

Authority and accountability

Introduction

- 4.1 The type of authority vested in the Parliamentary Budget Officer and through them, their Parliamentary Budget Office (PBO) would have implications for: reporting channels, their access to information powers, and subsequent information publishing requirements, and the level of funding required for the PBO to fulfil its mandate.
- 4.2 A range of accountability and oversight mechanisms were suggested for a PBO. In the case where the head of the PBO would be an independent officer of the Parliament and so able to determine their own work program, oversight could be enabled through either the establishment of a parliamentary committee dedicated to that purpose or an existing joint parliamentary committee.
- 4.3 This chapter examines the options put to the committee that would establish the authority of the Parliamentary Budget Officer and their Office through varying degrees of independence.

Authority

- 4.4 As outlined in Chapter 1, the *Agreement for a Better Parliament* provides that the PBO be based 'in the Library, to provide independent costings,

fiscal analysis and research to all members of Parliament, especially non government members.¹

- 4.5 The majority of evidence presented to the committee suggested that the office of the Parliamentary Budget Officer should be made independent. An independent PBO would ensure objective analysis and advice to the Parliament.
- 4.6 A number of different types of PBOs were suggested with varying degrees of independence. They were:
- Create a 'stand-alone Parliamentary Service agency (with its own legislation), similar to the Congressional Budget Office (CBO) of the United States of America (US).²
 - Through amendment to the relevant Acts, establish the PBO as an adjunct to an existing body such as the Australian National Audit Office (ANAO) or the Productivity Commission.³
 - Establish a permanent, independent Commission of Budget Integrity, to take the form of a 'Commonwealth owned company outside of government.'⁴
 - Establish the PBO within a Government department, similar to the Central Planning Bureau (CPB) of The Netherlands.⁵
 - Create a separate authority which is not part of the Parliament or a Government department.⁶
 - 'Establish the PBO within the Department of Parliamentary Services (DPS), possibly within the Library or as a *parallel agency within the DPS*. Under this option, the enabling legislation would amend the *Parliamentary Services Act 1999* (Cwlth).⁷
 - The PBO be established within the Parliamentary Library structure:
 - and the functions of the PBO are legislated for, but assigned to the Parliamentary Librarian (as the independent statutory office holder),

1 Parliament of the Commonwealth of Australia, 6 September 2010, *Agreement for a Better Parliament: Parliamentary Reform*, para. 16.1, p. 8.

2 Department of Parliamentary Services, *Submission 4*, p. 7. A similar option was also suggested by the Office of the Parliamentary Librarian, *Submission 10*, p. 4.

3 Department of Parliamentary Services, *Submission 4*, p. 7.

4 Business Council of Australia, *Submission 17*, p. 1.

5 Office of the Parliamentary Librarian, *Submission 10*, p. 4.

6 Office of the Parliamentary Librarian, *Submission 10*, p. 4.

7 Department of Parliamentary Services, *Submission 4*, p. 7. A similar option was also suggested by the Office of the Parliamentary Librarian, DPS, *Submission 10*, p. 4.

through amendments to the relevant legislation. The head of the PBO would not be a statutory office holder.

- headed by a Parliamentary Budget Officer:
 - ‘who would be designated as an independent statutory office holder under the [relevant legislation], but he/she would still report to and be accountable to the Parliamentary Librarian as the head of the Parliamentary Library; or
 - who would be designated as an independent statutory office holder under the [relevant legislation], and the Parliamentary Budget Officer and the Parliamentary Librarian have joint responsibility/accountability for the functions of the Parliamentary Library.’⁸

4.7 While each option has its advantages and disadvantages, the underlying principle in each is associated with the type of authority of the PBO, that is, whether it is created as a ‘stand alone’, independent body, or whether it is placed within an existing institutional structure.

4.8 The Parliamentary Librarian favoured locating the PBO within the Parliament, either as a separate agency or within the Parliamentary Library.

