to meet its objectives of improving the accountability and transparency of parliamentary business resources.

The Explanatory Memorandum to the IPEA Bill provided for an independent review to ensure that the Independent Parliamentary Expenses Authority (IPEA) is meeting its objectives of improving the accountability and transparency of parliamentary business resources.

Undertaking a single review will allow the legislative underpinnings of the parliamentary business resources framework to be considered holistically, including the original policy intention, as well as the effectiveness of administration.

#### **Review Objectives**

- 1. To examine whether the operation of the:
  - a. PBR Act and any subordinate legislative instruments are achieving the legislative objectives, including providing appropriate levels of support, accountability and transparency regarding parliamentary business resources, and
  - b. IPEA Act and legislative rules are achieving the objective of improving transparency and accountability of parliamentary business resources provided to members of Parliament (members) and former members and travel resources for member's staff.
- 2. To identify legislative, policy or other changes or initiatives necessary to improve the efficiency of administration, transparency and accountability of the use of parliamentary business resources provided to members, and to ensure the framework remains fit for purpose.

#### Scope

The Review will consider the operation and administration of the PBR Act and subordinate legislative instruments and the IPEA Act and legislative rules, including, but not limited to:

- the impact of the PBR Act and IPEA Act framework on members, former members and member's staff, and administering Commonwealth entities, following their commencement; including the ability of the framework to support parliamentary business during exceptional circumstances
- whether the PBR Act and/or IPEA Act framework has simplified the administration of parliamentary business resources and enhanced accountability and transparency
- the operation of IPEA regarding its statutory functions,
- whether administering Commonwealth entities are working in a 'joined up' way to ensure the consistent application of the PBR Act framework.

The Review will also examine resourcing available to members representing large electorates (consistent with the recommendation of the Joint Standing Committee on Electoral Matters' report on the Commonwealth Electoral Amendment (Ensuring Fair Representation of the Northern Territory) Bill 2020).

#### Governance

The Minister for Finance will appoint independent Reviewers to conduct the Review and receive the final report. The Minister for Finance will cause copies of the final report to be tabled in each House of the Parliament within 15 sitting days of receiving the final report.

The Department of Finance will provide secretariat and policy support to the independent Reviewers.

#### Methodology

The independent Reviewers will consult with other parties and stakeholders, including members and their staff, the Department of Finance, IPEA, Members of the Authority and Remuneration Tribunal, to gather sufficient evidence to meet the Review objectives and to make sound recommendations. This may include interviews with key stakeholders. The independent Reviewers may also seek written submissions.

#### Deliverables

The independent Reviewers will provide periodic progress updates to the Minister for Finance. A final written report of the Review will be provided to the Minister for Finance by 31 December 2021.

# **Appendix D: Discussion Paper**

# **The Review**

On 9 September 2021, the Minister for Finance announced the independent review of the <u>Parliamentary</u> <u>Business Resources Act 2017</u> (PBR Act) and the <u>Independent Parliamentary Expenses Authority Act 2017</u> (IPEA Act) to be conducted by the Hon Kelly O'Dwyer and the Hon Kate Ellis.

The Terms of Reference for the Review are available here.

# **Purpose**

The purpose of this discussion paper is to outline a number of key issues to facilitate your engagement with the Review. This paper is not intended to be prescriptive. Your submission may go beyond the issues raised in this paper if it is relevant to the Terms of Reference. See <u>Consultations</u> for requirements and timing for submissions.

# Introduction

On 13 January 2017, former Prime Minister Malcolm Turnbull announced the establishment of an independent authority to administer travel resources and oversee the use of parliamentary business resources (travel and other work resources of parliamentarians and travel resources of their staff). The IPEA Act 2017 established the Independent Parliamentary Expenses Authority (IPEA) as an independent statutory authority on 3 April 2017 with the legislation effective from 1 July 2017. IPEA has advisory, reporting and oversight (audit and assurance) responsibilities to provide greater accountability and transparency of the use of parliamentary business resources.

The PBR Act commenced on 1 January 2018. It provides a **principles-based framework** (the PBR Framework) for parliamentary business resources. The PBR Framework consists of the PBR Act and all subordinate legislation, including the *Parliamentary Business Resources Regulations 2017* (the PBR Regulations), the IPEA Act, and various determinations made under the Framework. The Minister for Finance has responsibility for the PBR Framework.

