

The Auditor-General
Audit Report No.15 2003–04
Performance Audit

**Administration of Staff Employed Under
the *Members of Parliament (Staff) Act 1984***

Department of Finance and Administration

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of Australia 2003

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Canberra ACT
1 December 2003

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in accordance with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit and the accompanying brochure to the Parliament. The report is titled *Administration of Staff Employed Under the Members of Parliament (Staff) Act 1984*.

Following its tabling in Parliament, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. J. Barrett'.

P. J. Barrett
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations/Glossary

| | |
|------------|--|
| ALP | Australian Labor Party |
| ANAO | Australian National Audit Office |
| APS | Australian Public Service |
| AWA | Australian Workplace Agreement |
| CA | Certified Agreement |
| CEIs | Chief Executive's Instructions |
| CPU | Cabinet Policy Unit |
| EOFYMR | End of Financial Year Management Report |
| ESA | Electorate Staff Allowance |
| Finance | Department of Finance and Administration |
| FMA Act | <i>Financial Management and Accountability Act 1997</i> |
| FMA Orders | Finance Minister's Orders |
| GMI | General Manager's Instructions |
| GMS | Government Members' Secretariat |
| M&PS | Ministerial and Parliamentary Services Group, Department of Finance and Administration |
| MMR | Monthly Management Report |
| MOP(S) Act | <i>Members of Parliament (Staff) Act 1984</i> |
| MSA | Ministerial Staff Allowance |
| PS Act | <i>Public Service Act 1999</i> |
| PSA | Parliamentary Staff Allowance |
| PSM | Protective Security Manual |
| PSS | Parliamentary Systems Suite |
| SES | Senior Executive Service |
| SLA | Service Level Agreement |
| SMOS | Special Minister of State |
| WR Act | <i>Workplace Relations Act 1996</i> |

Summary and Recommendations

Summary

Background

1. The *Members of Parliament (Staff) Act 1984* (MOP(S) Act) is the legislative basis for the employment by Parliamentarians of staff to work in their electorate and parliamentary offices. Staff are engaged on behalf of the Commonwealth, but are selected by, and are responsible to, their employing Parliamentarian.
2. The employment powers conferred on Parliamentarians by the MOP(S) Act are not exercisable otherwise than in accordance with arrangements and conditions determined by the Prime Minister. The Prime Minister has authorised the Special Minister of State (SMOS) to exercise some of his powers under the Act.
3. Under the SMOS's direction, Ministerial and Parliamentary Services (M&PS) in the Department of Finance and Administration (Finance) is responsible for administering most staff employed under the MOP(S) Act.¹ Finance issues various handbooks and circulars that provide Parliamentarians with information and related administrative procedures and requirements regarding their entitlements, including staff arrangements.
4. As at 1 June 2003, the approved establishment for MOP(S) Act staff positions administered by Finance was 1175.2. This consisted of 686 electorate staff², 488.7 personal staff allocated to Government and non-Government office holders and other nominated Parliamentarians as determined by the Prime Minister, and one part-time consultant to the Prime Minister.
5. The employment terms and conditions of MOP(S) Act staff are established by Ministerial determination in accordance with the Prime Minister's authority and under the agreement making provisions of the *Workplace Relations Act 1996* (WR Act). Relevant agreements are the Certified Agreement (CA) periodically negotiated with MOP(S) Act staff (and its accompanying guidelines), Australian Workplace Agreements (AWAs) negotiated with individual staff members, and written agreements with Ministerial consultants. AWAs are primarily offered to Government and non-Government personal staff occupying positions equivalent

¹ The Parliamentary Departments are responsible for administering personal staff employed by the Presiding Officers and Deputy Presiding Officers. The Department of the Prime Minister and Cabinet (PM&C) is responsible for administering MOP(S) Act staff employed by the Prime Minister at Kirribilli House and the Lodge.

² Consisting of 543 electorate staff of Senators and Members, engaged under Part IV of the MOP(S) Act, and 143 electorate staff of office holders, engaged under Part III of the MOP(S) Act.

to the Senior Executive Service (SES) in the Australian Public Service (APS). Those staff are not covered by the CA.³

6. The most significant employment-related costs incurred in relation to MOP(S) Act staff in the period examined by the Australian National Audit Office (ANAO) were salary and related payments, travel costs and allowances, and training costs. In 2001–02, direct payments made by Finance to, or on behalf of, MOP(S) Act staff amounted to \$101.4 million. Costs, including corporate overheads, incurred by Finance in 2001–02 in administering the entitlements and services provided to both Parliamentarians and their staff totalled \$26.9 million.⁴

7. An important element of Finance’s administrative framework is the provision of individual Monthly Management Reports (MMR) to all Parliamentarians and former Prime Ministers. These reports are provided to allow Parliamentarians to monitor their entitlements expenditure throughout the financial year. Parliamentarians are also provided with an End of Financial Year Management Report (EOFYMR), which sets out a summary of the expenditure reported in the MMRs, and any additional transactions relating to entitlements use in that financial year for which payment was made in the following year up to the date the report is compiled. The reports include details of individual transactions and year-to-date totals for most costs incurred by, or in relation to, the Parliamentarian’s MOP(S) Act staff.

8. Finance necessarily relies heavily upon self-assessment by Parliamentarians for assurance that Commonwealth resources are only used within the terms of the relevant entitlement and/or employment condition. Parliamentarians are requested to provide that assurance by certifying various payments claims submitted by their MOP(S) Act staff. Those certifications may also be provided by a person the Parliamentarian has authorised, in writing, to exercise the relevant MOP(S) Act power.⁵ During the period examined by ANAO,

³ Under the *Members of Parliament Staff (Commonwealth) Certified Agreement 2003–2006*, electorate and personal staff covered by the CA may enter into an AWA.

⁴ Source: *Annual Report 2001–02*, Department of Finance and Administration, p.64, Price of Departmental Outputs, Output 3.1. Finance advised ANAO that it is not possible to break down the Departmental costs of administering MOP(S) Act staff separately from Parliamentarians’ entitlements as most sections within M&PS administer both. These costs also exclude \$17.8 million relating to the operation of COMCAR, as COMCAR also services clients other than Parliamentarians e.g. judiciary, former Governors-General and guests of Government.

⁵ Section 32 of the MOP(S) Act provides that a Parliamentarian may, in writing, authorise another person to exercise, on his or her behalf, a power conferred by Parts III or IV of the Act. A person may be authorised to: engage staff; approve staff leave, travel, overtime, incremental advancements and/or temporary transfer (higher duties); recommend studies assistance; and/or terminate the employment of a staff member. This authority is usually provided to one or more of the Parliamentarian’s staff, but may be conferred on other persons.

Parliamentarians were also requested to provide an annual certification that their entitlements expenditure, as reported in the management reports provided to them by Finance, was within the specific terms of the relevant entitlements.

9. In December 2000, the then SMOS accepted a recommendation by Finance that this be replaced by monthly certification of the MMRs. In April 2003, Finance advised ANAO that development of a suitable format for monthly certification had been a protracted process. A final format approved by the SMOS in April 2003 was introduced from August 2003.

Audit scope

10. On 2 November 2000, the Senate agreed to a resolution that the Auditor-General be requested to review all expenditures and entitlements accruing to Parliamentarians and Ministers in 1999–2000. The resolution requested that the Auditor-General consider a number of specific matters, and report by 30 June 2001.⁶ In the course of that audit, examination of issues relating to Parliamentarians' staff was deferred in order to give the Auditor-General a reasonable chance of reporting reasonably close to the Senate's requested reporting timeframe. ANAO Audit Report No.5 2001–02, *Parliamentarians' Entitlements: 1999–2000*, was tabled in the Parliament in August 2001. A proposed audit of the administration by Finance of the entitlements of staff engaged under the MOP(S) Act was included in the ANAO Audit Work Program for 2001–02.

11. The objectives of this performance audit were to:

- review the effectiveness of the internal control structures in Finance concerning the administration of entitlements for MOP(S) Act staff;
- review the effectiveness and efficiency of the procurement and support services Finance provides in relation to MOP(S) Act staff; and
- identify principles of sound administrative practices to facilitate improved administrative arrangements for the future.

12. The audit covered Finance's administration of payments and services to MOP(S) Act staff during the period 1998–99 to 2001–02. The audit also included consideration of the extent to which relevant recommendations made in ANAO Audit Report No.5 2001–02 had been implemented, and the implications that may have had for the effective administration of MOP(S) Act staff. The administration by the Parliamentary Departments and the Department of the Prime Minister and Cabinet (PM&C) of certain MOP(S) Act staff was excluded from the audit scope. Sub-section 15(c) of the *Auditor-General Act 1997* precludes

⁶ See ANAO Audit Report No.5 2001–02, *Parliamentarians' Entitlements: 1999–2000*, Canberra, 7 August 2001, p.68 for the full text of the Senate resolution.

an audit of persons who are engaged under the MOP(S) Act. Accordingly, the audit scope also did not include examination of the responsibilities of MOP(S) Act staff.

Key Findings

Administration of services (Chapter 2)

13. The most significant financial limits applying to payments to, or on behalf of, Parliamentarians' electorate office staff are the annual budgets applying to expenditure on overtime (including Electorate Staff Allowance (ESA) payments), travel and relief staff. The personal staff, and one nominated electorate staff member, of Ministers and other office holders are not subject to a travel budget, but may only be paid Travel Allowance for a maximum of 120 overnight stays in Canberra each financial year.

14. Despite their largely manual nature, the processes undertaken by Finance in the period examined by ANAO to restrict Parliamentarians' expenditure on overtime/ESA and relief staff payments to the relevant limits were reasonably effective. The Department's processes were less effective on the few occasions when individual staff members approached or reached the 120-night cap in Canberra. ANAO considers there would be merit in Finance examining its processes in order to ensure the Department takes all reasonable steps to prevent costs in excess of entitlement from being incurred.

15. Where Parliamentarians do exceed the various electorate office expenditure budgets, the approach taken has been to obtain approval from the SMOS to offset the amount of the overspend against the Parliamentarian's relevant budget for the subsequent year. This approach has the potential to limit the effectiveness of the budgets as an equitable restriction on the staff-related expenditure of Parliamentarians in a given year, and does not encourage Parliamentarians to manage their expenditure within the limits advised to them.

16. In June 2002, 43.9 per cent of Ministerial staff (215) did not have a current security clearance. By October 2003, there had been an improvement in this area, with the number of outstanding security clearances having declined to 18 per cent of Ministerial staff (88), of whom 50 were in progress with the security vetting agency, on long-term leave or having existing clearances updated. ANAO considers that Finance should implement adequate procedures to ensure the currency of security clearances for relevant MOP(S) Act staff is regularly monitored and reviewed.

Authorisations and certifications (Chapter 3)

17. The certifications requested of Parliamentarians, or other authorised persons, are policy requirements set out in entitlements handbooks and claim forms distributed by Finance. They are not requirements laid down in the relevant legislation. Given the reliance placed upon them as a basis for the payment of public money, it is important that the authorising and certification processes undertaken are rigorous, timely and reliable.

18. Before relying on certifications provided by persons other than the relevant Parliamentarian, Finance should ensure that sufficient, reliable information has been obtained as to the authority of that person. ANAO examined the authorising documentation held by Finance in respect of a sample of 70 persons. Deficiencies of varying consequence were identified in the documentation held in respect of over half of those persons.

19. This included two cases in which Finance proceeded with payment of staff travel claims despite the Department not holding written authorities from the relevant Parliamentarians for the persons who had certified the claims. ANAO considers that, in such cases, better practice would be for Finance to make reasonable inquiries of the relevant Parliamentarian in order to verify that the person was duly authorised to exercise the relevant power before proceeding with the payment.

20. The introduction from July 2001 of an annual review of authorised persons for each Parliamentarian's office was an improvement in Finance's capacity to ensure its records are up to date.⁷ ANAO considers that it would also be beneficial for Finance to expand the review to include a stocktake of the consistency and completeness of the authorising documentation held by the Department in respect of each relevant person. Where necessary, additional or clarifying information could then be requested from the relevant Parliamentarian. In November 2003, Finance advised ANAO that the Department agreed that an expansion of the annual review of authorisations may be beneficial, and intended to expand the next review as recommended by ANAO.

21. ANAO noted 25 instances where the nominated date of effect of authorisation was back-dated from the date of the written authority. Consequently, there was a risk that those persons were not duly authorised to exercise MOP(S) Act powers on behalf of the relevant Parliamentarian for at least some part of the time for which they were purportedly authorised. Where back-dating of authorisations is sought, it would be appropriate for Finance to undertake reasonable inquiries to determine whether the person had exercised

⁷ Finance advised ANAO that the Department had also developed a new database for storing authorisations with scanned signatures, which came into effect on 1 July 2003.

the relevant powers prior to the written authority being provided. Where that is the case, certification by the Parliamentarian or another person who was appropriately authorised at the time of the transactions involved should be obtained. In August 2003, Finance advised ANAO that, as part of the 2003–04 internal review of authorisations, the Department now adopts this approach.

22. For a range of entitlements and payments, transaction-based certifications are not sought. This includes expenditure for MOP(S) Act staff salary and related allowances, Comcar use, and travel where no Travel Allowance or Private Vehicle Allowance was claimed. Certification that such expenditure was incurred within the terms of the relevant entitlement or employment condition is only provided through the management report certifications requested of Parliamentarians.

23. As at August 2003, 12 current and former Parliamentarians were yet to provide an annual certification for 1999–2000. The timely return by current and former Parliamentarians of the certifications requested of them continues to be an area of concern. As at August 2003, 34 per cent had yet to certify their End of Financial Year Management Report for 2000–01 and 39 per cent had yet to provide a certification for 2001–02.

Control framework (Chapter 4)

24. The *Financial Management and Accountability Act 1997* (FMA Act) provides the central legal framework for the proper use and management of public money. Legal advice provided to Finance in August 2002 was that, with very limited exceptions, there are no provisions of the FMA Act framework which are directly relevant to MOP(S) Act staff accessing entitlements, or to the processing of those payments by Finance. Nevertheless, Finance officials are still under an obligation under the *Public Service Act 1999* (PS Act) to act with care and diligence. Finance's legal advice was that, when making payments in connection with MOP(S) Act staff, this broad obligation gives rise to a duty to take reasonable steps to ensure that any claim is properly payable given the terms of the relevant employment condition and the circumstances of the claimant.

25. Finance has recently sought to improve its procedures for identifying MOP(S) Act staff claims that may be outside of entitlement. However, ANAO noted various aspects of the control framework that could be further improved in order to provide greater assurance that all payments are made within the terms of the relevant employment condition.

26. In April 2003, Finance advised ANAO that, following enhancements to the information system used to process entitlements payments (the Parliamentary Systems Suite (PSS)), more focus could be applied to entitlement checking. However, the process for checking MOP(S) Act staff payment claims

remains largely manual and resource intensive. This is particularly the case in relation to staff travel.

27. In September and October 2002, M&PS undertook the first post-payment review of air travel payments for MOP(S) Act staff. The review examined 92 air fare payments for travel taken in 2001–02 that had been identified as possibly outside of entitlement when the fares were being processed. It resulted in the issuing of 49 debit notes totalling \$10 742 to recover the cost of travel outside of entitlement. ANAO considers that M&PS should continue to undertake periodic reviews of MOP(S) Act staff payments. There would also be merit in expanding the scope of payments and transactions reviewed, and preparing a formal report of review findings. ANAO also considers that there is scope to improve the regular, risk-based audit coverage of payments to MOP(S) Act staff.

28. Comparative analysis techniques can assist in identifying instances of unusually high usage or other anomalies that suggest further investigation is warranted. However, Finance does not currently employ a systematic approach to this issue. Analysis by ANAO highlighted that cross-checking between mutually exclusive payment categories would be of particular value in identifying ineligible claims by MOP(S) Act staff. Examples examined by ANAO were travel undertaken by Parliamentarians' spouses who are also engaged as electorate staff members under the MOP(S) Act, and claims for overtime while travelling on official business. In both cases, ANAO identified payments that appeared to be outside of entitlement (see paragraphs 4.17 to 4.26). In August 2003, Finance advised that, since the review conducted in late 2002, travel by a spouse who is also employed as a staff member has been checked. Finance further advised that the Department is looking at undertaking random post-payment cross-checking of future overtime and travel claims as an ongoing process.

29. In the course of the 2001 ANAO audit of Parliamentarians' entitlements, the recovery of debts owed by current and former Parliamentarians and their staff came under increased focus within Finance. In September 2001, Finance's Financial Procedures Guide was amended to include a specific section on recovery of debts by M&PS. These detailed procedures separately identify the steps to be taken when pursuing the recovery of outstanding debts from each of M&PS' identified client groups, including current, ceasing and former MOP(S) Act employees.

30. Since then, there has been an identifiable improvement in the level of outstanding debt. In particular, the implementation of M&PS-specific debt recovery procedures appears to have been effective in minimising the extent of debt owed by current MOP(S) Act employees. However, long-term debt owed by former staff has proven more difficult to address. A number of debts have

been written off or waived. Since November 2002, identifiable invoices have been raised in respect of all MOP(S) Act staff debts. This is a significant improvement in this aspect of Finance's administrative framework, which should allow for a more coordinated and timely approach to the recovery of debts.

Election periods (Chapter 5)

31. Federal general elections were held on 3 October 1998 and 10 November 2001. Concerns were expressed by various stakeholders following both elections about the extent of payments made to MOP(S) Act staff in the periods leading up to those elections. Use of MOP(S) Act staff for party political business is not within entitlement. Staff may undertake activities in support of their employing Parliamentarian's re-election, but not in the election or re-election of others. This is based on the longstanding convention that electorate business is regarded as including activities in support of a Senator or Member's own re-election and, consequently, entitlements provided for electorate business may be used for that purpose.

32. Overtime payments made in the two pay periods immediately prior to and following the 1998 general election totalled some \$804 000. Both periods registered significant increases over the average overtime payments for a pay period in 1998–99: 197 per cent and 231 per cent respectively.⁸ Changes made in 1999 to the arrangements for remunerating staff for work undertaken outside normal hours restricted the capacity for Parliamentarians to have staff undertake significant additional paid overtime during election periods. Claims for overtime worked in the month prior to the 2001 general election totalled about \$592 000. While this was more than twice the monthly average for that year, it was substantially less than the overtime incurred in relation to the 1998 election period. In all circumstances, however, paid overtime may only be undertaken for eligible purposes. In this respect, Finance is reliant upon the certifications provided by the employing Parliamentarian, or another authorised person.

33. The cost of personal staff travel for October 2001 was considerably higher than that incurred during any other month in the four-year period examined by ANAO. Personal staff Travel Allowance payments for October 2001 were 310 per cent, or \$707 138, higher than the moving monthly average at that time. This was an amount similar in magnitude to the total Travel Allowance paid to staff of Parliamentarians from the three major political parties for travel to Melbourne during the 2001 election period, where each of the three major political parties had located their party campaign headquarters.

⁸ Available data for 1998–99 only identified the pay period in which payments were made, rather than the period in which the overtime was actually worked. It is reasonable to expect that the bulk of claims relating to overtime worked in the 1998 election period would have been paid in the pay periods immediately prior to and following the election.

34. Finance advised ANAO in July 2003 that, in accordance with normal practice, the Department ensured that payments of Travel Allowance were appropriately authorised. In August 2003, Finance further advised ANAO that the Department: ‘...has no basis for checking purpose of travel beyond relying on appropriately rendered certifications.’

Overall conclusions

35. The control framework applying to the administration of employment-related payments to, and on behalf of, MOP(S) Act staff was improved by Finance over the four-year period examined by ANAO. Finance also implemented, or took under consideration, additional improvements in order to address matters raised by ANAO over the course of the audit, or identified by the Department in the course of compiling information requested by ANAO.

36. In recent years, Finance has taken steps directed at improving the Department’s capacity to rely upon transaction certifications presented to it. Monthly certification of management reports should also improve the reliability and timeliness of that process as a control on the expenditure of public money. However, this will not be the case where Parliamentarians do not provide the requested certifications, or do not provide them in a timely manner.

37. There is no legal requirement for Parliamentarians to provide those certifications. The absence of any certification from a Parliamentarian in respect to his or her use of a number of entitlements represents a significant gap in the accountability and control framework. ANAO suggests that Finance continue to explore ways of obtaining a higher response rate to certification requirements.

38. ANAO recognises that Finance relies to a large extent on individual Parliamentarians’ self-management of their entitlements use, as reported to them in the management reports. Nevertheless, an increased focus on analysis of those reports by Finance could also assist the Department in discharging its obligation to investigate excessive or otherwise anomalous payments, and would also assist in identifying other possible entitlements breaches.

39. The risk of MOP(S) Act staff being used for duties relating to party political business increases in the periods leading up to, and during, general elections and by-elections. However, there is not yet an adequate shared understanding and consensus among all relevant stakeholders as to the appropriate use of MOP(S) Act staff, and Parliamentarians’ entitlements in general, during election periods. ANAO considers that, as an extension of the entitlements advice already provided by Finance, it would be of assistance to Parliamentarians for the entitlements handbooks issued by the Department to be revised to include

guidance on the use of Commonwealth resources by MOP(S) Act staff during an election period.

40. ANAO analysis showed a significant increase in total travel expenditure by MOP(S) Act staff during both the 1998 and 2001 general elections. Those increases related primarily to travel by personal staff, including those employed in the Government Members' Secretariat (GMS) and the Cabinet Policy Unit (CPU).⁹ Where monitored, expenditure increases of the nature observed by ANAO would normally be expected to result in more intensive examination of the basis of the payment of public money. However, no inquiries were undertaken by Finance to examine the additional expenditure or, more broadly, the pattern of expenditure during the election period, in order to verify that travel was being undertaken for electorate or official business.

41. ANAO considers that there are a number of administrative improvements which Finance can initiate to strengthen its management of employment-related payments and services for MOP(S) Act staff. ANAO made 13 recommendations in four major areas, relating to: personnel administration; authorisations and certifications; the control framework for payments; and payments and services provided to MOP(S) Act staff during election periods. Finance agreed with 12 of the ANAO recommendations, and agreed with qualification to the other recommendation.

Agency responses

42. The proposed audit report was issued to Finance and PM&C. PM&C provided factual and contextual comments that were incorporated into the final audit report. Finance's full response to the proposed audit report can be found at Appendix 1. Finance advised ANAO that the following was its summary response:

Finance contributes to an efficiently functioning Parliament by providing a range of support services to parliamentarians and their staff. The nature of parliamentarians' roles as elected representatives places unique demands on them and their staff. The underpinning administrative systems, while meeting proper levels of accountability, should not unnecessarily inhibit parliamentarians from fulfilling their important roles as elected representatives of the Australian people.

Finance has a continuous improvement approach to its administration of parliamentary entitlements and our next steps in that process will have regard to the recommendations contained in this audit report. The audit covered a four-

⁹ Travel expenditure by personal staff in October 2001 was 216 per cent above the average monthly expenditure for 2001–02. September 1998 costs were 202 per cent over average monthly expenditure for 1998–99.

year period and Finance welcomes the recognition in the report that it has made a range of improvements to the administration of entitlements over that period. In addition, a major Business Improvement Program has been initiated this year within the Ministerial and Parliamentary Services Group of the Department. This Program aims to introduce even more robust business systems to reduce manual processing, streamline transaction processing and further enhance services to parliamentarians and their staff by providing more services on-line.

Recommendations

Set out below are the ANAO's recommendations and Finance's abbreviated responses. Finance's more detailed responses are shown in the body of the report immediately after each recommendation.

Recommendation No.1 para 2.49 ANAO *recommends* that the Department of Finance and Administration strengthen monitoring procedures to ensure MOP(S) Act staff for whom a security clearance is outstanding are identified in a timely manner, and that appropriate follow-up is undertaken with relevant staff members, their employing Parliamentarians and the security-vetting agency undertaking the security clearance.

Finance response: Agree.

Recommendation No.2 para 3.22 ANAO *recommends* that, where the Department of Finance and Administration does not hold documentation of written authority from the relevant Parliamentarian for a person who has certified a MOP(S) Act staff claim, reasonable inquiries be made in order to verify that the person was duly authorised to exercise the relevant power before proceeding with the payment. Where this is not the case, the Department should obtain certification of the claim from the Parliamentarian or another duly authorised person.

Finance response: Agree.

Recommendation No.3 para 3.32 ANAO *recommends* that the Department of Finance and Administration revise its procedures to ensure that the validity of documentation purporting to authorise a person to exercise a Parliamentarian's MOP(S) Act powers is verified as it is received, and that all necessary information is obtained before certifications provided by that person are relied upon as a basis for the payment of public money.

Finance response: Agree.

Recommendation No.4 para 3.37 ANAO *recommends* that the Department of Finance and Administration issue guidelines to Parliamentarians on sound administrative practice in the provision of authorisations to persons to exercise MOP(S) Act powers on their behalf, including an expectation that authorisations only be made prospectively.

Finance response: Agree.

Recommendation No.5 para 3.73 ANAO *recommends* that the Department of Finance and Administration develop and implement procedures to ensure all Monthly Management Report certifications are reviewed as they are received, and that:

- (a) consistent with the advice provided to Senators and Members in August 2003, where the certification of Part A of the report has been provided by a person other than the Parliamentarian, the management report is referred back to the Parliamentarian with a request for personal certification; and
- (b) where a person other than the Parliamentarian has certified Part B of the report, Finance has a copy of a valid written authorisation for that person for the period covered in the management report; and where a valid authorisation is not held, the management report is referred back for certification by the Parliamentarian or other duly authorised person.

Finance response: Agree.

Recommendation No.6 para 4.14 ANAO *recommends* that the Department of Finance and Administration undertake regular risk-based reviews of payments to MOP(S) Act staff, with formal reports being prepared of the findings of each review, as an effective means of enhancing the control framework for the expenditure of public money.

Finance response: Agree.

Recommendation No.7 para 4.27 ANAO *recommends* that the Department of Finance and Administration introduce appropriate risk-based procedures for cross-checking between relevant payments made to, or on behalf of, MOP(S) Act staff.

Finance response: Agree.