4.9 The Parliamentary Librarian stated that such an arrangement was similar to that applied in Canada where the PBO reports to the Parliamentary Librarian and where the PBO is a unit within the parliamentary administration.⁹

4.10 However, the Parliamentary Librarian placed a caveat on transposing the Canadian model into the Australian context in relation to the need to clarify PBO reporting and funding arrangements. The Parliamentary Librarian stated:

One area where a potential “misfit” could occur in transposing the Canadian PBO model into the Australian context concerns resource allocation. Under the Canadian funding arrangements the PBO and the Library of Parliament as a whole are fully independent from the Government in their operation and funding. Further, although the PBO is located within the Library of Parliament, its budget is separate from that of the library. In

8 Departments of the Treasury and Finance and Deregulation, *Submission 16*, pp 11 and 12.

9 Office of the Parliamentary Librarian, *Submission 10*, p. 4.

creating a PBO within the Australian context these funding issues will need to be considered in depth.¹⁰

4.11 The Departments of the Treasury and of Finance and Deregulation (Treasury and Finance) stated that legislating for the functions of the PBO, but not making the head of the PBO a statutory office holder could ensure clarity and accountability in the PBO reporting structure.¹¹

4.12 In addition, Treasury and Finance stated that this structure could in the longer term create economic efficiencies through the sharing of existing administrative arrangements. In regard to this option, Treasury and Finance stated:

[This] ... option offers the greatest opportunity for effectively making use of the existing structures and processes of the Parliamentary Library. This is likely to reduce the need for significant additional resources for the PBO that relate primarily to pure administrative arrangements.

[It] ... also provides the greatest clarity with regards to accountability and reporting structures. Establishing a Parliamentary Budget Officer alongside the Parliamentary Librarian could create tension and uncertainty around the respective responsibilities and/or accountabilities of the two officers. This appears to have been problematic in the Canadian context. Assigning the functions of the PBO to the Parliamentary Librarian could help avoid these potential issues.¹²

4.13 Mr Stephen Bartos put the view that placing the PBO within Executive agencies such as the Treasury or the Department of Finance and Deregulation, could create a situation of divided loyalties for support staff and stated:

It is possible to create stand alone public service bodies with a strong independent role (for example, the Productivity Commission or ANAO) provided this is their dedicated role; it would not be possible to ask Treasury or the Department of Finance and Deregulation to on the one hand advise their Ministers while at the same time providing independent advice on similar subject matter that could enter the public domain.¹³

10 Office of the Parliamentary Librarian, *Submission 10*, p. 4.

11 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 12.

12 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 12.

13 Mr Stephen Bartos, *Submission 18*, p. 1.

4.14 The Auditor-General was not in favour of establishing the PBO as an adjunct to the ANAO as the role of the Auditor-General is directed at examining historical information and performance in contrast to potential policy measures, costing projections and assumptions. The Auditor-General stated:

... the focus of our work is on past performance (financial and administrative), rather than on potential policy measures, costing projections and assumptions. Further, the body of auditing and assurance standards by which the ANAO undertakes its responsibilities is largely directed at historical information and performance. It is for these reasons that the ANAO has not been in favour of any suggestion that it audit the Government's budget or elements of the budget.¹⁴

4.15 Mr Alan Thompson, Secretary of DPS initially preferred establishing the PBO within DPS with the rationale that the PBO would have a lower total establishment cost than if the PBO were an independent body or adjunct to the ANAO or Productivity Commission.¹⁵

4.16 Mr Alan Thompson, later revised this stance to prefer an independent PBO where that PBO were to be tasked with producing major publications in line with those produced by the CPB.¹⁶ Mr Alan Thompson stated:

I believe the Department of Parliamentary Services can be very supportive and we would certainly be willing to host the body, but I am very conscious of the need for this body to be seen to be clearly independent.¹⁷

4.17 DPS outlined its reasons for supporting a 'stand alone' PBO and stated:

Firstly, the new PBO would need clear lines of Parliamentary accountability; at the margin this accountability could be less clear if the PBO is nested within another body.

Secondly, it is likely to be easier to attract and retain an appropriate leader and senior staff.