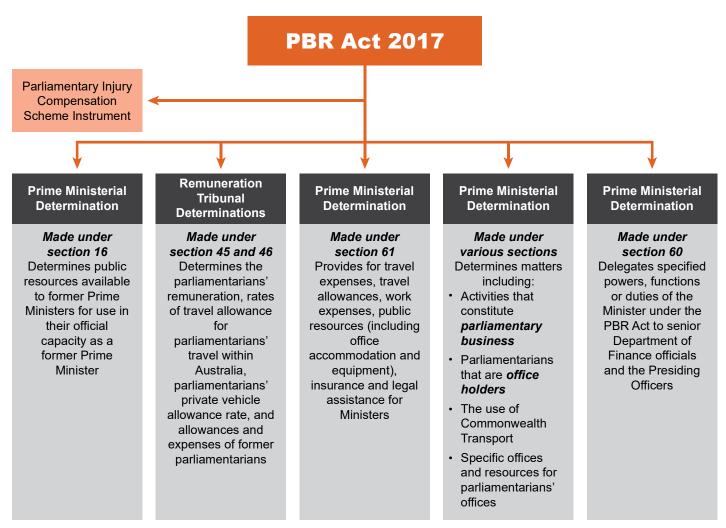
The PBR Framework is primarily administered by five agencies. The Department of the House of Representatives and the Department of the Senate administer the majority of parliamentarians' remuneration, with minor elements administered by the Department of Finance (Finance). Administration of parliamentary business resources is largely split between Finance, IPEA and the Department of Parliamentary Services. The Remuneration Tribunal determines parliamentarians' remuneration (and makes recommendations to the Government for specific office holders), parliamentary business resources for former parliamentarians and domestic travel allowance rates, while the Government is responsible for all other parliamentary business resources including international travel.

As outlined in the Terms of Reference, the Review is to examine whether the IPEA Act and the PBR Act are meeting their objectives of improving the accountability and transparency of parliamentary business resources, and efficiently and effectively supporting the modern parliamentarian and their constituents in conducting their parliamentary business, while achieving value for money for taxpayers. This paper provides brief background and commentary concerning:

- Part 1, PBR Framework;
- Part 2, IPEA's Functions; and
- Part 3, Administration of the PBR Framework.

#### Figure 1: Overview of the PBR Framework

The PBR Act is the legislative head of authority, under which a number of pieces of subordinate legislation is made:



#### Part 1: PBR Framework

The primary purpose of the PBR Framework is to ensure that taxpayers' funds are spent appropriately.

# **Obligations**

The PBR Framework is principles-based and established five overarching obligations on parliamentarians when claiming or using public resources for conducting their parliamentary business (sections 25 – 28 PBR Act):

- Parliamentarians may only claim an expense, allowance or public resource where it is for the **dominant purpose** of conducting their parliamentary business.
- All claims made by parliamentarians must provide **value for money**, taking into account the need to conduct their parliamentary business.
- Parliamentarians are **personally responsible and accountable** for their use of public resources including being prepared to **publicly justify** their use of public resources.
- Parliamentarians must act ethically and in good faith in using, and accounting for their use of public resources.
- Parliamentarians may claim only when the conditions for the relevant public resources are met.
- The PBR Act also includes a compliance mechanism that applies penalties should parliamentarians contravene the above obligations (section 38 PBR Act).

# Parliamentary business

The PBR Framework provides that parliamentarians may only claim expenses, allowances and public resources for the dominant purpose of conducting the member's parliamentary business. Section 6 of the PBR Act defines parliamentary business as comprising four core streams:

- Parliamentary duties activities that relate directly to the parliamentarian's role as a member of the Parliament.
- Electorate duties activities that support or serve the parliamentarian's constituents.
- Party political duties
- Official duties activities that relate to the parliamentarian's role as an office holder or Minister.
   Office holder is defined to mean the President and Deputy President of the Senate, the Speaker and Deputy Speaker of the House of Representatives and a person whom the Minister has determined is an office holder.

