



PARLIAMENTARY SERVICE
Te Ratonga Whare Pāremata



Te Tari Taiwhenua
Internal Affairs

**Report of the Speaker of the House of
Representatives and the
Minister Responsible for Ministerial
Services on the review of the operation of
the Members of Parliament
(Remuneration and Services) Act 2013**

Presented to the House of Representatives pursuant to
section 67 of the Members of Parliament
(Remuneration and Services) Act 2013

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Executive summary

Background

1. The Members of Parliament (Remuneration and Services) Act 2013 (2013 Act) established a new framework for setting entitlements for members of Parliament (members) and the Executive. It provides the legal authority for payment of members' and Ministers' salaries and other allowances that enable them to undertake their parliamentary roles and functions.
2. The 2013 Act implemented, with some modifications, most of the recommendations in the Law Commission's report *Review of the Civil List Act 1979—Members of Parliament and Ministers*. It sets out the respective roles and responsibilities of the Remuneration Authority (the Authority), the Speaker of the House of Representatives (the Speaker), and the Minister Responsible for Ministerial Services (the Minister) in relation to members' salaries and allowances and support services.
3. The Government Administration Committee, which considered the bill enacted as the 2013 Act, recommended the operation of the new Act be reviewed after two full (triennial) determination cycles. The Committee noted the importance of reviewing the new entitlements system to ensure its continued workability.¹

Purpose of this report

4. Section 67(1) requires a review of the operation of the 2013 Act insofar as it relates to the entitlements system for members' salaries and allowances (Part 2), and of services for members, Ministers, qualifying electoral candidates (QECs), and those persons' family members (Part 3).
5. The review is required to determine the extent to which the 2013 Act—
 - ensures members and the House are properly supported, in a way that maintains confidence in Parliament's integrity
 - has delivered greater transparency and, where appropriate, independence in determining and reporting on members' and Ministers' services and entitlements.
6. The review does not include Part 4 of the 2013 Act, which provides for former members' entitlements (eg, travel services and former Prime Ministers' annuities), or the entitlements (including members' actual salaries) determined by the Authority under the Remuneration Authority Act 1977.
7. This report responds to the requirement for the review to be completed by the end of the current parliamentary term.²

¹ Members of Parliament (Remuneration and Services Bill) 2013 (329-2) (select committee report) at 9.

² Members of Parliament (Remuneration and Services) Act 2013, s 67(3).

Summary of findings

8. The review did not identify any significant concerns with the regime implemented by the 2013 Act. However, there was a consensus it would be preferable for the same entity to determine members' and QECs' travel and accommodation entitlements. Currently, responsibility is split between the Speaker and the Authority. Stakeholders were satisfied with the triennial determination cycle.
9. The review found general support for the statutory quarterly reporting regime. Feedback received indicated that the new reporting requirements had improved transparency and highlighted the importance of accountability for the use of public resources. However, there is scope to strengthen the general principle of accountability by aligning the principles in the 2013 Act (which apply to decision-makers) and those governing recipients' use of entitlements.
10. The review noted the challenges members face in achieving an appropriate work-life balance. This can be particularly acute for those with young families. The 2013 Act supports members required to be away from home by enabling family members to travel to be with them. There was widespread support for amendments to the definition of "family member" and "dependent child" to make the current travel services entitlement more family-friendly.
11. The review identified several, mainly technical, areas where the day-to-day operation of the 2013 Act could be streamlined and/or clarified, without changing the underlying purpose of a provision or increasing costs.
12. Finally, the consultation highlighted some non-legislative aspects of the entitlements system where procedures and administrative requirements could be simplified or better co-ordinated between the administering agencies. The Parliamentary Service and the Department of Internal Affairs (the Department) (which supports the Minister), will continue work to address these issues, including working together as required.

Summary of recommendations

Member services—Key issues

Responsibility for determinations

13. Responsibility for determining members' and QECs' accommodation services should be transferred from the Authority to the Speaker.

Definition of parliamentary purpose

14. In the absence of a consensus that the 2013 Act should include a standalone definition of "parliamentary purpose", or what such a definition would include, no change is recommended.

Guiding principles: Strengthening accountability for use of public resources

15. Amend the 2013 Act to include principles that apply to recipients' (including members, Ministers, and parties) use of publicly-funded resources.

Quarterly reporting, personal benefit, and other transparency measures

16. No change is recommended.

Family travel

17. Amend the definition of “family member” to enable the Authority to include caregivers for members’ children under age 18 in the family travel determination.
18. Amend the definition of “dependent child” to those include over age 18 who are still in secondary education.

Operational and technical issues

Members’ professional development associated with the official inter-parliamentary travel (IPR) programme

19. Amend the 2013 Act to enable the Speaker to separately determine, as part of the IPR determination, actual and reasonable costs associated with travel, accommodation, and other expenses for a member’s professional development.

Funding members’ international travel

20. Remove the requirement for members’ international travel costs to be met from party leadership funding.

Drafting changes to provide clarity and operational efficiency

21. Amend Schedule 1 of the 2013 Act to confirm constituency members are declared to be elected when the writ is returned under s 185 of the Electoral Act 1993.

Next steps

22. The Speaker will work with the Leader of the House to progress amendments to the 2013 Act determined to be necessary and desirable.