Thirdly, budget setting should be clear for the Parliament and the new body.¹⁸

14 Australian National Audit Office, *Submission 15*, p. 2.

15 Department of Parliamentary Services, *Submission 4*, p. 7.

16 Department of Parliamentary Services, *Submission 4.1*, p. 6.

17 Mr Alan Thompson, Department of Parliamentary Services, Transcript of Evidence, 28 February 2011, p. 12.

18 Department of Parliamentary Services, *Submission 4.1*, p. 6.

- 4.18 The Auditor-General commented that the independence of his position allows him to have corporate budgetary control and set audit priorities, which would be hindered if a PBO were placed within the DPS departmental structure.¹⁹
- 4.19 In its assessment of PBOs' best practice, the Organisation for Economic Co-operation and Development (OECD) favoured an independent and non-partisan PBO as such an arrangement is seen to be the 'pre-requisite for [a] successful parliamentary budget office.' In addition, 'a truly non-partisan unit does not present its analysis from a political perspective and serves all parties in the Parliament.'²⁰
- 4.20 The Parliamentary Budget Officer of Canada supported the OECD stance on the importance of creating an independent PBO in respect to creating a 'real' PBO for Australia. The Canadian Parliamentary Budget Officer stated:

I have seen the submission provided by the OECD, from Mr Blöndal, who has a senior position there. For a parliamentary budget office, he outlined what some of the key principles should be with respect to independence and how it releases documents, and budget and scope. I think those are good principles to start from for Australia if you are interested in creating a real parliamentary budget office.²¹

- 4.21 The Canadian Parliamentary Budget Officer also commented that an independent PBO with a direct reporting relationship with Parliament would free it from bureaucratic interference. The Canadian Parliamentary Budget Officer stated:

I also think positioning the office of the parliamentary budget officer with a direct reporting relationship to parliamentarians would be helpful in terms of freeing it from bureaucratic interference. I know some of the significant costing reports or some of the economic and fiscal projections that we provided were quite different [from] the government. It created a lot of bureaucratic angst amongst bureaucrats in parliament in Canada.

19 Mr Ian McPhee, Australian National Audit Office, *Transcript of evidence*, 28 February 2011, p. 2.

20 Organisation for Economic Co-operation and Development, *Submission 8*, p. 2.

21 Mr Kevin Page, Office of the Parliamentary Budget Officer, Canada, *Transcript of Evidence*, 8 February 2011, p. 5.

If you really wanted to be free of that type of interference then creating an independent office would help as well.²²

- 4.22 The Federal Coalition shared a similar view and suggested the PBO should be an 'independent and well resourced statutory authority.'²³ The Federal Coalition stated that an independent PBO would 'enhance the transparency and accountability of the budget process and help deliver better policy and financial outcomes for Australian taxpayers.'²⁴
- 4.23 As mentioned earlier in this report, the Business Council of Australia (BCA) made the point that there is no independent fiscal policy equivalent to the Reserve Bank of Australia, the Productivity Commission or the ANAO. The BCA added that these institutions contribute to Australia's economic performance through enhanced scrutiny, oversight and advice.²⁵
- 4.24 The BCA further stated that while advice from agencies such as Treasury and Finance is ... 'generally robust and well-regarded, the advice provided on fiscal policy by these agencies is for the most part confidential and it is not possible to determine the extent to which the government of the day has or has not followed that advice.'²⁶
- 4.25 Mr Stephen Bartos also commented that there is a role for an independent body in providing assurance to improve public and market confidence in fiscal governance. Mr Stephen Bartos stated:
- .. many stakeholders do see a valuable role for an independent body in validation of the forecasts and commentary on official fiscal documents. This would provide a level of independent assurance that would improve both public and market confidence in fiscal governance in Australia.²⁷
- 4.26 The Auditor-General placed value on enabling the PBO to function in an independent manner 'free from government or political interference' which in turn would ensure its effective operation.²⁸
- 4.27 The Public Policy Institute of the Australian Catholic University (PPI), suggested the PBO should be autonomous with a similar relationship to the Parliament as the Auditor-General. The PPI stated:

22 Mr Kevin Page, Office of the Parliamentary Budget Officer, Canada, *Transcript of Evidence*, 8 February 2011, p. 5.

23 Federal Coalition, *Submission 14*, p. 1.

24 Federal Coalition, *Submission 14*, p. 1.

25 Business Council of Australia, *Submission 17*, p. 1.

26 Business Council of Australia, *Submission 17*, p. 2.

27 Mr Stephen Bartos, *Submission 18*, p. 2.

28 Australian National Audit Office, *Submission 15*, p. 1.

... a PBO in the Australian Parliament, to be effective and durable, needs to be autonomous. ... it is the relationship between the Parliament and the Auditor-General which provides a useful guide as to how the PBO might relate to the Parliament.²⁹

