

**INQUIRY INTO PROPOSAL FOR A COMPLIANCE  
OFFICER FOR THE NSW PARLIAMENT**

**Name:** Audit Office of New South Wales

**Date Received:** 3 February 2021

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The Hon Peter Primrose MLC  
Chair, Privileges Committee  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Contact:  
Phone no:  
Our ref: D2101689

3 February 2021

Dear Mr Primrose

### **Inquiry into a proposal for a Compliance Officer for the NSW Parliament**

Thank you for the invitation to make a submission to the Legislative Council's Privileges Committee inquiry into a proposal for a Compliance Officer for the NSW Parliament.

I note the proposed resolution for the Presiding Officers to establish a position of Parliamentary Compliance Officer. Of particular note are the functions related to the monitoring of the members' entitlements system; of which I also have a role in providing assurance over.

The annual Determination of the Parliamentary Remuneration Tribunal (the Determination) issued pursuant to the *Parliamentary Remuneration Act 1989*, states that Members' additional entitlements in the nature of fixed allocations and the Sydney Allowance shall be the subject of an external assurance engagement conducted by the Auditor-General for New South Wales, per the conditions of the Determination. In response to the Determination, my office performs a compliance review of the Members' additional entitlements in the nature of fixed allocations and Sydney Allowance each year.

Reports to Parliament covering my annual compliance review of Members' additional entitlements outline instances of non-compliance both in the validity of claims made by Members and in compliance with the administrative requirements of the Determination's requirements. My reports to Parliament also highlight where additional guidance would be beneficial to support Members' compliance with the Determination.

Relevant extracts from my most recent report to Parliament on Members' additional entitlements are enclosed with this letter.

Thank you once again for the invitation to make a submission to the Committee's inquiry. Please don't hesitate to contact me if you would like further information about my reports to Parliament.

Yours sincerely

Margaret Crawford  
Auditor-General for New South Wales

Encl.

## Relevant extracts of report to Parliament

### Members' additional entitlements 2020<sup>1</sup> – published 15 December 2020

#### Results

Our review identified three instances of material non compliance with the Determination for the year ended 30 June 2020:

- one Member claimed the General Travel Allowance for the full cost of a charter flight used to both attend a family event and perform the Member's parliamentary duties instead of estimating and claiming only the cost related to the Member's parliamentary duties
- one Member claimed the Communications Allowance for the same expenditure twice
- one Member elected to repay the allowance claimed in lieu of providing evidence to support their claims. The Member claimed the Sydney Daily Allowance and advised that they did not have records to support that the purpose of the travel related to their parliamentary duties.

The Determination requires Members to maintain appropriate records of expenditure for the purpose of any audit or assurance engagements. Repeated reviews have identified Members who elect to repay the allowances claimed in lieu of providing supporting documents. Justifying a claim for an allowance with supporting documents should not rely on the Auditor-General's review. Last year, we recommended the Department of Parliamentary Services (the Department) work with the Tribunal to provide additional guidance to Members to clarify the definition of parliamentary duties, the activities that meet the definition and the requirements for retaining documents. The recommendation is currently being considered by the Department.

Our review also identified 22 other departures from the administrative requirements of the Determination:

- two Members did not make the required authorisations and attributions on a publication to claim the expenditure from the Communications Allowance
- seven reconciliations for the Sydney Allowance were submitted after the due date
- 13 Members' claims were not submitted to the Department for payment within 60 days of receipt or occurrence of the expense.

Our audit procedures identified three other departures from the Department's administrative guidelines, which support the application of the Determination. Three Members submitted their annual loyalty scheme declarations after the due date specified in the guidelines (31 July 2020). The Declaration is important because it affirms that loyalty scheme benefits accrued using the Member's parliamentary allowances and entitlements were not used for private purposes.

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#### Clarifying the Department's Guidelines relating to 'parliamentary duties'

Under the Determination, Members can only claim expenditure incurred performing their parliamentary duties. The Determination provides examples of circumstances where additional entitlements may be used for 'parliamentary duties' and refers to the Department's guidelines. In previous years, we noted instances where it was unclear whether the Member's activities validly related to 'parliamentary duties' as described in the guidelines, and we continued to note similar instances this year.

We recommended the Department work with the Tribunal to provide additional guidance to Members to clarify:

- the definition of 'parliamentary duties'
- the activities that meet the definition
- requirements for retaining documents.

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<sup>1</sup> <https://www.audit.nsw.gov.au/our-work/reports/members-additional-entitlements-2020>

The recommendation is currently being considered by the Department. The Department has advised they plan to consult with Members and review definitions in other jurisdictions.

The Tribunal noted in its 2020 Determination that they will work with the Department and will consider this matter in more detail during the 2021 annual review.