Introduction

Background

Law Commission review of the Civil List Act 1979—Members of Parliament and Ministers (2007 to 2010)

23. The Civil List Act 1979 provided the legal authority for payments of salaries, allowances, and expenses to members and Ministers. While the provisions relating to payment of salaries were relatively straightforward, a complicated statutory scheme governed other payments and entitlements.³ In addition, the Speaker was able to determine what “parliamentary purposes” were when setting members’ entitlements. Consequently, Speaker’s directions could and did include entitlements unrelated to members’ parliamentary responsibilities.⁴
24. The Government reference to the Law Commission (the Commission) noted the 1979 Act had not been comprehensively reviewed since enactment.⁵ It followed several reviews, including an Auditor-General’s report,⁶ calling for greater independence and transparency in relation to funding and entitlements for members and Ministers.⁷
25. Developments during the review, including the United Kingdom Parliament expenses scandal, saw the Commission revise its initial assessment that major change to the existing arrangements was unnecessary.⁸ The Commission concluded the status quo was not sustainable, and risked undermining public trust and confidence in the parliamentary funding regime. It recommended an enhanced role for the Authority in determining members’ and others’ entitlements. The Commission’s final report included a draft Bill, enacted (with some changes) as the 2013 Act.⁹

Members of Parliament (Remuneration and Services) Act 2013

26. The 2013 Act sets out the respective roles and responsibilities of the Authority, the Speaker, and the Minister. **Appendix A** illustrates how the Speaker (and the Parliamentary Service), the Department, and the Authority work together to deliver member and ministerial services and entitlements.
27. The Commission had recommended giving the Authority responsibility for determining members’ travel and accommodation services, communication services, and party and member support

³ Including the Parliamentary Service Act 2000, the Public Finance Act 1989, and the Civil List Act 1979, ss 20A, 20B, 25.

⁴ New Zealand Law Commission [Review of the Civil List Act 1979—Members of Parliament and Ministers](#) (December 2010) at [4.12].

⁵ At [3].

⁶ Office of the Auditor General [Parliamentary Salaries Allowances and Other Entitlements](#) (July 2001).

⁷ New Zealand Law Commission, above n 4, at [5].

⁸ At [6]–[12].

⁹ Appendix.

funding. However, most of those services and funding entitlements continue to be determined by the Speaker.¹⁰

28. The Authority is responsible for setting members' salaries and the out-of-pocket expense allowance,¹¹ domestic accommodation services, and qualifying family members' domestic travel services.¹²
29. The Minister is responsible for determining Ministers' domestic travel services (including VIP transport services and self-drive cars) that are additional to, or alternative to, their entitlements as members.¹³

Scope of the review

30. Section 67(1) requires a review of the operation of the 2013 Act insofar as it relates to the entitlements system for members' salaries and allowances (Part 2), and of services for members, Ministers, QECs, and those persons' family members (Part 3).
31. The review does not include Part 4 of the 2013 Act, which provides for former members' entitlements (eg, travel services and former Prime Ministers' annuities).
32. The review does not consider entitlements (eg, members' salaries) determined by the Authority under the Remuneration Authority Act 1977. However, Part 3 includes administrative requirements governing the Authority's determinations, and those issued by the Speaker and the Minister, as well as the allocation of responsibilities across determinations. These issues form part of the review.

Consultation

33. The Parliamentary Service and the Department consulted with their internal and external stakeholders, including:
 - members from all parties (in their capacity as members of Parliament)
 - Ministers (in their capacity as Ministers)
 - the Speaker of the House of Representatives
 - the Minister Responsible for Ministerial Services
 - member and senior Ministerial support staff, including senior private secretaries
 - the Remuneration Authority
 - the Clerk of the House of Representatives
 - Inland Revenue
 - the Office of the Controller and Auditor-General

¹⁰ Members of Parliament (Remuneration and Services) Act 2013, s 23.

¹¹ Members of Parliament (Remuneration and Services) Act, Part 2; Remuneration Act 1977, s 8.

¹² Members of Parliament (Remuneration and Services) Act, s 17.

¹³ Members of Parliament (Remuneration and Services) Act, s 27. Member's "standard" entitlements are set out in the Speaker's Directions issued under s 23.

- Department of the Prime Minister and Cabinet.
34. The Parliamentary Service consulted on the provisions of Part 3 of the Act it administers. It met with members from each caucus, administrative teams within the Service, the Authority, and the Clerk of the House of Representatives. A survey was provided to members' support staff.
 35. The Parliamentary Service consulted the Commissioner of Inland Revenue and the Office of the Controller and Auditor-General. The Department of the Prime Minister and Cabinet was consulted as it was responsible for the passage of the 2013 Act.
 36. The Department undertook targeted consultation with current and past Ministers whose experience is (or was) limited to the current entitlements' system, and those able to compare their experience of services and entitlements under the 2013 Act, and the previous system under the Civil List Act 1979. All current Ministers were also given the opportunity to provide feedback via their Ministerial office staff.
 37. Key internal and external stakeholders were given the opportunity to comment on a draft of this report, in order to ensure their views were accurately reflected.

How the report is structured

38. The report has two main parts. Part 1 focuses on key issues related to member services and entitlements and the substantive feedback received from stakeholders. There was very limited feedback on specific sections of the 2013 Act. The thematic, key issues approach aligns with the principles underpinning the Law Commission review, and the 2013 Act's aims and purposes.
39. Part 2 details other mainly technical issues related to the operation of the 2013 Act identified during the review.

Part 1: Member services—Key issues

Responsibility for determinations

Law Commission recommendation

40. The Law Commission recommended entitlements to funding and services to support parties' and members' parliamentary operations, including travel and accommodation services, should be determined by an enhanced Remuneration Authority, after consultation with all the political parties represented in Parliament. It considered having one independent regulator to set all relevant entitlements would reduce legislative complexity, avoid potential confusion among members, and improve checks and balances.

2013 Act

41. The 2013 Act sought to achieve an appropriate balance between the public interest in ensuring members are properly supported in carrying out their parliamentary duties, and the public interest in maintaining trust and confidence in Parliament. It implemented some, but not all of the

Commission's recommendations for enhancing the Authority's role. There is now a three-way split of responsibilities between the Speaker, the Authority, and the Minister.

42. The Authority determines:

- accommodation entitlements for members, Ministers, and QECs
- travel benefits for family members of members, Ministers, and QECs.

43. The Speaker issues directions on:

- travel and communications services for members and QECs
- administrative and support services for members, parties, and QECs
- travel services in relation to the political exchange programme.

44. The Minister determines Ministers' travel services over and above those the Speaker sets for members.

Recommendation

45. Responsibility for determining members' and QECs' accommodation services should be transferred from the Authority to the Speaker.

