

## OPENING STATEMENT - OPERATION BETELGEUSE

The Western Australian Parliament pays parliamentarians a total of \$7.5 Million<sup>1</sup> per year in Electorate Allowances alone, yet Parliament cannot tell you how it is spent.

The Commission is investigating whether a lack of public accountability and transparency as to how Members of Parliament spend their entitlement allowances, is a serious misconduct risk.

The question is should the base electorate allowance of \$78,000 per year received by all parliamentarians be considered an income bonus? Or is it necessary to cover work expenses? If it is necessary to perform their parliamentary functions, should parliamentarians be publicly accountable for how it is spent?

The Commission is conscious of the valuable and necessary position parliamentarians hold in our democratic system. As representatives of all Western Australians, it is important that this high office attracts talented, hard-working people from **all** walks of life.

Financial support should be given to Members of Parliament so they can perform their role. This is especially so for Members representing a regional electorate.

Primarily the role of a Member is to attend Parliament to represent his or her electorate. But representing an electorate involves many varied activities - meeting with constituents, attending electorate activities and keeping themselves informed so they can deliver valuable public policy. This may involve interstate or overseas travel, or it may involve functions or events hosted to engage with the electorate.

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<sup>1</sup> (59 Assembly members; 36 council members receiving base line \$78,000 per year for electorate allowance)

A Member who is a member of a political party is also expected to organise and sustain branches of the party and help formulate policy through party committees.

Members have a broad range of responsibilities in Parliament and in the electorate. As a result, a Member owes duties to Parliament, the Electorate and their political party.

In order to assist them perform effectively in serving their electorate, a Member of Parliament receives allowances in addition to their salary. Since the early 1950's, an electorate allowance in some form has been paid directly to Western Australian parliamentarians for spending as they see fit. The early allowances were for 'expenses incurred in discharging Parliamentary duties'.

This general purpose still applies.

The determination of what are appropriate classes of allowance entitlements is made by an independent three person tribunal - the Salaries and Allowances Tribunal.

This Tribunal decides what entitlements are available for parliamentarians, how much they are worth and their purpose. Currently, there are a range of 26 allowance entitlements covering different types of expenses, such as:

1. various **accommodation allowances** to attend sittings of Parliament, or for expenses incurred when the Member is away from home to undertake official business;
2. **communication allowances** for telephone services, postal services;
3. a **transport allowance** which can be taken as a leased private vehicle or \$25,000 per annum;
4. **charter transport allowance** for members representing a region or district;
5. an **accommodation allowance for a regional member** to attend sittings of Parliament;

6. **electorate allowances**, comprised of a base allowance (\$78,000 per year) with an additional top up for electorates that represent a region that is geographically large or complex. Additional electorate allowances for regional district members range from \$10,400 to \$25,350 per annum; and
7. **a parliamentary travel allowance** of \$7000 per year for reimbursement of expenses incurred for travel and accommodation incurred within Australia or overseas while on official business.

The Commission has been investigating the lack of regulatory constraints and controls surrounding the decisions made by Members of Parliament, and their staff, as to how they spend some of these parliamentary allowances.

The purpose of the electorate allowance in particular is to allow the Member to cover the *expected* expenses that arise from the various activities they perform representing their electorate. The Member is paid the allowance regardless of whether those expenses are *actually* incurred.

The Member of Parliament is the decision-maker as to how the electorate allowance is spent. It can be spent entirely at their discretion.

Accordingly, the electorate allowance can be lawfully spent on expenses incurred in assisting their electorate, on personal expenses or not spent at all. But, the foundational rule is that the purpose of the allowance is to assist them serve their electorate.

The system does have a caveat. A parliamentarian cannot take those allowance monies and use them for personal purposes unrelated to his or her role as a representative of the people without a consequence.

The portion of the electorate allowance not spent on activities associated with the Member's representation of their electorate is taxed as personal income. The Australian Taxation Office has published clear and specific rules on the tax treatment of allowances and entitlements enjoyed by Members of Parliament. The receipt of an allowance does not, in itself, entitle a Member to a deduction.