4.28 The Australian Chamber of Commerce and Industry (ACCI) emphasised the importance of ensuring that the Parliamentary Budget Officer is independent of the Government and suggested guaranteeing security of funding. The ACCI stated:

The independence of the PBO is a paramount reason for its existence. Accordingly, security of funding for the body must be guaranteed for an extended period and a mechanism should be adopted to ensure its staff, including its head, are independent of the government.³⁰

4.29 The Auditor-General suggested that the provisions contained in the *Auditor-General Act 1997* (Cwlth) are a useful starting point for considering the type of arrangements that could be used to establish a PBO through legislation.³¹ The independence of the PBO could be achieved by legislating for:

- the method of appointment and termination of the Parliamentary Budget Officer and the status of the PBO
- method for remuneration of the Parliamentary Budget Officer
- 'the extent of the PBO's discretion in determining its own work program and priorities'
- 'arrangements for determining the PBO's budget'
- PBO's reporting requirements.³²

4.30 The Clerk of the Senate stated that it would not be appropriate for the PBO to be located in either chamber department as the work of the PBO is different to that of the chamber departments with limited crossover potential. In addition, managing a PBO requires specialist financial analysis skills and experience, which could be applied to the selection criteria of future clerks, but which would also narrow the field of applicants.³³

29 Public Policy Institute, *Submission 13*, p. 4.

30 Australian Chamber of Commerce and Industry, *Submission 9*, p. 2.

31 Australian National Audit Office, *Submission 15*, p. 2.

32 Australian National Audit Office, *Submission 15*, p. 2.

33 Department of the Senate, *Submission 6*, p. 6.

4.31 The Clerk of the Senate further commented that the most highly regarded option for a PBO is one that is enshrined in legislation, which creates an independent office, similar to the Auditor-General. However, with such a legislated model, the PBO would not be able to be directed by the Parliament or the Executive and so the public information it provides could be constrained by its establishing legislation. The Clerk of the Senate stated:

... if you want a Rolls-Royce [Parliamentary Budget Office], go for a legislated one. But part of the Auditor-General's independence is established by the fact that he cannot be directed by either House or by committees or by the Executive, so that means that there is information that the Auditor-General will not produce to Parliament if he feels that it is not within his statutory brief to do so. So, with the legislated model, you are buying something that is known but is also constrained. You might not be able to have free-for-all information for use however you want.³⁴

Access to information

4.32 For a PBO to fulfil its mandate effectively it will require access to Executive agency information. Access to this information could be provided through a number of mechanisms, depending on how the information is intended to be used and whether it would be published. The power to contract external expertise is also important in providing the PBO with additional analytical assistance.

4.33 The Parliamentary Librarian highlighted the importance of the PBO having access to Executive agency data, at no cost, as without this data, the PBO 'would be limited to using publicly-available information, and what agencies are willing to provide.'³⁵ If this data was priced, it would have implications for the budget of the PBO.

4.34 A range of options for access to information powers were presented to the committee. These included:

- Legislating for full access to Executive held information.³⁶ The *Auditor-General Act 1997 (Cwlth)* provides an example of full access provisions,

34 Dr Rosemary Laing, Department of the Senate, *Transcript of evidence*, 1 February 2011, p. 36.

35 Office of the Parliamentary Librarian, *Submission 10*, pp 6 and 7.

36 OECD, *Submission 8*, p. 3; Australian National Audit Office, *Submission 15*, p. 2; Office of the Parliamentary Librarian, *Submission 10*, p. 7.

enabling the Auditor-General to direct the production of information and creates a criminal offence for failure to comply.³⁷

- Legislating for partial access to Executive held information based on principles consistent with existing freedom of information or public access provisions.³⁸
- Accessing information through the provision of information protocols such as a Memorandum of Understanding (MOU) between the PBO and relevant Executive agencies.³⁹
- Use of the *Freedom of Information Act 1982* (Cwlth) to request Executive held information on the same basis as the public.⁴⁰

4.35 The OECD supported legislating for the PBO to have full access to information and economic models held by Executive agencies, in a timely manner. The OECD stated:

There will always be a large asymmetry of information between the government and such bodies – no matter how well they are resourced. This creates a special duty to give such bodies full access in legislation to all relevant information in a timely manner. This includes all the models used by the government for the assumptions underlying the budget – economic, revenue and expenditure.⁴¹

4.36 The Auditor-General also commented that an effective PBO ‘would require full and free access to all information and records necessary to perform its functions’, possibly including cabinet documents. In addition, the information would need to be provided in a timely manner. The Auditor-General also suggested that the PBO’s access to information powers should be legislated for and stated:

It is considered that the PBO’s enabling legislation would need to provide legislative authority for the PBO to access relevant information and records held by agencies and other bodies in a timely manner. Depending on the breadth of the proposed role, access to Cabinet documents may be required.⁴²

37 Section 32, *Auditor-General Act 1997* (Cwlth).

38 Department of the Legislative Assembly, NSW Parliament, *Submission 19*, p. 7.

39 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 12; Office of the Parliamentary Librarian, *Submission 10*, p. 7.

40 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 13.

41 OECD, *Submission 8*, p. 3.

42 Australian National Audit Office, *Submission 15*, p. 2.

4.37 The Canadian PBO favoured free and timely access to information for the PBO and cautioned against excluding access to cabinet documents, as classification of documents as cabinet-in-confidence may increase over time to prevent scrutiny by Parliament. The Canadian PBO stated:

Our own view is that, unfortunately, in Canada perhaps this line has shifted somewhat and we tend to use cabinet confidence perhaps too frequently as a way to not provide information to parliamentarians to carry out their fiduciary responsibilities.⁴³

4.38 The Department of the House of Representatives stated that the PBO should not be given wide ranging access to information powers, as this approach may not be appropriate for an agency with a broad remit such as the PBO. Rather a request system for information would better suit a PBO and be necessary to develop a solid and practical operational framework.⁴⁴

4.39 Mr Stephen Bartos cautioned against the provision of strong access to information powers for the PBO, as they could hinder the flow of information to the PBO. Mr Stephen Bartos stated:

I would caution against that, because that has the danger of setting up an adversarial relationship between the office and the departments concerned. It might be that you set up a power that is a last resort sort of measure, that says that in the event it is unable to obtain access, it should be able to report to a parliamentary committee on the reasons why it has been unable to obtain access. Then that parliamentary committee might call the relevant recalcitrant department before it and say, 'Why haven't you given our PBO access to the information they need?'⁴⁵

4.40 Treasury and Finance also cautioned against legislating for PBO powers 'that would compel agencies to provide requested information', as this 'could create conflict with the Public Service Act... which requires agency heads to manage their departments for the benefit of the Prime Minister.'⁴⁶

4.41 Treasury and Finance favoured arranging the PBO's access to information powers through information protocols through a negotiated MOU as this would provide flexibility for Executive agencies to balance their responsibilities under the Public Service Act.⁴⁷

43 Mr Kevin Page, Office of the Parliamentary Budget Officer, Canada, Transcript of Evidence, 8 February 2011, p. 10.

44 Department of the House of Representatives, *Submission 2*, p. 1.

45 Mr Stephen Bartos, *Transcript of Evidence*, 1 February 2011, p. 72.

46 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 13.

47 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 13.

- 4.42 Treasury and Finance suggested that information protocols would need to include provisions consistent with the *Freedom of Information Act 1982* (FOI) (Cwlth), 'to allow agencies to refuse requests on the same grounds that documents can be exempted under the FOI Act and for the review of those decisions.'⁴⁸
- 4.43 Further, Treasury and Finance proposed that the following types of information should be included as exempt items under the FOI Act in terms of provision of these items to the PBO. There were:
- Some information which is commercially valuable in nature
 - 'Information produced for the purpose of deliberative processes or the national economy'
 - Certain cabinet documents
 - Minister's briefing documents (related to cabinet submissions)
 - Information which is subject to privacy and taxpayer secrecy provisions
 - 'Private sector information which is provided to agencies on a confidential basis with legal sanctions that could apply'.⁴⁹
- 4.44 Treasury and Finance stated that the information needs of the PBO are likely to evolve and that an MOU would provide flexibility for the PBO and departments in managing changing information requirements, encouraging 'a transfer of understanding as well as information'.⁵⁰
- 4.45 The NSW *Parliamentary Budget Officer Act 2010 (NSW)* provides for the PBO to request information from Government agencies, for agencies to respond within ten days, and for agencies to decline requests consistent with the *Government Information (Public Access) Act 2009 (NSW)*.⁵¹
- 4.46 The Clerk of the Senate considered the access to Government information provisions of New South Wales (NSW) inadequate and stated:
- ... it seems to me that the Parliamentary Budget Officer in New South Wales can get access to the sort of information from government agencies that anybody would be able to get under FOI in New South Wales. Is that good enough for a Parliamentary Budget Office? I do not think so, because the parliament as the grand inquisition of the nation is scrutinising the operations of