Activities that fall within those four streams are set out in the <u>Parliamentary Business Resources</u> (<u>Parliamentary Business</u>) <u>Determination 2017</u>, issued by the relevant Minister<sup>104</sup>, which prescribes the activities that are, and are not, parliamentary business.

# Value for money

Parliamentarians are required to achieve value for money in their use of public resources, taking into account the need to conduct their parliamentary business. Value for money requires consideration of both financial and non-financial matters, and focusses on using public money:

- efficiently the selected public resource is not excessive in meeting the parliamentary business need.
- effectively the selected public resource is fit for purpose.
- economically the selection of the public resource avoids waste and minimises cost.

#### Conditions on claiming

Parliamentarians must only make a claim for, or incur expenses, if they have met all of the relevant conditions. Conditions may be set out in the PBR Regulations (e.g. limits or express restrictions on use). For example, public resources must not be used to produce or communicate material which:

- includes an advertisement pursuing a commercial purpose.
- solicits applications for or renewals of membership in a political party, or subscriptions or other financial support for a parliamentarian, political party or candidate.
- solicits a vote for a person other than the parliamentarian, or provides instructions on how to complete a ballot paper.

#### Travel

The PBR Framework provides travel resources to parliamentarians for the conduct of their parliamentary business, including:

- · domestic travel expenses and allowances
- · international travel expenses and allowances
- Family Reunion Travel expenses
- Commonwealth transport (COMCAR and Special Purpose Aircraft)
- · Canberra-based self-drive vehicles (for certain office holders)

<sup>&</sup>lt;sup>104</sup> This may include the Minister for Finance and the Special Minister of State, as applicable.

The Framework also provides COMCAR for security purposes to certain parliamentarians, and travel expenses and allowances to former Prime Ministers.

The obligations and penalty scheme apply to travel resources provided for parliamentary business.

#### Offices, office resources and office expenses

The PBR Act confers a power on the relevant Minister to determine:

- office accommodation including electorate offices, Ministerial and office holder offices and visiting suites at Commonwealth Parliament Offices (CPOs).
- resources for Commonwealth-provided offices including, furniture, fittings, equipment and ICT, car parking, security and signage.

In addition, the PBR Regulations prescribe:

- expenses in relation to a parliamentarian's privately leased office (known as 'satellite office expenses').
- office expenses for example, printing, production, distribution and communication, office stationery and supplies, publications, courier and freight, mobile office resources, minor office equipment and additional ICT.

The obligations and penalty scheme apply to these resources.

#### Mix of principles-based elements and rules

Prior to the introduction of the PBR Framework, the previous *Parliamentary Entitlements Act 1990* (PE Act) framework was rules-based, with detailed prescriptions on what public resources, allowances and expenses parliamentarians were able to claim. The rules were regularly amended to take into account specific gaps including social, economic and technological developments. This resulted in a framework that was complex, fragmented and difficult to administer.

Although the PBR Framework is principles-based, many of the prescriptive rules have been maintained in relation to how and when travel and non-travel public resources may be used (for example, in relation to office expenses under section 66 of the PBR Regulations). The PBR Framework has therefore retained, to some extent, the complexity and administrative challenges experienced under the previous PE Act framework, particularly with respect to office expenses. The Terms of Reference include considering the extent to which the PBR Framework efficiently and adequately supports parliamentarians' parliamentary business and provides value for money for the Australian taxpayer.

# **Specific considerations**

Matters for consideration concerning whether the PBR Framework efficiently and effectively supports parliamentarians in conducting their parliamentary business may include:

- changing technological capabilities and/or requirements, and how these affect, for example, means of communicating with constituents.
- parliamentarians' family responsibilities.
- the interaction between the dominant purpose test and the prohibition on using some resources for *any* commercial purpose.
- large electorates the Joint Standing Committee on Electoral Matters' report on the *Commonwealth Electoral Amendment (Ensuring Fair Representation of the Northern Territory) Bill 2020* recommended that the Review consider the resourcing available to large electorates.
- determinations to provide specified public resources in exceptional circumstances (section 33(2) of the PBR Act and section 77(1) of the PBR Regulations).