Discussion

46. Members' travel and accommodation services, including members' travel between their electorate or home base and Parliament and their accommodation while undertaking parliamentary duties, are critical to the effective functioning of the House.

47. As introduced, the Bill enacted as the 2013 Act would have seen some of the travel and accommodation services previously determined by the Speaker and the Minister determined by the Authority. The Speaker was to continue to have responsibility for determining communication services, and party and member support services.

48. However, submissions on the Bill identified the potential for decisions made by an external body (the Authority) to impact negatively on members' ability to travel to do their job. Consequently, the Government Administration Committee recommended preserving the Speaker's and the Minister's ability to determine travel entitlements for members and QECs, and Ministers, respectively. The Committee did not recommend a similar change to the provision making the Authority responsible for determining members', QECs', and Ministers' accommodation entitlements.

49. The review was unable to identify a compelling reason for having different decision-makers determine members' and QECs' accommodation and travel services entitlements. The current split can be confusing, and it increases the administrative burden for all concerned. It requires separate resolution of issues procedures, separate consultation processes, and those affected by the directions and determinations must navigate up to four different sets of secondary legislation.

50. Over the two triennial determination cycles under the 2013 Act, the Authority and the Speaker have been able to mitigate the risk of gaps in entitlements and/or inconsistent determinations through the processes adopted. However, concerns about the potential for misalignment due to

the split responsibilities remains. Consolidating responsibility for determining members' and QECs' accommodation and travel services entitlements with the Speaker will substantially reduce (or eliminate) that risk, as well as increasing overall efficiency.

51. Transferring responsibility for determining members' and QECs' accommodation service entitlements to the Speaker will not affect the application of the 2013 Act's "public interest" provisions. For example, Speaker's directions, like Authority determinations, must have regard to the principles in s 16, including fairness to taxpayers, transparency in allocation and use of public resources, and maintaining confidence in Parliament's integrity. In addition, s 16(2) requires any actual or potential personal benefit arising from an entitlement to be calculated; and the Authority must take that benefit into account when determining members' and Ministers' salaries.
52. The Speaker's directions contain complementary "public interest" protections governing members' entitlements, including:
 - a definition of "parliamentary business" that specifically excludes work undertaken for personal or private benefit, and electioneering
 - the requirement to disclose and manage potential conflicts of interest
 - principles governing the use of public resources, including accountability, appropriateness, openness, transparency, value for money, and cost-effectiveness.
53. Finally, the details of all entitlements will continue to be publicly available, so decisions will remain transparent.
54. No change is proposed to the Authority's role in determining Ministers' accommodation service entitlements, which are additional or alternative to their entitlements as members, and which will continue to be administered by the Department. The Authority will continue to determine eligible family members' travel entitlements.

What stakeholders said

55. The Authority agreed it would be preferable to have one decision-maker responsible for determining members' and QECs' travel and accommodation services.¹⁴ The Authority noted the recommendation in this report means responsibility for determining accommodation services would remain split between it (for Ministers) and the Speaker (for other entitled persons).
56. The Authority considered having a single decision-maker for *all* travel and accommodation services would improve consistency, responsiveness, and timeliness, and reduce the administrative burden on the agencies. In the Authority's view, the key consideration was whether the single decision-maker was able to deliver the desired degree of independence in making the determinations.

¹⁴ The Authority uses the term "members" in its broadest context to include ordinary members of Parliament, under-secretaries, and Ministers.

57. The Clerk of the House supports the view of successive Clerks that the Speaker should determine entitlements to all members' services to uphold Parliament's exclusive privilege to control its own operations. Travel and accommodation services in particular are of fundamental importance to the operation of the House and its select committees. The splitting of the determination of travel and accommodation services fails to recognise the House's traditional privilege which should take precedence over independence.
58. The Speaker agrees with the Clerk that both travel and accommodation services are of fundamental importance to the operation of the House and should be determined by the Speaker.

Definition of parliamentary purpose

Law Commission recommendation

59. At the time of the Law Commission's review, there was no definition of "parliamentary purposes" in the Civil List Act 1979, or in the Parliamentary Service Act 2000 (although one was included in an amendment Bill enacted after the Commission issued its report).¹⁵ The Commission's report noted previous Speaker's directions had included entitlements an ordinary person would not consider to be related to members' "parliamentary business".
60. This was one of the issues the Commission recommended be addressed by (a) transferring responsibility for determining members' entitlements to the Authority, (b) requiring the Authority to avoid or minimise personal benefit to members, and (c) enabling the Authority to take into account any unavoidable private benefit when setting members' salaries and allowances.
61. The Law Commission was aware of the draft definition of "parliamentary purposes" subsequently included in the Parliamentary Service Act. The Commission was concerned this definition, which references Speaker's directions issued under the 2013 Act, was essentially circular in nature. As such, it considered the potential for members to receive benefits not directly related to their parliamentary duties remained.¹⁶
62. Arguably, however, the Commission's recommended solution, with references to the Speaker's directions replaced with references to the Remuneration Authority's determination, with the Authority determining members' entitlements, was also circular in nature.

2013 Act

63. As noted above, the 2013 Act implemented some, but not all of the Commission's recommendations for enhancing the Authority's role. The 2013 Act does not contain a definition of "parliamentary purpose". However, both the Authority's determinations (s 17) and the Speaker's directions (s 23) must be interpreted consistently with the definition of "parliamentary purposes" in the Parliamentary Service Act 2000.¹⁷ That definition:
 - includes members' role and functions *as members*

¹⁵ The definition in s 3B of the Parliamentary Service Act 2000 came into force on 1 January 2011.

¹⁶ New Zealand Law Commission, above n 4, at [4.12].

¹⁷ Parliamentary Service Act, s 3E.

- includes a recognised party's role and functions as a recognised party
- references the directions and determinations issued under the 2013 Act
- specifically excludes electioneering, including election and referendum advertising.