Recommendation No.8 para 4.35 ANAO *recommends* that the Department of Finance and Administration introduce processes for regular, structured analysis of the management reports provided to Parliamentarians to assist in the timely identification of transactions that warrant further investigation.

Finance response: Agree.

Recommendation No.9 para 4.51 ANAO *recommends* that the Department of Finance and Administration review existing instructions and guidance to ensure adequate, relevant guidelines are available in respect to the use of Commonwealth resources by MOP(S) Act staff, including to:

- (a) Departmental staff, in relation to the administration and processing of payments to, or in respect of, MOP(S) Act staff;
- (b) MOP(S) Act staff, in relation to the claiming and use of employment-related payments and services; and
- (c) persons authorised to exercise powers under the MOP(S) Act, in relation to matters that must be considered in authorising and certifying use of Commonwealth resources by staff.

Finance response: Agree.

Recommendation No.10 para 4.55 ANAO *recommends* that the Department of Finance and Administration finalise, as part of the Department's overall fraud control framework, a fraud control plan that is specific to the administration by the Ministerial and Parliamentary Services Group of Parliamentarian's entitlements, including MOP(S) Act staff.

Finance response: Agree.

Recommendation No.11 para 4.74 ANAO *recommends* that the Department of Finance and Administration develop and implement procedures to ensure appropriate recovery action is taken in respect of written off MOP(S) Act staff debts where the relevant person is re-employed.

Finance response: Agree.

Recommendation No.12 para 5.13 ANAO *recommends* that the Department of Finance and Administration revise the entitlements handbooks issued to Parliamentarians to include specific guidance on accessing payments and services to MOP(S) Act staff during election periods, and in providing certifications in respect to those payments.

Finance response: Agree with qualification.

Recommendation No.13 para 5.28 ANAO *recommends* that the Department of Finance and Administration increase pre- and post-payment controls over the use of staff travel entitlements during election periods in recognition of the changed environment that exists during those periods.

Finance response: Agree.

Audit Findings and Conclusions

1. Introduction

This chapter details the background to the audit, the employment framework applying to staff engaged under the Members of Parliament (Staff) Act 1984 (MOP(S) Act), staffing levels and costs, and the audit approach and scope.

Parliamentarians' entitlement to staff

1.1 To assist them in effectively carrying out their respective electorate, parliamentary and official duties, Senators and Members of the House of Representatives require a wide spectrum of support services. These services, generally referred to as 'entitlements', are established pursuant to a legal framework comprising: *The Constitution*, Acts of Parliament and Determinations of the Remuneration Tribunal.

1.2 Important among these entitlements is the capacity to employ staff. The staff employed in Parliamentarians' electorate and parliamentary offices perform a wide range of tasks across hundreds of locations around Australia. They provide policy advice and administrative support to their employing Senator or Member, as well as advice and assistance to constituents.

1.3 The MOP(S) Act is the legislative basis for the employment of staff by Parliamentarians on behalf of the Commonwealth.¹⁰ It has three main parts¹¹: Part II governs the engagement of consultants by Ministers; Part III provides for the employment of staff by specified office holders; and Part IV provides for the employment of electorate staff by Senators and Members. Staff and consultants engaged under the Act are responsible to their employing Parliamentarian. While the Parliamentarian may terminate the employment at any time, there is an obligation to observe good employer practices, including the principles of natural justice.¹² The employment also ceases if the employing Parliamentarian dies or loses relevant office or, where relevant, the employing Minister ceases to administer a specific portfolio.¹³

¹⁰ Until 1984, Senators and Members wanting to employ staff used the temporary employment provisions of the *Public Service Act 1922* or private contractual arrangements. The purpose of the MOP(S) Act was to create a legislative scheme for the engagement of consultants to provide services for Ministers of State, and the employment of staff by Ministers, office holders in the Government and Opposition, and Senators and Members (see Explanatory Memorandum, Members of Parliament (Staff) Bill, 1984).

¹¹ Part I identifies the short title of the Act, its commencement, and the interpretation of key terms.

¹² Where the engagement of a consultant is not otherwise terminated, it will terminate at the expiration of such period not exceeding three years as specified in the agreement (MOP(S) Act ss. 9(4)).

¹³ Where the employment of staff or consultants is terminated by virtue of the employing Parliamentarian dying or losing relevant office, the Prime Minister may direct that the employment of the person shall be deemed: (a) not to have been terminated, and (b) to have continued, or to continue, until a specified date (MOP(S) Act ss. 9(5), 16(5) and 23(4)).

1.4 Under the MOP(S) Act, the Prime Minister has legislative authority to determine the arrangements within which all Parliamentarians may engage staff. The employment powers conferred on Parliamentarians by the Act are not exercisable otherwise than in accordance with those arrangements, and subject to such conditions as are determined by the Prime Minister.¹⁴ The Prime Minister has authorised the Special Minister of State (SMOS) to exercise some of his powers under the MOP(S) Act.¹⁵

Senators' and Members' electorate staff

1.5 Under current arrangements, each Senator and Member is entitled to employ three full-time staff.¹⁶ Two full-time staff must be located in the employing Parliamentarian's electorate office, with the third able to be located in either the electorate office or in Canberra. Members who, due to the size of their electorate, are provided with a second electorate office at Commonwealth expense¹⁷ may employ an additional full-time staff member, to be located in that office. More than one person may be employed part-time in any or all of the positions.¹⁸

1.6 In general, Senators and Members employ their electorate staff under Part IV of the MOP(S) Act. The exceptions are the electorate staff of Ministers, Parliamentary Secretaries, the Leader and Deputy Leader of the Opposition, the Leader and Deputy Leader of the Opposition in the Senate, and the Leader and Deputy Leader of the Australian Democrats. Those staff are employed under Part III of the Act.

1.7 As at 1 June 2003, there were a total of 543 approved electorate staff positions under Part IV of the Act¹⁹—177 positions for 59 Senators²⁰ and 366 positions for 120 Members.²¹ Senators and Members are also provided with a

¹⁴ MOP(S) Act, ss. 4(1), 13(2) and 20(2).

¹⁵ The most recent delegations were made in November 2001.

¹⁶ Electorate staff may be employed within three Electorate Officer classification bands (A, B and C). A typical office structure is either: three staff at the Band B level; or one staff member at each classification level.

¹⁷ The Members for Grey, Kalgoorlie, Kennedy, Leichhardt, Maranoa, Lingiari, O'Connor, Parkes and, as of June 2003, Capricornia.

¹⁸ Provided the total standard hours worked do not exceed the standard weekly hours for a full-time position.

¹⁹ Source: *Summary of Staff Employed Under the Members of Parliament (Staff) Act 1984*, Department of Finance and Administration, 1 June 2003.

²⁰ Seventeen of the 76 Senators in the Parliament at that time were office holders employing their electorate staff under Part III of the MOP(S) Act (10 Ministers, three Parliamentary Secretaries, the Leader and Deputy Leader of the Opposition in the Senate and the Leader and Deputy Leader of the Australian Democrats).

²¹ At that time, 30 of the 150 Members of the House of Representatives were office holders employing their electorate staff under Part III of the MOP(S) Act (20 Ministers, eight Parliamentary Secretaries and the Leader and Deputy Leader of the Opposition).

Relief Staff Budget each financial year from which they may meet the cost of engaging relief staff in their electorate office to meet peak workloads and fill short-term vacancies.

Office holders' staff

1.8 Office holders are authorised to employ personal staff under Part III of the MOP(S) Act. The Act defines an office holder for this purpose as being:

- a person who holds a relevant office, defined as:
 - Minister;
 - Leader and Deputy Leader of the Opposition in the Senate and the House of Representatives; or
 - leader or deputy leader, in a House of the Parliament, of a recognised political party (other than where that person holds an office referred to above);
- a person, not being a Senator or Member of the House of Representatives, who held the office of Prime Minister; or
- a person in respect of whom a determination by the Prime Minister under section 12 of the MOP(S) Act is in force. Section 12 provides that the Prime Minister may, having regard to the parliamentary duties of a Senator or Member, determine that they ought to be empowered to employ staff under this Part of the Act.²²

1.9 The classifications at which office holders may engage staff depend upon the office held. For senior Government and Opposition office holders, this may include staff at the classifications of Senior Adviser, Media Adviser and/or, for senior Government Ministers, Principal Adviser. Those positions are equivalent to the Senior Executive Service (SES) in the Australian Public Service (APS). Other classifications available for personal staff are non-SES equivalent Media Adviser, Adviser, Assistant Adviser, Executive Assistant/Office Manager and Secretary/Administrative Assistant.

1.10 The Prime Minister approves the numbers and levels of personal staff establishments allocated to Government office holders (Cabinet Ministers, other Ministers and Parliamentary Secretaries), in accordance with their varying responsibilities. Personal staff positions are also allocated to Government Whips,

²² Senators and Members currently approved are: Government Whips, the Presiding Officers in the Senate and the House, the Deputy Presiding Officers, the Whips of recognised non-government parties in the Senate and the House, shadow ministers, Australian Democrats, and independent Senators and Members not affiliated with a major party.

the Government Members' Secretariat (GMS)²³ and the Cabinet Policy Unit (CPU).²⁴

1.11 The Prime Minister also allocates a block of personal staff positions (being a specific number of positions at specific classifications) to the Leader of the Opposition. The Leader reallocates those positions to Opposition office holders, shadow ministers and Opposition Whips. The SMOS, in consultation with the Prime Minister, reviews this block of positions annually. Since 1983, the number of personal staff allocated to the Leader has been approximately 21 per cent of the positions (including consultants) allocated to the Government.²⁵ Personal staff positions are allocated to other recognised parties and independent Senators and Members at the determination of the Prime Minister.

1.12 As at 1 June 2003, there were a total of 631.7 approved staff positions under Part III of the Act—488.7 personal staff and 143 electorate staff.²⁶ This comprised:

- Government—497.7 (comprising 372.7 personal staff (including staff of the GMS (nine) and the CPU (five²⁷)) and 125 electorate staff²⁸);
- Opposition—91 (comprising 79 personal staff²⁹ and 12 electorate staff);
- Australian Democrats—21 (comprising 15 personal staff and six electorate staff);

²³ The GMS assists Government backbench Senators and Members, by providing training and development support. Staff allocated to the GMS are the responsibility of the Chief Government Whip. Following the retirement of the then Chief Government Whip on the proroguing of the Parliament before the 2001 general election, responsibility for the supervision of the GMS was temporarily transferred to the SMOS for the period 30 September 2001 to 23 November 2001, when the new Chief Government Whip was appointed.

²⁴ In November 2003, PM&C advised ANAO that the CPU has the dual role of supervising Cabinet processes as well as providing advice on strategic policy directions and coordinating policy development to ensure that government policies and programmes are consistent with the government's overall aims and objectives. The Prime Minister employs staff allocated to the CPU.

²⁵ In April 2003, Finance advised ANAO that the 21 per cent is taken from the Government's staff establishment at 1 March each year, and that, historically, the levels of positions were linked to the comparable percentage of positions allocated to the Opposition under the Hawke/Keating governments.

²⁶ This excludes personal staff engaged by the Presiding Officers and by the Prime Minister at Kirribilli House and the Lodge. For comparison purposes, as at 31 July 1998, there were a total of 535 approved staff positions under Part III of the Act, 426 personal staff positions and 109 electorate staff. This comprised: Government—416 (325 personal staff and 91 electorate staff); Opposition—80 (68 personal staff and 12 electorate staff); Australian Democrats—18 (12 personal staff and six electorate staff); Parliamentarians not affiliated with a major political party—11 personal staff; and former Prime Minister's—10 personal staff. Sources: *Summary of Staff Employed Under the Members of Parliament (Staff) Act 1984*, Department of Finance and Administration, 1 June 2003 and 31 July 1998.

²⁷ Prior to 2002, the CPU allocation was three.

²⁸ Two Government office holders who represent large electorates were provided with a fourth electorate staff member.

²⁹ This includes one position allocated to a former Leader of the Opposition under a s. 12 Determination by the Prime Minister, which is not included in the personal staff positions allocated to the Leader of the Opposition.

- Parliamentarians not affiliated with a major party—10 personal staff; and
- former Prime Ministers—12 personal staff.³⁰

Ministerial consultants

1.13 Part II of the MOP(S) Act provides that a Minister may, with the approval of the Prime Minister, engage a consultant on behalf of the Commonwealth. The engagement of a natural person as a consultant may be on a full-time or part-time basis.³¹

1.14 The Act requires that, as soon as practicable after the end of each financial year, a report with details of consultants engaged by Ministers during the year be tabled. Since 1998–99, only the Prime Minister has been reported as having engaged consultants.³² As at 1 June 2003, there was one part-time consultant engaged by the Prime Minister.

Staff selection

1.15 In general, it is a matter for individual Senators and Members to determine whom they will employ in exercising their powers under the MOP(S) Act. For Government staff, the Prime Minister approves all proposed appointments and promotions to, and long-term acting arrangements at, the Adviser level and above.³³

1.16 A number of Senators and Members choose to employ their spouse, other members of their family, or members of the families of other current or former Parliamentarians as electorate staff. In the case of Ministers, the Prime Minister's *A Guide on Key Elements of Ministerial Responsibility* provides that:

There is a longstanding practice that ministers do not appoint close relatives to positions in their own offices. In addition, close relatives of a minister should not be appointed to any other minister's office irrespective of the level of the position, except with the specific approval of the Prime Minister. And a minister's close relative should not be appointed to any position in an agency in that minister's own portfolio if the appointment is subject to the agreement of the minister or Cabinet.³⁴

³⁰ An incoming Prime Minister approves the office accommodation and staff arrangements for his or her predecessor. The standard set of arrangements that has been established over time includes authority to engage up to three staff (including an Executive Assistant Level 2 (driver)).

³¹ Sub-section 7(2) of the MOP(S) Act.

³² This comprised, at various times, three during 1998-99 (one full-time, two part-time); three during 1999-2000 (two part-time, one on a fixed fee basis); two during 2000–01 (one part-time, one on a monthly/daily fee basis); and two during 2001–02 (one part-time, one full-time for a fixed period).

³³ Details of the appointments of other personal staff are notified directly to the SMOS.

³⁴ *A Guide on Key Elements of Ministerial Responsibility*, Prime Minister, Canberra, December 1998, p.11.

Employment terms and conditions

1.17 The employment terms and conditions of MOP(S) Act staff are established in accordance with the Prime Minister's authority and under the agreement making provisions of the *Workplace Relations Act 1996* (WR Act).³⁵ The payments and services available to individual staff members depend upon the nature of the position in which they are employed and the operation of various budgets applying to individual Parliamentarians' offices (see Figure 1.1).

1.18 Current terms and conditions are set out in:

- terms and conditions prescribed under the MOP(S) Act;
- Certified Agreements (CAs) periodically negotiated with MOP(S) Act staff and accompanying guidelines;
- individual employment agreements, being Australian Workplace Agreements (AWAs) or written agreements with Ministerial consultants;
- other relevant employment legislation such as the *Maternity Leave (Commonwealth Employees) Act 1973*; and
- Ministerial Determinations made under the MOP(S) Act.

1.19 The Prime Minister may, by written determination, vary the employment terms and conditions (other than prescribed terms and conditions) of a person employed under Parts III or IV of the Act.³⁶ Such determinations may apply to all persons employed under a Part of the Act, all those in a class of persons so employed, or a specified person.³⁷ This includes issuing determinations to give effect to AWAs and CAs negotiated for staff employed under the Act.

1.20 Powers under the MOP(S) Act that the Prime Minister has authorised the SMOS to exercise include the power to:

- make determinations relating to the terms and conditions for the engagement of Ministerial consultants;
- approve arrangements for the employment of staff by office holders;
- determine any further conditions subject to which office holders and other Senators and Members may employ staff; and
- make determinations varying employment terms and conditions.

³⁵ The MOP(S) Act originally provided that the conditions of employment of Parliamentarians' staff be the same as those for public servants of the equivalent level, unless otherwise prescribed. This, in practice, meant that the conditions of employment were similar to those of public servants. In 1999, the formal link between public service classifications and employment arrangements under the MOP(S) Act was removed from legislation (*Public Employment (Consequential and Transitional) Amendment Act 1999*).

³⁶ By either varying terms and conditions, or including new terms and conditions (ss. 14(3) and 21(3)).

³⁷ Ss. 14(4) and 21(4).

Figure 1.1**MOP(S) Act staff employment-related payments and services**

| Not Subject to Budget | Subject to Budget/Employment Condition Limits ^A | |
|--|---|---|
| | Dollar limit | Occurrence and location limits |
| Office holders' personal staff | | |
| Scheduled travel in Australia ^B Overseas travel accompanying Minister or office holder on official visit ^C Travel Allowance (other than in Canberra) ^B Car transport ^{B, D} Private Vehicle Allowance ^B | Salary ^E Parliamentary Staff Allowance or Ministerial Staff Allowance Private-plated vehicle or allowance in lieu (Principal Advisers and Senior Advisers) Training ^F Severance pay Career transition payment | Travel allowance in Canberra ^G Comcar car with driver service, Canberra only (SES and above) Relocation and temporary accommodation expenses for employee and family Legislative employment conditions e.g. leave |
| Office holders' electorate staff | | |
| Scheduled travel in Australia for nominated staff member ^{B, H} Scheduled travel between electorate and Canberra for other electorate staff ^B Travel Allowance (other than in Canberra for nominated staff member) ^B Private Vehicle Allowance ^B Car transport ^{B, D} | Salary ^E Overtime ^J ESA (optional) ^J Training ^F Severance pay Career transition payment | Travel Allowance in Canberra for nominated staff member ^{G, H} Scheduled travel for other electorate staff ^{B, I} Overtime for officers in receipt of ESA ^K Relocation and temporary accommodation expenses for employee and family Legislative employment conditions e.g. leave |
| Senators' and Members' electorate staff | | |
| | Salary ^E Overtime ^J ESA (optional) ^J Travel Allowance ^{B, L} Private Vehicle Allowance ^{B, L} Scheduled travel ^{B, L} Car transport ^{B, D, L} Training ^F Severance pay Career transition payment | Scheduled travel ^{B, I} Overtime for officers in receipt of ESA ^K Relocation and temporary accommodation expenses for employee and family Legislative employment conditions e.g. leave |

continued next page

| Not Subject to Budget | Subject to Budget/Employment Condition Limits ^A | |
|---|---|--------------------------------|
| | Dollar limit | Occurrence and location limits |
| Ministerial consultants | | |
| Remuneration, services and payments are subject to the negotiated terms and conditions agreed with each consultant, as approved by the SMOS on behalf of the Prime Minister | | |
| Staff of former Prime Ministers | | |
| | Salary Travel Allowance ^M Scheduled travel ^{IM} Car transport ^{D, M} Private Vehicle Allowance ^M Allowance for drivers | |

Notes:

- ^A These entitlements are subject to either a financial cap or global budget in a given financial year, or are otherwise restricted in terms of the number of permitted occurrences in a year or in the location in which the entitlement may be accessed.
- ^B The travel must be undertaken at the direction of the employing Parliamentarian (or other person authorised under s.32 of the MOP(S) Act) for official business.
- ^C The entitlement for staff of Opposition office holders derives from the *Parliamentary Entitlements Act 1990*.
- ^D Car transport includes taxis (usually using Cabcharge) and self-drive vehicle hire.
- ^E Salary bands for electorate staff and personal staff at Media Adviser/Adviser level and below are set down in the CA. Salaries paid to senior government and non-government personal staff, principally through AWAs, are approved by the SMOS, in accordance with salary ranges for each classification set out in parameters approved by the Prime Minister. The Prime Minister can approve salaries outside of the specified ranges for staff on AWAs. The Prime Minister may also approve personal classifications to recognise the particular skills and responsibilities of individual personal staff members.
- ^F There is no specified limit on the number of courses or cost of attendance at an individual Parliamentarian's office level, but overall funding for training is subject to a budget set by the Minister.
- ^G Limit of 120 overnight stays in Canberra each financial year.
- ^H Since at least 1987, successive Ministers of State entitlements handbooks have stated that one electorate staff member of a Minister (and, in later versions of the entitlements handbooks, other office holders) may, at the direction of the office holder, travel at Commonwealth expense without being subject to the destination and financial restrictions applying to travel by other electorate staff. In August 2003, Finance advised ANAO that, due to the age of the arrangement, the Department was unable to locate a source document providing the original approval for this practice.
- ^I Limited to travel within the employing Parliamentarian's electorate; between the electorate office and the capital city of that State; and between the electorate office and Canberra.

continued next page

- ^J The annual budget set down in the CA limits the total overtime costs, including payments of ESA, which can be incurred in a given financial year by the employing Parliamentarian. Within that budget, there is no financial limit on the overtime payments that can be claimed by individual electorate staff. Prior to the implementation of the 1999–2000 CA, there was no annual limit. Overtime was paid to all employees who claimed for additional hours worked. Although there was a guideline of not more than 12 hours overtime per week per office, this was significantly exceeded by some offices.
- ^K Staff who elect to receive ESA are restricted as to the times in which paid overtime can be worked.
- ^L Total travel costs that can be expended in a year by the employing Parliamentarian's electorate staff is limited by an annual Electorate Staff Travel Budget. The travel expenditure an individual staff member may incur within that global budget is not limited.
- ^M Staff are not limited in where they can travel to, but total travel costs incurred by each former Prime Minister's staff in a given financial year is limited by a travel budget as advised by the current Prime Minister.

Source: ANAO analysis of relevant legislation, current and previous CAs and accompanying guidelines, guidelines for staff employed under the terms of AWAs, Ministerial determinations and guidelines, and relevant Finance handbooks.

Certified Agreement

1.21 Since June 1999, the conditions of employment for electorate staff, and personal staff at the Adviser/Media Adviser level and below³⁸, have been outlined in CAs made under the WR Act.³⁹ The first CA for MOP(S) Act staff, the *Members of Parliament Staff (Commonwealth) Certified Agreement 1999–2000*, ran from June 1999 to October 2001 (although the nominal expiry date was 31 December 2000), when it was replaced by the 2001–02 CA. That Agreement had a nominal duration of 12 months, but operated until 20 August 2003, when the 2003–06 CA came into effect.

1.22 The CA outlines remuneration arrangements including annual salary increments (subject to satisfactory performance), payments for temporary performance of higher level work and salary increases to be paid over its life.⁴⁰ Under the 2003–06 CA, staff may be employed, full-time or part-time, on an

³⁸ Excluding the staff employed at Kirribilli House and the Lodge.

³⁹ Earlier relevant agreements included the *Electorate Officers Agreement 1992* and *Electorate Officers Agreement 1995–96*.

⁴⁰ Determination No. 2002/06 of 22 April 2002 empowered Ministers, Parliamentary Secretaries and the Leader of the Opposition to appoint electorate staff at any point in the relevant salary range. It also enabled them to advance their electorate staff, and those personal staff covered by the CA, to higher salary points in the relevant salary bands outside the terms specified by the CA, subject to any arrangements put in place by the Prime Minister. It further provided that the Prime Minister may, at any time, advance a staff member of a Minister or Parliamentary Secretary to a higher salary within the relevant CA salary bands. Determination Numbers 2002-2003/III/14 of 31 October 2002 and 2002-2003/Part III/36 of 5 May 2003 extended the arrangements to the Leader of the Opposition in the Senate, the Deputy Leader of the Opposition in the House of Representatives, the Leader of the Australian Democrats, the Deputy Leader of the Opposition in the Senate and the Deputy Leader of the Australian Democrats.

ongoing or non-ongoing basis. The latter refers to engagements for periods of less than six months. The classification structures for Government and non-Government personal staff under the CA differ, but levels of remuneration for similar positions are broadly equivalent.

Salary bands for senior personal staff

1.23 Prior to 1998, the classifications for senior Government and non-Government personal staff, while differing, shared the common reference point of the APS SES salary ranges. In practice, however, differentials existed in terms of the pay points within the identified salary ranges that were applied to various positions, with Government senior staff, on average, better remunerated.⁴¹ Finance advised ANAO in July 2003 that:

It has been a longstanding view of successive Governments that the workload of Ministerial staff differs significantly from that of non-Government staff and that these differences are reflected in the salary levels that are applied. Ministerial staff are required to assist their Ministers with responsibilities that are substantially and qualitatively different to the responsibilities carried by the Opposition.

1.24 A new approach to determining the employment arrangements for senior personal staff was introduced in 1998. This included a decision to offer those staff AWAs rather than coverage under the first CA (then under negotiation).⁴² AWAs may incorporate some or all of the terms of the relevant CA, or operate to its exclusion.⁴³

1.25 Under this framework, remuneration levels for SES-equivalent personal staff are established with reference to salary bands approved by the Prime Minister for each classification. Either the Prime Minister or the employing non-Government office holder determines the specific salary within the relevant band that will apply to an individual. In the case of Government appointments, the Government Staff Committee provides advice to the Prime Minister in respect to selection and remuneration. Under the terms of the MOP(S) Act, the Prime

⁴¹ As was determined by the Prime Minister in March 1996, the Minister for Administrative Services (and then the SMOS) determined salaries for APS SES-equivalent positions, after consultation with the Secretary of the Department of Industrial Relations (and then the Secretary of the Department of Workplace Relations and Small Business).

⁴² Where employees decline to take up an AWA offer, the 'default' terms and conditions are those that were specifically determined in 1998 prior to the introduction of AWAs (including 1998 rates of salary and Ministerial Staff Allowance (MSA)) and before the severing of links between the MOP(S) Act and the Public Service Act. In the absence of these links to basic terms and conditions under the Public Service Act or a CA, determinations have been made under the MOP(S) Act to also apply the basic conditions that existed in 1998 to these employees.

⁴³ From February 2000, AWAs were also available to employees covered by the CA who, with the agreement of their employing Senator or Member, wished to access one or more flexibilities from an approved menu. Under the 2003-006 CA, all staff have the ability to enter into an AWA.

Minister may approve an individual to receive a salary outside of the range relevant to their position.⁴⁴

Personal classifications

1.26 Individual staff members may, with the approval of the Prime Minister, be assigned a personal classification that is higher or lower than the substantive classification of the position they hold and, accordingly, be paid at a rate applicable to another classification.⁴⁵ Personal classifications are not additional positions. They are assigned to recognise the particular skills and responsibilities of individual staff. The classification attaches to the individual concerned. When that staff member ceases to be employed under the MOP(S) Act, the position reverts to its standard classification.