# Part 2: IPEA's functions

# **Functions**

IPEA was established to provide greater accountability and transparency concerning use of parliamentary business resources. It does this at arm's length from government. Section 12 of the IPEA Act outlines IPEA's key functions:

- Providing personal advice to parliamentarians and their staff about travel expenses and allowances.
- · Monitoring travel expenses and allowances claimed by parliamentarians and their staff.
- Preparing and publishing regular reports on parliamentarians' work expenses, travel expenses and travel allowances, and travel expenses and travel allowances claimed by their staff.
- Conducting audits (including a range of assurance activities) in relation to parliamentarians' work expenses, travel expenses and travel allowances, and travel expenses and travel allowances claimed by their staff.
- · Processing claims for travel expenses and allowances by parliamentarians and their staff.
- Issuing rulings in respect of travel expenses and allowances under section 37 of the PBR Act.

# Travel-related personal advice

IPEA provides personal advice to parliamentarians and their staff<sup>105</sup> and former members of Parliament about their use of *travel* expenses and allowances.

Travel-related personal advice to parliamentarians is subject to 'safe harbour' arrangements, which protects parliamentarians from any debts that would otherwise be recoverable (section 57 PBR Act) relating to the provision of travel expenses and allowances, if the parliamentarian relied on IPEA advice and the advice is incorrect (section 58 PBR Act).

In addition, travel-related personal advice provided by IPEA is private and confidential. IPEA is exempt from having to provide information under the *Freedom of Information Act 1982* in relation to any travel-related personal advice IPEA has provided.

# Rulings

IPEA has the power to make binding rulings in relation to travel expenses and travel allowances (paragraph 12(1)(m) IPEA Act and section 37 PBR Act). Rulings are written determinations establishing whether a parliamentarian has acted in accordance with their obligations under sections 26, 27 and 28 of the PBR Act. They may be given on application by the parliamentarian to whom the ruling relates, or by IPEA's own initiative. A ruling determines whether a parliamentarian is liable to pay a debt to the Commonwealth in relation to claimed travel expenses and travel allowances. A debt will be payable if the ruling determines that the parliamentarian contravened the PBR Act, unless they relied on incorrect personal advice given by IPEA in relation to that claim.

#### Audit and assurance and reporting

IPEA's audit and assurance and reporting functions under the IPEA Act apply to *all work resources* claimed by parliamentarians under the PBR Act and the travel resources claimed by their staff. This includes resources administered by other entities including the Department of Finance (Finance).

IPEA's approach to audit and assurance is outlined in the Protocol for <u>Dealing with Misuse of Parliamentary</u> <u>Work Expenses</u> and the <u>Fact Sheet - Statutory Audit Function</u>. Under Part 5 of the IPEA Act, IPEA has information-gathering powers that can be used to obtain information or a document from a person where it is relevant to the performance of IPEA's reporting or audit and assurance functions. Criminal penalties apply if a person does not comply with a request from IPEA to produce information or a document.

Certification by parliamentarians of the use of parliamentary business resources is an important accountability component of the principles-based framework. Some (e.g. printing and travel allowance) are certified at the time a claim is made. Further, parliamentarians and former parliamentarians are asked (though not legislatively required) to certify quarterly expenditure reports which include aggregated staff costs. The reports are published publicly on IPEA's website, together with a list of parliamentarians who have certified that the parliamentary business resources listed in their report are within the legislated purpose. There is no consequence (beyond public notification) for parliamentarians who fail to certify.

# Part 3: Administration of the PBR Framework

# **Division of functions**

Administration responsibilities for parliamentary business resources, including those under the PBR Act (and for staff under the *Members of Parliament (Staff) Act 1984*), are predominantly divided between Finance and IPEA, and the parliamentary departments (the Departments of the House of Representatives and the Senate, and the Department of Parliamentary Services (DPS)). Other entities have administrative roles in relation to specific aspects of the PBR Framework (refer Figure 2).

For example, most:

- travel expenses and travel allowances are administered by IPEA with some administered by others, particularly Finance.
- Office Expenses budgets are administered by Finance with some administered by DPS, including ICT.

The number of different entities providing client service functions (including advice, guidance, training and processing) in relation to the PBR Framework, sometimes for similar functions, can result in service fragmentation and make it difficult for clients to know where to go for information.