Recommendation

64. In the absence of a consensus that the 2013 Act should include a standalone definition of "parliamentary purpose", or what such a definition would include, no change is recommended.

Discussion

65. The Speaker's directions, and the Authority's determination contain a definition of "parliamentary business ... that complements the business of the House", which are substantially the same insofar as they relate to members' and QECs' tasks and functions.¹⁸ The principal difference is that the definition in the Speaker's Directions, like the Parliamentary Service Act 2000's definition of "parliamentary purpose", includes political parties' parliamentary activities. The Minister's Travel Services Determination provides parliamentary business "has the meaning given to it in the Speaker's Directions."¹⁹
66. Both the Speaker's directions, and the Authority's determination specifically exclude:
- work undertaken for personal or private benefit
 - work directly related to the administration or management of a political party
 - electioneering
 - personal purposes.
67. The Speaker's directions include a principle of appropriateness, which provides "...expenditure must only be incurred in respect of parliamentary purposes".²⁰ This is complemented by the principle in the Authority's determination, which requires any personal benefit to be minimised. The Parliamentary Service provides guidance to members on permitted purposes/expenditure.
68. The review identified competing arguments for and against a strict definition of "parliamentary purpose" in the 2013 Act. The status quo provides greater flexibility. It includes a non-exhaustive list of approved purposes supplemented by principles that inform what is and what is not appropriate use of public money. There was a concern a strict statutory definition of "parliamentary purpose" could limit members' ability to respond in a timely way to technological changes including when and how their constituents and/or the public want to engage with members, and evolving expectations about members' role and functions.

¹⁸ Directions by the Speaker of the House of Representatives 2017, cl 5; Members of Parliament (Accommodation Services for Members and Travel Services for Family Members) Determination 2017, cl 8.

¹⁹ Ministers' Travel Services Within New Zealand Determination 2017, cl 1.5.

²⁰ Speaker's Directions, above n 18, cl 9(3); 2017 Determination, above n 18, cl 5(4).

69. On the other hand, a prescriptive definition of “parliamentary purpose” would provide greater certainty for members and political parties, and reduce the risk, highlighted by the Law Commission, of public funds being applied to “non-parliamentary purposes”.
70. Alongside these competing arguments, the review also identified how the operating environment under the 2013 Act (eg, increased public scrutiny resulting from the quarterly reporting regime) and its impact on administration of members’ entitlements, had changed since the Law Commission issued its report.
71. One of the 2013 Act’s key objectives was to increase transparency and clarity concerning members’ travel and accommodation services, and other entitlements, and eliminate the risk of “double-dipping”.²¹ The new purpose clause, s 3, recognised the importance of maintaining public confidence in Parliament’s integrity, and s 16 outlines the principles decision-makers must take into account when determining members’ entitlements.
72. The 2013 Act recognised the greater potential for Ministers’ additional entitlements to confer private benefit. Consequently, the 2013 Act transferred responsibility for determining Ministers’ additional (or alternative) domestic accommodation services from the Minister Responsible for Ministerial Services to the Authority. Similarly, Ministers’ international travel and accommodation services are no longer part of the Minister’s Determination (which is now limited to Ministers’ additional domestic travel services). Costs are met directly by the Department, as approved by the Prime Minister, Cabinet, or the Minister. The Department also meets other ministerial expenses, such as office operating costs, as a direct business expense.²²
73. Finally, the 2013 Act made the previous, voluntary, publication of members’ and Ministers’ travel and accommodation expenses mandatory, with the introduction of a statutory reporting regime.²³

What stakeholders said

74. There was no consensus among stakeholders about whether a standalone definition of “parliamentary purpose” should be included in the 2013 Act, or what such a definition might look like.
75. Feedback received indicated the practical effect of these changes has been a greater (and increasing) awareness among members and the public about what is and what is not appropriate spending. This, and the improved transparency concerning members’ and Ministers’ actual expenditure resulting from the statutory reporting regime, has reduced the risk of the perceived (or actual) misuse of public funds.
76. The Authority considered the current, high level definition of parliamentary purpose (in the Parliamentary Service Act 2000) was too open to interpretation and challenge. The Authority noted it had ensured the definition of “parliamentary business” in its 2017 Determination was consistent with the definition in the Speaker’s Directions. However, the Authority also noted it did not consider it should be defining parliamentary business for use in its Determination. In the

²¹ Members of Parliament (Remuneration and Services Bill) 2013 (329-2) (select committee report) at 2.

²² This is in line with the Auditor-General’s 2001 recommendation (see n 6 above).

²³ Members of Parliament (Remuneration and Services Act), ss 33, 37.

Authority's view, Parliament should define parliamentary business (purpose) as it does for other terms (eg, accommodation services; travel services; and qualifying electoral candidate).

77. The Speaker and the Clerk of the House oppose further defining "parliamentary purpose" in the 2013 Act. In the Clerk's view, how members discharge their duties is a matter for them as members of the House. Any attempt to legislate those duties would impinge on the privilege of the House to control its own operations.
78. The Speaker supports the status quo as members' role and functions are not static. Requiring each new "parliamentary purpose" to be first approved in primary legislation could impact negatively on members' ability to do their job, including responding to constituents' needs and expectations.

Guiding principles: Strengthening accountability for use of public resources

Law Commission recommendation

79. The Law Commission's draft Bill included several provisions related to its recommendation to transfer responsibility for determining member services to the Authority, including a separate purpose clause and specific criteria for the Authority to consider.²⁴ Accountability for the use of public resources was incorporated by linking references to public money for necessary services (for members, Ministers, and parties), fairness to taxpayers, efficiency and effectiveness, and the need to avoid private gain.

