



Australian Government
Independent Parliamentary
Expenses Authority

The material included in this guidance document is designed to assist Members of Parliament assess whether proposed travel during an election period complies with the obligations and principles of the Parliamentary Business Resources Framework (the PBR Framework).

Set out below are a number of case studies developed to provide useful guidance and assistance in decision making when claiming travel related work resources. Importantly, the case studies are examples only and travel circumstances will vary depending on the information and facts for each trip, including the purpose and costs associated with the travel.

Travel by staff of parliamentarians is subject to Special Minister of State *Determination 2018/30 – Staff Travel and Relief Staff Arrangements*. To assist with staff travel queries, there are also a number of case studies specifically relating to travel by staff employed under the *Commonwealth Members of Parliament Enterprise Agreement 2016-19*.

These case studies are to be read with the Election Period – High Level Guidance Note.

Members of Parliament and their staff are encouraged to contact IPEA for advice specific to their circumstances, especially if the travel is complex in nature. The Department of Finance is able to assist with employment conditions for staff employed under the *Members of Parliament (Staff) Act 1984*.

ELECTION PERIOD CASE STUDIES - PARLIAMENTARIANS

Case Study 1 – Senators

A Senator for South Australia is serving a six-year term and is not up for re-election. Another Senator from the same party and the same state is up for re-election. The Senator not up for re-election would nevertheless like to help her party and campaign for the Senator who is up for re-election.

Applying the PBR Framework to Case Study 1 to determine whether this meets the dominant purpose test for parliamentary business:

Senators from the same state share the same electorate. Thus, a South Australian Senator travelling around South Australia communicating with constituents about the party's policies and the upcoming election could arguably be performing electorate duties. A member's electorate duties are part of the definition of parliamentary business and include those activities of the member that support or serve the member's constituents and communicating with them.

Case Study 2 – Campaigning for others

The election campaign is underway and there seem to be one or two policy areas that are of particular interest to voters. The two major parties are on opposite sides when it comes to resolving the issues raised by these policy areas. One of the major parties is likely to get the support of an Independent if there is a minority government. Therefore, the party decides to send two of its parliamentarians to campaign in the Independent's electorate. One of them is a Senator from the same state as the Independent. The other is a senior party frontbencher from interstate.

Applying the PBR Framework to Case Study 2 to determine whether this meets the dominant purpose test for parliamentary business:

A parliamentarian is able to claim for travel related work resources that are for the dominant purpose of the member's parliamentary business. Parliamentary business includes electorate duties (which applies to the Senator) and official duties (which applies to the interstate frontbencher as a Minister or Shadow Minister). Engaging and communicating with constituents and stakeholders about issues (particularly if they are the party's spokesperson in relation to a certain issue) could be included as parliamentary business in these circumstances.

Case Study 3 – Ministers and Shadow Ministers

The Minister and Shadow Minister for Health are taking part in a town hall health policy debate in Melbourne during the election campaign. Neither of them is from Victoria. They are joined by one backbencher from Melbourne (from the Shadow Minister's party) and another from regional Victoria (from the Health Minister's party).

Applying the PBR Framework to Case Study 3 to determine whether this meets the dominant purpose test for parliamentary business:

The Minister and Shadow Minister are interstate to carry out official duties relevant to their portfolios, therefore they are likely to meet the dominant purpose test. The Leader of the Opposition and Shadow Ministers are considered office holders under the *Parliamentary Business Resources (Office Holders) Determination 2017* which means they can claim expenses and allowances for the dominant purpose of their official duties, much like Ministers.

The backbenchers are arguably at the town hall to represent their constituents and carry out other electorate duties, such as participating in a debate on an issue that affects their constituents.

Case Study 4 – Retiring Member of the House of Representatives

A parliamentarian has announced that he is retiring at the next federal election. He leaves Parliament when the House of Representatives is dissolved. However, he is planning to campaign for his party's candidate in his old seat during the election campaign, and possibly also in other nearby seats.

Applying the PBR Framework to Case Study 4 to determine whether this meets the dominant purpose test for parliamentary business:

After leaving parliament, this person would no longer be a member as defined under the PBR Act and the PBR Framework therefore would not apply to him. This means he cannot claim travel related work expenses or allowances.

Former parliamentarians are however able to claim three economy class trips between their home base and Canberra, or their home base and a location where they had a Commonwealth funded office.

Case Study 5 – Marginal Seats

A Member of the House of Representatives who is from a safe seat in Melbourne is travelling to Perth to doorknock for a candidate in a marginal seat there during the federal election campaign. Prior to the trip, he had a radio interview where he made it clear that he is intending to doorknock in Perth in support of the Perth-based candidate.

Applying the PBR Framework to Case Study 5 to determine whether this meets the dominant purpose test for parliamentary business:

Section 26 of the PBR Act requires that members only claim resources if they are doing so for the dominant purpose of their parliamentary business. In addition, s 25(3) of the PBR Act provides that 'Members must be prepared to justify publicly their use of public resources for conducting their parliamentary business.'

Subparagraph 7(2)(a)(i) of the PBR Act provides that an activity is not the parliamentary business of a member if the member carries it out for the dominant purpose of providing a personal benefit to another person.

It is up to the member to determine the dominant purpose of their trip and be prepared to publicly justify it. In this case, the member has already publicly stated that he is going to Perth to doorknock for another candidate. In these circumstances, it would be difficult for him to argue that he was in fact taking the trip for the dominant purpose of his parliamentary business, and not to doorknock for another person.