#### Figure 2: Administration of parliamentary business resources under the PBR Act

Functio	nal split
Travel	Work expenses
<ul> <li>All advice, guidance, training and processing of domestic and international travel, other than Minister-determined travel in exceptional circumstances: <i>IPEA</i></li> </ul>	<ul> <li>All advice, guidance, training and processing of public resources, budgets, and property: <i>Finance</i></li> <li>All major ICT (other than fixed-line office telephones): <i>DPS</i></li> </ul>
Administration of international travel costs incurred overseas: DFAT	• Fixed-line office telephones: <i>Finance</i>
<ul> <li>COMCAR (including COMCAR for security purposes),</li> <li>Canberra-based self-drive vehicles and Minister-determined travel in exceptional circumstances: <i>Finance</i></li> <li>Special Purpose Aircraft: <i>Defence</i></li> </ul>	<ul> <li>Advice, guidance, support and processing of other parliamentary expenses: Finance, DPS and Departments of the Senate and the House of Representatives</li> </ul>
Remuneration	Transparency and oversight
<ul> <li>Salary and allowances: Departments of the Senate and the House of Representatives</li> <li>Private Plated Vehicles: Finance</li> <li>Residential telephone: Finance</li> <li>Former parliamentarian travel: IPEA</li> <li>Travel expenses for former Prime Ministers: IPEA</li> <li>Other resources for former Prime Ministers: Finance and DPS</li> </ul>	<ul> <li>Reporting: <i>IPEA and DPS</i></li> <li>Compliance checks and assessment of allegations of misuse of non-travel work expenses: <i>Finance</i></li> <li>Compliance checks of travel expenses: <i>IPEA</i></li> <li>Formal allegations: <i>IPEA</i></li> <li>Investigations and audit: <i>IPEA</i></li> <li>Publication of online guidance: <i>Finance and IPEA</i></li> </ul>

# Impact of division of functions

The Terms of Reference include considering the extent to which administering entities are working in a 'joined-up' way to ensure the PBR Act Framework is applied consistently. The division of functions under the PBR Framework has a number of consequences for parliamentarians, their staff and administrators. Some key examples are outlined below.

- Advice, guidance, training and processing functions are undertaken by MaPS, IPEA, and the
  parliamentary departments (the Departments of the House of Representatives and the Senate,
  and DPS) depending on the nature of the parliamentary business resource, which can create
  inefficiencies and cause confusion for clients who may need to be redirected between agencies
  and have to re-explain their circumstances.
- *Personal advice* the 'safe harbour' arrangements applicable to IPEA's personal travel related advice do not apply to advice about other non-travel parliamentary business resources provided by other administrators including Finance and the parliamentary departments.
- Rulings IPEA has the power to make binding rulings in relation to travel expenses and travel allowances. However, IPEA, Finance and other administrators cannot make rulings for nontravel related work expenses and allowances.
- Protocols IPEA's auditing and reporting functions do not apply to non-travel related staffing matters. As such, under its <u>Protocol – handling of misuse of non-travel related work expenses by</u> <u>the Department of Finance</u>, Finance cannot refer such matters to IPEA for further consideration. Unlike IPEA, Finance does not have information gathering powers.
- *Reporting* reporting of the use of parliamentary business resources was intended to provide accountability and transparency. However, public and member accessibility to information across the entire PBR Framework is not currently integrated and it can be difficult to navigate multiple agency websites to find information.

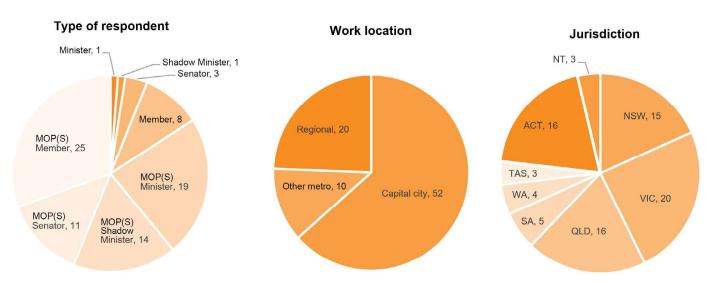
There may be public policy and efficiency benefits in exploring synergies and functional expertise required to deliver streamlined advice and administration. Consideration of the wider inter-agency arrangements under the PBR Framework for administering and reporting parliamentary business resources, with a view to improving efficiency, accountability and transparency under the Framework may benefit parliamentarians, administrators, and the public.