2013 Act

80. Sections 3 and 16 of the 2013 Act implements the purposes and criteria the Commission identified, with some additions and amendments. Section 3 sets out the Act's overall purposes, and emphasises the need to maintain confidence in Parliament's integrity. Section 16 sets out the principles the Authority, the Speaker, and the Minister must have regard to when making decisions about members' and others' entitlements (the "what"). These principles include:
- the need for public understanding about the services members, Ministers, and parties need to carry out their roles and functions
 - efficient and effective delivery of support services
 - fairness to the taxpayer
 - transparency in the allocation of public money.
81. These general principles are supplemented by additional principles in the Speaker's directions, and the Authority's and the Minister's determinations, related to members', Ministers', and parties' use of their entitlements (the "how" and "by whom").

²⁴ New Zealand Law Commission, above n 4, Appendix, cls 12, 15.

Recommendation

82. Amend the 2013 Act to include principles that apply to recipients' (including members, Ministers, and parties) use of publicly-funded resources.

Discussion

83. The 2013 Act obliges decision-makers (the Speaker, the Minister, and the Authority) to consider the appropriate use of public funds when setting members' and others' entitlements. Applying a similar statutory obligation on recipients' (the "how" and "by whom") would increase consistency and transparency, and it would further support public trust and confidence in Parliament's integrity.
84. The Speaker's directions and the Minister's determination currently contain similar principles setting out expectations for recipients' use of publicly-funded resources. However, the principles in the Speaker's directions, and those in the Authority's determination are not fully aligned. For example, the principle of accountability in the directions requires members to keep records about their use of public resources. This facilitates scrutiny. However, the same principle of accountability does not apply to the Authority's determination including, for example, Ministers' access to their additional or alternative accommodation services, and qualifying family members' domestic travel services.
85. An analysis of the existing principles in the Speaker's directions, and the Minister's and the Authority's determination shows some are role-specific (see Appendix B). For example, members and Ministers may incur expenses for different purposes. The principle of accountability in the Speaker's directions (which relates to members' and others' parliamentary roles and functions) is absent from the Minister's determination (because ministerial accountability derives from the Cabinet Manual). Despite this, there is scope to apply basic principles of accountability for the use of public resources to eligible persons, and to recognised political parties.

What stakeholders said

86. The Speaker supports the inclusion in the 2013 Act of a common set of principles (appropriateness, openness, transparency, value for money and cost-effectiveness) relating to recipients' use of publicly funded resources.

Quarterly reporting, personal benefit, and other transparency measures

Law Commission recommendations

87. The Commission noted the absence of a statutory reporting scheme under the Civil List Act 1979. The Commission considered it anomalous that information about Ministers' entitlements was available under the Official Information Act 1982 (OIA) (because payments were administered by the Department) but information about payments to members was not similarly accessible.²⁵

²⁵ New Zealand Law Commission, above n 4, at [3.4].

88. The Commission did not consider a recent decision, by the Office of the Clerk and the Parliamentary Service, to voluntarily release details of members' travel and accommodation expenses on a quarterly basis, was an adequate substitute for a statutory regime. Consequently, the Commission recommended extending the OIA to cover certain information held by the Speaker, the Parliamentary Service, and the Parliamentary Service Commission.²⁶
89. The Commission made several recommendations to improve transparency, related to its recommendation to transfer responsibility for determining member services to the Authority. These included a requirement for the Authority to clearly identify the private benefit, if any, members received from their entitlements, and to take this into account when determining members' salaries and allowances.²⁷ The Authority was to be required to make copies of its determinations publicly available (as well as giving copies to key stakeholders, including the Speaker).²⁸

2013 Act

90. The 2013 Act did not extend application of the OIA to Parliament. However, it did implement the alternative—quarterly reporting by decision-makers—considered by the Commission,²⁹ together with several other measures to improve transparency.
91. Before 2015, the Authority was required to consider the potential or actual personal benefit members could receive from their entitlements, in line with the Commission's recommendation. This requirement was reinstated in December 2019 when the Authority was again authorised to act independently to set members' salaries based on criteria.³⁰
92. Section 33 requires the quarterly reporting of members' and Ministers' travel and accommodation expenses.³¹ Similarly, s 37 requires the quarterly reporting of travel and accommodation expenses incurred in relation to the official inter-parliamentary relations programme.³²
93. Arguably, the most significant increase in transparency results from the requirement for the Speaker's directions to include details of members' and QECs' entitlements, how party and member support funding is allocated, and the requirements that must be met before payments under the party and member support appropriation can be made.³³

²⁶ At [3.2], [3.59] R5. The Commission's recommendation excluded proceedings of the House and select committees, information held by members in their capacity as members, and information relating to parliamentary parties and their activities.

²⁷ At [4.13].

²⁸ Appendix, cl 18(2).

²⁹ At [3.6].

³⁰ Remuneration Authority (Members of Parliament) Amendment Act 2019, s 12. Between 2015 and 2019, the Authority was required to follow a fixed formula linked to public sector salaries.

³¹ The returns are available on Parliament's website and the Department of Internal Affairs' website, respectively.

³² Inter-parliamentary exchange programme expenses are subject to a separate determination by the Speaker under s 34 of the 2013 Act.

³³ Members of Parliament (Remuneration and Services) Act, s 23. Among other things, the Speaker's direction includes schedules detailing the amounts allocated for party leader funding (including annual member allocations), the Leader of the Opposition's international travel services entitlement, and ICT purchases and servicing.

Recommendation

94. In the absence of a consensus on extending the quarterly reporting regime to include other entitlements, in addition to travel and accommodation services, no change is recommended.

Discussion

95. The existing provisions appear to be operating as intended. The review noted the Department complements its quarterly reports on Ministers' travel and accommodation expenses with a proactive release of details of ministerial credit card expenses.

What stakeholders said

96. Members were generally supportive of the current reporting regime, but views on extending it beyond travel and accommodation services were mixed.
97. Some members noted the potential for unintended consequences resulting from the increased scrutiny quarterly reports had generated. For example, the "one size fits all" returns do not distinguish the needs of members representing or based in large electorates, who often incurred higher travel costs.³⁴ Some members thought a focus on the number/s, without proper context, could (did) lead to adverse public comment, even if the spending was fully justified. On the other hand, attempts to minimise spending to avoid being highlighted as "big spenders" could impact members' ability to do their job.
98. The Authority supports the existing disclosure and reporting regime. The Authority noted it was well-placed to answer media queries about spending authorised by its determination, which could reduce the burden on members.

