



Australian Government
Independent Parliamentary
Expenses Authority

FINALISATION REPORT

TO: Ms Petra Gartmann ~~Branch Manager, Executive Support and Assurance~~ *PG 19/6/19*

SUBJECT: Dr Kerryn Phelps (former Member for Wentworth)
Assurance Review – COMCAR use – October 2018 to May 2019

BACKGROUND:

Dr Kerryn Phelps is the former Member for Wentworth who was elected on 2 October 2018.

On 3 May 2019, IPEA Enquiries received an email from the public complaining about Dr Kerryn Phelps' use of COMCAR within her electorate. IPEA responded to this with a general email referring to our protocol '*Dealing with Misuse of Parliamentary Work Expenses*'.

Section 7(1)

On 17 May 2019, The Daily Telegraph published an article '*COMCARs a real ticket to ride for freewheeling Phelps*', commenting on the excessive use of COMCAR by Dr Kerryn Phelps during her period as the Member for Wentworth. The article claimed that Dr Phelps:

"... sought government advice after she was seen repeatedly using expensive Commonwealth cars to ferry her around eastern suburbs electorate during the federal election campaign. Dr Phelps chose to seek the advice after complaints were raised that she was spotted on four occasions using the COMCAR vehicles – which cost \$117.60 an hour – since April 28."

On 17 May 2019, Michael Frost wrote to Dr Phelps advising her that the IPEA Audit & Assurance (A&A) team will be contacting Dr Phelps regarding her use of COMCAR.

On 23 May 2019, A&A wrote to Dr Phelps requesting information in regards to a number of COMCAR trips made during her time as Member for Wentworth.

On 23 May 2019, IPEA commenced an Assurance Review of Dr Phelps' use of COMCAR.

ISSUE:

Was Dr Phelps' use of COMCAR within the period examined made within the applicable legislative framework?

LEGISLATIVE FRAMEWORK:

Independent Parliamentary Expenses Authority Act 2017

Parliamentary Business Resources Act 2017, sections 26 - 28

Parliamentary Business Resources Regulations 2017, Part 2, Subdivision C, section 13

Parliamentary Business Resources (Commonwealth Transport) Determination 2017, section 9

Remuneration Tribunal Determination 2017/23 – Members of Parliament, Clause 3.11

Remuneration Tribunal Determination (Member of Parliament) Determination 2018, Clause 3.11

Explanatory Statement for the Parliamentary Business Resources Regulations 2017 (PBRR 2017), Section 13

SCOPE:

The scope of the Assurance Review is limited to Dr Phelps' use of COMCAR from 20 October 2018 to 8 May 2019 ('the period').

ASSESSMENT:

The *Parliamentary Business Resources (Commonwealth Transport) Determination 2017* sets out the limits and conditions on a member's use of COMCAR within Australia, including that a member should use their Commonwealth provided private-plated vehicle or the allowance in lieu of a private-plated vehicle for car transport within the member's electorate where it is reasonable to do so.

Dr Phelps elected to receive the allowance in lieu, which amounted to \$10,685 (\$19,500 per annum pro rata).

A&A obtained COMCAR data from Department of Finance (M&PS) for the period under review, which contained 52 transactions ('trips'). Of these 52 trips, 24 did not require further assessment and were deemed to have been made in accordance with the relevant provisions.

However, it was noted that 28 COMCAR trips required further information from Dr Phelps. A&A queried Dr Phelps on these trips on 23 May 2019, requesting further information for the review. A&A requested that for each trip, Dr Phelps satisfy the 'reasonableness test':

"An explanation of why it would not have been reasonable to use a private plated vehicle had you elected to receive the vehicle instead of an allowance".

Where applicable, Dr Phelps provided reasons for why it would have not been reasonable to use a private plated vehicle, if she had elected to use one, instead of receiving an allowance. In doing so, Dr Phelps also nominated instances where in her view, a taxi could have been used at her personal expense.

A&A assessed Dr Phelps' explanations for each trip and determined the appropriateness of each response. Please refer to HPE working files.

CONSIDERATION:

Dr Phelps identified 18 trips where it would have not been reasonable to use a private plated vehicle, had she been provided with one. Dr Phelps described the circumstances for each trip, providing an explanation to satisfy the 'reasonableness test'.

IPEA assessed the circumstances for these individual trips and accepted Dr Phelps' position in relation to the aforementioned 18 trips.

RESULTS:

A&A identified 10 trips, to the total of \$2,534.99 that were not made in accordance with *Parliamentary Business Resources (Commonwealth Transport) Determination 2017*, section 9. These trips did not satisfy the "reasonableness test".

The *Parliamentary Business Resources Act 2017* provides that a member is liable to pay the Commonwealth an amount equal to 25% of the amount contravened (sub-section 38(4)). As this applies to the COMCAR trips made after 1 January 2018, a penalty of \$633.62 will be charged.

CONCLUSION:

An invoice of \$3,421.56 (inc. GST) has been raised by COMCAR and sent to Dr Phelps for payment, together with a Concluding Letter from IPEA.

RECOMMENDATION:

It is recommended that you:

1. Note the contents of this report;
2. Note that Department of Finance, Invoice No. 1800004293, dated 14 June 2019 has been raised.
3. A letter explaining the contravened trips, together with an invoice was sent to Dr Phelps on 18 June 2019.
4. Approve the finalisation of this matter.

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A/Director Audit and Assurance
Executive Support and Assurance

18 June 2019