# **Appendix E: Survey responses**

# Parliamentarians and MOP(S) staff

#### Key points

The survey was completed by 82 respondents out of 2,198 eligible participants.



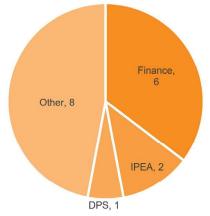
#### **PBR Framework**

- Around 30 per cent (24/82)<sup>106</sup> considered that there are no major issues with the PBR Framework (24/82):
- A similar number thought that the PBR Framework did not currently support modern working arrangements (29/82).
- 50 per cent of respondents considered the principles-based framework had made it easier to understand obligations (31/62).
- There is already a high level of understanding of the PBR Framework (56 per cent of respondents (35/62) understood the obligations well or very well compared to 18 per cent (11/62) who had a limited or no understanding).
- 38 per cent of respondents (24/62) considered that the best way to improve understanding of the PBR Framework would be to provide more fact sheets and examples. Slightly more than 20 per cent wished to see the rules simplified.
- 35 per cent of respondents (22/62) thought that better ICT would help support family friendly arrangements.

#### Working with administering agencies

- There is mixed knowledge of administering agencies' responsibilities those with a good understanding were equal to those with a limited understanding 38 per cent each (21/56).
- There is a clear preference for discussing issues direct with a person over 45 per cent of respondents favoured a dedicated help desk (26/56).
- More respondents found dealing with multiple administering agencies difficult (24/56 43 per cent compared to easy (15/56 – 27 per cent).
- Nearly 60 per cent of respondents (33/56) would like to see like functions brought together.

<sup>106</sup> The second figure in each of the brackets below is the total number of respondents that answered the relevant survey question.



# Administering agencies

The Review received 17 responses to the administering agencies survey. Agencies were encouraged to complete the survey at a team or branch level. Accordingly, a number of responses represent the views of multiple staff.

#### Key points

- Agencies noted that clients have some difficulty understanding which agency is responsible for which part of the PBR Framework.
- Agencies have different approaches to service delivery.
- The referral of matters between agencies could be improved to better support clients.
- The mix of principles-based and rules-based approaches in the PBR Framework is a challenge. Restrictions could be removed and a higher degree of reporting could be required.

# **Appendix F: List of written submissions**

Mr Patrick Gorman, MP, Member for Perth Mr Rick Wilson MP, Member for O'Connor Senator the Hon Matt Canavan, Senator for Queensland Mr David Leyonhjelm Mr Dylan Caporn Department of Finance Independent Parliamentary Expenses Authority Department of Parliamentary Services Department of Parliamentary Services Department of the Prime Minister and Cabinet Department of Defence Department of the House of Representatives Comcare **Appendix G: Additional resources** for large electorates