Family travel

Law Commission recommendation

99. The Civil List Act 1979 defined family member in inclusive terms,³⁵ but the Speaker's direction limited eligibility to a member's "spouse, partner, or issue ...".³⁶ The Commission's draft Bill amended the definition to address concerns about the use of the term "issue" in relation to children, and to provide certainty (to eligible persons, and the Parliamentary Service) about who could access travel services.³⁷

³⁴ Compare sch 4 of the Speaker's direction, which includes higher individual funding allocations for members and Ministers in large constituencies.

³⁵ Civil List Act 1979, s 25. In practice, this meant *any* family member could be an eligible person.

³⁶ New Zealand Law Commission [Review of the Civil List Act 1979](#) (July 2008) at [5.10]–[5.11].

³⁷ New Zealand Law Commission, above n 4, Appendix, cl 4.

2013 Act

100. The 2013 Act provides for the Authority to determine members', Ministers', and QECs' family members' domestic travel entitlements.³⁸ Qualifying family members, as defined, include these persons' dependent children (including step-children) under age 18, and the person's spouse or partner.³⁹

Recommendations

101. Amend the definition of "family member" to enable the Authority to include caregivers for members' children under age 18 in the family travel determination.

102. Amend the definition of "dependent child" to those include over age 18 still in secondary education.

Discussion

103. In 2017, the Standing Orders Committee found members face challenges that make a work-life balance difficult to achieve. It considered more family-friendly conditions could incentivise more women to stand for election.⁴⁰

104. Similarly, the 2019 *Francis Report* noted members' concerns about the prescriptive travel and accommodation determinations that made it difficult for them to spend enough time with family.⁴¹ The *Report* also noted the increasing diversity among members and their family circumstances, which had not been anticipated by the existing rules guiding member entitlements.⁴² The *Report* recommended the Authority consider relaxing its current determination on family travel.⁴³

Definition of family member

105. The current definition of "family member" prevents a spouse's or partner's travel entitlement being transferred to another person. This was a deliberate decision, with the select committee briefing citing the example of the transfer of an entitlement to an adult child.⁴⁴

106. Members are required to be in Wellington when the House is sitting, which means those based outside Wellington can be separated from their families for considerable periods. This can be especially difficult for members with young families. Enabling children to travel to be with their parents is a key way in which the system supports members away from home on parliamentary business. However, members' spouses or partners may not always be able to take time away from their own careers and other obligations to accompany children to Wellington.

³⁸ Members of Parliament (Remuneration and Services) Act, s 17(1)(c).

³⁹ Members of Parliament (Remuneration and Services) Act, s 5.

⁴⁰ Review of Standing Orders 2017 I.18A at 6.

⁴¹ Debbie Francis [External Independent Review—Bullying and Harassment in the New Zealand Parliamentary Workplace](#) (May 2019) at 71.

⁴² At 71.

⁴³ At 72, Recommendation 16.

⁴⁴ Cabinet Office "Members of Parliament (Remuneration and Services) Bill: Initial briefing" at [16]–[20].

107. Enabling a designated caregiver to accompany an eligible child under age 18, in place of a member's spouse or partner, would support a more family-friendly Parliament. In Australia, for example, the equivalent definition of "family member" includes "a designated person [nominated by the member] who has significant caring responsibilities for the member's ... dependent child".⁴⁵

Definition of dependent child

108. The review identified an anomaly concerning children over age 18 who are ineligible for any travel services even if they are still at school and are being maintained by the member. The numbers involved are small, so the change is unlikely to have a significant impact on the overall cost of family travel services.

109. The consultation did not support extending travel services to children over age 18 studying at tertiary level. Children at university or other tertiary institution are typically more independent, even if they receive ongoing parental (financial) support.

What stakeholders said

110. Members' feedback focused on the difficulties faced by members with young children. Many thought another family member (eg, a grandparent) should be able to use the spouse/partner entitlement to accompany young children travelling to be with a member. The limit on one-way trips available to children between ages 5 and 18 was another area of concern.⁴⁶

111. Some members expressed the view that all secondary school children should be able to access family travel services. Members thought it was unfair children who had never used their full entitlement were ineligible on turning 18, even if they were still at school.

112. Members did not support any increase to the overall limits on family travel.

113. The Authority is open to considering how its determination could support a more family-friendly environment. However, its ability to make changes is constrained by the current definition of family member contained in the 2013 Act.

114. The Speaker supports removing the age limit on members' secondary school children's eligibility to access family travel services.

⁴⁵ Parliamentary Business Resource Regulations 2017, cl 4.

⁴⁶ The number of trips—8 one-way trips per year—is set by the Authority in its determination. There is no limit for children under age 5.

Part 2: Operational and technical issues

Members' professional development associated with the official inter-parliamentary travel programme

Law Commission recommendation

115. The Commission's report noted the Speaker issued a separate determination, under the general authority provided by s 20A of the Civil List Act 1979, setting out members' entitlements related to their participation in the official inter-parliamentary travel programme (IPR).⁴⁷ The Commission's recommendation to transfer some of the Speaker's existing responsibilities to the Authority did not include IPR entitlements (ie, travel, accommodation, and related services), which were to remain subject to Speaker's directions.⁴⁸ However, in the absence of an existing statutory entitlement, the Commission did not consider members' IPR-associated professional development opportunities.

2013 Act

116. Section 34 of the 2013 Act provides for the Speaker to issue a separate determination related to the IPR programme. As with members' other (mainly domestic) travel and accommodation entitlements,⁴⁹ the IPR determination is subject to a "conversion of entitlements" provision (s 35).

117. Under s 35, the IPR determination may provide for a member participating in the IPR programme to convert an entitlement under the determination in order to undertake professional development that costs a lesser amount. The professional development must be related to the member's participation in the IPR programme.

