



REMUNERATION  
TRIBUNAL  
SECRETARIAT

Review Committee  
An Independent Parliamentary Entitlements System  
PO Box 6500  
CANBERRA ACT 2600

Dear Committee

The Tribunal is pleased to respond to the Committee's call for public submissions. Accompanying this covering letter is the Tribunal's Submission and three attachments.

**Background**

The Tribunal has in the past five years played a key role in conducting and informing various reviews into the remuneration and entitlements available to parliamentarians.

In particular the Tribunal provided a substantive submission on 17 December 2009 to the *Committee for the Review of Parliamentary Entitlements*. Following the conclusion of that review in 2010 the Parliament endorsed one of the key recommendations by restoring the independence of the Tribunal to determine base salaries of parliamentarians. The previous government also referred the other recommendations to the Tribunal for advice.

The Tribunal concluded a comprehensive *Review of the Remuneration of Members of Parliament* in December 2011. The review took account of the recommendations of the *Committee for the Review of Parliamentary Entitlements*.

The conclusions of both reviews which are contained in the respective public reports remain relevant today. In this context we note the comments of the Australian National Audit Office (ANAO) at page 21 of the recent audit *Administration of Travel Entitlements Provided to Parliamentarians*:

*As noted at paragraphs 4 to 7, previous ANAO reports highlighted the need for fundamental review of the entitlements framework and made associated recommendations. In that respect, recommendations of the April 2010 report of the independent 'root and branch' review (and subsequently supported by the Remuneration Tribunal), setting out a reform pathway for establishing a consistent, simple and transparent framework for providing Parliamentarians with the 'tools of trade' required to undertake their respective duties, remain relevant.*

The Tribunal remains committed to its 2011 view that existing parliamentary entitlements should be rationalised and separated, as far as applicable, into two distinct streams, namely:

- remuneration (those entitlements which provide a personal financial benefit or should be considered as part of the overall remuneration package); and
- business expenses (the costs incurred in undertaking duties and responsibilities as a parliamentarian).

The Tribunal has continued to engage with key stakeholders on the outstanding recommendations from the 2009 *Committee for the Review of Parliamentary Entitlements*, as well as other related matters. These stakeholders include relevant ministers, parliamentarians and the Department of Finance.

### **The Current System**

In general discussions with parliamentarians it has been the Tribunal's experience that they are frustrated with the complexity and inflexibility of the current system. Some parliamentarians have provided examples where the restrictive and complex nature of the current provisions have not allowed them to make decisions that would have provided better (financial) value to the taxpayer and allowed them more time to be conducting business, rather than travelling or being in transit. Parliamentarians indicate that they do not feel supported in accessing and seeking clarification on their various entitlements.

The Tribunal has continued to examine how selected Australian and international jurisdictions define, regulate and administer parliamentary entitlements. In particular the Tribunal has had a close look at the experience of the Independent Parliamentary Standards Authority in the United Kingdom. That body was established and given the remit and powers to introduce independent regulation of parliamentarian's business costs and expenses, and subsequently, pay and pensions.

The Tribunal noted the reference in the recent ANAO Report to the absence of an articulation and shared understanding of the terms 'parliamentary', 'electorate' and 'official' business.

### **New System**

The Tribunal's previous consideration of these matters and its ongoing research of the experience of other jurisdictions lead it to a view that there are key characteristics that would make-up a contemporary, efficient and effective parliamentary entitlements system. These are detailed in the material attached.

The Tribunal has a very strong view that the articulation of a single definition of parliamentary business (or an alternate term) and a set of principles would provide a sound underpinning of any new system and would guide effective decision making by parliamentarians.

In the Tribunal's view, one authoritative body (independent of the Parliament) should determine the components of the system and another body should implement and administer it.



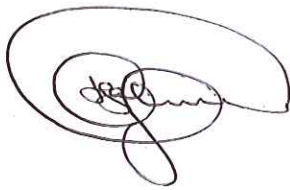
## **Refining Options for Change**

It is noted that the Review Committee is undertaking a range of consultations as part of its review.