If, in spending the electorate allowance, the expenses incurred are connected with carrying on the Members' role as a parliamentarian, then the Member may claim deductions for those expenses in his or her income tax return.

The starting position is that the ATO considers allowances paid to Members for spending at their discretion to be income. It will be assessed as taxable income along with the Member's salary unless the Member can satisfy the ATO that the activity which the allowance paid for was incurred while performing their role as a Member of Parliament.

If a parliamentarian wishes to spend the allowance on his or her own private and personal pursuits, that is permitted. However, the parliamentarian must pay income tax on that money when they lodge a personal tax return.

If a parliamentarian was to claim a tax deduction for a **private** expense, then he or she has taken advantage of the office for a personal benefit. If this is done over a period of time, it is likely serious misconduct.

Allowances are paid from public monies. Accountability is limited and is dependent on how the allowances are drawn down.

Some allowances are ongoing expenses that are paid directly by DPC to the service provider on the Member's behalf. For example, DPC pays the line rental for telephones in the member's electorate office.

Other allowances are paid as a reimbursement to the Member after a claim is lodged. An example is the base accommodation allowance for accommodation and incidentals of travel throughout WA. Another example is the regional accommodation allowance for regional Members with a residence in their electorate. They may claim accommodation in the Perth metropolitan area while in Perth on official business.

Allowances that are claimable as reimbursements are not taxed. Reimbursements and accommodation allowances are not part of a parliamentarian's personal assessable income for tax purposes. The reimbursement is paid at fixed daily rates set by the ATO and generally followed across the whole of Government for public officers who travel for work.

If followed, the process of reimbursing parliamentarians for allowance expenditure has some in-built accountability.

It is the allowances paid regularly through Member's payslips that appear to lack a process of transparent accountability. These are the electorate allowance and the motor vehicle allowance. At the time they are paid to the Member they are not taxed.

All payslip allowances are processed by Parliamentary Services at Parliament House, whereas reimbursement allowances are paid to the Member by the Department of Premier and Cabinet.

The Commission investigation does not question the lawfulness of Member's obtaining parliamentary allowances nor question whether the amounts were reasonable. The issue to which our inquiry is generated is whether the entitlement system has allowed, or is allowing, corruption to flourish.

Serious misconduct will likely occur when a public officer corruptly takes advantage of their public position to obtain a personal benefit. The Commission's statutory purpose is to reduce the incidence of misconduct in the public sector.

In the Commission's investigation it will seek to answer two main questions concerning whether any Member has:

1. knowingly claimed remuneration from the State for payments they made that had little to do with the work of a parliamentarian and were personal payments? or
2. abused the privilege of electorate allowance entitlements?

If a Member of Parliament used their electorate allowance to pay for private dinners, personal travel or personal entertainment that is their right under the current entitlements system. However, if that Member then claimed the private travel, private entertainment or private dinner was an expense incurred while serving their electorate; such as by claiming the expense as a tax deduction and representing to the ATO that it was a legitimate parliamentary expense, it would

be dishonest, improper and an abuse of the trust placed in the parliamentarian as an elected representative of the people.

It would also be improper for a Member of Parliament to claim from Parliament a reimbursement for expenses that were personal private expenses and not related to their parliamentary role.

During the Commission investigation, the parliamentary electorate allowance regime will come under some scrutiny to determine whether there have been instances of abuse of power by parliamentarians. The lack of adequate accountability may enable corrupt conduct to occur - the electorate allowance appears especially vulnerable.

Financial support is a necessary component of the democratic process. But trust and confidence in a politician's integrity in administering public money is important for maintaining confidence in government representatives and maintaining legitimacy in their public policies.

As an independent statutory agency with a mandate to reduce corruption in the public sector, the Commission is well placed to conduct this investigation for the benefit of the community of Western Australia.

The Commission investigation thus far has included private examinations of witnesses. The Commission has also served notices to produce documents that compel the receiver to give the Commission specified documents that will assist in our investigation.

The Commission investigation is ongoing and we strongly encourage those with information about potential abuses of these and other allowances to come forward and assist the Commission.