1.27 As at 1 June 2003, 35 personal staff held personal classifications, including seven at lower classifications than the substantive position.⁴⁶ Five staff members held the position of Special Adviser. That classification was created in July 2000 as a personal classification that could, with the approval of the Prime Minister, be assigned to Ministerial staff to recognise the value of work performed at a level falling between the Adviser and Senior Adviser classifications.⁴⁷

1.28 In March 2003, the Leader of the Opposition was advised that the Prime Minister had agreed that non-Government office holders may have access to personal classifications for their personal staff, including the Special Adviser classification. Access is subject to the demonstration of particular skills and responsibilities, the specific approval of the Prime Minister, and the availability of funds where the personal classification is higher than that of the usual position.

Annual costs

1.29 Under the SMOS's direction, Ministerial and Parliamentary Services (M&PS) in Finance is responsible for administering most staff employed under the MOP(S) Act.⁴⁸ As at 1 June 2003, the total approved establishment for MOP(S)

⁴⁴ Ss. 14(3) and 21(3).

⁴⁵ In April 2003, Finance advised ANAO that: 'M&PS is not aware of, or involved in, the process that results in an individual staff member being given a personal classification. The only advice that M&PS receives is a copy of a letter from the Prime Minister's Chief of Staff to the relevant Minister/Parliamentary Secretary advising that the Prime Minister has approved/granted a personal classification for a particular staff member.'

⁴⁶ For comparison purposes, at May 2002, Finance identified 33 Government office holders' personal staff as holding personal classifications, five at lower levels.

⁴⁷ In agreeing to the introduction of the new classification in July 2000, the Prime Minister advised that it might be used to upgrade some existing adviser positions where necessary rather than allocating additional positions.

⁴⁸ The Parliamentary Departments are responsible for administering personal staff employed by the Presiding Officers and Deputy Presiding Officers. PM&C is responsible for administering MOP(S) Act staff employed by the Prime Minister at Kirribilli House and the Lodge.

Act staff positions administered by Finance was 1175.2 positions.⁴⁹ The most significant employment-related costs for those staff are salary and related payments, travel costs and allowances, and training costs. In 2001–02, direct payments made by Finance to, or on behalf of, MOP(S) Act staff amounted to \$101.4 million (see Figure 1.2). Costs, including corporate overheads, incurred by Finance in 2001–02 in administering the entitlements and services provided to both Parliamentarians and their staff totalled \$26.9 million.⁵⁰

Figure 1.2

Finance direct expenditure on MOP(S) Act staff: 1998–99 to 2001–02

| | 1998–99 \$m | 1999–00 \$m | 2000–01 \$m | 2001–02 \$m |
|-------------------------------------|----------------|----------------|----------------|----------------|
| Total salary related costs | 71.67 | 73.13 | 75.76 | 83.82 |
| Comprising: | | | | |
| • Salary & leave | 54.61 | 56.24 | 58.25 | 62.85 |
| • Overtime and related allowances | 9.09 | 9.16 | 9.36 | 9.99 |
| • Superannuation and other payments | 7.97 | 7.73 | 8.15 | 10.98 |
| Total travel related costs | 14.49 | 16.85 | 15.40 | 17.13 |
| Training | 0.72 | 0.74 | 0.69 | 0.43 |
| Total | 86.88 | 90.72 | 91.85 | 101.38 |

Source: Advice to ANAO by Finance.

Audit approach

1.30 On 2 November 2000, the Senate agreed to a resolution that the Auditor-General be requested to review all expenditures and entitlements accruing to Parliamentarians and Ministers in 1999–2000.⁵¹ The resolution requested that the Auditor-General consider a number of specific matters, and report by 30 June 2001.⁵² On 10 November 2000, the Auditor-General wrote to the President

⁴⁹ This includes approved positions vacant as at 1 June 2003, as well as positions that were job-shared by part-time staff. For comparison purposes, the approved establishment for MOP(S) Act staff administered by Finance as at 31 July 1998 was 1108 positions. Sources: *Summary of Staff Employed under the Members of Parliament (Staff) Act 1984*, Department of Finance and Administration, 1 June 2003 and 31 July 1998.

⁵⁰ Source: *Annual Report 2001–02*, Department of Finance and Administration, p. 64, Price of Departmental Outputs, Output 3.1. Finance advised ANAO that it is not possible to break down the Departmental costs of administering MOP(S) Act staff separately from Parliamentarians' entitlements as most sections within M&PS administer both. These costs also exclude \$17.8 million relating to the operation of COMCAR, as COMCAR also services clients other than Parliamentarians e.g. judiciary, former Governors-General and guests of Government.

⁵¹ As administered by Finance, the Parliamentary Departments, and, in the case of Ministers, their home departments.

⁵² See ANAO Audit Report No.5 2001–02, *Parliamentarians' Entitlements: 1999-2000*, Canberra, 7 August 2001, p. 68 for the full text of the Senate resolution.

of the Senate advising of his decision to undertake a performance audit. ANAO Audit Report No.5 2001–02, *Parliamentarians' Entitlements: 1999–2000*, was tabled in the Parliament in August 2001.

1.31 In February 2001, the Auditor-General had advised the President of the Senate that, given the range of issues involved and the slower than anticipated rate of progress being made by the ANAO in securing access to relevant Commonwealth records, the Auditor-General had decided it would be preferable to defer examination of issues relating to Parliamentarians' staff in order to give him a reasonable chance of reporting reasonably close to the Senate's requested reporting timeframe. A proposed audit of the administration by Finance of the entitlements of staff engaged under the MOP(S) Act was subsequently included in the ANAO Audit Work Program for 2001–02.

1.32 The objectives of this performance audit were to:

- review the effectiveness of the internal control structures in Finance concerning the administration of entitlements for MOP(S) Act staff;
- review the effectiveness and efficiency of the procurement and support services Finance provides in relation to MOP(S) Act staff; and
- identify principles of sound administrative practices to facilitate improved administrative arrangements for the future.

1.33 The audit covered Finance's administration of payments and services to MOP(S) Act staff during the period 1998–99 to 2001–02.⁵³ The administration by the Parliamentary Departments and the Department of the Prime Minister and Cabinet (PM&C) of certain MOP(S) Act staff was excluded from the scope of the audit. Sub-section 15(c) of the *Auditor-General Act 1997* precludes an audit of persons who are engaged under the MOP(S) Act. Accordingly, the audit scope also did not include examination of the responsibilities of MOP(S) Act staff.

1.34 In addressing the audit objectives, ANAO had regard for the specific matters the Auditor-General was requested to consider in the Senate resolution of 2 November 2000. ANAO Audit Report No.5 2001–02 responded to those matters in respect to Parliamentarians' entitlements and made a number of recommendations directed at clarifying and improving the control structures applying to their administration.⁵⁴ It did not include specific examination of the administration of the entitlements of staff engaged under the MOP(S) Act. However, many of the overarching accountability, governance and control

⁵³ 1998–99 was the first full year of Finance having responsibility for the Ministerial and Parliamentary Services function previously located in the then Department of Administrative Services (DAS). DAS and the then Department of Finance were reorganised to form the Department of Finance and Administration in October 1997.

⁵⁴ ANAO Audit Report No. 5 2001–02, op. cit., pp.41–53.

processes examined also relate to the administration of MOP(S) Act staff. Therefore, this audit included consideration of the extent to which relevant recommendations made in ANAO Audit Report No.5 2001–02 had been implemented by Finance, and the implications that may have had for the effective administration of MOP(S) Act staff.

1.35 ANAO undertook fieldwork in Finance between June 2002 and May 2003. Six issues papers were provided to the Department for comment in May and June 2003. Final comments on the issues papers were received from Finance at the end of August 2003. The proposed audit report was provided to Finance for comment in October 2003. Having regard to the fact that the Prime Minister has powers under the MOP(S) Act, many of which the SMOS exercises on his behalf, a copy of the proposed report was also provided to PM&C in November 2003. ANAO engaged MinterEllison to provide legal advice to inform ANAO's examination. The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of \$465 000.

2. Administration of Services

This chapter examines the administration of the principal employment-related services and payments provided to, or on behalf of, MOP(S) Act staff.

Support services

2.1 Finance provides current Parliamentarians and former Prime Ministers and their staff with a range of support services, including:

- providing advice on entitlements to Senators, Members, office holders and their respective staff, the Minister for Finance and Administration and the SMOS. In this respect, Finance issues various handbooks and circulars that provide Parliamentarians with information and related administrative procedures and requirements regarding their entitlements, including staff arrangements⁵⁵;
- personnel services, including recruitment and payroll;
- travel allowance and transport services; and
- entitlement processing and reporting.⁵⁶

2.2 An important element of Finance's administrative framework is the provision of individual Monthly Management Reports (MMR) to all Parliamentarians and former Prime Ministers. These reports are provided to allow Parliamentarians to monitor their entitlements expenditure throughout the financial year. Parliamentarians are also provided with an End of Financial Year Management Report (EOFYMR), which sets out a summary of the expenditure reported in the MMRs, and any additional transactions relating to entitlements use in that financial year for which payment was made in the following year up to the date the report is compiled.

2.3 The reports include details of individual transactions and year-to-date totals for most costs incurred by, or in relation to, the Parliamentarian's MOP(S) Act staff. The most significant of those costs relate to staff salary and travel.

Salary and related payments

2.4 At the time of audit, the average salary of MOP(S) Act staff was less than \$55 000 per annum, with only a small proportion being paid a salary greater

⁵⁵ Specific handbooks have been issued for Senators and Members, Ministers of State, Parliamentary Secretaries, Opposition Office Holders, Leader of a Minority Party and a draft handbook on Whips' entitlements. The handbooks are reviewed and updated periodically.

⁵⁶ Portfolio Budget Statements 2003–04, Finance and Administration Portfolio, Budget Related Paper No.1.9, Output 3.1.1, p.54.

than \$100 000 per annum. Over the four-year period examined by ANAO, total annual salary expenditure increased by 12 per cent, from \$52.27 million in 1998–99 to \$58.58 million in 2001–02. Total annual expenditure on salary and related payments increased by an average of 5.4 per cent per annum between 1998–99 and 2001–02.⁵⁷ The largest annual increase occurred in 2001–02⁵⁸, when total expenditure rose by \$8.06 million, or 10.6 per cent⁵⁹, to \$83.82 million (see Figure 2.1).

Figure 2.1

Staff salary and related expenditure: 1998–99 to 2001–02

| Payment Category | 1998–99 \$m | 1999–00 \$m | 2000–01 \$m | 2001–02 \$m |
|---|----------------|----------------|----------------|----------------|
| Salary ^A and leave | 52.27 | 53.97 | 55.91 | 58.58 |
| Leave ^B | 2.34 | 2.27 | 2.34 | 4.27 |
| Overtime and related allowances | 9.09 | 9.16 | 9.36 | 9.99 |
| Superannuation and other payments ^C | 7.97 | 7.73 | 8.15 | 10.98 |
| Total | 71.67 | 73.13 | 75.76 | 83.82 |
| Notes: | | | | |
| ^A Includes salaries and fees paid to Ministerial consultants and higher duty allowances. | | | | |
| ^B Includes payments in lieu for annual leave, long service leave and leave loading. | | | | |
| ^C Includes severance benefits, compensation payments and the allowance paid to employees in remote localities. | | | | |

Source: Advice to ANAO by Finance.

Overtime

2.5 Prior to 1999, there was no financial limit on the overtime payments available to full-time electorate staff for work undertaken outside normal hours of duty.⁶⁰ An annual Ministerial Staff Allowance (MSA) of \$11 424 was paid to all Government and Opposition personal staff in the higher classifications in recognition of long and irregular hours and other special features of employment.

⁵⁷ In comparison, Average Weekly Ordinary—Times Earnings increased by 3.6 per cent (1998–99), 3.1 per cent (1999–2000), 4.2 per cent (2000–01) and 4.6 per cent (2001–02). Finance advised ANAO that the Average Annualised Wage Increase for APS agreements certified in the 12 months ending March 2003 was 4.8 per cent. Finance further advised that the Nominal Expiry Date to Nominal Expiry Date Average Annualised Wage Increase for APS agreements in the 12 months ending March 2003 was 4.2 per cent.

⁵⁸ The increases in 1999–2000 and 2000–01 were 2 per cent and 3.5 per cent respectively.

⁵⁹ The major increases related to salary (\$2.7 million), severance benefits (\$2.7 million), unused leave and leave loading paid in lieu (\$1.9 million) and overtime/allowances (\$0.6 million). Increased payments of this nature can be expected in an election year (as 2001–02 was), due to the higher than normal staff turnover.

⁶⁰ Under the 2003–06 CA, standard hours of full-time work are 37 hours 30 minutes per week and 7 hours 30 minutes per day. It is expected that these hours will generally be worked between the hours of 8.00 am to 6.00 pm Monday to Friday. Part-time employees agree their hours with their employing Parliamentarian.

MSA was optional for some Government staff in the middle classifications, and was not available to either Government or Opposition staff in the lower classifications. Personal staff not in receipt of MSA had access to unlimited overtime payments.

2.6 Since the implementation of the 1999–2000 CA, remunerating staff for extra duty is addressed in a variety of ways. Personal staff members no longer have access to paid overtime. Senior personal staff engaged under AWAs continue to be paid MSA⁶¹, while all other personal staff members receive a Parliamentary Staff Allowance (PSA).⁶²

2.7 Overtime payments continue to be available to electorate staff⁶³, based on claims submitted by the employee and certified by the employing Parliamentarian or another authorised person. Overtime must only be worked at the prior direction of the Parliamentarian. Those staff who elect to receive the fortnightly Electorate Staff Allowance (ESA) may only claim overtime for additional hours worked on weekends, public holidays and outside the span of 8.00 am to 7.00 pm, Monday to Friday.⁶⁴

2.8 Further, the 1999–2000 CA introduced an annual limit on the combined cost of overtime payments and ESA that each Parliamentarian may incur.⁶⁵ Each Parliamentarian may only direct that overtime be worked up to the prescribed annual limit.⁶⁶ Any additional hours are required to be taken as time off in lieu.

2.9 In 2001–02, total payments relating to compensation for work performed outside the standard hours of duty totalled almost \$10 million, compared to \$9.09 million in 1998–99 (see Figure 2.2).

⁶¹ The rate of MSA, as set by Ministerial Determination, was increased to \$14 000 per annum in September 2003.

⁶² The rate of PSA payable in the first year of the 2003–06 CA is \$8 431 or \$13 488 per annum, depending upon the staff member's classification. In order to satisfy the requirements of the 'no disadvantage test' to be applied in implementing the first CA in 1999, a mechanism was needed to offset the potential disadvantage that would occur to those individuals/positions with an established history of overtime well in excess of the proposed PSA. This mainly affected the personal staff of Opposition office holders due to their lower classification profile. In order to address this issue, 22 Opposition personal staff positions were reclassified upwards following assessment of staff members' records of overtime payments. This process was referred to as 'enrichment' of the Opposition personal staff allocation.

⁶³ Part-time staff up to a limit of 20 hours per position per fortnight.

⁶⁴ The rate of ESA payable in the first year of the 2003–06 CA is \$3934 per annum.

⁶⁵ Guidelines on electorate staff overtime, issued to Parliamentarians by the then SMOS in 1984, indicated that only full-time staff were to be paid. Although there was no formal limit, a Minute to all Senators and Members from the then SMOS in April 1987 set out an expectation that no electorate office should exceed 12 hours of overtime per week. This expectation was confirmed in a Minute to Parliamentarians in October 1996. A number of Parliamentarians exceeded that expectation, some by substantial amounts.

⁶⁶ The caps for 2003–04 are \$33 537 for three-position electorate offices and \$39 128 for four-position offices.

Figure 2.2**Overtime and related expenditure: 1998–99 to 2001–02**

| | 1998–99 \$m | 1999–00 \$m | 2000–01 \$m | 2001–02 \$m |
|---|----------------|----------------|----------------|----------------|
| Parliamentary Staff Allowance and Ministerial Staff Allowance | 3.88 | 5.02 | 5.20 | 5.34 |
| Overtime payments | 5.05 | 2.77 | 2.75 | 3.24 |
| Electorate Staff Allowance | N/A | 1.36 | 1.36 | 1.35 |
| Other | 0.16 | 0.01 | 0.05 | 0.06 |
| Total | 9.09 | 9.16 | 9.36 | 9.99 |

Source: Advice to ANAO by Finance.

Travel by MOP(S) Act staff

2.10 Staff employed under the MOP(S) Act may be directed by their employing Senator or Member to travel on official, electorate or parliamentary business. In those circumstances, they are entitled to have the costs of their transportation met⁶⁷, and to be paid Travel Allowance to cover accommodation, meals and incidental expenses associated with overnight stays away from their nominated home base.⁶⁸ The available travel entitlements vary between electorate and personal staff, and depend upon the office held by the employing Parliamentarian and certain nominations made.

2.11 In 2001–02, \$17.13 million was spent on MOP(S) Act staff travel, an increase of some 18 per cent over 1998–99 (see Figure 2.3). Total annual expenditure on Travel Allowance was about one percent less in 2001–02 than in 1998–99, while fares expenditure increased by 18 per cent. Finance advised ANAO in July 2003 that it had calculated that, over the period of the audit, Travel Allowance rates (which are linked to the rates set by the Department of Employment and Workplace Relations) increased by, on average, 20.5 per cent and fares increased by, on average, six per cent (on the most commonly travelled routes). In the same period, total car transport costs rose by about 20 per cent.

⁶⁷ Fares for scheduled travel are paid under a contract between Finance and a travel services provider. Private Vehicle Allowance is payable where a staff member uses their own vehicle for transport.

⁶⁸ The 'home base' is the office where the staff member spends most time on duty. When a staff member commences employment, he or she is required by Finance to nominate a home base, with the endorsement of the employing Senator or Member. Home base nominations can be changed at the request of the Senator or Member.

Figure 2.3**MOP(S) Act staff travel costs: 1998–99 to 2001–02**

| Payment Category | 1998–99 \$m | 1999–00 \$m | 2000–01 \$m | 2001–02 \$m |
|------------------------------|-------------------|----------------|----------------|----------------|
| Fares | 6.72 | 8.62 | 7.22 | 7.91 |
| Travel Allowance | 5.28 | 4.60 | 4.77 | 5.24 |
| Car Transport ^A | 1.92 | 2.05 | 2.25 | 2.30 |
| Overseas Travel ^B | 0.57 ^C | 1.58 | 1.16 | 1.68 |
| Total | 14.49 | 16.85 | 15.40 | 17.13 |

Notes:

^A Car transport costs include taxi fares, other vehicle hires, private plated vehicles and private vehicle allowance. Figures for Comcar use are not included as Finance does not report these. Finance advised ANAO in July 2003 that Comcar is used by a small number of senior staff and that the cost of this use is relatively low, ranging between \$5 319 and \$8 939 per annum.

^B These figures exclude any costs (such as accommodation and some meals) met in the first instance by Australian overseas posts and subsequently paid by Finance. Finance advised ANAO in September 2003 that the payment method used does not permit the separate extraction of staff costs from the costs of their employing Minister and their spouse.

^C The data provided to ANAO by Finance indicated substantially lower overseas travel costs in 1998–99 than in subsequent years. This figure may be underreported due to the factors described by Finance at Note B.

Source: Advice to ANAO by Finance.

Entitlement caps and limits

2.12 Over recent years, there has been increasing use of financial caps and other limits on Parliamentarians' entitlements as a control over the expenditure of public money. This has similarly been the case in respect to MOP(S) Act staff expenditure, particularly in respect to the operation of Parliamentarians' electorate offices. There has, over time, been significant improvement in the form and content of the management information provided to Parliamentarians to assist them in monitoring their expenditure against these limits.

Electorate office financial limits

2.13 The most significant financial limits applying to payments to, or on behalf of, Parliamentarians' electorate office staff are the:

- Overtime/ESA Budget;
- Electorate Staff Travel Budget—except for Ministers and other office holders, travel by Parliamentarians' electorate staff is subject to an annual

budget, as determined by the SMOS. The dollar value of the budget differs for each Parliamentarian, depending upon the electorate office location and size of the electorate. In 2001–02, individual budgets ranged from \$2 000 to \$52 605; and

- Relief Staff Budget—in order to meet peak workloads, Parliamentarians may engage non-ongoing staff for short periods, or part-time ongoing staff for extra hours. The capacity to employ such staff is limited by each Parliamentarian’s annual Relief Budget, as determined by the SMOS.

2.14 Two Parliamentarians exceeded their Overtime/ESA Budget in 1999–2000, the first financial year in which it applied. However, each overspent by less than three per cent. No overspends occurred in 2000–01 or 2001–02. ANAO noted a number of instances in those latter years in which overtime claims were not paid by Finance because the relevant office’s budget had been exhausted.⁶⁹

2.15 Reporting to Parliamentarians of their remaining balance against this budget was introduced into the MMRs in April 2002. The basis of reporting overtime expenditure was also changed. Previously, it had been reported on a cash basis (that is, overtime payments actually made in the financial year). The reports now reflect the value of payments for overtime worked in the relevant financial year, regardless of when the payment was made. This more appropriately reflects the legal basis of the entitlement as set out in the CA.

2.16 The MMRs were also enhanced during 2001–02 to include specific reference to the remaining balance of the Parliamentarian’s Electorate Staff Travel Budget. A significant number of Parliamentarians incur expenditure well below the budget each year. For example, Finance advised ANAO that total expenditure in 2001–02 was \$3.98 million. This compared to a total of all Parliamentarians’ budgets for that year of \$6.4 million. However, where Parliamentarians do exhaust their budget, Finance does not seek to prevent the booking of further travel. Once such costs have been incurred, Finance is obliged to make the relevant payments to the contracted travel service provider. In that context, individual Parliamentarians exceeded their Electorate Staff Travel Budget on 87 occasions in the period examined by this audit (see Figure 2.4).

⁶⁹ The relevant offices were advised that the excess overtime was required to be taken as time off in lieu. This monitoring process is largely manual in nature. Finance advised ANAO in July 2003 that the current personnel system is not capable of having a cap installed that applies to a Senator or Member’s office. Monitoring the cap therefore requires separate reports to be run.

Figure 2.4**Electorate Staff Travel Budget over-expenditure: 1998–99 to 2001–02**

| Year | Total Electorate Staff Travel Expenditure | Total Over-Spend | Average Over-Spend | Number of Over-spending Parliamentarians |
|---------|---|-----------------------|--------------------|--|
| 1998–99 | \$3.91m | \$41 945 | \$2 330 | 18 |
| 1999–00 | \$4.44m | \$62 638 | \$1 739 | 36 ^A |
| 2000–01 | \$4.18m | \$22 334 ^B | \$1 313 | 17 |
| 2001–02 | \$3.98m | \$22 399 | \$1 400 | 16 |

Notes:

^A A decision to increase the Electorate Staff Travel Budget occurred in December 1999. Parliamentarians' 1999–2000 Budgets contained a pro-rata increase for seven months, with the full increase applying in 2000–01.

^B Expenditure of \$6 698.69 is not included in the overspend due to a SMOS decision to allow extra spending in relation to the Additional Senate Hearings and the Centenary of Federation Sitings in Melbourne.

Source: ANAO analysis of Finance records and advice from Finance.

2.17 Reporting against Relief Staff Budgets was introduced into the MMRs in March 2001. Expenditure from Relief Budgets was around \$1.6 million in each of 1998–99, 1999–2000 and 2000–01, rising to over \$1.8 million in 2001–02. Much of the increased expenditure in that year occurred in and around the election period. Over the four-year period examined, there were seven cases of the Relief Staff Budget being exceeded.⁷⁰

Offsetting of overspends

2.18 Where Parliamentarians do exceed the various electorate office expenditure budgets, the approach taken has been to obtain approval from the SMOS to offset the amount of the overspend against the Parliamentarian's relevant budget for the subsequent year.

2.19 Both cases of the Overtime/ESA Budget being overspent were identified by Finance following the end of the 1999–2000 financial year. Due to an administrative oversight no action was taken at that time in regard to one of those cases. In the course of the audit, ANAO brought the outstanding matter to Finance's attention. The SMOS's approval to draw the 1999–2000 overspend

⁷⁰ The amount of overspend incurred ranged between 4.5 and 34.1 per cent of the relevant Parliamentarian's Budget. Six of these had been detected by Finance prior to the audit. The seventh, relating to expenditure in 1999–2000, was identified by Finance in the process of compiling data requested by ANAO.

from the unspent balance of the relevant Parliamentarian's 2000–01 overtime budget was obtained in August 2003.⁷¹

2.20 Similarly, where a Parliamentarian exceeds his/her Electorate Staff Travel Budget, Finance, with the SMOS' agreement, reduces that Parliamentarian's budget for the following year by the amount of overspend. This is routinely done, regardless of whether the Parliamentarian has requested this action, or agreed to it. ANAO considers that the absence of the Parliamentarian's agreement to this course of action raises questions about responsibility for the management of his/her budget.⁷²

2.21 The use of offsets against the Parliamentarian's relevant allocation in a subsequent year has the potential to limit the effectiveness of the budgets as an equitable restriction on the staff-related expenditure of Parliamentarians in a given year, and does not encourage Parliamentarians to manage their expenditure within the limits advised to them.

Canberra Travel Allowance Cap

2.22 The travel costs incurred at the direction of the employing Parliamentarian by all personal staff and, for Ministers and other office holders, one nominated electorate staff member⁷³, are not subject to an annual budget. However, those staff not based in Canberra may only be paid Travel Allowance for a maximum of 120 overnight stays in Canberra each financial year.⁷⁴ Figure 2.5 sets out the results of ANAO's examination of those cases where individual staff members incurred expenditure at or near the 120-night cap in 2000–01 and 2001–02.

⁷¹ In regard to the instance of the Relief Staff Budget being exceeded that was identified in the course of the audit (refer footnote 70), Finance advised that, in June 2003, the SMOS had approved a proposal to offset the excess expenditure against the relevant Parliamentarian's 2000–01 budget, as there was sufficient credit remaining.