The Tribunal would be pleased to share its more detailed views on options for change and to work collaboratively with the Committee in refining options – especially those relating to matters already within the Tribunal's determinative jurisdiction but more broadly if required.

An obvious area that would lend itself to such a process is the travel provisions for parliamentarians.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Patrick Palmer', enclosed within a large, loopy oval shape.

Patrick Palmer  
Secretary to the Tribunal

20 October 2015

**SUBMISSION TO THE REVIEW COMMITTEE**  
***An Independent Parliamentary Entitlements System***

from

**The Remuneration Tribunal**

The Tribunal remains committed to its 2011 view<sup>1</sup> that existing parliamentary entitlements should be rationalised and separated, as far as applicable, into two distinct streams, namely:

- remuneration (those entitlements which provide a personal financial benefit); and
- business expenses (the costs incurred in undertaking duties and responsibilities as a parliamentarian).

The Tribunal noted the reference in the recent ANAO Report<sup>2</sup> to the absence of an articulation and shared understanding of the terms 'parliamentary', 'electorate' and 'official' business. This, along with other matters the Tribunal has been examining closely when reviewing the experiences of other jurisdictions, has lead it to a view that there are key characteristics that would make-up a contemporary, efficient and effective parliamentary entitlements system. These are detailed, along with some broad observations drawn from earlier reports, at **Attachment A** of this submission.

The Tribunal has for some time been examining options to simplify and rationalise provisions within its jurisdiction. While we have some preliminary thoughts on changes, the interactions with various other pieces of legislation<sup>3</sup> and guidance and the lack of involvement in the actual application or operation of these provisions make conducting such a process in isolation challenging and risky.

The Tribunal has a strong view that the articulation of a single definition of parliamentary business (or an alternate term) and a set of principles would provide a sound underpinning of any new system and would guide effective decision making by parliamentarians. Details of our preliminary thinking on the detail of a definition and set of principles are at **Attachments B** and **C** of this submission.

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<sup>1</sup> Review of the Remuneration of Members of Parliament – The Remuneration Tribunal, December 2011.

<sup>2</sup> Administration of Travel Entitlements provided to Parliamentarians – ANAO – 2015.

<sup>3</sup> Refer to the first paragraph of Attachment A where various relevant sources of parliamentary entitlements are listed



Observations on the Current System – extracts from earlier reports

*2010 – Committee for the Review of Parliamentary Entitlements – Review of Parliamentary Entitlements*

1. The current framework comprises: at least 11 Acts of Parliament; three sets of regulations; six Remuneration Tribunal determinations and reports; 21 determinations made by the Special Minister of State under the *Members of Parliament Staff Act 1984* and nine formal procedural rules and sets of guidelines made by the minister to give effect to Remuneration Tribunal determinations (page 38).
2. The causes of inconsistency and ambiguity in the framework often derive from split responsibilities for determining the range and level of entitlements. Inconsistency and ambiguity are also generic flow-on effects of the more specific issues discussed in this chapter, such as duplication. As submitted by Finance, it is rarely possible to understand an individual entitlement by referencing one source document. This makes it very difficult for senators and members to use their entitlements with a high degree of certainty and for departmental officers to give senators and members definitive advice on the legitimate use of their entitlements (page 39).

*2011 – Remuneration Tribunal – Review of the Remuneration of Members of Parliament*

3. The interaction of these instruments and the identification of the prevailing head of authority can result in confusion not only for those administering the entitlements but also for senators, members and their staff. Notwithstanding the level of reporting undertaken by Finance regarding entitlements, to the public or community view, the entitlement framework does not provide a clear and transparent view of what parliamentarians are entitled to or how they use those entitlements. In fact the framework is quite opaque (page 56).