Recommendation

118. Amend the 2013 Act to enable the Speaker to separately determine, as part of the IPR determination, actual and reasonable costs associated with travel, accommodation, and other expenses for a member's professional development.

Discussion

119. There is scope to build members' parliamentary capacity through professional development by clarifying how the Speaker's IPR determination provides for professional development costs. The existing system restricts members' ability to take advantage of professional development opportunities when they travel internationally.

120. Currently, the s 35 "conversion" requirement means members' professional development costs can be met only to the extent they can be offset against the costs they would otherwise incur as

⁴⁷ New Zealand Law Commission, above n 4, at [1.17]. The IPR programme is part of the well-established practice of international parliamentary diplomacy. Participants promote New Zealand's interests while improving their own knowledge and insight as legislators.

⁴⁸ New Zealand Law Commission, above n 4, Appendix, cl 21.

⁴⁹ Members of Parliament (Remuneration and Services) Act, s 31.

part of the IPR programme. However, it is impractical to provide professional development opportunities for members participating in the IPR programme if overall costs are capped at the level of the IPR entitlement. Professional development opportunities typically incur an additional, albeit minimal, cost.

121. Making separate provision for members' IPR-related professional development costs is not a substantial policy change. The recommendation is not expected to have a material impact on the overall IPR budget. The biggest expense (international travel) is already met under the IPR determination.

Stakeholder feedback

122. The Office of the Clerk indicated the limitations of the s 35 conversion of entitlements process discourages members from taking professional development opportunities. In the Clerk's view, provision of actual and reasonable professional development costs associated with participation in the IPR programme will recognise the value of members' professional development to building parliamentary capacity.

Funding members' international travel

Law Commission recommendation

123. The Commission's recommendation to transfer some of the Speaker's existing responsibilities to the Authority included members' international travel entitlements (other than IPR-related travel, as discussed in the previous section). However, the Commission's report did not consider how (or if) international travel costs should be offset against other parliamentary funding.

2013 Act

124. The 2013 Act confirmed the Speaker's authority to determine members' travel entitlements, including international travel. Section 23(3) of the 2013 Act restates the requirement (previously set out in the Speaker's directions⁵⁰) for the cost of members' international travel and accommodation services to be met from a member's party's leadership funding allocation.⁵¹

Recommendation

125. Remove the requirement for members' international travel costs to be met from party leadership funding.

Discussion

126. The policy rationale for the costs allocation aspect of s 23(3) of the 2013 Act, and/or why it is in primary legislation, is unclear. Speaker's directions would be a more appropriate place to specify the funding source for members' international travel, if necessary. This would increase flexibility without

⁵⁰ Directions by the Speaker of the House of Representatives 2011, cl 3.10(2).

⁵¹ Leadership funding is allocated under Speaker's directions issued pursuant to s 23(1)(b) of the 2013 Act.

adding to overall costs or relaxing the overarching requirement that the travel be for parliamentary purposes.

127. Speaker's directions have consistently required a member's international travel to be approved by their party leader or party whip, as well as the Speaker. However, this does not explain why the costs of approved international travel must be met from a party's leadership funds (instead of, for example, a member's own parliamentary funding). An unintended consequence of the existing requirements is that independent members (who, by definition are not members of a parliamentary party and do not have a party leader's fund) cannot be funded to undertake international travel for parliamentary purposes.

128. Section 23(3) appears overly prescriptive given the other controls on spending in place. For example, members' international travel is monitored and controlled through the approvals process in place under the Speaker's directions.⁵² In addition, since 2014, Speaker's directions have included administrative requirements to better align members' international travel approvals with the requirements for Minister's international travel. For example, the approving person/s must be satisfied the member has provided:

- details of the parliamentary purpose/s the travel is for
- a detailed itinerary
- an itemised breakdown of the anticipated costs, including how they will be met
- details of anyone accompanying the member, and how that person's costs will be met
- details of how much time (if any) will be spent on personal purposes.

Stakeholder feedback

129. Some stakeholders thought offsetting members' international travel costs against party leadership funding was one way to control overseas travel. However, the review noted some members chose to reimburse their party's leadership fund by transferring the costs of their international travel from their member funding allocation.

Drafting changes to provide clarity and operational efficiency

130. The review identified several areas where the operation of the 2013 Act could be improved by clearer drafting, without changing the scope of the relevant provisions. These include the sections that empower the Remuneration Authority, and the Speaker to set determinations or directions, and the conversion of entitlements provisions.⁵³

131. In addition, the review identified the need to clarify the Schedule 1 definition of qualifying electoral candidate insofar as it relates to constituency candidates.

⁵² Directions by the Speaker of the House of Representatives 2017, cls 4, 24(1).

⁵³ Members of Parliament (Remuneration and Services) Act, ss 17 and 23, 31 and 35.

Qualifying electoral candidates—Clarifying when constituency members are “declared to be elected”

2013 Act

132. Schedule 1 of the 2013 Act sets out various circumstances and times that make a constituency or list candidate a QEC. QECs are entitled to certain travel, communications, and administrative and support services under the Speaker’s directions.⁵⁴ Similarly, the Remuneration Authority sets QECs’ accommodation entitlements, and the travel services available to QECs’ family members.⁵⁵

Recommendation

133. Amend Schedule 1 of the 2013 Act to confirm that constituency members are declared to be elected when the writ is returned under s 185 of the Electoral Act.

Discussion

134. Currently, Schedule 1 provides that constituency candidates cease to be QECs on the “day on which a person (whether that person or some other person) is, under section 179 of the Electoral Act 1993, declared to be elected to represent the district”. This is ambiguous as a person could be “declared to be elected” when—

- a declaration is made under s 179 of the Electoral Act,⁵⁶ or
- the writ is returned under s 185 of the Electoral Act (when elected QECs become members) which can be several days after the s 179 declaration.