⁷² Reducing the subsequent year's budget also does not encourage Parliamentarians to manage their expenditure within entitlement. For example, the April 2001 MMR of one Parliamentarian reported that he had exceeded his 2000-01 Electorate Staff Travel Budget by \$2055. The May 2001 MMR included further expenditure, increasing the overspend to \$3446. Additional expenditure was also reported in the June 2001 MMR and in the EOFYMR, taking the total budget breach to more than \$6051 or 20 per cent of the Parliamentarian's Electorate Staff Travel Budget. The Parliamentarian's 2001–02 Budget, reduced by the 2000-01 overspend, was again exceeded, this time by \$3149.

⁷³ See Note H of Figure 1.1.

⁷⁴ *Members of Parliament Staff (Commonwealth) Guidelines, Travel Allowance*, Department of Finance and Administration, 9 May 2002, p.1.

Figure 2.5**Audit results of examination of cases at or near the 120-night cap for 2000–01 and 2001–02**

| Cases examined | Payments reported in EOFYMR & MMR | Actual Payments | Differential | Result against Cap |
|----------------------|-----------------------------------|-------------------------|------------------------|--|
| 2000–01 Individual 1 | 120 nights | 108 nights | 12 nights | 12 nights under ^A |
| 2000–01 Individual 2 | 120 nights | 120 nights | Nil | fully exhausted |
| 2000–01 Individual 3 | 124 nights | 124 nights ^B | Nil | 4 nights over ^C |
| 2000–01 Individual 4 | 118 nights | 119 nights | 1 day | 1 night under |
| 2001–02 Individual 1 | 134 nights | 120 nights ^B | 14 nights ^D | Initially exceeded, then fully exhausted |

Notes:

^A The MMRs issued by Finance over-reported use by this individual, erroneously indicating that she had exhausted her entitlement. The individual therefore ceased claiming Travel Allowance in Canberra from the end of April 2001 (even though she continued to visit Canberra). ANAO brought this matter to Finance's attention in the course of the audit. In November 2003, Finance advised ANAO that the Department had rechecked the payments made to this individual and paid her the additional 12 nights of Travel Allowance to which she had been entitled.

^B After repayments by the staff member of Travel Allowance paid in excess of entitlement.

^C This individual was initially paid Travel Allowance that took him one night over the limit for 2000–01. This was identified by Finance on 6 July 2001 and repayment was obtained. A further Travel Allowance claim paid by Finance on 24 July 2001, including for four nights in Canberra during 2000–01, again put the individual over the cap. The EOFYMR reflected the entitlement breach, yet Finance did not identify this overpayment or proceed with recovery action until March 2003, following ANAO enquiries.

^D Even though the MMRs produced by Finance identified that this individual had exhausted the entitlement for 2001–02, Finance made payments that resulted in his exceeding the cap by 14 nights. This was subsequently identified and the individual repaid the 14 nights of Travel Allowance, bringing his usage back to the limit of 120 nights. The trip counts in the MMR and EOFYMR were not adjusted to reflect this.

Source: ANAO analysis of Finance records.

2.23 As most relevant staff members do not come close to reaching the 120-night limit, there are only a small number of instances each year where Finance needs to actively monitor and enforce the cap—four individuals in 2000–01 and one in 2001–02.⁷⁵ However, the Department made payments to two of those five individuals that resulted in them exceeding the cap (see Figure 2.5). Repayments have been obtained, or are now being sought.

⁷⁵ In comparison, Finance advised ANAO in July 2003 that, in 2000–01, 236 personal staff claimed Canberra Travel Allowance for a total of 10 610 nights and, in 2001–02, 272 personal staff made claims for a total of 9006 nights.

2.24 In both cases, the relevant Parliamentarian's MMRs and EOFYMR reported payments in excess of the entitlement, but this was not examined by Finance. Nor was it specifically brought to the attention of the relevant Parliamentarian or the staff member involved. Finance asked both Parliamentarians to certify that the entitlements usage identified in the EOFYMR was within entitlement. In this respect, Finance advised ANAO in August 2003 that:

...it is a reasonable expectation that for the self management of the entitlement that a Senator or Member examines the monthly report and notes any expenditure beyond the capped entitlements.

2.25 As noted in Figure 2.5, after taking account of repayments for Travel Allowance paid in excess of entitlement, the actual use against the 120-night limit was misreported for three of the five individuals examined. Finance advised ANAO that a new Travel Allowance module designed to overcome trip count deficiencies came into production on 1 July 2003.

2.26 ANAO considers that there would be merit in Finance examining its processes for monitoring expenditure against relevant financial limits in order to ensure the Department takes all reasonable steps to prevent costs in excess of entitlement from being incurred; to assist Parliamentarians in monitoring their expenditure against relevant limits; and, in some cases, to ensure staff are able to access the full extent of their entitlement.

Personnel administration

2.27 Finance's payroll and personnel system encompasses:

- establishment of personnel records on the engagement of employees;
- payment of salaries based on hours worked;
- payment of allowances and other payments such as overtime and termination payments;
- maintenance and update of personnel records; and
- calculation and recognition of the liability for employee benefits.

2.28 Salary costs for MOP(S) Act staff and consultants are reported as administered expenses in Finance's financial statements. The financial statements also include a liability for unpaid salary, annual leave and long service leave.⁷⁶ Both employment expenses and the liability figure are considered material from a financial statement audit perspective. Accordingly, each year, as part of the

⁷⁶ Provision is also made for separation and redundancy payments in circumstances where the Department has formally identified positions as excess to requirements and a reliable estimate of the amount of those payments can be determined: *Annual Report 2001-02*, Department of Finance and Administration, p.134.

annual financial statement audit process, ANAO's Assurance Audit Services Group tests the controls surrounding the salary system used for MOP(S) Act staff, specifically including:

- examination of leave entitlements calculations for a sample of employees so as to test that leave liability figures are calculated correctly;
- testing of staff commencements to obtain assurance that the employment of the individual has been approved by the appropriate delegate, prior service is recognised when calculating leave entitlements and the starting salary is correct;
- review of payroll reconciliations from/to bank account and general ledger; and
- testing the accuracy of separation payments.

2.29 Recent ANAO financial statement audits have concluded that effective controls are in place for the processing of MOP(S) Act staff payroll costs.⁷⁷ Materiality-based financial statement audit testing has concluded that leave balances are fairly stated, commencements correctly recorded and separation payments correctly calculated.

2.30 One area of payroll costs not tested from a financial statement perspective, due to materiality considerations, came to ANAO's attention in the course of this performance audit. This involved a number of situations in respect of termination of MOP(S) Act staff where there is some doubt as to whether particular aspects of separation payments have been properly calculated and paid, notably in respect of payments in lieu of notice and compulsory superannuation payments up to the date of termination. In October 2003, Finance advised ANAO that the Department had received legal advice in respect to the matters that had come to ANAO's attention. Finance advised that the Department was still considering the full implications of that advice but will put into effect the necessary procedures and payments to give proper effect to any legal requirements. Finance further advised that, as a first step, the Department proposed to make any necessary amendments to the Senators and Members' entitlements handbook and to the relevant advice given to Senators, Members and staff.

Salary setting framework for senior personal staff

2.31 *Guidelines for Salary Setting Under an AWA*, provided to employing office holders by the SMOS in December 1998, identified common rules for setting the

⁷⁷ As set out in, for example, the 2002–03 Financial Statement Audit Interim Audit Report provided by ANAO to the Finance Audit Committee on 1 May 2003.

AWA salary of Government and non-Government SES-equivalent personal staff. A Salary Translation Table identified the salary to be paid to an individual upon entering into an AWA (their existing salary plus four per cent), with a further two per cent increase as at 1 July 1999.

2.32 The Guidelines provided that salaries for ongoing employees should not be further increased unless exceptional circumstances existed. They also provided that all new employees were to commence at or below a standard point identified within the salary range applicable to each classification. Where exceptional circumstances existed to warrant a variation to any of the salary setting guidelines, a case was to be put to the SMOS for approval.⁷⁸

Government personal staff

2.33 Variations to the December 1998 arrangements and parameters for the offer of AWAs to senior Ministerial staff were proposed in March 2000. The proposal involved the introduction of a methodology for determining salary on appointment, and advancement subject to an annual performance review. New salary bands involved the extension and overlapping of successive bands, and standard salary points for new appointees were replaced with indicative mid-points, providing Ministers with greater flexibility in nominating starting salaries. The Prime Minister agreed to the revised arrangements in July 2000.

2.34 The initial round of performance review was held in August 2000, with resulting salary increases for relevant staff being effective from 17 August 2000.⁷⁹ Further performance reviews were undertaken in August 2001 (increases effective from 4 September 2001), and April 2002. The 2002 annual review was brought forward from August to allow Ministers an opportunity to review performance in the light of the 2001 election and new staff appointments. Resulting salary adjustments were effective from 2 April 2002, the date of the Prime Minister's decision.⁸⁰ Following the April 2002 performance review, there were nine Government senior staff being paid above the relevant salary bands.

Non-Government personal staff

2.35 In March 2001, the then President of the Senate and the Speaker of the House of Representatives jointly sought approval for the Senior Adviser positions in their Offices to be subject to the same performance and salary review process

⁷⁸ For new employees, this included details of any specialist requirements of the position and/or the specific skills they brought to the job. For re-appointed or ongoing employees, this included details of any significant duties such as a change in portfolio responsibilities.

⁷⁹ Average increases at various classifications ranged between 5.2 per cent and 6.5 per cent.

⁸⁰ The revised salaries became effective by virtue of Determination 2002/12 made by the SMOS under ss. 14(3) of the MOP(S) Act. The Determination was dated 13 May 2002. In July 2003, Finance advised ANAO that Determinations were not made in respect to the increases arising from the 2000 and 2001 performance reviews.

as applied to Ministerial staff. As the request was for an amendment to the December 1998 framework, it was referred to the Prime Minister for his consideration.

2.36 To assist in the consideration of the Presiding Officers' request, Finance developed a performance review arrangement that might be applied to the SES-equivalent senior staff of all non-Government office holders (Presiding Officers, Opposition office holders and the Leader of the Australian Democrats).

2.37 It was decided that extending the same performance arrangement applicable to senior Ministerial staff to non-Government office holders' staff was unlikely to be practical.⁸¹ An alternative arrangement was proposed to provide non-Government office holders with the flexibility to agree salary increases for senior staff on the basis of performance, but within parameters that ensured outcomes were within the scope of those achieved for senior Ministerial staff.

2.38 The proposed parameters included a funding allocation from which performance-based salary increases could be agreed, to be in proportion to the outcomes of the annual performance review of Ministerial staff. The amounts proposed represented an average increase of five per cent across the relevant staff for each non-Government office holder.

2.39 It was also proposed that the salary bands for non-Government office holders' staff be amended to remove specified incremental points and increase the minimum and maximum points slightly. This was to provide flexibility in managing the allocation. The 'standard' points in each range, also rounded, were to be retained for new appointees in accordance with the existing framework.

2.40 On 22 March 2002, the Leader of the Opposition, the Speaker of the House of Representatives, the President of the Senate and the Leader of the Australian Democrats were advised that a performance review framework for senior staff covered by AWAs had been approved by the Prime Minister.⁸² Each was advised of the dollar allocation from which salary increases for their staff could be agreed. They were also advised of the revised salary band arrangements, and that any salary outside the relevant range must be approved by the Prime Minister.

⁸¹ This was on the basis that the arrangement for senior Ministerial staff was developed specifically to meet the needs of Ministers and was underpinned by comprehensive position profiles and criteria tailored to aligning individual employee effort with the Government's objectives. Whilst it would be possible to adapt the arrangement and its underpinning material to meet the needs of Office-holders in consultation with them, it was considered that this was unlikely to be a practical exercise. In addition, it was considered that there was unlikely to be control mechanisms readily available in respect of Office-holders' staff to limit increases.

⁸² The Prime Minister approved the proposed arrangements in February 2002.

2.41 The Leader of the Opposition advised the SMOS on 31 May 2002 of the initial proposed performance salary increases for senior Opposition personal staff utilising the advised allocation.⁸³ The Leader also foreshadowed additional correspondence in respect to a number of issues relating to the framework for salary setting for senior Opposition staff members, which was subsequently provided in July 2002.

Framework differences

2.42 At the 30 May 2002 Estimates hearing of the Senate Finance and Public Administration Legislation Committee, Opposition Senators raised a number of issues in relation to the performance review framework for senior Opposition staff—namely, that some standard salary points advised in the revised framework had been reduced below those set in 1998, and that relativities between the salaries of Government and Opposition staff had not been maintained.

2.43 Departmental officials advised the Committee that the change in standard points appeared to be an error. A revised table of salary ranges under the performance review framework, with the standard points amended to reflect the December 1998 points, was later issued to the Leader of the Opposition.

2.44 The Secretary of Finance initiated an internal review of the circumstances surrounding the development of differences in the salary review systems. At its 20 November 2002 hearing, the SMOS advised the Committee that the Secretary had found that M&PS had not adequately tracked changes to Government salaries and their implications for non-Government staff.⁸⁴ The differences had continued to grow as time progressed. The SMOS further advised that Finance had since completed a full review of salary setting arrangements for SES-equivalent staff⁸⁵, and that recommendations to address the inequities that had evolved had been put to the Prime Minister.⁸⁶

2.45 In March 2003, the Leader of the Opposition, the Presiding Officers and the Leader of the Australian Democrats were advised that the Prime Minister

⁸³ This included a request for the salary of one individual to be increased above the upper limit of the applicable salary range, which was approved. The Presiding Officers also advised Finance of the initial performance review of their staff.

⁸⁴ Senate Finance and Public Administration Legislation Committee, Hansard, 20 November 2002, F&PA 100.

⁸⁵ Finance had advised the SMOS in June 2002 that the issues raised at the May Senate Estimates hearings had highlighted the need for further refinement of the performance review framework to ensure consistency between senior Government and non-Government office holder staff. In October 2002, Finance further advised the SMOS that a review had highlighted a number of differences between the frameworks. These related to: differences in the salary ranges; the use of indicative mid-points for Government staff versus the use of standard points for non-Government staff; the overall quantum of the increases provided to staff; and the absence of a systematic process for updating the parameters for Opposition staff pay increases.

⁸⁶ Senate Finance and Public Administration Legislation Committee, op. cit., F&PA 100.

had agreed to a revised performance review framework for non-Government staff that reflected the arrangements that apply to Ministerial staff. Under the revised framework, Government and non-Government staff are treated consistently.⁸⁷

Security clearance management

2.46 Protective security concerns the protection of information, assets and human resources from potential threats.⁸⁸ The Commonwealth Protective Security Manual (PSM) specifies that the Government as a whole is responsible for the protective security of the Commonwealth, but that individual Ministers are responsible for securing the operations of their portfolios.⁸⁹ One of the key elements of effective protective security detailed in the PSM is that: ‘people employed to perform Commonwealth Government functions must be suitable and meet high standards of integrity and honesty.’⁹⁰

2.47 Determination 1988/3a, made under the MOP(S) Act, states that the employment of each staff member of a Minister is subject to that person obtaining a top secret level security clearance. The entitlements handbook issued to Ministers by Finance also states that: ‘Appointment is conditional upon receiving this clearance’.⁹¹ While the handbook states that it is the responsibility of Ministers to ensure that all staff members have the appropriate clearance, Finance is responsible for facilitating the process to apply for the clearance, which is provided by an external security-vetting agency.

2.48 In June 2002, 43.9 per cent of Ministerial staff (215) did not have a current security clearance, comprising 187 staff who were yet to receive a clearance (38.2 per cent of staff)⁹², and 28 staff whose clearances had expired but were yet to be brought under review (5.7 per cent). Between June 2002 and October 2003, greater effort by Finance reduced the number of clearances outstanding. Finance advised ANAO that, as at 21 October 2003, the number of outstanding security clearances had declined to 18 per cent of Ministerial staff (88), of whom 50 were

⁸⁷ The main enhancements to the framework for non-Government staff were: adjustments to the salary bands to align them with movements in Government staff salary bands; use of mid-points rather than standard points; increases in the budget available for performance based pay increases to maintain relativities with Government staff; and a mechanism to ensure the proportionate performance review budget allocation and staffing numbers continue to keep pace with the arrangements available for Government staff pay increases.

⁸⁸ ANAO Audit Report No 22 2001–02, *Personnel Security—Management of Security Clearances*, Canberra, 4 December 2001, p.21.

⁸⁹ Commonwealth Protective Security Manual—2000, Part A: Protective Security Policy, paragraph 1.3.

⁹⁰ *ibid.*, paragraph 2.6.

⁹¹ *Ministers of State – Entitlements*, Department of Finance and Administration, p.40.

⁹² In at least 14 per cent of those cases (26 staff), the security clearance had been outstanding for two years or more.

in progress with the security-vetting agency, on long-term leave or having existing clearances updated. Finance further advised that: 'It is also noted that it is the responsibility of the employing Senator or Member to restrict access to classified material by their staff until their clearance is obtained.'

Recommendation No.1

2.49 ANAO *recommends* that the Department of Finance and Administration strengthen monitoring procedures to ensure MOP(S) Act staff for whom a security clearance is outstanding are identified in a timely manner, and that appropriate follow-up is undertaken with relevant staff members, their employing Parliamentarians and the security-vetting agency undertaking the security clearance.

Finance response

2.50 **Agree.** Finance is currently implementing this recommendation. It has strengthened its processes in this area in the past year through more rigorous follow up procedures. As a result, there has been a significant reduction in the number of outstanding clearances.

3. Accountability Framework

This chapter discusses the provision of authorisations and certifications in respect of the use of Parliamentarian' entitlements, including those relating to MOP(S) Act staff.

Self-assessment framework

3.1 The core requirement of a sound administrative and accountability framework for Parliamentarians' entitlements is that it provides assurance that Commonwealth resources are only used within the terms of the relevant entitlements. In this respect, Finance necessarily relies heavily upon self-assessment by Parliamentarians.

3.2 The accountability framework for entitlements administered through Finance is built upon Senators and Members certifying that their use of entitlements, as reported in the MMRs, was within the specific terms of the entitlement and/or advising M&PS of those instances which were not (and repaying any use outside of entitlements for which they are responsible).⁹³ There is also half-yearly tabling of Senators' and Members' travel expenditure. In conjunction with that process, the SMOS releases summaries of travel costs incurred by office holders' staff.

3.3 Advice to Parliamentarians regarding aspects of their use of entitlements was revised in the most recent version of the Senators and Members handbook, issued in November 2001, to more strongly highlight to them their accountability obligations. The handbook states that it is incumbent on them to ensure that any benefit claimed, including those provided under the MOP(S) Act, is within the terms of his or her statutory entitlement, and that failure to discharge this responsibility may make them liable to repay benefits incorrectly claimed.⁹⁴ Parliamentarians are advised that:

Senators and Members must check the accuracy of each monthly management report as it is received and advise Ministerial and Parliamentary Services **immediately** of any entries requiring amendment. This will help ensure all use of entitlements is fully accountable and avoid potentially embarrassing exposure.⁹⁵

⁹³ ANAO Audit Report No.5 2001–02, op. cit., p.117.

⁹⁴ *Senators and Members Entitlements*, Department of Finance and Administration, November 2001, p.99.

⁹⁵ *ibid.*, p.102. This is an area in which Parliamentarians' accountability obligations were more clearly enunciated than had been the case previously. For example, the previous version of the handbook had advised Parliamentarians that: 'Checking the accuracy of each Monthly Management Report as it is received and advising Ministerial and Parliamentary Services immediately of any entries requiring amendment will help ensure all use of entitlements is fully accountable.'

Finance's obligations

3.4 In making payments to, or on behalf of, MOP(S) Act staff, Finance is obligated to exercise an appropriate level of inquiry in order to ensure such payments are properly payable and meet all relevant legislative and financial management requirements.

3.5 The *Financial Management and Accountability Act 1997* (FMA Act) provides the central legal framework for Commonwealth financial management. This legislation, with its supporting FMA Regulations and Finance Minister's Orders (FMA Orders), sets down the fundamental principles and essential rules to be followed in the public sector environment. In particular, the FMA Act framework sets out agencies' obligations to manage public resources efficiently, effectively and ethically; and to maintain proper accounts and records of the receipt and expenditure of Commonwealth money. Section 44 of the FMA Act imposes an obligation on the Chief Executives of all relevant agencies to manage the affairs of their agency in a way that promotes the proper use of the Commonwealth resources for which the Chief Executive is responsible.

3.6 In March 2002, Finance sought legal advice about the application of the FMA Act to persons employed under the MOP(S) Act.⁹⁶ In summary, the advice provided to Finance in August 2002 was that MOP(S) Act staff are included in the regulatory regime established by the FMA legislation. However, with very limited exceptions, there are no provisions of the FMA Act, Regulations or Orders which are directly relevant to MOP(S) Act staff accessing their own entitlements or authorising matters related to the entitlements of other MOP(S) Act staff. Finance was further advised that there are also no provisions that are directly relevant to the processing of payments relating to MOP(S) Act staff by Finance Departmental officers.

Duty to take reasonable steps

3.7 Notwithstanding the absence of specific relevant obligations arising under the FMA Act when making payments to MOP(S) Act staff, APS employees must at all times comply with the APS Code of Conduct set out in s.13 of the *Public Service Act 1999* (PS Act). Under subsection 13(2), an APS employee 'must act with care and diligence in the course of APS employment.' The August 2002 legal advice to Finance considered that this broad obligation gives rise to a duty by Departmental officials to take reasonable steps to ensure that any claim relating to MOP(S) Act staff is properly payable, given the terms of the relevant employment condition and the circumstances of the claimant.

⁹⁶ ANAO Audit Report No.5 2001–02 noted legal advice obtained by Finance in July 2001 on the applicability of the FMA Act framework to the entitlements accruing to Parliamentarians. Essentially, Finance's legal advice was that the framework was not relevant to the administration of Parliamentarians' entitlements: ANAO Audit Report No.5 2001–02, op. cit., pp.102–107.

3.8 In this respect, the key control relied upon by Finance is the provision of a range of pre- and post-payment certifications by the receiving staff member and their employing Parliamentarian (or a person authorised by him or her). The Senators and Members handbook states that:

Each Senator and Member is individually accountable. A Senator or Member must be able to certify that usage was within entitlement. The precise form of the certification often depends upon the exact nature of the entitlement, but generally it includes certifying that the entitlement has been used for parliamentary or electorate purposes.⁹⁷

3.9 Legal advice provided to Finance in August 2002 was that the Department would generally satisfy its accountability obligations if it relies on the certifications of the receiving staff member and, where relevant, the certification of the employing Parliamentarian or someone authorised to act on their behalf. Given this reliance as a basis for the payment of public money, it is important that the authorising and certification processes undertaken are rigorous, timely and reliable.

Authorisation to exercise powers

3.10 The MOP(S) Act provides that a Parliamentarian may, in writing, authorise another person to exercise, on his or her behalf, a power conferred by Parts III or IV of the Act.⁹⁸ A person may be authorised to: engage staff; approve staff leave, travel, overtime, incremental advancements and/or temporary transfer (higher duties); recommend studies assistance; and/or terminate the employment of a staff member. This authority is usually provided to one or more of the Parliamentarian's staff, but may be conferred on other persons.

3.11 The MOP(S) Act does not prescribe the form in which a Parliamentarian must provide such written authority. Nor does it prescribe a requirement that the written authority be forwarded to Finance. However, where persons other than the employing Parliamentarian purport to authorise the expenditure of public money, it is incumbent upon Finance to take reasonable steps in order to obtain sufficient assurance that they are duly authorised to do so. This includes obtaining reliable documentation identifying the specific powers the person is authorised to exercise, and the date from which the written authorisation by the Parliamentarian came into effect.

3.12 To support the effective administration of the authorising process, Finance has issued a form, *Authorisation to Exercise Powers Under the Members of Parliament (Staff) Act 1984*. In order to provide the rigour and certainty in the authorisation process necessary for the effective oversight of public money, the form identifies

⁹⁷ *Senators and Members Entitlements*, op. cit., p.99.

⁹⁸ Section 32.

a range of relevant information that should be provided. In particular, it provides for the Parliamentarian to nominate the date of effect of authorisation and the specific power or powers the person is authorised to exercise. It also provides for a specimen signature to be supplied by the person being authorised.⁹⁹

3.13 ANAO examined the authorising documentation held by Finance in respect of 70 persons. This review involved two aspects. First, ANAO examined the authorising documentation held by Finance for 31 persons who had certified specific payments included in a sample of travel and overtime claims examined in the audit. ANAO then examined the authorising documentation submitted to Finance over the four-year audit period by a random sample of Parliamentarians, involving a further 39 persons. Deficiencies of varying consequence were identified in the documentation held in respect to over half of those persons.

Verification of written authority

3.14 ANAO observed some instances in which Finance had checked that the person certifying payments to MOP(S) Act staff was duly authorised to do so before proceeding with the payment. However, this was not always done and there is scope for Finance to improve its procedures in this respect.

3.15 ANAO sought to verify the authority of a sample of 20 persons who had authorised, by certification, one or more Travel Allowance and/or Private Vehicle Allowance claims by MOP(S) Act staff. Finance did not hold written authorities for two of those persons that were valid for the period relevant to the transactions examined. Without such documentation, and in the absence of further inquiries, the Department had no knowledge as to the validity or otherwise of the certifications provided and, therefore, no basis for relying on them in making the relevant payments.

3.16 In one of those cases, the person involved had certified another staff member's Private Vehicle Allowance claim form in April 2001. ANAO concluded that, in the absence of a written authority relevant to that period of time, this claim had been invalidly certified. In response, Finance advised ANAO in August 2003 that:

ANAO is not able to draw this conclusion... The Senator or Member in this case may have authorised the staff member to exercise powers on his behalf. It is the case that Finance does not have a copy of the authorisation. This does not invalidate any authorisation.

⁹⁹ The current form, released in July 1999, replaced an earlier version that did not require a specimen signature.