*2015 – Australian National Audit Office – Administration of Travel Entitlements Provided to Parliamentarians*

4. The Budget proposals<sup>4</sup> in themselves do not address the need for the more extensive reform that has been highlighted by earlier independent reviews. In the absence of such reform, parliamentarians' entitlements will continue to be provided through a patchwork framework that has been the subject of only limited enhancements. As a consequence, there will continue to be:
  - a lack of transparency as to the particular purposes for which entitlements have been accessed, which can be expected to give rise to continued concerns that the framework is providing greater latitude to parliamentarians in their use of public money than might be expected in the public interest; and
  - a heightened risk of parliamentarians being criticised for the judgements they individually make in relation to whether a particular use of publically funded resources was within the

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<sup>4</sup> The 2015–16 Budget set out proposals for simplifying arrangements under which parliamentarians can access funding to operate their respective electorate offices. The government also proposed some amendments to existing travel entitlements, such as allowing travel to be undertaken for 'business as an elected representative'.



terms of the relevant entitlement and represented an efficient, effective, economical and ethical use of public resources (page 22).

#### Tribunal's principles for 2011 Review

5. The Tribunal in its 2011 report relied on a set of principles in considering the personal remuneration of the individuals who serve in Parliament, and how best their parliamentary and electorate business should be supported by public funding. They included:
  - parliamentary remuneration should be clearly expressed - there should not be any hidden benefits;
  - funding for business expenses should be sufficient so that parliamentarians can fulfil their functions adequately without having to fund their parliamentary and electorate expenses from their own pockets;
  - available funding should be clear and easy to understand for parliamentarians, those administering the funding and the public at large; and
  - in setting funding levels the Australian experience, that parliamentarians from different electorates across the country have vastly different challenges in servicing their electorates, must be taken into account.

#### Characteristics of a Contemporary Parliamentary Entitlements System

6. *Robust principles and definition* - a system underpinned by principles that assist, encourage and support parliamentarians' exercising good judgement. The Tribunal has included a draft set of principles that might underpin both the remuneration and business expenses components of a new system (see **Attachment B**). The system would also include a definition of what is parliamentary business or business as an elected representative (or whatever terminology is agreed) and what it is not. The Tribunal's preliminary thoughts on such a definition are at **Attachment C**.
7. *Differentiation of remuneration and expenses* - streaming of entitlements as either remuneration or business costs/expenses to enable a clearer differentiation between the provisions that reward parliamentarians for doing their job and those that support them in conducting their parliamentary business.
8. *Single head of power for business expenses* - Placing the entitlements in one legislative instrument (such as a determination or set of regulations) would allow it to be reviewed regularly and amended easily. Depending on the structure agreed by the committee overarching legislation might define the purpose of the expenses scheme and provide the authority to determine/administer the scheme. Such a process would remove overlapping provisions and competing authorities and provide one source of reference for parliamentarians, stakeholders and the public.



9. *Changing the terminology* – it is the Tribunal's view that it would assist in any change process to refer to 'business expenses' rather than 'entitlements'. Any new system should reflect a business like relationship that recognises the work value of the role of a parliamentarian with appropriate remuneration and acknowledges the range of business expenses that comes with the office. In terms of business expenses it is a matter for consideration whether they should be supported by an allowance, be reimbursed or claimed as a tax deduction consistent with community/business standards. Perhaps all three of these approaches should be used according to the particular business expense area being supported – for example, adopting only a reimbursement system would be enormously detailed, cumbersome and costly if applied to the minutiae of business expenses involved across the entire spectrum of a parliamentarian's role.
10. *Different levels of remuneration and expenses* – the Tribunal supports retaining differing remuneration and expenses levels for backbenchers and Ministers/office holders as appropriate. The Tribunal also remains of the view that the remuneration and expense levels set for parliamentarians should have regard to the challenges involved in servicing the very diverse electorates (e.g. due to their size and distance from Canberra) that exist across the country. In this regard, the current Electorate Allowance determined by the Tribunal works well, is easy to administer and should be retained.
11. *Clarity, flexibility and simplicity* – the Tribunal has a strong view that clarity and simplicity in any system will support greater transparency of the remuneration and business expenses of parliamentarians. The current review is an opportunity to consider rolling into base salary some of the common, low cost benefits and allowances. Grouping of common costs into mini budgets is another tangible option to simplify the system and provide greater flexibility. A simple system would facilitate more concise guidance material being available that provides clarity to the parliamentarian and assurance to the public. It would also provide for ease of administration and greater efficiencies in supporting parliamentarians. As a minimum it should enable the removal of dated provisions (e.g. home telephones and data lines).
12. *Transparency* - transparency provides accountability and allows the public to question and judge spending by parliamentarians. Any new system should require detailed and up to date disclosure of key areas of a parliamentarian's expenditure, e.g. travel—including clear identification of the basis/reasons for travel and how it complies with the principles, class and cost of travel. Such a process builds confidence and credibility in the system.
13. *Customer service* – it is the Tribunal's view that a renewed focus on supporting and providing advice to parliamentarians to make sensible and defensible expenditure decisions would be a key requirement of any new system.