Case Study 6 – Changing electoral boundaries

The Division of Minogue has been absorbed into the larger electorate of Summer Bay. The sitting Member for Summer Bay plans to recontest the seat at the next election. She is unsure about whether she is allowed to travel around Minogue during the election campaign to meet with constituents there or whether that is a matter for the current Member for Minogue, who has opted to leave Parliament and retire.

Applying the PBR Framework to Case Study 6 to determine whether this meets the dominant purpose test for parliamentary business:

A Member of the House of Representatives has parliamentary duties and electorate duties to perform in relation to their constituents. As the boundaries of Summer Bay have been redrawn to include the former electorate of Minogue (whose representative has left Parliament), the sitting Member for Summer Bay will have constituents spread over a larger area, including the constituents of the former Member for Minogue. As already explained in Case Study 4, a retiring Member is unable to claim public resources for parliamentary business once they leave Parliament.

Case Study 7 – Independents

An Independent Member of the House of Representatives from a large rural electorate is travelling interstate in order to campaign for another Independent Member of the House of Representatives with a seat in inner Sydney.

Applying the PBR Framework to Case Study 7 to determine whether this meets the dominant purpose test for parliamentary business:

Independent members are not likely to have official duties as parliamentarians. Therefore, they would need to ensure that the dominant purpose of their travel falls within the other available categories of parliamentary business.

If the two Independents were in the same party and they were having a formal party meeting or conference in Sydney, the interstate Independent may be able to claim that they were attending to their party political duties.

It is questionable that the constituents of a large rural electorate would have much in common with an inner-city electorate in another state and therefore it is unlikely that the Independent could claim that they were carrying out their electorate duties without attracting some scrutiny.

STAFF TRAVEL WITHIN AUSTRALIA

Special Minister of State (SMOS) *Determination 2018/30 - Staff Travel and Relief Staff Arrangements* (the Determination) provides relevant information relating to staff travel.

The Determination states that staff of a parliamentarian can travel as directed for official business with the employing parliamentarian determining what is official business. It also states that a staff member may be directed to travel with, or independent of, their employing parliamentarian (including Ministers and Shadow Ministers).

In general, travel may be for purposes related to the re-election of their employer. An employee may also be directed to travel to campaign headquarters to support the parliamentarian's parliamentary business. Funding arrangements for electorate staff remain in place during an election campaign.

Additionally, Ministerial and Parliamentary Services Division within the Department of Finance provides information relating to duties of staff of parliamentarians. This information can be found at: www.maps.finance.gov.au.

ELECTION PERIOD CASE STUDIES - STAFF

Case Study 1 – Parliamentarian's staff assisting within their electorate

A Senator for Queensland lives in Brisbane and has his electorate office in Brisbane. He employs three electorate staff and one media adviser (who is a personal staff member). He is up for re-election and when the election campaign gets underway, he is asked by the leader of his party to undertake duties in marginal House of Representatives electorates within Brisbane. He agrees but he feels he also represents the people of regional Queensland, so he decides to direct his media adviser and one electorate officer to far north Queensland for the weekend to answer constituents' questions on policy concerns on his behalf.

- Both personal and electorate staff travel as directed by their employing parliamentarian for official business (paragraphs 3 and 4 of the Determination).
- In addition, according to paragraph 2 of SMOS *Determination 2016/15: Employment of Electorate Officers*, electorate officers are employed to assist their employing parliamentarian carry out duties as a Member of Parliament, and not for party political purposes. The party political purposes limitation does not apply to personal staff (e.g. media advisers).
- The Senator can direct his media adviser, as a personal staff member, anywhere in Australia – including to far north Queensland – for official business (paragraph 3 of the Determination). Official business is not defined in the legislation and therefore adopts its ordinary meaning.
- The Senator personally needs to consider whether directing his electorate officer to far north Queensland would 'assist him to carry out duties as a Member of Parliament' or whether it is for 'party political purposes'. In general, the Senator is able to direct his

electorate officer to travel to far north Queensland to communicate with constituents on his behalf, however the Senator must be satisfied that this was assisting him in carrying out his duties as a Member of Parliament.

Case Study 2 – Parliamentarian’s staff working in campaign headquarters

One of the major parties is basing their campaign headquarters in Sydney. A member from western Sydney directs their electorate officer there so the electorate officer can keep her updated on important policy announcements and other changes while she is out campaigning in her electorate. In addition, she directs her media adviser (a personal staff member) to help out with the campaign in general. Both travel from their homes in western Sydney to campaign headquarters in central Sydney. The media adviser is put to work organising breakfast television interviews for interstate parliamentarians who come to Sydney during the campaign.

- Both personal and electorate staff travel as directed by their employing parliamentarian for official business (paragraphs 3 and 4 of the Determination) and electorate officers are employed to assist their employing parliamentarian to carry out duties as a Member of Parliament, and not for party political purposes (paragraph 2 of *Determination 2016/15: Employment of Electorate Officers*).
- The member can direct her media adviser, as a personal staff member, anywhere in Australia – including central Sydney – for official business (paragraph 3 of the Determination).
- The Member of Parliament needs to consider whether directing her electorate officer to campaign headquarters to assist in her own re-election campaign would assist her to ‘carry out duties as a Member of Parliament’ or whether it is for ‘party political purposes’ which would not be permitted.