3.17 ANAO considers that, in such cases, better practice would be for Finance to make reasonable inquiries of the relevant Parliamentarian in order to verify that the person was duly authorised to exercise the relevant power before proceeding with the payment, and, where this is not the case, obtain certification of the claim from the Parliamentarian or another duly authorised person.

3.18 ANAO notes that Finance followed this better practice in relation to a later claim certified by the same person. In October 2001, Finance identified that the person had certified another staff member's Travel Allowance claim, but that the Department did not hold a valid written authority for him. Finance advised the relevant Parliamentarian's office by letter of the need for a valid certification for that transaction, to be provided by either the Parliamentarian or other authorised person. Finance also provided an authorisation form should the Parliamentarian wish to authorise the person involved.

3.19 The completed authorisation form was returned to Finance in November 2001.¹⁰⁰ However, it was invalid as someone other than the Parliamentarian signed it. This did not represent the Parliamentarian authorising the person in writing as is required under the MOP(S) Act. Finance did not query that authorisation when it was received.

3.20 A second authorisation form for the same person was provided to Finance in January 2003, some 21 months after he had certified the April 2001 transaction identified by ANAO. It was signed by the Parliamentarian, but identified no date of effect, casting doubt upon the point in time from which the person was authorised to exercise the nominated powers. In August 2003, Finance advised ANAO that arrangements were being made to write to the relevant Parliamentarian seeking certification of the April 2001 claim.

3.21 Examination by ANAO of authorising documentation provided to Finance identified another case in which the authorising document on which Finance relied for a substantial period of time was signed by another staff member rather than the Parliamentarian.¹⁰¹ Finance did not query the authorisation, or otherwise seek to verify that the Parliamentarian had provided written authority, before relying upon it as a basis for the payment of public money.

¹⁰⁰ The authorising signature was dated two days prior to the Finance letter (with the date of effect back-dated a further day from that).

¹⁰¹ The authorisation was provided by way of a letter signed by another member of the Parliamentarian's staff.

Recommendation No.2

3.22 ANAO *recommends* that, where the Department of Finance and Administration does not hold documentation of written authority from the relevant Parliamentarian for a person who has certified a MOP(S) Act staff claim, reasonable inquiries be made in order to verify that the person was duly authorised to exercise the relevant power before proceeding with the payment. Where this is not the case, the Department should obtain certification of the claim from the Parliamentarian or another duly authorised person.

Finance response

3.23 **Agree.** This recommendation is being addressed by the introduction of a database from 1 July 2003 with scanned signatures of authorised persons.

Diminished certainty and reliability

3.24 In addition to the three cases discussed above, deficiencies were observed in the centralised holding of authorisations relied upon by Finance in respect of a further 36 of the 70 persons for whom authorisation records were examined. Multiple observations were made in a number of cases.

Information not provided

3.25 For some of the individuals examined, not all of the information necessary for effective administration of this process was provided to the Department. As a result, the certainty of relying on certifications provided by those persons was diminished. This included instances of:

- the specific powers the person was being authorised to perform not being nominated (six instances);
- the date of effect of the authority not being nominated (11 instances); and
- a specimen signature by the person being authorised not being provided with the authorising documentation (17 instances). In August 2003, Finance advised ANAO that: 'There is no legislative requirement for specimen signatures. This is an administrative procedure instituted by Finance for ease of processing. Finance has access to signatures on a range of other documents e.g. employment agreement.'

3.26 In some cases, this was due to the form issued by Finance not being used to advise the Department of the authority. In others, the form had not been fully

completed.¹⁰² Finance did not seek to obtain the additional information from the relevant Parliamentarians.¹⁰³

3.27 In November 2003, Finance advised ANAO that the Department:

... provides a form for a Senator or Member to authorise another person to exercise the powers under the MOP(S) Act. This form provides flexibility to the Senator or Member to specify which powers he/she is authorising to be exercised on his/her behalf. Nevertheless, Finance is prepared to accept an authorisation in other formats if a Senator or Member chooses to do so.

3.28 ANAO notes that a Parliamentarian may provide advice of an authority to Finance in a format of their choosing. However, it remains incumbent upon the Department to ensure it has obtained sufficient, relevant information before relying upon that authority in the payment of public money.

3.29 The CA provides for entitlements to be paid in accordance with guidelines issued by Finance. In April 2003, Finance advised ANAO that, as it has the power to make guidelines, it is able to impose requirements relating to the claim and payment of entitlements, including provision of forms. Finance has issued various forms that Parliamentarians and their staff are required to utilise in accessing a range of entitlements and payments. For example, in August 2003, Finance issued an authorisation form (separate from the *Authorisation to Exercise Powers* form) to be used where a Senator or Member wishes to delegate monthly certification of reported staff and general administrative costs to a staff member. This represents sound administrative practice, notwithstanding the absence of a legislative obligation on Parliamentarians to provide advice of such authority to Finance, or in that form.

3.30 In its response to a March 2001 Internal Audit report on alleged fraudulent overtime claims by one staff member, Finance advised that Senators and Members would be asked to update their authorisations. Finance subsequently instigated an annual review in which it writes to each Parliamentarian listing the current authorisations of that office and inviting them to replace or retain the existing arrangements.

3.31 The introduction of an annual review was an improvement in Finance's capacity to ensure its records of authorised persons are up to date.¹⁰⁴ ANAO

¹⁰² ANAO also noted six instances in which the authorising form was faxed to Finance, with an original authorising signature by the Parliamentarian not being sighted by the Department. In one case, Finance had noted the need to obtain an original form, but this does not appear to have occurred.

¹⁰³ If information provided previously is to be relied upon where forms are incomplete, it would be good practice for this to be recorded on the most recently received form. ANAO only identified one instance of this occurring in the sample examined. In August 2003, Finance advised ANAO that the Department clearly identifies those authorisations that remain current after each annual review.

¹⁰⁴ Finance advised ANAO that the Department had also developed a new database for storing authorisations with scanned signatures, which came into effect on 1 July 2003.

considers that it would also be beneficial for Finance to expand the review to include a stocktake of the consistency and completeness of the authorising documentation held by the Department in respect of each relevant person. Where necessary, additional or clarifying information could then be requested from the relevant Parliamentarian. In this respect, Finance advised ANAO in November 2003 that:

Finance agrees that an expansion of the annual review of authorisations, to also include a review of the consistency and completeness of such authorisations, may be beneficial. Consequently, it is Finance's intention to expand the next review of authorisations as recommended by the ANAO. In addition, it is anticipated that the recent completion of the new database for storing authorisations will assist in this process.

Recommendation No.3

3.32 ANAO recommends that the Department of Finance and Administration revise its procedures to ensure that the validity of documentation purporting to authorise a person to exercise a Parliamentarian's MOP(S) Act powers is verified as it is received, and that all necessary information is obtained before certifications provided by that person are relied upon as a basis for the payment of public money.

Finance response

3.33 Agree. This recommendation is being addressed by the introduction of a database from 1 July 2003 with scanned signatures of authorised persons.

Date of effect

3.34 For a person to validly exercise a Parliamentarian's powers under the MOP(S) Act, they must be duly authorised within the terms of the Act at the time of exercising the power. It is not possible to retrospectively authorise a person who has exercised a power without having been duly authorised at the time to do so. It is also problematic for the withdrawal of authority to exercise a particular power to be back-dated. ANAO noted instances of both circumstances within the sample reviewed.¹⁰⁵

3.35 The nominated date of effect was back-dated from the date of written authorisations provided to Finance in respect of 25 of the persons examined by ANAO (36 per cent). Consequently, there was a risk that those persons were not

¹⁰⁵ For example, in one case, the employing Parliamentarian had signed an authority on 31 May 1999 for the person to exercise various nominated powers, with effect from the same date. The Parliamentarian signed another authorisation form for that person on 29 June 2001, with a date of effect of 1 August 1999. The nominated powers on the second authorisation included a power not previously nominated (Engage staff) and excluded a power previously nominated (Recommend studies assistance).

duly authorised to exercise MOP(S) Act powers on behalf of the relevant Parliamentarian for at least some part of the time for which they were purportedly authorised.¹⁰⁶ This was for periods ranging from only a day up to 3 ¾ years.

3.36 Where back-dating of authorisations is sought, it would be appropriate for Finance to undertake reasonable inquiries to determine whether the person had exercised the relevant powers prior to the written authority being provided. Where that is the case, certification by the Parliamentarian or another person who was appropriately authorised at the time of the transactions involved should be obtained. In August 2003, Finance advised ANAO that, as part of the 2003–04 internal review of authorisations, the Department now adopts this approach.

Recommendation No.4

3.37 ANAO *recommends* that the Department of Finance and Administration issue guidelines to Parliamentarians on sound administrative practice in the provision of authorisations to persons to exercise MOP(S) Act powers on their behalf, including an expectation that authorisations only be made prospectively.

Finance response

3.38 **Agree.** This recommendation will be implemented by the issue of a circular and inclusion of guidelines in the handbooks issued to Senators and Members.

Certification

3.39 Finance has advised Parliamentarians of a range of certifications that are to be provided in relation to various entitlements, including payments to MOP(S) Act staff. These include both transaction-specific certifications and, for the period examined in this audit, an annual certification of total entitlements use. These certifications are policy requirements set out in the handbooks and entitlements claim forms distributed by Finance. They are not requirements laid down in the relevant legislation.

Transaction certifications

3.40 For some payments to MOP(S) Act staff, individual transactions are required to be certified, either before or after payment. This predominantly relates

¹⁰⁶ There was also uncertainty as to the date of effect of authorisation of a further four persons. In three of those cases, the original authorisation was notified to Finance by letter. There was some uncertainty associated with the date of effect of authorising forms for those persons subsequently provided to Finance including, in one case, back-dating. As the letters originally provided made no reference to the MOP(S) Act, there is potentially some doubt as to whether this represented a valid authorisation within the terms of the Act. In August 2003, Finance advised ANAO that: 'Nevertheless, Finance considers these cases could be legally valid.'

to claims for Overtime, Travel Allowance or Private Vehicle Allowance. Those certifications are relied upon by Finance as an assurance that the expenditure was incurred within the terms of the entitlement, including that it was at the direction of the employing Parliamentarian and related to official business. While additional information may be sought in regard to some claims¹⁰⁷, Finance does not routinely undertake any further specific checks in order to ascertain the veracity of the claims received.

3.41 In recent years, Finance has improved its control structures for the processing of claims received from MOP(S) Act staff, including steps directed at improving the Department's capacity to rely upon the certifications presented to it. For example, during 2000–01, Finance's procedures were revised to require that a claim form carrying an original authorising signature be received before overtime¹⁰⁸ or Private Vehicle Allowance claims would be paid.

3.42 Those changes were introduced following instances of alleged fraudulent claims by three staff which involved forms carrying the employing Parliamentarians' electronic or imprint signatures being submitted to Finance by facsimile.¹⁰⁹ These instances highlighted that Finance's procedures were inadequate to appropriately identify possible fraudulent claims.¹¹⁰ The revised procedures represent a significant improvement in the control structure for these payments.

Certification of travel claims

3.43 For the period examined in this audit, in order to be paid Travel Allowance or Private Vehicle Allowance, staff were required to complete a claim form issued by Finance. This form included provision for a certification from the Parliamentarian (or authorised person) that the travel was for official purposes.

¹⁰⁷ For example, where the person signing the form is not listed as an authorised person for that office or the circumstances described on the claim form could attract an entitlement but it is necessary to determine if some other qualifying circumstances exist.

¹⁰⁸ Finance records show that up until late 2000, payment of overtime claims was predominantly made on the basis of faxed claim forms. Finance did not, as a matter of course, match an original claim form to the payment because the originals were seldom sent in. In October 2000, Finance estimated that only 20 per cent of original overtime claims were ever sent in. In October 1998, Finance had proposed to introduce a requirement that overtime claims would only be processed on documents with original signatures. However, following discussion with the then SMOS, the proposal not to accept faxed overtime claim forms was dropped.

¹⁰⁹ In each case, the alleged frauds were referred to the Finance Internal Audit Unit for preliminary assessment and recommendation as to whether the matters should be referred to the Australian Federal Police for further investigation and potential prosecution. Internal Audit also made recommendations to improve Finance's administrative systems and assist Senators and Members to do the same in their electorate offices to reduce the risk of inappropriate claims.

¹¹⁰ In one case, potentially ineligible or fraudulent overtime claims were identified by Finance through a coincidence. In another case, the employing Parliamentarian raised the matter with Finance.

3.44 ANAO examined a sample of 229 Travel Allowance and Private Vehicle Allowance payments. In 22 instances (9.6 per cent), no certification was provided to Finance that the travel was for official purposes. This occurred most often where Travel Allowance was paid in advance of travel. During the audit period, Finance continued to accept faxed claim forms for Travel Allowance advances and did not require the official purposes certification to be completed.¹¹¹ In July 2003, Finance advised ANAO that, with the introduction of a new claim form in March 2003, the Senator, Member or authorised person must now sign all claims for advances.

3.45 Where no Travel Allowance and/or Private Vehicle Allowance is claimed in association with travel, no declaration that individual instances of travel were for permitted purposes is required to be provided to Finance.¹¹² This situation arises most often in association with air travel. This occurred frequently, for example, during the 2001 election period.

3.46 In July 2003, Finance commented to ANAO that all travel by staff is reported in detail in the MMR and that this reporting assists in reducing any risk that travel has not been authorised for official purposes. During the audit period, Finance requested that Parliamentarians certify their EOFYMR. However, as discussed below, a significant proportion of Parliamentarians have not provided the requested certification, and others provided it in an untimely manner.

3.47 These results indicate that the processing systems in place during the period examined by ANAO did not provide the necessary assurance that all travel was only being taken for permitted purposes, as approved by the employing Parliamentarian or an authorised person.

Certification of management reports

3.48 In the period examined by ANAO, annual certification by Parliamentarians of their EOFYMR was the only certification as to the eligibility of the use of a range of entitlements for which transaction certifications had not been provided. In respect to MOP(S) Act staff, this includes expenditure for salary and related

¹¹¹ Staff are expected to acquit Travel Allowance advances on their return from travel by completing a Certificate of Travel form. On this form, the Parliamentarian (or authorised person) certifies that the travel was undertaken at the request of the employing Parliamentarian. However, this Certificate does not include any statement that the travel was for official purposes.

¹¹² While Parliamentarians are expected to complete and sign a Travel Declaration Form for each occasion on which travel is undertaken at Commonwealth expense (even when Travel Allowance is not claimed), there is no requirement for a similar declaration to be made when MOP(S) Act staff travel. In July 2003, Finance commented to ANAO that the difference between the two categories of travel is that a Parliamentarian's travel is not subject to the approval of another person, whereas travel by staff requires the approval of their employing Parliamentarian (or authorised person) as the travel is undertaken at their direction.

allowances¹¹³, Comcar use, and travel where no Travel Allowance or Private Vehicle Allowance was claimed. However, ANAO identified a number of issues associated with the reliability of the annual certification as a key control.

Timeliness

3.49 ANAO Audit Report No.5 2001–02 examined the provision by Parliamentarians of an annual certification for 1999–2000. As at 6 February 2001, only 36 per cent of Parliamentarians had provided the requested certification. Finance subsequently advised ANAO that, by 25 May 2001, the response rate had improved to 80 per cent.¹¹⁴

3.50 On 29 January 2002, the SMOS received a question on notice from a Senator requesting advice of all current and former Parliamentarians who had not provided a certification of their 1999–2000 management reports.¹¹⁵ On 10 May 2002, Finance provided advice to the SMOS that it was yet to receive certifications from eight current and former Parliamentarians.¹¹⁶ ANAO identified four additional Parliamentarians for whom a signed certification for 1999–2000 was not held by Finance.¹¹⁷

¹¹³ The purposes for which personal or electorate staff may be engaged are not specified in the MOP(S) Act, CA or standard AWA. In response to enquiries from Senators and Members, the then SMOS issued a Circular in July 2000 on the assignment of duties to staff (Circular No. 2000/Min017, 20 July 2000). The Circular stated that, within the framework provided by, and determinations made under, the MOP(S) Act, staff are provided by the Commonwealth to assist Senators and Members in carrying out their parliamentary or electorate business. It further advised that the great range of matters encountered by electorate or personal staff could be expected to fall within the meaning of a reasonable definition of parliamentary or electorate business. Examples of activities that the Circular advised it would not be reasonable or proper to require staff to perform included activities connected with any commercial interest of the employing Senator or Member or relating solely to the employing Senator's or Member's personal interests. Senators and Members were advised that, by reference to the above principles, and having regard to community expectations about activities appropriately funded by public moneys, they are best placed to determine the duties to be assigned to their staff.

¹¹⁴ ANAO Audit Report No.5 2001–02, op. cit., pp.122–123.

¹¹⁵ On 2 April 2002, Finance wrote to those current and former Parliamentarians for whom it did not have a record of a 1999–2000 certification. Each was advised that if they believed that the inclusion of their name in the answer to the question on notice would be incorrect, they should advise Finance by 5 April 2002. Between 3 April 2002 and 1 May 2002, 24 Parliamentarians provided Finance with a certification of their 1999–2000 management report.

¹¹⁶ The SMOS was advised that two of those believed they had signed the certification; a third considered it highly unlikely they had not responded to Finance's request (*the former Parliamentarian advised Finance in December 2000 that the certification would not be provided because it had failed to correct errors and amendments previously advised to it*), and a fourth had stated that they were unable to certify the report as they were not satisfied with the data collection methodology and accuracy (*the Parliamentarian had advised Finance in similar terms in April 2001*).

¹¹⁷ They were: two former Parliamentarians who were issued with an EOFYMR for their entitlements use during 1999–2000 (one resigned in April 2000, the other in August 2000); a current Parliamentarian who, due to errors in the management report, had amended the pro-forma certification provided by Finance to read: 'I (*name inserted*) can not certify...'; and a former Parliamentarian for whom a letter stating that a qualified certification was attached was located, but with no signed certification attached. This excludes two Parliamentarians who have passed away and two additional former Parliamentarians who resigned during 1999–2000 to whom an EOFYMR was not issued by Finance.

3.51 ANAO also analysed the return of annual certifications for 2000–01 and 2001–02.¹¹⁸ That analysis demonstrates that the timely return by Parliamentarians of the certifications requested of them continues to be an area of concern (see Figure 3.1).

3.52 In each of the three years examined, under a third of Parliamentarians certified their EOFYMR by the date requested. As at August 2003, 34 per cent had yet to certify their 2000–01 management report, and 39 percent were yet to certify their report for 2001–02. Thirty-nine current and former Parliamentarians had not provided a certification for either financial year.¹¹⁹ Two current and two former Parliamentarians had not provided a certification for any of the three financial years.

3.53 The entitlements use of Government personal staff allocated to the GMS and the CPU is reported in separate management reports for each unit. As at August 2003, no certifications had been provided by the relevant employing Parliamentarians for 1999–2000, 2000–01 or 2001–02 for the GMS, and 1999–2000 and 2000–01 for the CPU. As a result, for each relevant period, Finance has received no certification for those staff where the expenditure was not the subject of transaction-based certifications.

¹¹⁸ 2001–02 was the first year former Prime Ministers were asked to certify. Due to an administrative oversight on Finance's part, Parliamentarians were not asked to certify their EOFYMR for 1998–99: Audit Report No.5 2001–02, op. cit., p. 123, footnote 87.

¹¹⁹ One current and one former Parliamentarian had not provided a certification for either 1999–2000 or 2001–02. One current and three former Parliamentarians had not provided a certification for either 1999–2000 or 2000–01.

Figure 3.1**Return of annual certifications as at 5 August 2003**

| Financial Year | 1999–00 | 2000–01 | 2001–02 |
|---|-----------------|----------|------------------|
| End of Financial Year Report issued: | 10/11/00 | 28/9/01 | 8/10/02 |
| Annual certification due: | 30/11/00 | 19/10/01 | 31/10/02 |
| Submitted by due date ^A | 27% | 30% | 32% |
| Submitted after due date by: | | | |
| 1–30 days | 13% | 6% | 9% |
| 31–60 days | 5% | 8% | 5% |
| 61–90 days | 4% | 2% | 2% |
| 91–120 days | 8% | - | - |
| 121–150 days | 15% | - | - |
| 151–180 days | 8% | 1% | 9% |
| > 6 months to 8 months | 3% | 13% | 3% |
| 9 to 11 months | 1% | 1% | 1% |
| 12 to 14 months | - | - | n/a |
| 15 to 17 months | 9% | - | n/a |
| > 17 months | 2% | 5% | n/a |
| Signed certification not submitted | 5% ^B | 34% | 39% ^C |
| Notes: | | | |
| ^A Based on the date the certification was signed. | | | |
| ^B Excludes two Parliamentarians who resigned during 1999–2000 for whom no EOFYMR was issued and two Parliamentarians who have passed away. | | | |
| ^C Excludes a former Prime Minister who has passed away. | | | |

Source: ANAO analysis of Finance records.

Qualified certifications

3.54 Over the period examined by ANAO, statements were made to Finance by a number of Parliamentarians identifying various concerns with the certification process. These related largely to the accuracy of the data in the management reports, the nature of its presentation, and/or the capacity to certify items on which the Parliamentarian did not consider he or she had sufficient information.

3.55 Parliamentarians interviewed by the ANAO during the audit also indicated that they were not always comfortable in providing certification as they found it difficult, in a busy working environment, to maintain the knowledge of the individual expenditure necessary to provide the absolute assurance required in a public accountability environment.¹²⁰ Indeed some

¹²⁰ ANAO Audit Report No.5 2001–02 noted that, in discussions with ANAO, some Parliamentarians indicated that they were less than confident in being able to provide a certification because the underlying information was not always detailed enough: op. cit., p.123., footnote 88.

Parliamentarians go to the extent of maintaining shadow records of expenditure to ensure they have confidence with the details of their entitlements expenditure.

3.56 In some cases, these concerns resulted in the Parliamentarian advising Finance that they were not in a position to certify their EOFYMR. In other cases, the annual certifications provided were subject to various degrees of qualification—19 per cent, 18 per cent and 14 per cent of certifications returned for 1999–2000, 2000–01 and 2001–02 respectively.

3.57 Qualifications inserted into the certification by Parliamentarians related primarily to it being provided on the basis that:

- the certification was subject to queries and corrections raised by them being satisfactorily resolved;
- they were not in a position to verify amounts for which invoices had been provided directly to Finance or for which they did not have access to relevant records;
- advice received by them from Finance and/or their staff was correct; and/or
- they were certifying to their best knowledge and belief. In respect to this, Finance advised ANAO in August 2003 that the Department did not agree that the insertion of words of this nature represented a qualification of the certification, advising that: ‘...The use of the words ‘to the best of my knowledge’ does not detract from the certification provided.’

3.58 ANAO noted 31 instances in which Parliamentarians qualified their certification as being subject to changes and/or errors noted by them being satisfactorily resolved. This included instances in which the Parliamentarian disputed that an entitlement limit had been breached, as had been reported in their management report. Finance’s records do not indicate whether the Department agreed that the matters raised in those instances were, in fact, errors. Amended reports were not produced.

3.59 It would be appropriate for Finance to institute procedures to ensure that the resolution of all items in the management reports that are disputed by a Parliamentarian is appropriately recorded. This would provide greater certainty as to the items of expenditure that had been certified to, and those that had not. In August 2003, Finance advised ANAO that the Department now provides replacement pages when queries result in amendment to the report.

3.60 As discussed in Chapter 2, the form and content of information contained in the management reports provided to Parliamentarians improved significantly over the four-year period examined by ANAO. On balance, the Parliamentarians interviewed also indicated that generally the service received from Finance in

sorting through management report issues is improving. The decline over the period examined in the proportion of returned certifications that were subject to qualification may also be indicative of some improvement in Parliamentarians' level of satisfaction with the management reports.¹²¹

3.61 ANAO suggests that Finance continue to explore ways of obtaining a higher response rate to certification requirements by identifying and addressing concerns with the certification process still held by some Parliamentarians. In part, the introduction of monthly certification should resolve some concerns by improving the timeliness of the certification request.

Monthly certification

3.62 In each year examined, even where the annual certification was provided by the requested due date, it related to expenditure incurred up to 16 months earlier. ANAO Audit Report No.5 2001–02 found that the remoteness of the provision of the annual certification from the point at which the expenditure occurred, diminished the reliance that could be placed upon it as a key control and accountability tool in respect of the individual payments made by Finance.¹²²

3.63 In December 2000, the then SMOS accepted a recommendation by Finance that annual certification be replaced by monthly certification of the MMRs. ANAO Audit Report No.5 2001–02 reported that Finance had advised ANAO on 25 May 2001 that: 'The Government has made a decision in-principle to implement monthly certifications; the timing and form of the certifications has not been finalised at this time.'¹²³

3.64 The first item to be subject to monthly certification was Cabcharge expenditure, commencing in February 2002.¹²⁴ This was introduced because the data file received from the provider, on which payment is made, does not provide enough information for Finance to determine whether use is within entitlement. As a result, Finance pays the charges up-front and includes those transactions in the MMR of the Parliamentarian whose office is identified as owning that charge card. The Parliamentarian is asked to certify those charges monthly. In December 2002, the Finance Internal Audit Unit reported that monthly Cabcharge

¹²¹ However, the number of Parliamentarians yet to provide a certification for 2000-01 and 2001–02 as at 5 August 2003 (34 per cent and 39 per cent respectively) limited the extent to which conclusions could be drawn in this regard.

¹²² ANAO Audit Report No.5 2001–02, op. cit., p. 123.

¹²³ *ibid.*

¹²⁴ The December 2002 report of an Internal Audit Unit review of Cabcharge processing in M&PS indicated an understanding that approximately \$1 million per annum is expended by current Senators and Members of Parliament and their staff in Cabcharge usage. ANAO was unable to confirm this figure due to the form in which taxi and car rental costs were reported in the data made available.

certifications were only being returned in approximately fifty to sixty percent of cases.¹²⁵

3.65 In April 2003, Finance advised ANAO that development of a suitable format for monthly certification of the other categories of expenditure included in the MMRs had been a protracted process. A final format for the monthly certification of MMRs, approved by the SMOS on 28 April 2003, was introduced from August 2003.