14. *Tools to support administration* – any new system should have streamlined, efficient and easy to follow processes and be automated wherever possible. Such tools should facilitate effective record keeping and reporting requirements. As an example a travel booking system that allows real time reporting of travel by a parliamentarian would support transparency of this contentious area.
15. *Consultation and review* – regular review of a new system of remuneration and business expenses (say once in the life of a parliament) inviting and encouraging feedback and views from the public, parliamentarians and other interested parties would assist in building its credibility, ensure it remains contemporary and avoid piecemeal and ad hoc amendments.



### Draft Principles

It is the Tribunal's recommendation that a set of principles be put in place to support any new entitlements system for parliamentarians. Those principles should provide support and clarity to the parliamentarian and the administrators of the system, and assurance to the public.

A set of principles could be along the following lines:

- Parliamentarians must be personally responsible and accountable for adhering to these principles and the rules of the system, and act in good faith and for a proper purpose.
- Parliamentarians should be recompensed for costs where they are incurred in the performance of their parliamentary duties.
- The system should be sufficiently flexible to accommodate the diversity of the activities, responsibilities and logistical circumstances that characterise parliamentary business.
- The system should give members of the public assurance that parliamentarians use public resources and expend public funds in an efficient, effective, economical and ethical manner.
- The system must assist parliamentarians not to enter into arrangements which might create a conflict of interest, or would result in personal financial advantage, or would confer an undue advantage on a political organisation.
- The system must be clear and readily understandable.
- The system must be appropriately transparent and efficient and enable timely disclosure.
- The remuneration and business expenses covered by the system should be determined independently from the Parliament.
- Breaches of the system must be subject to timely, clear and effective sanctions.
- The system should be subject to independent audit and regular review.

Parliamentary business

A definition of parliamentary business might include the following:

- the conduct of business directly related to membership of the Parliament or by reason of holding a particular office of the Parliament, or the performance of functions and responsibilities in, or in relation to, the Parliament or either House of the Parliament, or of its Committees;
- the conduct of business undertaken as an elected representative in support of, or in service or out of duty to, a senator or member's constituents, such as:
  - participating in public debate, attending meetings or events;
  - communicating with, informing and consulting constituents; and
  - representing the interests of constituents.
- business undertaken in a parliamentarian's capacity as a Minister or office holder such as attendance at:
  - properly constituted meetings of a Government advisory committee or task force provided that the parliamentarian is a member of the committee or task force; and
  - functions representing a Minister or a Presiding Officer on official business as a Minister or Presiding Officer
- formal meetings of a political party or its executive or of its committees, and the national conference of a political party, of which the parliamentarian is a member.

It does not include:

- the administration or management of a political party other than set out above;
- electioneering or other activities relating to election campaigns other than where specifically provided for (i.e. in the dot-points above under Parliamentary business);
- activities which are or could reasonably be considered to be primarily for private purposes or for the personal benefit of the parliamentarian; or
- activities that are or could reasonably be considered to be for commercial purposes.

**Commercial purposes** means a purpose relating to the derivation of financial gain or reward, whether as a board member, an office-holder, an employee, a self-employed person or otherwise (this definition is currently contained in the *Members of Parliament (Life Gold Pass) Act 2002*.)