135. The ambiguity arises because s 179 (which relates to the declaration of poll results) does not authorise the Electoral Commission to declare constituency candidates to be elected. That power appears to derive from s 185 under which the writ is endorsed and returned. This aligns with s 54, which refers to the person whose name is endorsed on the writ as the person “declared to be elected”. Similarly, s 191 refers directly to s 185 as the provision declaring a person to be elected as a member of Parliament.

136. There can be up to seven days between the s 179 declaration, and the s 185 return of the writ. If the earlier, s 179, date is deemed to be the date on which a QEC ceases to be a QEC, there is a potential gap in their eligibility to access support services. However, as a matter of operational practice, the Parliamentary Service assumes the later, s 185 date, is when a QEC ceases to be a QEC. This ensures elected constituency candidates are provided with continuous support.

137. The recommendation will regularise current operational practice, and provide legal certainty about constituency QECs’ eligibility for support services. There will be no impact on costs.

⁵⁴ Members of Parliament (Remuneration and Services) Act, s 23(1).

⁵⁵ Members of Parliament (Remuneration and Services) Act, s 17(1)(a) and (c).

⁵⁶ This is the declaration of the poll result following the official count completed under s 178 of the Electoral Act 1993. The declaration of the poll result usually comes two weeks after polling closes.

138. For completeness, the review noted the ambiguity identified does not affect list candidates. Successful list candidates cease to be QECs when the Electoral Commission declares them to be elected by publishing their names in the New Zealand Gazette, and providing a list to the Clerk of the House of Representatives.⁵⁷ In practice, this happens on the same day as the return of the writ.⁵⁸

⁵⁷ Electoral Act 1993, s 193(5).

⁵⁸ List members were declared elected and the writ was returned on 27 November 2008, 17 December 2011, 10 October 2014, and 12 October 2017.

Appendix A: Triennial Determinations and responsibilities under the 2013 Act



Appendix B: Comparison of the principles contained in the directions and determinations

Principles ⁵⁹	Decision-maker—		
	The Speaker	Remuneration Authority	Minister Responsible for Ministerial Services
	Principle applies to—		
	Members and parties	Speaker, Deputy Speaker, Ministers, members, QECs	Ministers ⁶⁰
General		<ul style="list-style-type: none"> • The principles— <ul style="list-style-type: none"> a) underpin this determination; and b) indicate the spirit in which this determination should be interpreted and applied. • The Speaker, the Deputy Speaker, Ministers, and other members of Parliament should not personally have to meet work-related expenses. 	
Accountability	<ul style="list-style-type: none"> • Ultimately, members are personally responsible for the way they and parties use the public resources entrusted to them. • This personal responsibility cannot be avoided, even though delegations may exist for others to incur costs on a member's or party's behalf. • Records about a member's or party's use of public resources should be kept to 	<ul style="list-style-type: none"> • They are personally responsible for the use of services, even where expenses are incurred on their behalf under delegated authority. 	

⁵⁹ The principles under the Speaker's Directions and the Ministerial determination are inclusive. For example, the principle of appropriateness in the Ministerial determination *includes but is not limited to* expenditure being incurred in respect of ministerial purposes.

⁶⁰ Ministers are subject to the principles in the Speaker's Directions when incurring expenditure from their member support allocation.

Principles ⁵⁹	Decision-maker—		
	The Speaker	Remuneration Authority	Minister Responsible for Ministerial Services
	Principle applies to—		
	Members and parties	Speaker, Deputy Speaker, Ministers, members, QECs	Ministers ⁶⁰
	facilitate scrutiny if required. <ul style="list-style-type: none"> Assets, including assets such as furniture, leasehold improvements, televisions, and ICT hardware, that are purchased from Vote Parliamentary Service funding belong to the Parliamentary Corporation on behalf of the Parliamentary Service. 		
Appropriateness	<ul style="list-style-type: none"> Expenditure must only be incurred in respect of parliamentary purposes. 	<ul style="list-style-type: none"> The services set out in this determination in relation to the Speaker, the Deputy Speaker, Ministers, and other members of Parliament are intended to support them in performing their respective roles and functions. 	<ul style="list-style-type: none"> Expenditure must only be incurred in respect of ministerial purposes.
Openness	<ul style="list-style-type: none"> Parties must be open in the use of public resources and disclose any conflict of interest in utilising entitlements, whether that conflict is pecuniary, personal, familial, or as a result of any association. 	<ul style="list-style-type: none"> They must be open and transparent in using the services under this determination and, to that end, should keep proper documentation to facilitate sound administration and to enable any scrutiny required. 	<ul style="list-style-type: none"> Parties must be open in the use of public resources and disclose any conflict of interest in utilising entitlements, whether that conflict is pecuniary, personal, familial, or as a result of any association. The reasons for, and the circumstances surrounding, the use of public resources by individual ministers should be available. The process by which funds are expended should be publicly known.
Transparency	<ul style="list-style-type: none"> The reasons for, and the circumstances surrounding, the use of public resources by individual members or parties should be available. The process by which funds are expended 		

Principles⁵⁹	Decision-maker—		
	The Speaker	Remuneration Authority	Minister Responsible for Ministerial Services
	Principle applies to—		
	Members and parties	Speaker, Deputy Speaker, Ministers, members, QECs	Ministers⁶⁰
	should be publicly known.		
Value for money	<ul style="list-style-type: none"> When using public resources entrusted to them to perform their official duties, members and parties must seek the appropriate value for money in the circumstances. 	<ul style="list-style-type: none"> They must satisfy themselves that the expenses under this determination— <ul style="list-style-type: none"> represent value for money; and are incurred having regard to efficiency and effectiveness. 	<ul style="list-style-type: none"> When using public resources entrusted to them to perform their official duties, Ministers must seek the appropriate value for money in the circumstances.
Cost-effectiveness	<ul style="list-style-type: none"> Members should, wherever reasonably practicable, use the most cost-effective alternative available. 		<ul style="list-style-type: none"> Ministers should, wherever reasonably practicable, use the most cost effective alternative available.
Personal benefit		<ul style="list-style-type: none"> Any personal benefits should be kept to a minimum. 	