3.66 Monthly certification of management reports by Parliamentarians should improve the reliability and timeliness of that process as a control on the expenditure of public money. However, this will not be the case where Parliamentarians do not provide the requested certifications, or do not provide them in a timely manner. ANAO's legal advice is that there is no legal requirement for Parliamentarians to provide those certifications.¹²⁶ The absence of any certification from a Parliamentarian in respect to his or her use of a number of entitlements represents a significant gap in the accountability and control framework.

Personal certifications

3.67 In the four years examined, ANAO identified nine instances of a staff member certifying their employing Parliamentarian's management report. As noted, a Parliamentarian may authorise a staff member to exercise one or more of his or her powers under the MOP(S) Act. Such authorisations do not provide a staff member with the authority to provide a valid certification of the use made of the Parliamentarian's personal entitlements, or those accruing to his or her family, including travel, telecard usage and residential telephones.

3.68 The terms of the annual certifications requested of Parliamentarians in the audit period were specifically directed at them being personally provided by the relevant Parliamentarian.¹²⁷ In only two of the instances identified by ANAO was the pro-forma certification amended to specify that the person was signing for and on behalf of the Parliamentarian. In only one case was it amended

¹²⁵ In April 2003, Finance advised ANAO that: 'If there are no cabcharge transactions for an office in any particular month, then a *Cabcharge* certification is not required. M&PS is not able to devote resources to calculating each month how many Senators and Members have these transactions in their management reports.' Internal Audit recommended, inter alia, that Finance issue guidance (through the SMOS) to Parliamentarians' offices reinforcing the importance of signing and returning the certifications on a regular and timely basis. Finance agreed to include reference to certification in guidance on Cabcharge procedures it had agreed to issue in response to another of Internal Audit's recommendations. A circular on staff travel entitlements issued in 2003 included reference to Cabcharge, but did not consider the question of certifications. In April 2003, Finance advised ANAO that advice on certifications would be issued when there was clarity on monthly certification of management reports.

¹²⁶ ANAO Audit Report No.5 2001–02, op. cit., p.123.

¹²⁷ The certification included reference to '*My Final Management Report*', and stipulations as to the personal understanding of the Parliamentarian.

to recognise that the person providing the certification was not the recipient of the management report. In two instances, the signature of the staff member appeared below a certification into which the Parliamentarian's name had been inserted.

3.69 The Senators and Members entitlements handbook was amended in November 2001 to advise that:

Senators and Members are expected to certify personally those items of expenditure of which they can be expected to have personal knowledge. Those items of expenditure relating to staff and office requisites of which a Senator or Member could not be expected to have personal knowledge may be certified by a staff member duly authorised by the Senator or Member, however the responsibility will still remain with the Senator or Member.¹²⁸

3.70 Seven of the certifications by staff members identified by ANAO were provided to Finance after the November 2001 revision.¹²⁹ Finance did not seek to obtain any further personal certification from the relevant Parliamentarians.

3.71 Other issues noted by ANAO were that:

- Finance has advised Parliamentarians that a person who is authorised to exercise powers and functions cannot do so on his or her own behalf.¹³⁰ In no case was the certification qualified so as to exclude expenditure identified in the management report that related to the staff member who provided the certification. Finance did not seek to clarify the basis of the certification; and
- in two cases, the certifying staff member was not on the relevant Parliamentarian's staff during the financial year in which the expenditure being certified to was incurred. Accordingly, it is not clear how it is possible for those persons to be in a reasonable position to reliably certify the use of entitlements in that year.¹³¹

3.72 The format for monthly certification approved by the SMOS in April 2003 consists of two parts: Part A covers expenditure that a Senator or Member could reasonably be expected to be aware of, namely his or her own travel expenditure and that of family members. A circular from the SMOS to all Senators and

¹²⁸ *Senators and Members Entitlements*, op. cit., p.102. Previous versions of the handbook had not included this explicit requirement for personal certification of the management reports by the Parliamentarian.

¹²⁹ The certifications were provided between December 2001 and April 2003.

¹³⁰ Source: *Senators and Members Entitlements*, op. cit., p. 114 and *Authorisation to Exercise Powers Under the Members of Parliament (Staff) Act 1984*, Form 7, July 1999. In regard to this, Finance commented to ANAO in August 2003 that this restriction is sound administrative practice but is not a legislative requirement.

¹³¹ In respect to those instances, Finance advised ANAO in August 2003 that: 'Finance had no basis on which to question the employing Senator or Members' delegating the certification to a member of staff.'

Members advising of the introduction of monthly certification in August 2003 advised that: ‘...a Senator or Member will be expected to certify the Part A expenditure.’¹³² Part B covers staff and general administrative costs. Senators and Members were advised that an authorised person is able to certify staff and general administrative costs (other than their own) on behalf of the Senator or Member. In August 2003, Finance advised ANAO that, with the introduction of monthly certification, the Department had developed a specific form to be used by Parliamentarians in order to authorise a staff member to partially certify the MMRs.

Recommendation No.5

3.73 ANAO *recommends* that the Department of Finance and Administration develop and implement procedures to ensure all Monthly Management Report certifications are reviewed as they are received, and that:

- (a) consistent with the advice provided to Senators and Members in August 2003, where the certification of Part A of the report has been provided by a person other than the Parliamentarian, the management report is referred back to the Parliamentarian with a request for personal certification; and
- (b) where a person other than the Parliamentarian has certified Part B of the report, Finance has a copy of a valid written authorisation for that person for the period covered in the management report; and where a valid authorisation is not held, the management report is referred back for certification by the Parliamentarian or other duly authorised person.

Finance response

3.74 Agree.

¹³² Circular Min 2003/33, *Management Reports – Introduction of Monthly Certification*, 26 August 2003.

4. Control Framework

This chapter discusses the processes undertaken within Finance for the verification of entitlements claims by MOP(S) Act staff, and the recovery of payments made outside of entitlement.

Risk-based verification

4.1 Finance processes many thousands of entitlements claims each year.¹³³ In that context, it is not unreasonable to expect that there will be incidents of invalid payment claims being made by MOP(S) Act staff through error, oversight or misunderstanding of relevant rules and limits on the part of the receiving staff member, their employing Parliamentarian or another certifying person. The potential does also exist in some circumstances for intentional misuse to be made of available payments and services.

4.2 The detailed checking of each transaction is not a practical, cost-effective approach. Nor should it be necessary if there are risk-based verification procedures in place to periodically test the effectiveness of the existing system of payment control through certification. There may also be particular circumstances where Finance is obliged to do more than simply rely on certifications, such as where a claim seems manifestly excessive or otherwise anomalous. This could involve seeking further information from the claimant or otherwise investigating the claim.

4.3 The need for appropriate inquiry and risk assessment is recognised in the internal Service Level Agreement (SLA) in place between the M&PS Service Centre (responsible for the delivery and administration of Parliamentarians' entitlements) and the Account Management Unit (responsible for liaison with Parliamentarians and their staff). The SLA states that, while the base requirement is for the processing of valid claims relating to a range of services and entitlements, the Service Centre is expected to undertake its processing role in a manner that facilitates and values a questioning and analytical approach.¹³⁴

4.4 Finance has recently sought to improve its procedures for identifying MOP(S) Act staff claims that may be outside of entitlement. This has included the embedding of system controls in the information system used to process entitlements payments (the Parliamentary Systems Suite (PSS)) to assist in

¹³³ For example, the Department identifies the following quantitative indicators for Output 3.1.1, Services to Senators, Members and their Staff: 275 000 personnel and entitlement transactions, 30 000 flight reservations processes, and 26 000 Parliamentarians' travel allowance nights paid: Portfolio Budget Statements 2003–04, Finance and Administration Portfolio, p. 58.

¹³⁴ Finance advised ANAO that the SLA is an internal working document that was being reviewed as at July 2003.

enforcing compliance with relevant limitations and procedures.¹³⁵ However, ANAO noted various aspects of the control framework that could be further improved in order to provide greater assurance that all payments are made within the terms of the relevant employment condition.

Post-payment review

4.5 In April 2003, Finance advised ANAO that enhancements to the PSS that increased processing speed had enabled the Department to apply more focus to entitlement checking of payments made through PSS. In September and October 2002, M&PS undertook a post-payment review of some payments for MOP(S) Act staff air travel taken in 2001–02.¹³⁶ This was the first time such a review had been undertaken. Finance advised that ad hoc entitlement checking had previously been undertaken for staff travel.¹³⁷

4.6 In July 2003, Finance advised ANAO that, in 2001–02, non-SES personal staff and electorate staff incurred domestic fares expenditure of \$5.96 million covering 23 178 legs/sectors. Of this number, initial review by Finance of instances of apparent travel outside entitlement that had been identified when the air fare was being processed for payment identified 92 instances that warranted additional scrutiny by the review.¹³⁸ This focused on travel by electorate staff to destinations that were outside entitlement; and staff travelling at a higher class than that to which they were entitled.

4.7 Other aspects of the various staff travel entitlements were not examined, including, for example:

- compliance with entitlement caps and budgets; or

¹³⁵ For example, the Guidelines supporting the MOP(S) CA state that Travel Allowance advances must be acquitted within 14 days of the date of return, and that future payments will not be made if an acquittal is outstanding beyond 28 days. If a Travel Allowance claim for a staff member with an outstanding acquittal is entered, the PSS provides an automatic message identifying that the business rule will be violated by that claim and asking if the officer wishes to proceed. Finance advised ANAO that this message is provided to both the entry officer who processes travel claims and the certifying officer within Finance, and that no further claims are processed until the acquittal is received. An additional time limit relates to the date of travel – if the Travel Allowance claim has not been submitted within 60 days of completion of travel, the claim is not to be processed until a letter of explanation for the delay is received from the employing Parliamentarian or, in the case of office holders, their Chief of Staff.

¹³⁶ In April 2003, Finance advised ANAO that, at the same time, it reviewed the family travel of Senators and Members in the previous financial year.

¹³⁷ Finance advised ANAO in January 2003 that, to ensure travel claims are properly payable, its procedures involve checking that: claim forms contained an original signature either from the employing Parliamentarian or an authorised person; the standard of travel was within entitlement; and, for electorate staff, the destination was within entitlement.

¹³⁸ Finance advised ANAO in May 2003 that, when a ticket was being processed that appeared to be outside entitlement, the ticket would be printed out for later investigation. However, prior to the review, there had not been a systematic follow-up of cases of apparent travel outside entitlement.

- the capacity of a sample of staff to provide receipts for Travel Allowance commercial accommodation claims in order to test the reliance that could be placed on the otherwise unsubstantiated certifications provided—when making claims for the commercial rate Travel Allowance, staff members are required to either provide receipts or certify that receipts can be provided if requested.

4.8 A review report was not prepared. However, issues identified during the review were incorporated into a circular about staff travel issued to Senators and Members and their staff in February 2003. Figure 4.1 outlines the results of the review, as advised to ANAO by Finance, which included the issuing of 49 debit notes for a total of \$10 742 to recover the cost of travel that was outside of entitlement. A total of \$5675 (14 cases) had been repaid as of November 2003.¹³⁹

Figure 4.1

Results of Finance Review of 2001–02 MOP(S) Act Staff Travel: As at November 2003

| | Number | \$ |
|--|-----------|---------------|
| Cases of apparent travel outside entitlement examined | 92 | 17 457 |
| Resolved as follows: | | |
| • Debit Notes raised | 49 | 10 742 |
| • Travel covered by SMOS standing approval ^A | 17 | 1 759 |
| • SMOS approval based on responses on circumstances of travel ^B | 15 | 2 538 |
| • No further action based on additional information provided to Finance ^C | 10 | 2 312 |
| • Unresolved as of November 2003 | 1 | 106 |
| Notes: | | |
| ^A In September 2001, the SMOS approved upgrades to business class for personal staff where an economy class seat could not be obtained and travel was required for official purposes. The standing approval, for the period 27 September 2001 to 27 June 2002, was intended to address circumstances that arose following the collapse of Ansett. | | |
| ^B This included instances where staff had booked at business class to accompany a Minister but the Minister's schedule subsequently changed and the staff member was unable to change their booking to economy class, as well as instances prior to the SMOS 27 September 2001 standing approval where economy class seating was not available. | | |
| ^C This included two instances in which a staff member took travel at business class, rather than at their entitlement of economy class. The staff establishment list maintained by Finance had incorrectly identified that staff member as being entitled to travel at business class. On this basis, Finance concluded that recovery should not be sought from the staff member for the additional travel costs of \$174.26 incurred outside of entitlement. | | |

Source: Advice to ANAO by Finance.

¹³⁹ Inquiries by Finance into a further transaction that was apparently outside entitlement were continuing as of November 2003, as was recovery action in other instances.

4.9 In April 2003, Finance advised ANAO that the review was undertaken to ascertain the incidence of travel outside entitlement and, partly, to help the Department determine a more workable entitlements checking process. However, the process for checking MOP(S) Act staff travel claims remains largely manual and resource intensive. Finance advised that staff travel in 2002–03 was continuing to be checked as it occurred but with a more robust, less manual process still to be devised.¹⁴⁰

4.10 ANAO considers that M&PS should continue to undertake post-payment reviews periodically (at a minimum, annually). This is because, even when more robust, less manual processes for entitlements checking are introduced, there will remain a need to periodically test pre-payment controls to obtain assurance as to the level of reliance that can be placed on them on an on-going basis. This is supported by the results of the 2001–02 review.

4.11 There would also be merit in expanding the scope of payments and transactions reviewed in future reviews, rather than examining only those anomalies identified during the processing of air fare accounts for payment. This could be complemented with systematic analysis to assess the completeness and consistency with which such anomalies are identified by M&PS processing staff.

4.12 ANAO also considers that greater assurance would be obtained from future reviews by preparing a formal report of the review findings so as to identify:

- any systemic deficiencies where improvements should be made; and
- high risk categories of entitlements or staff that should be the focus of future reviews.

4.13 In July 2003, Finance commented to ANAO that it considers that its operations are conducted in a well controlled but responsive environment and that M&PS already operates a higher than normal control regime. Finance further commented that to impose additional controls would involve greater staff resources and costs.

¹⁴⁰ In May 2003, Finance further advised ANAO that: 'The original concept was that the results of this review could then be used to develop a methodology for data matching and entitlement checking. However, all travel for 2002–03 is continuing to be monitored on the same basis as we have yet to decide future processes.'

Recommendation No.6

4.14 ANAO *recommends* that the Department of Finance and Administration undertake regular risk-based reviews of payments to MOP(S) Act staff, with formal reports being prepared of the findings of each review, as an effective means of enhancing the control framework for the expenditure of public money.

Finance response

4.15 Agree.

Comparative analysis

4.16 Comparative analysis techniques, such as benchmarking, trend analysis and cross-checking between mutually exclusive payment categories, can assist in identifying instances of unusually high usage or other anomalies that suggest further investigation is warranted.¹⁴¹ However, the Department does not currently employ a systematic approach to this issue.

Spouse travel

4.17 Senators' and Members' spouses who are also engaged as a member of the relevant Parliamentarian's electorate staff have access to travel entitlements in both capacities. Travel under the spouse entitlement may be at business class, and is subject to limits on the number and destination of trips that may be taken. When travelling on official business in the capacity of an electorate staff member, the spouse is entitled to economy class travel and Travel Allowance payments for nights spent away from the nominated home base. Such travel is subject to the relevant Parliamentarian's Electorate Staff Travel Budget and destination limits. In the four-year period examined in the audit, Finance did not undertake routine cross-checking of claims made against these distinct sets of entitlements.

4.18 Review by ANAO of the MMRs provided to Parliamentarians by Finance identified a number of instances of spouses travelling under their spouse travel entitlement, while also claiming Travel Allowance as a staff member for the same journey. Even where travel under the spouse entitlement is undertaken at economy class, Travel Allowance is not payable.¹⁴² In the cases identified, because

¹⁴¹ Recommendation No. 11 of ANAO Audit Report No.5 2001–02 recommended that Finance undertake routine benchmarking of entitlements expenditure as part of a risk-based compliance system for the full range of Parliamentarians' entitlements. Finance agreed with qualification: *op. cit.*, pp.136–137.

¹⁴² A circular issued by Finance to all Parliamentarians and staff in February 2003 stated that, if a spouse is employed as an electorate staff member, travel could not be undertaken using a mix of entitlements. If Travel Allowance is being claimed, then travel is to be at economy class and all fares associated with the trip are to be debited to the staff travel budget.

the air travel was identified as being taken using the spouse entitlement, the costs of the air fares were not debited against the relevant Parliamentarian's Electorate Staff Travel Budget. All costs associated with travel undertaken in the capacity of an electorate staff member, for which Travel Allowance is payable, should be debited against that budget.

4.19 Finance identified some of the instances noted by ANAO as part of the review of travel taken in 2001–02, with the relevant transactions being transferred to the appropriate entitlement, or cost recovery sought. Subsequent to ANAO bringing the matter to Finance's attention, repayment of Travel Allowance was obtained from the relevant Parliamentarians in respect of the remaining three instances. Finance also advised ANAO that, since the review undertaken in late 2002, travel by a spouse who is also employed as a staff member has been routinely checked.

Overtime while travelling

4.20 Overtime can be legitimately worked on the same day that a staff member also travels on official business. However, it is not payable for time spent travelling to or from work. Nor is overtime payable for time spent travelling outside the ordinary hours of duty, for example, on official business interstate.

4.21 In October 1998, the then SMOS was advised by Finance that an internal review of a sample of overtime and Travel Allowance claims had found that, in the first six months of calendar year 1998, staff in at least 31 offices had been paid overtime for time spent travelling. However, no recovery of the cost of identified payments outside entitlement was undertaken.

4.22 Finance issued a circular about this and other aspects of staff overtime to Senators and Members in November 1998. The Department proposed to match overtime claims with travel claims for a period after the issue of the circular, with payment to be initially withheld where overtime was being claimed during travel time. This was to allow case-by-case consideration for the justification for such claims. However, a systematic process for cross-checking between these overtime and travel claims has not been introduced.

4.23 In this regard, Finance advised ANAO in May 2003 that the responsibility for ensuring that claims are made within entitlement rests with the employing Senator or Member. Finance further advised that:

The processing of overtime is undertaken in the Human Resources System (Nomad) and that of travel allowance and fares in the Parliamentary Systems Suite. These two systems are not interconnected so it is currently not possible to electronically cross check whether a claim for overtime coincides with travel.

4.24 Where pre-payment systems to verify claims do not exist, ANAO considers it would be prudent for Finance to undertake, on a regular basis, post-payment checks to obtain assurance that claims were within entitlement. In this context, ANAO examined a sample of 22 overtime claims where the staff member involved had travelled on the same day. In 10 instances, supporting documentation clearly demonstrated that overtime had not been claimed for time spent travelling between the electorate and Canberra. Examination of the remaining 12 claims identified:

- two instances in which Finance had paid overtime for time spent travelling from the relevant electorate to Canberra. These payments may not have been within entitlement;
- a further three instances which appeared to involve Finance paying overtime for time spent travelling to or from the airport. Such travel may also have been outside entitlement; and
- a further seven instances in which Finance had processed Motor Vehicle Allowance claims without all relevant details having been supplied by the claimant. Without details such as the departure and arrival times, ANAO was unable to test whether or not the overtime claimed on the day in question related to time spent travelling between the electorate and Canberra.

4.25 Following ANAO raising these issues with Finance, the Department issued a circular to all electorate staff in July 2003 reminding them of the limitations applying to the claiming of overtime for time spent while travelling on official business. The circular also reminded staff that the recording of times of departure and arrival when claiming Travel Allowance and/or Motor Vehicle Allowance is necessary to confirm eligibility of overtime payments.

4.26 Also in July 2003, Finance advised ANAO that, in respect to the five instances referred to in the first and second dot-points above, the Department would write to the employing Senator or Member seeking an explanation of the circumstances of the claims. Finance further advised that the Department is looking at undertaking random post-payment cross-checking of future claims as an ongoing process.

Recommendation No.7

4.27 ANAO *recommends* that the Department of Finance and Administration introduce appropriate risk-based procedures for cross-checking between relevant payments made to, or on behalf of, MOP(S) Act staff.

Finance response

4.28 Agree.

Analysis of management reports

4.29 An additional area in which ANAO considers that reasonable inquiries should occur in order to verify payments made to MOP(S) Act staff is where the management reports provided to Parliamentarians raise questions about the use of entitlements.

4.30 In a sample of management reports examined, ANAO noted instances where the reports indicated that an entitlement cap had been breached. Other than providing the Parliamentarian with the report, no action was taken by Finance to draw the apparent breach to the Parliamentarian's attention or otherwise investigate the matter. This was compounded by Finance asking Parliamentarians to certify that the entitlements use set out in their management report was within entitlement even where the report itself indicated that an entitlement had been breached.¹⁴³

4.31 Further, each of the instances identified by ANAO of spouses using a mix of spouse and staff travel entitlements, and of overtime apparently being claimed while travelling, were included in the End of Financial Year Management Report provided to the relevant Parliamentarian for certification as being within entitlement.

4.32 Nor are unusual or significant movements in entitlements expenditure specifically brought to the attention of the relevant Parliamentarian. In March 2001, a report of a relevant review by Finance's Internal Audit Unit recommended that Finance consider including a specific part in the MMRs highlighting significant movements, in order to allow the Senator or Member to focus on specific unusual items. Finance's management comment on that recommendation was that M&PS was developing a certification process for Senators and Members to sign off their MMRs each month. As discussed, this was implemented as from August 2003. No other action appears to have been taken to improve this aspect of the management reporting to Parliamentarians.

4.33 In August 2003, Finance advised ANAO that providing Parliamentarians with management reports, including an invitation to check the input for accuracy and make a certification as to their usage being within entitlement (annually during the audit period, monthly since August 2003): '...clearly places an onus on the individual Senator or Member to check the report including noting if there have been any breaches of the cap...'

¹⁴³ Finance advised ANAO in July 2003 that improvements to the MMRs means that there is now a low probability of this occurring.

4.34 ANAO recognises that Finance relies to a large extent on individual Parliamentarians' self-management of their entitlements use, as reported to them in the management reports. Nevertheless, analysis of these reports by Finance could also assist the Department in discharging its obligation to investigate excessive or otherwise anomalous payments, and would also assist in identifying other possible entitlements breaches.

Recommendation No.8

4.35 ANAO recommends that the Department of Finance and Administration introduce processes for regular, structured analysis of the management reports provided to Parliamentarians to assist in the timely identification of transactions that warrant further investigation.

Finance response

4.36 Agree. This recommendation is already being implemented by Finance. In 2002–03 Finance introduced systematic checking of every management report prior to transmission. This process has resulted in the outcome recommended by ANAO.

Auditing of payments

4.37 Auditing is a key component of an effective compliance strategy in a self-assessment/self-regulation environment.¹⁴⁴ Compliance audits are a verification process that seeks to ascertain whether a Parliamentarian and their staff have complied with their obligations in accessing Commonwealth resources. They can be conducted as part of a series of audits that aims to address identified high risk categories of entitlements or claimants, or may be initiated where there has been an indication of some potential irregularity, such as potentially fraudulent claims.

4.38 ANAO Audit Report No.5 2001–02 found that there was no regular program of audits of Parliamentarians' entitlements payments, and recommended that Finance develop and implement a risk-based program of audits.¹⁴⁵ Similarly, ANAO did not identify a structured program of audit of

¹⁴⁴ For example, the Australian Taxation Office's (ATO) self-assessment process is reinforced by a risk-based program of audits intended to improve compliance. ANAO Audit Report No.5 2001–02 noted that ANAO had found that the use of audit was an effective element of ATO's approach to encouraging taxpayer compliance: ANAO Audit Report No. 37 2000–01, *The Use of Audit in Compliance Management of Individual Taxpayers*, Canberra, 23 May 2001, p.12, referred to in ANAO Audit Report No.5 2001–02, op. cit., p.131.

¹⁴⁵ Recommendation No. 10, ANAO Audit No.5 2001–02, op. cit., pp.131–135. Finance disagreed with that recommendation: *ibid.*, p.133. (See also ANAO comment, *ibid.*, pp.133–134.)

payments made to, or on behalf of, MOP(S) Act staff. In August 2003, Finance advised ANAO that: 'Finance contends that compliance audits are beyond its authority.'

4.39 In that respect, ANAO notes that legal advice provided to Finance in August 2002 referred to the provisions of the FMA Act and FMA Orders relating to the establishment and functions of agency audit committees, and advised that:

These provisions do not expressly require any particular audit activities to be undertaken in respect to MOPS staffers' entitlements. However, it is clear that some audit action in relation to activities undertaken by your Department is envisaged by the FMA Orders.

4.40 In the four-year period examined by ANAO, there was limited audit coverage of payments made to MOP(S) Act staff. The Finance Internal Audit Unit undertook two examinations of potentially fraudulent claims by MOP(S) Act staff relating to overtime and Private Vehicle Allowance. There was also an internal audit conducted in December 2002 of the efficiency and effectiveness of Cabcharge processing in M&PS.

4.41 ANAO considers that there is scope for regular audit coverage of MOP(S) Act staff payments to be improved. For example, the Internal Audit Unit reported that it had been unable to identify any audit activity (with the exception of the review itself) in connection with the processing of Cabcharge to confirm that the charges had been incurred within entitlement. Internal Audit recommended that Finance consider the introduction of certain audit activity, on a sample basis, of Cabcharge transactions to confirm they are in accordance with the entitlements.¹⁴⁶ Finance agreed with the recommendation, and indicated that it would be implemented by the end of March 2003. In November 2003, Finance advised ANAO that the rolling examination of Cabcharge transactions had commenced, beginning with July 2003 transactions.

4.42 ANAO considers that the internal control and governance framework applying to payments made to, or on behalf of, MOP(S) Act staff would be enhanced by Finance complementing risk-based payment reviews undertaken internally by M&PS, as recommended in Recommendation No. 6, with a program of risk-based audits undertaken by the Department's Internal Audit Unit. This would assist in providing a measure of independent scrutiny to the expenditure involved.