# Public Resources and Staffing for Members of the House of Representatives with Large Electorates

<		Public resources under the PBR Act#	Staffing resources under the MOP(S) Act#
,	<b>Tier 1:</b> Members representing electorates over 350,000km <sup>2</sup>	<ul> <li>Maximum of 3 Commonwealth funded electorate offices and office resources (such as furniture, fittings, ICT)</li> </ul>	Additional staffing resources provided:
-arge	(Covers 7 Members)	<ul> <li>Reimbursement of up to \$21,331.23 (GST inclusive) in 2021-22 for a privately-leased satellite electorate office</li> </ul>	Officer positions) <ul> <li>8 additional points of Electorate Staff Allowance that can be allocated in</li> </ul>
1		<ul> <li>Additional Electorate Allowance of \$14,000 per annum</li> <li>Additional four-wheel-drive private-plated vehicle (if requested)</li> </ul>	<ul> <li>recognition of additional hours of duty (total of 42 points)</li> <li>Additional 100 days' salary at the Electorate Officer B classification added to the Electorate Support Budget (total of 250 days' salary)</li> </ul>
	<b>Tier 2:</b> Members representing electorates between $25,000 \text{km}^2$ and $350,000 \text{km}^2$	<ul> <li>Maximum of 2 Commonwealth funded electorate offices and office resources</li> <li>Reimbursement of up to \$21,331.23 (GST inclusive) in</li> </ul>	Additional staffing resources provided: <ul> <li>1 additional Electorate Officer B position (total of 5 full-time Electorate Officer positions)</li> </ul>
	(Covers 14 Members)	<ul> <li>2021-22 for a privately-leased satellite electorate office</li> <li>Additional Electorate Allowance of \$14,000 per annum</li> </ul>	4 additional points of Electorate Staff Allowance that can be allocated in recognition of additional hours of duty (total of 38 points)
			Additional 50 days' salary at the Electorate Officer B classification     added to the Electorate Support Budget (total of 200 days' salary)
	<b>Tier 3:</b> Members representing	1 Commonwealth funded electorate office and office resources	Standard staffing resources provided (4 full-time Electorate Officer inceritione 34 moints of Electorate Staff
	and 25,000km <sup>2</sup>	<ul> <li>Reimbursement of up to \$53,328.06 (GST inclusive) in 2021-22 for a privately-leased satellite electorate office</li> </ul>	
9L	(Covers 22 Members)	<ul> <li>Additional Electorate Allowance of \$14,000 per annum</li> </ul>	
elle	Tier 4: Members representing	1 Commonwealth funded electorate office and office resources	Standard staffing resources provided
us	electorates between 3,500km <sup>2</sup> and 5,000km <sup>2</sup>	<ul> <li>Reimbursement of up to \$53,328.06 (GST inclusive) in 2021-22 for a privately-leased satellite electorate office</li> </ul>	<ul> <li>(4 full-time Electorate Officer positions, 34 points of Electorate Staff Allowance)</li> </ul>
	(Covers 3 Members)	• Additional Electorate Allowance of $$6,000$ per annum	
>			

# Does not include additional resources that may be provided to Ministers and other office holders (e.g. Ministerial and office holder offices and personal staff positions)

\* Choice between two structures: 2 x EO A, 1 x EO B and 1 x EO C  $\underline{or}$  1 x EO A and 3 x EO B

Representatives with Key provisions since 2016	ves with l	Large Electorates	ates		
Sep 2016	Oct 2016	Jan 2018	May 2018	Feb 2019	
Additional electorate office Members with electorates over 350,000km <sup>2</sup> provided a third Commonwealth funded electorate office	Additional staffing Members with electorates over 350,000km <sup>2</sup> provided an additional Electorate Officer B position, additional points of Electorate Staff Allowance and an Electorate Support Budget increase	Satellite office# Members with electorates between 5,000km <sup>2</sup> and 25,000km <sup>2</sup> can seek reimbursement up to \$53,328.06 (GST inclusive) in 2021-22. Indexed annually in line with CPI	Satellite office# Provision extended to cover Members with electorates over 25,000km <sup>2</sup> . Reimbursement of up to \$21,331.23 (GST inclusive) in 2021- 22. Indexed annually in line with CPI	Satellite office# Provision extended to cover, with Minister's approval, Members with electorates between 3,500km <sup>2</sup> Reimbursement of up to \$53,328.06 (GST inclusive) in 2021-22. Indexed annually in line with CPI	
Key		-			
Tier 1: Members represention electorates over 350 000km <sup>2</sup>	ctorates over 350 000km <sup>2</sup>	# Satellite electorat	$^{\#}$ Satellite electorate offices differ from Commonwealth funded offices. Members are	h funded offices. Members are	

Additional Resources: Members of the House of

Tier 2: Members representing electorates *between* 25,000km<sup>2</sup> and 350,000km<sup>2</sup> Tier 3: Members representing electorates *between* 5,000km<sup>2</sup> and 25,000km<sup>2</sup> Tier 4: Members representing electorates *between* 3,500km<sup>2</sup> and 5,000km<sup>2</sup> Tier 1: Members representing electorates over 350,000km

privately-leased satellite offices, including work health and safety obligations and the payment of rent and service costs. The limit of the Commonwealth's involvement is to the reimbursement of eligible expenses (such as rent, utilities, maintenance and insurance) Satellite electorate offices differ from Commonwealth funded offices. Members are personally responsible for all arrangements, statutory obligations and expenses for