¹⁴⁶ Internal Audit commented that: 'This audit activity may be limited to specific certification of a sample of transactions, or an assessment of reasonableness of a sample of transactions to assist in ensuring that M&PS is undertaking 'reasonable steps' in the processing of Cabcharge payments.'

Finance CEIs and other instructions

4.43 In accordance with the FMA Act framework, Finance has in place a hierarchy of instructions, procedures and guidelines for the management of financial resources under its control, being Chief Executive's Instructions (CEIs)¹⁴⁷, Financial Procedures¹⁴⁸, Operational Guidelines¹⁴⁹, and administrative manuals.¹⁵⁰ ANAO Audit Report No.5 2001–02 found that those documents did not provide a comprehensive framework of instructions and procedures for the administration of expenditure on Parliamentarians' entitlements.¹⁵¹ ANAO commented that few of the CEIs were directly relevant and appropriate to the administration of Parliamentarians' entitlements, and that there was a general lack of operational and procedural instructions and guidelines for many entitlements.¹⁵²

4.44 A similar situation has existed in respect to the administration of MOP(S) Act staff payments. Legal advice obtained by both Finance and ANAO indicated that few of the existing Finance CEIs are relevant to MOP(S) Act staff in accessing their own employment entitlements or to Departmental officers in making payments relating to MOP(S) Act staff. Similarly, the existing Financial Procedures Guide and Operational Guidelines are not directly relevant or appropriate to the administration of MOP(S) Act staff.

4.45 Where the Finance CEIs do not cover the administration of administered items (such as the funds appropriated for Parliamentarians' entitlements), General Managers who are responsible for those administered items must develop appropriate instructions and guidelines consistent with the CEIs, to ensure the efficient, effective and ethical use of Commonwealth resources.¹⁵³ ANAO Audit Report No.5 2001–02 found that, in the case of M&PS, no such instructions and guidelines had been developed and issued as binding

¹⁴⁷ FMA Regulation 6, issued under s.52(1) of the FMA Act, provides that the Chief Executive of an agency is authorised to give CEIs to officials in that agency on any matter necessary or convenient for carrying out or giving effect to the FMA Act or Regulations, including for ensuring or promoting the proper use and management of public money. Departmental officials are required to comply with both the FMA Regulations and the CEIs.

¹⁴⁸ Subsidiary to the CEIs, Financial Procedures are issued by the Chief Financial Officer to provide step-by-step guidance for financial processes.

¹⁴⁹ Subsidiary to the Financial Procedures, Operational Guidelines are issued by the Chief Financial Officer to provide a reference point of best practice management principles for a range of Departmental activities.

¹⁵⁰ These are issued to document the roles and responsibilities, decisions, actions and processes to be followed in order to ensure compliance with the legal requirements of the FMA Act and Regulations, the CEIs and other instructions.

¹⁵¹ ANAO Audit Report No.5 2001–02, op. cit., p.109.

¹⁵² *ibid.*, p.112.

¹⁵³ Finance CEIs s. 8.1.2.2.

procedures under the CEIs.¹⁵⁴ ANAO recommended that Finance implement a comprehensive framework of instructions and procedural documentation for the administration of Parliamentarians' entitlements, including issuing:

- General Manager's Instructions (GMIs) and Guidelines under the provision of Finance's CEIs in order that they have appropriate legal status; and
- where appropriate, operational procedures for all entitlements administered by the Department.¹⁵⁵

4.46 Finance disagreed with the ANAO recommendation.¹⁵⁶

4.47 In January 2003, Finance advised ANAO that M&PS was considering the issue of GMIs for MOP(S) Act staff and/or internal operating procedures. In March 2003, Finance further advised that it had identified 21 subject areas for which GMIs could be developed for MOP(S) Act staff, and that Operating Guidelines had been identified as desirable to accompany 12 of those. In July 2003, Finance advised ANAO that draft GMIs developed for each of the identified subject areas were being considered internally, but that the Department was, at the same time, examining other means of addressing issues associated with the administration of MOP(S) Act staff payments. In November 2003, Finance advised ANAO that, after further consideration, the Department was not intending to proceed with CEIs/GMIs for MOP(S) Act staff.¹⁵⁷ Instead, Finance advised that it is proposing the following actions:

- an expansion of the existing 'Guidelines for staff employed under the terms of an Australian Workplace Agreement' to incorporate, where possible, material that was initially proposed as CEIs;
- an expansion of training in office management to include material that would have otherwise been included as part of the CEIs; and

¹⁵⁴ ANAO Audit Report No.5 2001–02, op. cit., p.109.

¹⁵⁵ Recommendation No.5, *ibid.*, p.112.

¹⁵⁶ *ibid.* In disagreeing, Finance commented: 'This is not necessary. The Finance CEIs represent a comprehensive set of documents that augment the Financial Management and Accountability Act 1997 that apply to the general administration of departmental and administered items. They provide the fundamental principles and essential rules. They are supplemented by Financial Procedures, Operational Guidelines and by operational guidance materials prepared by groups within Finance. In the case of the M&PS Group, the administration of parliamentary entitlements is governed by these documents, with the adjunct operational guidance documentation prepared by M&PS in essence fulfilling clause 8.1.22 of the CEIs. As part of continuous improvement, guidance material is being revised and new material introduced.'

¹⁵⁷ Finance advised that: 'This reappraisal acknowledges that while the Secretary of Finance has responsibility under the FMA Act for MOP(S) Act staff, he has no authority over their employment. Indeed, as MOP(S) Act staff can only enter into financial commitments that fall within the entitlements regime, the FMA Act has limited applicability to MOP(S) Act staff provided the entitlements regime is complied with.'

- a series of policy and guidelines-related circulars to MOP(S) Act staff, to be issued by Finance, detailing procedures and guidelines for accessing entitlements.

4.48 ANAO considers that the promulgation by Finance of instructions and guidelines that are specifically relevant to MOP(S) Act staff in accessing their employment conditions, and/or authorising payments to other MOP(S) Act staff members, would be a sound approach to improving the accountability framework applying to the public money involved.

4.49 ANAO considers that effective administration would be further improved through the promulgation of instructions and operational guidelines that are directly relevant to Finance officers in making payments relating to MOP(S) Act staff. The promulgation of such instructions and guidance would be of considerable assistance to Finance officials in fulfilling their duty to take reasonable steps to ensure claims and payments are within entitlement and all necessary procedural steps are complied with in the delivery/payment of entitlements.

4.50 In July 2003, Finance advised ANAO that the Department did not consider this necessary as Departmental CEIs already cover M&PS staff. As noted, few of the existing Finance CEIs, Financial Procedures Guide and Operational Guidelines are directly relevant or appropriate for the administration of MOP(S) Act staff entitlements by Finance officers.

Recommendation No.9

4.51 ANAO *recommends* that the Department of Finance and Administration review existing instructions and guidance to ensure adequate, relevant guidelines are available in respect to the use of Commonwealth resources by MOP(S) Act staff, including to:

- Departmental staff, in relation to the administration and processing of payments to, or in respect of, MOP(S) Act staff;
- MOP(S) Act staff, in relation to the claiming and use of employment-related payments and services; and
- persons authorised to exercise powers under the MOP(S) Act, in relation to matters that must be considered in authorising and certifying use of Commonwealth resources by staff.

Finance response

4.52 **Agree.** This recommendation will be implemented by:

- An expansion of the existing 'Guidelines for staff employed under the terms of an Australian Workplace Agreement';
- An expansion of training on office management; and
- A series of policy and guidelines-related circulars to MOP(S) Act staff, to be issued by Finance, detailing procedures and guidelines for accessing entitlements.

Fraud control

4.53 Section 45 of the FMA Act requires that agency Chief Executives must implement a fraud control plan for their agency. In May 2002, the Minister for Justice issued the *Commonwealth Fraud Control Guidelines*.¹⁵⁸ The Guidelines outline the Government's requirement that Commonwealth agencies put in place a comprehensive fraud control program that includes prevention, deterrence, detection, investigation and reporting strategies.¹⁵⁹

4.54 Finance has developed a Departmental Fraud Control Strategy and Plan 2001–2003, which is intended to create an overarching framework to integrate and coordinate the activities related to fraud prevention, detection and investigation activities. It states that individual employees, external service providers and contractors are responsible for identifying and acting on fraud risks encountered during the fulfilment of their respective duties.¹⁶⁰ One of the goals of the Fraud Control Plan is to promote 'ownership' of fraud risk management by each Business Group within the Department.¹⁶¹ In response to an ANAO query, Finance advised in January 2003 that:

[*The Department was*] unable to locate any M&PS specific Fraud Control Plan. However, it would appear that in 2000, external consultants undertook a Risk Management Project within Finance. As a result a draft data pack of outputs was provided to M&PS in November 2000. This document is a draft and [*it is understood*] has no formal status in relation to M&PS' operations.

¹⁵⁸ The Guidelines were issued under FMA Regulation 19. The Commonwealth's Fraud Control Policy was initially launched in 1987, and revised in 1994. FMA Regulation 20 requires that an official performing duties in relation to the control and reporting of fraud must have regard to the guidelines issued under Regulation 19.

¹⁵⁹ ANAO Audit Report No.35 2002–03, *Fraud Control Arrangements in the Australian Customs Service*, Canberra, 26 March 2003, p.30.

¹⁶⁰ Department of Finance and Administration, *Fraud Control Strategy 2001–2003*, p.5.

¹⁶¹ Department of Finance and Administration, *Fraud Control Plan 2001–2003*, p.15.

Recommendation No.10

4.55 ANAO recommends that the Department of Finance and Administration finalise, as part of the Department's overall fraud control framework, a fraud control plan that is specific to the administration by the Ministerial and Parliamentary Services Group of Parliamentarian's entitlements, including MOP(S) Act staff.

Finance response

4.56 Agree.

Debt management

4.57 If expenditure is incurred in excess of, or for a purpose outside the scope of, an entitlement, there is a debt owed to the Commonwealth. For MOP(S) Act staff, such debts are most often incurred in relation to travel¹⁶² or salary overpayments.¹⁶³

4.58 Section 47 of the FMA Act provides that, other than in specified circumstances, an agency Chief Executive must pursue recovery of each debt for which they are responsible. The Finance CEIs¹⁶⁴ provide that approval for the non-recovery of a debt may be given only if one of the following conditions apply: the non-recovery has been authorised by an Act; the delegate is satisfied the debt is not legally recoverable; or the delegate considers that it is not economical to pursue the recovery of the debt. Under section 34 of the FMA Act, the Minister for Finance and Administration has the power to waive the Commonwealth's right to payment of an amount owed.¹⁶⁵ This removes the legal existence of the debt, which will no longer be recoverable at law.

MOP(S) Act staff debts

4.59 ANAO's ability to analyse debts associated with MOP(S) Act staff over the four years considered in the audit was significantly limited by the data available within Finance. Balances of salary overpayments and other debts owed by current and former staff as at 30 June 1999 and 30 June 2000 were not able to be identified.

¹⁶² For example, Travel Allowance overpayments may occur due to changes in itinerary.

¹⁶³ For example, overpayments may occur due to late notification of a cessation or through error.

¹⁶⁴ CEI 6.4.

¹⁶⁵ In February 2003, Finance advised ANAO that the Minister had delegated the power to waive debt to the Parliamentary Secretary and to selected officials of the Department, and that these delegates have specified financial delegation limits. Finance further advised that since February 2002, all waivers of debt within the Department are referred to and authorised by the Parliamentary Secretary.

4.60 In April 2003, Finance advised ANAO that the debtor management system in place within M&PS until July 2002 did not allow a breakdown of non-salary debtors into sub-categories. Consequently, Finance was only able to provide ANAO with debtor lists as at 30 September 1999, 30 June 2000 and 30 June 2001 for all M&PS debtors. This included current and former Parliamentarians, current and former MOP(S) Act staff and other debtors. The data provided did not include any identifier that would enable staff debtors to be extracted for separate analysis. M&PS was also not able to locate reports that detailed outstanding salary overpayments for MOP(S) Act staff as at 30 June 1999 and 30 June 2000. Finance advised that, while staff salary debt recovery records were maintained over this period, these were 'overwritten' and monthly 'snapshot' records were not saved.

4.61 Debt balances as at the end of the 2000–01, 2001–02 and 2002–03 financial years, as advised by Finance, are set out in Figure 6.1. In some circumstances, recovery of debts arising from ineligible use of entitlements by MOP(S) Act staff is sought from the employing Parliamentarian. For example, ANAO noted instances of this occurring in relation to staff travelling at a higher class than their entitlement. In August 2003, Finance advised ANAO that this is because the travel entitlement attaches to the employing Parliamentarian rather than the staff member. Debts of this nature are not included in Figure 6.1.

Figure 6.1

Current and former MOP(S) Act staff debt balances

| | 30 June 2001 | 30 June 2002 | 30 June 2003 |
|------------------------|---------------------|--------------|--------------|
| | \$ | \$ | \$ |
| Salary overpayments | 122 498 | 114 146 | 78 142 |
| Travel and other debts | 28 679 ^A | 18 311 | 22 626 |
| Total | 151 177 | 132 457 | 100 768 |

^A Because Finance was not able to identify separately identify MOP(S) Act staff non-salary debts as at 30 June 2001 from debts owed by other client groups administered by M&PS, this balance consists of non-salary debts as at 30 September 2001, as provided by Finance.

Source: Advice to ANAO by Finance.

Debt recovery procedures

4.62 Finance officials involved in the recovery of debts are required to give due regard to the supporting financial procedures for debt management and recovery set out in Section 11 of the Financial Procedures Guide issued by

Finance's Chief Financial Officer.¹⁶⁶ These Financial Procedures require each Business Group to have a comprehensive debt management strategy.

4.63 ANAO Audit Report No.5 2001–02 found that, as at May 2001, M&PS had yet to develop a debt management strategy specifically tailored to Parliamentarians' entitlements.¹⁶⁷ Given the materiality by nature of the payments involved, ANAO recommended that M&PS develop and implement a comprehensive and effective debt management strategy to ensure debts owed to the Commonwealth are actively pursued in a timely fashion.¹⁶⁸ Finance disagreed, advising ANAO in July 2001 that:

Finance already has in place a robust and effective debt recovery system, balancing the sensitivities involved with the client group and commercial reality, noting also that the current debt is miniscule (less than 0.015 per cent of expenses in 1999–2000). The debt recovery strategy for M&PS follows the strategy outlined in Section 11 to the Financial Procedures Guide.¹⁶⁹

Development of M&PS debt recovery procedures

4.64 In the course of the 2001 audit, the recovery of debts owed by current and former Parliamentarians and their staff came under increased focus within Finance. Periodic reporting of outstanding debts to the Secretary of the Department was introduced in early 2001. In August 2001, Finance advised the Office of the SMOS that M&PS was making renewed efforts to resolve outstanding debts. Finance advised that, at that time, outstanding debts owed by current and former MOP(S) Act staff totalled around \$162 000, and that many had been outstanding for some time.

4.65 In September 2001, Finance's Financial Procedures Guide was amended to include an additional section: Section 11A Recovery of Debts—M&PS. These detailed procedures separately identify the steps to be taken when pursuing the recovery of outstanding debts from each of M&PS' identified client groups, including current, ceasing and former MOP(S) Act employees.

4.66 Since then, there has been an identifiable improvement in the level of outstanding debt.¹⁷⁰ In particular, the implementation of M&PS-specific debt recovery procedures appears to have been effective in minimising the extent of

¹⁶⁶ CEI 6.1.

¹⁶⁷ ANAO Audit Report No.5 2001–02, op. cit., p.139.

¹⁶⁸ Recommendation No.12, *ibid.*, p.142.

¹⁶⁹ *ibid.*

¹⁷⁰ Finance advised ANAO that: 'Due to the focus on, and active control of, recovery of debts within M&PS the issue no longer requires high-level attention. The reports to the Secretary were discontinued in November 2001.'

debt owed by current MOP(S) Act employees.¹⁷¹ However, long-term debt owed by former staff has proven more difficult to address.¹⁷²

4.67 The procedures specify a requirement to advise ceasing and former MOP(S) Act staff that interest will be considered on debts that remain outstanding beyond a specified period¹⁷³, and that further debt recovery action may be undertaken by a debt collection agency or legal panel member. In August 2003, Finance advised ANAO that debts owed by former MOP(S) Act staff totalling \$31 799.84 had been referred to a debt collection agency, of which none had been recovered to that time and \$3 824.55 had been written off. Finance further advised that interest had not been imposed in respect of any overdue staff debts.

Salary overpayments

4.68 Salary overpayments accounted for the most significant part of the debts identified as owed by current and former MOP(S) Act staff at the end of both the 2000–01 and 2001–02 financial years – 81 percent and 86 percent respectively.¹⁷⁴ As at 30 June 2002, 96 per cent of salary debts were aged over 120 days. Many debts of former staff had been outstanding for a number of years.¹⁷⁵

4.69 It had not been the practice within M&PS for a formal invoice to be raised in respect of salary debts. Instead, a letter seeking recovery was sent to the individual involved. The response rate was low and, in a number of cases, no

¹⁷¹ The Procedures provide that, where a current MOP(S) Act employee incurs a debt, it is the responsibility of M&PS to recover the amount promptly, either by a one-off payment, repayment by instalments or through set-off arrangements. Where the employee does not respond to advice of the debt and no special circumstances exist, they should be advised of the planned recovery arrangements using, where legally possible, common law set-off against similar entitlements (Source: Financial Procedures Guide, Department of Finance and Administration, Section 11A: *Recovery of Debts – M&PS, Current MOP(S) employees*, pp. 1-5). As at 30 June 2002, 63 per cent of non-salary debts owed by existing employees were current (that is, payment was not yet overdue). As at 30 September 2002, Finance had identified salary overpayments owed by four current employees. One was aged less than 30 days and the remaining three aged 120 days and over. Three were for minor amounts. The fourth was a debt of \$9 937, which was waived by the Parliamentary Secretary to the Minister for Finance and Administration on 30 January 2003 (see footnote 176).

¹⁷² Total debt identified as owed by former MOP(S) Act staff at 30 September 2001 was \$109 944.96, of which nearly 60 per cent was aged 120 days and over. As at 30 September 2002, a year after the procedures were introduced, salary and non-salary debts of former MOP(S) Act staff totalled \$104 805.49, of which 95 per cent was aged 120 days and over.

¹⁷³ The Finance CEIs state that where a debt is overdue by 60 days or more, the relevant General Manager must give consideration to the imposition of interest, at a rate that reflects the cost of funds to the Commonwealth, and interest charges may only apply from the date advised by the Department (CEI 6.1.1.6). In August 2003, Finance advised ANAO that it had adopted a policy position consistent with that of the Finance Minister (as per his Directions issued in Schedule 8 of the FMA Delegation instrument for other long outstanding debts), namely that an interest charge can and should be applied because where debts are not repaid, there is a real, physical cost to the Commonwealth.

¹⁷⁴ That was broadly consistent with the proportion of the direct expenditure by Finance on MOP(S) Act staff entitlements that related to salaries—some 82 per cent in 2001–02.

¹⁷⁵ Many were initially incurred prior to the transfer of the M&PS Group to Finance from DAS in October 1997.

further action was taken. Analysis undertaken by M&PS in April 2001 found that, of 67 outstanding salary overpayments then identified, nearly two-thirds related to prior financial years.

4.70 The absence of invoices removed a critical monitoring and follow-up trigger. The debt recovery procedures promulgated in September 2001 now require an invoice to be raised for all identified debts. In November 2002, M&PS commenced raising invoices in respect of all outstanding salary overpayments. A total of 88 invoices were raised, relating to debts incurred as far back as 1988–89.

4.71 By the time these invoices were raised, many of the existing debts had aged to such an extent that the possibility of recovery had been significantly compromised.¹⁷⁶ The formalisation of MOP(S) Act staff salary debts into identifiable invoices is a significant improvement in this aspect of Finance's administrative framework. In April 2003, Finance confirmed to ANAO that this procedure is now followed with any new salary overpayment debt identified. The invoice process should allow for a more coordinated and timely approach to the recovery of salary-related debts.

Debt write off

4.72 In August 2003, Finance advised ANAO that, since the introduction of the debt recovery procedures in September 2001, MOP(S) Act staff salary and non-salary debts totalling \$35 177 had been written off.

4.73 The act of approving the write-off of a debt does not expunge the debt in law. If the circumstances that led to the debt being irrecoverable materially change, then recovery of the debt should be re-instituted.¹⁷⁷ This would apply in respect of debts owed by former MOP(S) Act staff should they be re-engaged at any time in the future. Finance advised ANAO that, as at August 2003, the Department did not have a system in place to ensure debts previously written off are identified for recovery should the person be re-employed. Finance advised that:

¹⁷⁶ In August 2003, Finance advised ANAO of 43 salary debts totalling \$33 139 that had been written off since September 2001. In addition, in January 2003, the Parliamentary Secretary approved waiver of a debt of \$9 937 relating to the overpayment of salary to a current MOP(S) Act employee in the period April 1996 to April 1997. The overpayment occurred as a result of a series of Departmental errors. It was identified in March 1997. The then DAS obtained legal advice on the matter in June 1997 which advised that the overpayment was legally recoverable, but no further action was taken. In January 2003, Finance advised the Parliamentary Secretary that, based on further legal advice obtained in November 2002, the Department recommended that the debt be waived. By that time, most of the debt was no longer recoverable under the *Limitation Act 1985 (ACT)*.

¹⁷⁷ Financial Procedures Guide, op. cit., Section 11, *Debt Management and Recovery*, p.9.

Finance accepts that procedures need to be developed for this contingency. Finance proposes to annotate personnel files of former employees that have had debts written off so that recovery action will be considered if they are subsequently re-employed.

Recommendation No.11

4.74 ANAO *recommends* that the Department of Finance and Administration develop and implement procedures to ensure appropriate recovery action is taken in respect of written off MOP(S) Act staff debts where the relevant person is re-employed.

Finance response

4.75 **Agree.** This recommendation will be implemented by Finance annotating the files of relevant staff.

5. Election Periods

This chapter discusses the use of payments and services to MOP(S) Act staff during election periods.

Background

5.1 MOP(S) Act staff are engaged to assist the employing Parliamentarian in the conduct of parliamentary, electorate or official business. Use of MOP(S) Act staff for party political business is not within entitlement. That issue comes under particular focus in the periods leading up to, and during, general elections and by-elections.

5.2 The election campaign period is generally considered to be the period following the announcement of the election date by the Prime Minister, typically lasting some five weeks. However, there is not yet an adequate shared understanding and consensus among all relevant stakeholders as to the appropriate use of MOP(S) Act staff, and Parliamentarians' entitlements in general, during election periods.

5.3 Two of the four financial years examined in this audit were election years—1998–99 and 2001–02.¹⁷⁸ In each case, the General Manager of M&PS wrote to all Senators and Members advising of the arrangements that apply during the election campaign period, including in respect of staff. Concerns were expressed by various stakeholders following both elections about the use made of MOP(S) Act staff during those periods, particularly in regard to the extent of overtime and travel costs incurred.

Conventions

5.4 This is an area that has been governed primarily by convention, rather than legislation or other similar means. ANAO understands that conventions relevant to the use of MOP(S) Act staff during election periods include that:

- staff may work at Parliament House, the electorate office, the capital city office or, for personal staff, in campaign headquarters if engaged on official business (for example, as a conduit between the Minister and the party headquarters in respect of portfolio-related policy issues);
- personal staff may travel on official duties as directed by the employing Parliamentarian;

¹⁷⁸ Federal general elections were held on 3 October 1998 and 10 November 2001.

- staff may undertake activities in support of their employing Parliamentarian's re-election, but not in the election or re-election of others¹⁷⁹;
- once an entitlement has been accessed for a bona fide purpose, it is open to a Senator or Member to undertake other related functions provided there is no additional cost to the taxpayer; and
- a Member who is not seeking re-election may access his/her electorate office during the period between the dissolution of the Parliament and polling day. This is to enable the former Member to pack up and finalise any outstanding electorate matters.¹⁸⁰

Discussion paper

5.5 The terms 'parliamentary business', 'electorate business' and 'party business' have not been defined. A number of previous ANAO audit reports and other reviews have identified the potential for differing interpretations of these terms to give rise to difficulties for both Parliamentarians and the responsible administrative departments in ensuring the eligibility of expenditure.¹⁸¹

5.6 Efforts directed at developing enhanced guidance in this area have been ongoing within Finance for some time.¹⁸² A number of draft discussion and guidance papers have been prepared at various times, including in the lead up to the 1998 and 2001 general elections. None have been distributed to Parliamentarians.

5.7 ANAO Audit Report No.5 2001–02 acknowledged the difficulties that have been identified by the Remuneration Tribunal in terms of exhaustively defining parliamentary and electorate business.¹⁸³ ANAO recommended that, to enhance the transparency and accountability of the entitlements management framework, and assist Parliamentarians in the management of their entitlements, Finance develop and promulgate guidelines on the activities likely to be considered to

¹⁷⁹ This is based on the long-standing convention that entitlements provided for electorate business may be used in support of a Senator or Member's own re-election, but not in the election or re-election of others.

¹⁸⁰ Source: Various papers prepared since the mid-1990s by Finance and other agencies on the legislative framework and conventions relating to the accessing of entitlements, particularly in the context of an election campaign period.

¹⁸¹ Most recently, ANAO Audit Report No. 5 2001–02 noted that this issue has been a matter of concern for some time in the administration of Parliamentarians' entitlements: *op. cit.*, pp.95–96.

¹⁸² This follows on from work undertaken by the then DAS and other Departments dating back to the mid-1990s.

¹⁸³ In its November 1997 report on Parliamentarians' travelling allowance entitlement, the Remuneration Tribunal reported that it would not be appropriate to define these words to exclusion: ANAO Audit Report No.5 2001–02, *op. cit.*, pp.96–97.

represent parliamentary and electorate business, and expenditure that is unlikely to qualify for reimbursement.¹⁸⁴ Finance disagreed with that recommendation, commenting that:

This is a role for Government and beyond Finance's authority. Neither the Parliament nor the Remuneration Tribunal has previously chosen to provide definitive terms for Parliamentary business or electorate business.¹⁸⁵

5.8 In September 2001, Finance commenced development of a further paper on the use of Parliamentarians' entitlements during an election campaign period. This included development of notes for guidance on the meaning of relevant terms. The original intention was for the paper to be issued to Senators and Members, and be used as a basis for advice provided by Finance during the 2001 election campaign. Ultimately, the discussion paper was not issued. Finance provided Parliamentarians with a general letter advising on the arrangements that apply during an election period in relation to entitlements.

5.9 At the Estimates hearings of the Senate Finance and Public Administration Legislation Committee on 19 February 2002, the SMOS agreed to a request from the Committee for a discussion paper to be developed on the use of entitlements for circulation to the Parliamentary parties of the Senate and the House so that a view could be developed.

5.10 As a result, the paper developed in 2001 underwent further development during 2002, including the addition of an issues paper setting out a series of questions relating to particular aspects of entitlements use. The purpose of that section was to raise, for discussion, where the limits of usage should sensibly be drawn in respect of the various entitlements. The questions set out in the paper in respect to MOP(S) Act staff are central to determining eligibility within the

¹⁸⁴ Recommendation No. 3. ANAO agreed that such guidance should be endorsed by the Government and the Parliament, in view of the sensitivity of the distinction between parliamentary, electorate and party business. It was noted that, as is normal practice, Finance could provide suitable advice to the Minister (and the Government) for consideration: ANAO Audit Report No.5 2001–02, op. cit., pp.98–99.

¹⁸⁵ *ibid.*, p.98.

terms of various staff entitlements.¹⁸⁶ In the absence of a clear understanding of those matters, it is difficult to see how Parliamentarians could, with confidence, provide the certifications requested of them in respect to MOP(S) Act staff payments in election periods.

5.11 A draft discussion paper on the legislative framework and conventions relating to the accessing of entitlements by Senators and Members, particularly in the context of an election campaign period, was referred to the SMOS by Finance on 9 July 2002. The covering Ministerial Brief sought clearance to distribute the paper for further consultation. In April 2003, Finance advised ANAO that the Brief had not been returned to the Department.

5.12 ANAO considers that, as an extension of the entitlements advice already provided by Finance, it would be of assistance to Parliamentarians for the handbooks issued by the Department¹⁸⁷ to be revised to include guidance on the use of Commonwealth resources by MOP(S) Act staff during an election period. It is not practical for such advice to be exhaustive. However, it would be possible to provide advice as to where clear boundaries and prohibitions exist, and of circumstances likely to fall outside of entitlement. This would assist in ensuring Parliamentarians and their staff are made aware of matters to which they should turn their minds in providing certifications in respect to payments and entitlements use during election periods.

¹⁸⁶ For example, questions raised for discussion in relation to the reasonable limits which should apply to the personal staff of office holders during an election campaign included:

- Are staff able to travel with the office holder?
- Should the same conventions apply to staff as apply to office holders, i.e. travel at Commonwealth expense and/or forego travelling allowance?
- Is it open to an office holder to locate his/her staff at the campaign headquarters?
- If not, should there be tests to ensure staff are carrying out official duties, i.e. related to the office holder's 'normal' official duties?
- Does the nature of official duties change during an election campaign, i.e. do they merge inextricably with simply campaigning?
- In the case of persons who do not hold a relevant office [*as defined in the MOP(S) Act*] (e.g. Independents, Shadow Ministers, other than Leader/Deputy Leader of a minority party), is the use of staff limited to Parliamentary duties?
- Can those staff be used for campaigning e.g. doorknock, letterbox drops, address meetings, work at campaign headquarters?

¹⁸⁷ In July 2003, Finance advised ANAO that the handbooks: '...are Guidelines to the use of entitlements issued by the Department. They are provided to the Special Minister of State to note, not to approve.'

Recommendation No.12

5.13 ANAO *recommends* that the Department of Finance and Administration revise the entitlements handbooks issued to Parliamentarians to include specific guidance on accessing payments and services to MOP(S) Act staff during election periods, and in providing certifications in respect to those payments.

Finance response

5.14 **Agree with qualification.** Finance will update the material included in the handbooks it issues to Senators and Members. However it notes ANAO's observation in paragraph 5.12 that it is not possible to be exhaustive.

Overtime in election periods

5.15 An aspect of MOP(S) Act staff use during election periods which has been the subject of attention has been overtime payments. Total overtime payments made to staff in the two pay periods immediately before and after the 1998 election amounted to some \$804 000.¹⁸⁸ Both periods registered significant increases over the average overtime payments for a pay period in 1998–99: 197 per cent and 231 per cent respectively.

5.16 The changes made in 1999 to the arrangements for remunerating staff for work undertaken outside normal hours introduced a limitation on the capacity for Parliamentarians to have staff undertake significant additional paid overtime during election periods.¹⁸⁹ Total overtime expenditure in 2001–02 was some 18 per cent higher than in 2000–01. Claims for overtime worked in the month prior to the 2001 election totalled about \$592 000. While this was more than twice the monthly average for that year, it was substantially less than the overtime incurred in relation to the 1998 election period.

5.17 In light of the long standing convention that entitlements provided for electorate business may be used in support of a Parliamentarian's own re-election, it is not surprising that increased overtime would be recorded by some electorate staff in the period leading up to an election. In all circumstances, however, paid overtime may only be undertaken for eligible purposes. In this

¹⁸⁸ Available data for 1998–99 only identified the pay period in which payments were made, rather than the period in which the overtime was actually worked. It is reasonable to expect that the bulk of claims relating to overtime worked in the 1998 election period would have been paid in the pay periods immediately before and after the election.

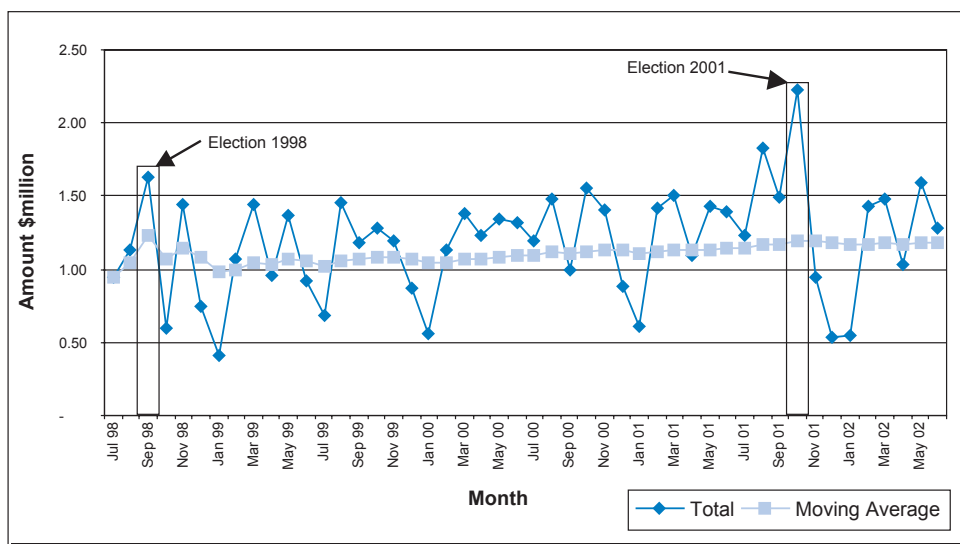
¹⁸⁹ The introduction of fortnightly PSA payments for all personal staff not in receipt of MSA removed the capacity for those staff to receive overtime payments. Similarly, the introduction of ESA reduced the capacity for staff electing to receive the fortnightly allowance to incur substantially increased overtime payments in an election period. Further, the overall quantum of payments a Parliamentarian may incur is now limited by their annual overtime/ESA budget.

respect, Finance is reliant upon the certifications provided by the employing Parliamentarian, or other authorised person.

Travel during election periods

5.18 The capacity for MOP(S) Act staff to travel, at the direction of the employing Parliamentarian, for electorate or official business continues during election periods. ANAO analysis showed a significant increase in total travel expenditure by MOP(S) Act staff during both the 1998 and 2001 general elections, more noticeably during 2001 (see Figure 5.1). This involved expenditure at twice the average monthly rate.

Figure 5.1
MOP(S) Act Staff Total Travel Costs

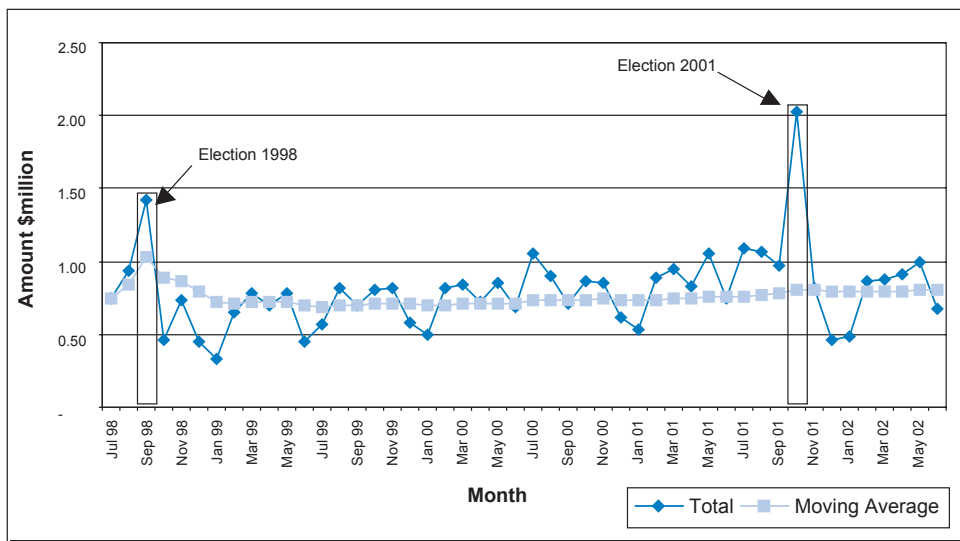


Source: Data used by Finance to prepare Monthly Management Reports provided to Parliamentarians.

5.19 Analysis by ANAO indicated that, for electorate staff, there was little change in the cost of travel undertaken during either election period when compared to both average costs for the respective financial years and the entire period examined by ANAO. However, personal staff travel costs increased significantly during September 1998 and October 2001 in comparison to average monthly usage for the respective financial years (see Figure 5.2).¹⁹⁰

¹⁹⁰ Travel expenditure by personal staff in October 2001 was 216 per cent above the average monthly expenditure for 2001–02. September 1998 costs were 202 per cent over average monthly expenditure for 1998–99.

Figure 5.2
Personal Staff Total Travel Costs



Source: Data used by Finance to prepare Monthly Management Reports provided to Parliamentarians.

5.20 The cost of personal staff travel for October 2001 was considerably higher than that incurred during any other month in the four-year period examined by ANAO. The category of personal staff travel that exhibited the highest increase was Travel Allowance, where payments for October 2001 were 310 per cent higher than the monthly average.

5.21 For both Election 1998 and Election 2001, the Liberal Party, National Party and Australian Labor Party (ALP) all located their party headquarters in Melbourne.¹⁹¹ During Senate Estimates hearings held in 2002, it was revealed that a significant number of personal staff of Parliamentarians belonging to each of the Parties travelled to Melbourne at Commonwealth expense during the 2001 election period.¹⁹² Whereas staff of Parliamentarians belonging to the Liberal Party and the National Party generally claimed Travel Allowance for their time in Melbourne, staff of Parliamentarians belonging to the ALP generally did not. Evidence provided to the Committee in May 2002 and February 2003 was that total Travel Allowance paid to MOP(S) Act staff for overnight stays in Melbourne during the period 1 October 2001 to 18 November 2001 was \$623 871 for the

¹⁹¹ Senate Finance and Public Administration Legislation Committee, *Official Committee Hansard*, Tuesday 19 February 2002, pp. F&PA 240–246, and Thursday 30 May 2002, pp. F&PA 531–537, 553–558 and 565–570.

¹⁹² *ibid.*

Liberal and National Parties, \$64 027 for the ALP, \$4491 for the Australian Democrats and \$422 for Independents.¹⁹³

5.22 Total Travel Allowance payments to MOP(S) Act staff for October 2001 were \$707 138 greater than the moving monthly average at that time, an amount similar in magnitude to the total Travel Allowance paid to staff of Parliamentarians from the three major political parties for travel to Melbourne during the 2001 election period.¹⁹⁴ However, no inquiries were undertaken by Finance to examine the additional expenditure or, more broadly, the pattern of expenditure during the election period, in order to verify that travel was being undertaken for electorate or official business. Finance advised ANAO in July 2003 that it has no basis on which to question the purpose of travel.

5.23 Detailed analysis by ANAO, using risk-based sampling techniques, of staff travel payments during the 2001 election period revealed that:

- Finance did not seek to verify the claims of staff members who claimed the commercial rate of Travel Allowance, but did not provide any supporting documentation for their claims;
- where supporting documentation was provided in the sample examined by ANAO, some hotel invoices clearly identified the political party of the employing Parliamentarian. In the context of an election period, ANAO considers that further inquiries by Finance of the relevant claimants would have been appropriate in order to confirm the expenditure was incurred for eligible purposes within the terms of the entitlement¹⁹⁵; and
- there are no procedures by which Finance reconciles fares for travel taken at Commonwealth expense to claims for Travel Allowance. Although there is no obligation on staff to claim Travel Allowance when they are

¹⁹³ Source: Senate Finance and Public Administration Legislation Committee, *op. cit.*, Thursday 30 May 2002, p. F&PA 566 and letter from Finance to the Committee Secretary, 7 February 2003.

¹⁹⁴ ANAO also noted a number of instances of apparent structuring of Travel Allowance claims to avoid the application of the review rate of Travel Allowance. Under the review rate arrangements, once an employee has been in one location away from their home base on official travel for 21 days (changed to 35 days for staff covered by the CA with the Guidelines issued on 5 November 2001 and on 6 March 2001 for staff covered by AWAs), a revised rate of Travel Allowance is paid for the remainder of the period. That rate is equal to the actual amount spent by the employee on accommodation, meals and incidental expenditure up to the limit of the commercial rate.

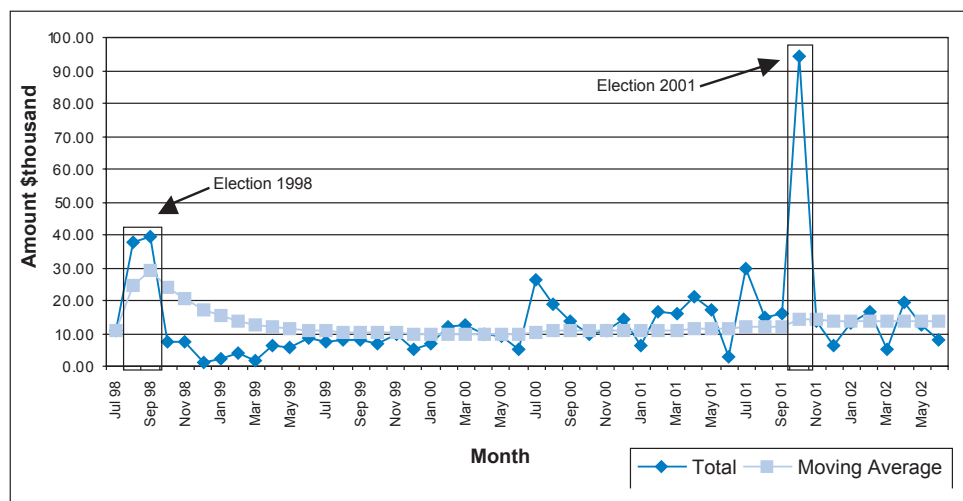
¹⁹⁵ In July 2003, Finance advised ANAO that there are special arrangements approved for the staff of the Prime Minister and the Leader of the Opposition during an election period. Accounts are set up with nominated hotels that are paid by Finance direct to the hotels concerned. Finance further advised that it is possible that arrangements for a standard rate were negotiated by the relevant political party with each hotel, which would account for the name of the party appearing on the hotel bill.

legitimately travelling at Commonwealth expense¹⁹⁶, in a risk-based system the absence of such claims should warrant further investigations.¹⁹⁷

Travel by GMS and CPU staff

5.24 ANAO analysis of travel expenditure by MOP(S) Act staff employed in the GMS and CPU showed a pattern of minimal travel throughout much of the four-year audit period. The only significant travel costs incurred by staff in both units occurred during the 1998 and 2001 election periods, with the 2001 costs far exceeding those for 1998 (see Figure 5.3). In both cases, the majority of travel undertaken was to Melbourne. In November 2003, Finance advised ANAO that: ‘The travel was undertaken at the direction of the employing Office-holder.’

Figure 5.3
GMS and CPU Total Travel Costs



Source: Data used by Finance to prepare Monthly Management Reports provided to Parliamentarians.

5.25 In the 2001 election period, the total cost of travel by GMS and CPU staff increased by in excess of 800 per cent of average monthly expenditure. In 2001–02, Travel Allowance claims for travel to Melbourne by staff of the GMS and CPU totalled \$85 422. In comparison, claims for travel to Melbourne by staff in these units amounted to \$8249 in 2000–01; \$3478 in 1999–2000; and \$34 426 in

¹⁹⁶ Finance advised ANAO in July 2003 that, in addition, in some circumstances such as same day travel, staff are ineligible to claim Travel Allowance.

¹⁹⁷ For electorate staff, this is particularly the case where the travel is to destinations other than Canberra or within the electorate or capital city of the employing Parliamentarian’s State or Territory. Personal staff may travel within Australia at the direction of the employing Parliamentarian or authorised person on official business. ANAO noted instances where personal staff of Parliamentarians, including some not seeking re-election, were in Melbourne for a significant proportion of the election period.

1998–99 respectively. Finance advised ANAO in July 2003 that the Department paid Travel Allowance claims, which were duly authorised.

Risk-based analysis

5.26 Finance’s capacity to satisfy its obligations to undertake reasonable inquiries in respect of payments to MOP(S) Act staff would be enhanced by the use of a systematic approach to the identification of transactions or periods of time where, due to increased volume and/or other factors, there is an increased potential for claims to be made outside of entitlement. Where monitored, expenditure increases of the nature observed by ANAO in respect of the 1998 and 2001 election periods would normally be expected to result in more intensive examination of the basis of the payment of public money. Analysis of this nature would have been of assistance to Finance in developing a risk-based approach to claims checking for those periods.

5.27 In advance of the 2001 general election, Finance sent letters to all Parliamentarians advising which entitlements continue during the election campaign.¹⁹⁸ For Finance to process travel entitlements, Parliamentarians were expected to certify that the travel was undertaken for official purposes. Despite the changed environment existing during this period, Finance did not take any other steps to increase pre- or post-payment controls over the use of staff travel entitlements. Finance advised ANAO in July 2003 that, in accordance with normal practice, the Department ensured that payments of Travel Allowance were appropriately authorised. In August 2003, Finance further advised that the Department: ‘...has no basis for checking purpose of travel beyond relying on appropriately rendered certifications.’

Recommendation No.13

5.28 ANAO *recommends* that the Department of Finance and Administration increase pre- and post-payment controls over the use of staff travel entitlements during election periods in recognition of the changed environment that exists during those periods.

¹⁹⁸ Those not seeking re-election were advised that they were entitled to use their staff for two weeks after the election was announced in order to finalise their activities. However, a Minister who is not seeking re-election continues to employ his/her staff until two weeks after a new Ministry is sworn in.

Finance response

5.29 **Agree.** Finance will implement this recommendation. Finance recognises the cyclical nature of parliamentarians' activity. While it already has in place a series of pre and post payment checks, it will look at any period of heightened volume.

Canberra ACT
1 December 2003



P. J. Barrett
Auditor-General

Appendix

Appendix 1

Department of Finance and Administration's full response to the s.19 proposed report

1. The Department of Finance and Administration notes that the Australian National Audit Office (ANAO) has acknowledged the significant improvements in its administration of entitlements of staff employed under the *Members of Parliament (Staff) Act* which occurred during the four year period covered by the audit. Of particular importance for the assurance of sound administrative practice, ANAO did not identify any major deficiencies in Finance's administration of entitlements. Nevertheless, ANAO has made some useful suggestions for further improvements to the Department's processes and Finance will be looking to adopt these recommendations wherever possible.
2. Finance contributes to an efficiently functioning Parliament (Outcome 3 of the Portfolio Budget Statement) by providing a range of support services to current parliamentarians and their staff. Excessive inflexibility in administration could impede the activities of parliamentarians in fulfilling their legitimate role as elected representatives. In administering entitlements Finance needs to balance its facilitation role and ease of access to entitlements with the need for proper accountability.
3. There are unique features of the work carried out by parliamentarians that impact on the manner in which their entitlements and that of their staff are accessed. There is, for instance, a requirement for many personal staff to travel frequently, and often at short notice, on official business. The nature of this travel affects how travel is booked (often multiple bookings are made to cater for a range of contingencies) and the claiming of travelling allowance (a claim may subsequently need to be adjusted to account for a longer or shorter stay than originally intended). Finance's procedures need to accommodate these changes in requirements efficiently and effectively.
4. Administering the entitlements of this group of staff is also more resource intensive than the arrangements for other public sector employees because of the large number of casual employees, who are employed under the Relief Budget arrangements, and fluctuating overtime payments. Limitations of the current HR system do not allow some entitlements, such as the Overtime/Electorate Staff Allowance (ESA) Budget, to be administered simply. Nevertheless, the running of associated reports monitors these budgets constantly. The effectiveness of Finance's processes is confirmed by there being no breaches of the Overtime/ESA cap or the relief budget in 2001–2002 and 2002–2003. The Ministerial and Parliamentary Services' Business Improvement Program, agreed

by the Department's Executive Board (see paragraph 9 below), will address the current systems processing limitations.

5. Finance, in its administration of MOP(S) Act staff entitlements, handles a very high volume of transactions. During 2002–2003, in relation to MOP(S) Act staff, the following transactions were processed:

- 38 149 overtime transactions
- 5 312 leave transactions
- 4 517 relief budget transactions
- 18 756 travelling allowance claims
- 31 789 domestic fares
- 55 654 domestic car transactions.

6. ANAO has acknowledged that: 'Finance processes many thousands of entitlements claims each year' (paragraph 4.1) and further that: 'The detailed checking of each transaction is not a practical, cost-effective approach' (paragraph 4.2). Finance necessarily relies on a risk based verification process in its administration of entitlements. Finance's operations are conducted in a client responsive environment with a higher than normal control regime. It is Finance's view that, to impose additional controls, could not only impact negatively on the legitimate role of parliamentarians in fulfilling their role as elected representatives but would also involve greater staff resources and costs within the Department.

7. Finance has a continuous improvement approach to its administration of parliamentary entitlements based on the principles of flexibility, accountability, cost effectiveness, transparency and simplicity (FACTS). In accordance with this approach, Finance has, among other things, enhanced the quality and coverage of the monthly management reports it provides to Senators and Members. During the last two-year period covered by the audit, the reporting of staff entitlements in management reports was considerably expanded. Among the most significant improvements was the inclusion of expenditure against the Relief Budget and against the Overtime/ESA cap. Finance continues to enhance the monthly management report regime.

8. ANAO has recognised some of the major improvements effected by Finance in relation to the administration of MOP(S) Act staff entitlements as follows:

- The introduction from July 2001 of an annual review of authorised persons for each parliamentarian's office was an improvement on Finance's capacity to ensure these records are up to date (paragraph 20, page 13);

- In September 2001, Finance's Financial Procedures Guide was amended to include a specific section on recovery of debts by M&PS. Since then, there has been an identifiable improvement in the level of outstanding debt (paragraphs 29 & 30, page 15);
 - The control framework applying to the administration of employment-related payments to, and on behalf of, MOP(S) Act staff was improved by Finance over the four year period examined by ANAO (paragraph 35, page 17);
 - In recent years, Finance has taken steps directed at improving the Department's capacity to rely upon transaction certifications presented to it (paragraph 36, page 17);
 - There has been significant improvement in the form and content of the management information provided to parliamentarians to assist them in monitoring their expenditure against these limits (paragraph 2.12, page 45); and
 - Finance has recently sought to improve its procedures for identifying and reviewing MOP(S) Act staff claims that may be outside entitlement (paragraph 4.4, page 76).
9. Finance's Executive Board has approved the commencement of a major Business Improvement Program in the Ministerial and Parliamentary Services Group. The Business Improvement Program seeks to introduce more robust business systems that will reduce manual processing, deliver more services on-line and streamline business processes. The Business Improvement Program should assist in simplifying business rules and reducing the scope for error on the part of Finance staff or MOP(S) Act staff.
10. Finance provides additional comments on the following subjects covered in the report to put ANAO's observations into context:
- Security clearances—Finance comments that the high mobility of this workforce, the large number of staffing changes which occurred after the November 2001 election, coupled with a change of security vetting service provider contributed to a backlog of clearances during 2002. It is important to keep in mind that the number of outstanding clearances includes those where the staff member has returned all required supporting documentation and the vetting agency has not completed the checking process. Attention has been focussed in the current calendar year on finalising more clearances with the result that only 18% of clearances were outstanding as at 21 October 2003.

- Authorisations—Finance acknowledges that, for the early part of the period covered by the audit (1998–1999), its record keeping in relation to authorisations was not as robust as it has been in more recent years. In the interests of sound administrative practice, Finance has developed a form to enable authorisations to be advised to the Department. The form includes provisions for a specimen signature. However, should a Senator or Member choose not to use the Finance form, or not fill it out completely, that does not make their authorisation, or the method of its advice to Finance, invalid. The relevant legislation does not provide for any particular form of the authorisations.
 - Election periods—there is a long-standing convention that electorate staff may undertake activities in support of the employing Senator or Member’s own re-election. In addition, personal staff may work at Parliament House, the electorate office and in the capital city office and in campaign headquarters if engaged on official business. Personal staff may travel on official business during the campaign. Election periods are periods of extra activity for parliamentarians and their staff and a significant rise in costs during this period, as ANAO has noted in the report, is not unexpected.
11. ANAO has made some constructive recommendations to Finance to assist in further strengthening our processes. Finance agrees with the general thrust of the report and will incorporate relevant suggestions in its continuous improvement program.

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