48 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 13.

49 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 13.

50 Departments of the Treasury and of Finance and Deregulation, *Submission 16.1*, p. 1.

51 Section 16, *Parliamentary Budget Officer Act 2010 (NSW)*.

government on behalf of the people, to use very broad terms, and has both the right and the powers to have information to inform it to do that job properly. So the question of how information is to be acquired is one of the crucial ones that your committee needs to look at. It is almost as crucial as the functions of the office in the first place.⁵²

- 4.47 Provisions to engage relevant experts as required were also considered important for the PBO. The Canadian Parliamentary Budget Officer noted that the ability to contract in and consult with experts can enable an additional source of analysis for parliamentarians. The Canadian Parliamentary Budget Officer commented:

In previous studies around, say, the costing of our mission in Afghanistan, we went to a combination of people who have testified in the US on the costing of the Iraq war and to academics who have provided costings of other wars, both in Canada and the United States.⁵³

- 4.48 The use of external expertise can also assist with the process of developing an appreciation of and familiarity with data provided to the PBO from Government agencies.⁵⁴
- 4.49 In addition, the Auditor-General observed that the PBO's access to information powers 'would need to be complemented by strict confidentiality requirements.'⁵⁵

Confidentiality and disclosure of information and reports

- 4.50 The ability of the PBO to access information is associated with its arrangements to secure that information and use it appropriately, taking into account any reasonable need to withhold the information, or aspects of it, from the public domain. As the Auditor-General observed, the PBO's access to information powers 'would need to be complemented by strict confidentiality requirements.'⁵⁶

52 Dr Rosemary Laing, Department of the Senate, Transcript of evidence, 1 February 2011, p. 34.

53 Mr Kevin Page, Office of the Parliamentary Budget Officer, Canada, *Transcript of Evidence*, 8 February 2011, p. 7.

54 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 13.

55 Australian National Audit Office, *Submission 15*, p. 2.

56 Australian National Audit Office, *Submission 15*, p. 2.

- 4.51 The issue of the confidentiality of the information obtained by the PBO extends beyond that sourced from Government departments. The PPI expressed concern about information the PBO may source from private sector organisations, businesses and trade unions and recommended that:
- ... by whatever means the PBO is established, express provision should be made for gathering and protection of information.⁵⁷
- 4.52 The Auditor-General suggested that a public interest test similar to that contained in the Auditor-General Act, could be applied.⁵⁸ Section 37 of the Auditor-General Act enables the Auditor-General to withhold the publication of sensitive information if the Auditor-General or the Attorney-General considers that its release would be contrary to the public interest.⁵⁹
- 4.53 In relation to information sourced from Government departments, issues concerning the use of information could be avoided where departments elect 'to make the information provided to the PBO publicly available, similar to the practice of publishing information released under the FOI Act.' This may be relevant if 'confidential PBO advice is later revealed to be in conflict with advice provided by [a] Government [agency].'⁶⁰
- 4.54 There may also be instances where the very nature of a request made of the PBO by a parliamentarian is sensitive. The NSW Parliamentary Budget Officer Act contains particular provisions to maintain the confidentiality of the information held with the PBO in relation the requests made of it by its clients and the preparation of responses to those requests. Penalties apply for the unauthorised release of client related material.⁶¹
- 4.55 The Clerk of the NSW Legislative Assembly was of the view that a code of conduct which sets out confidentiality requirements may be needed for PBO staff. Further, to ensure the security of confidential documents, protocols could also be put in place.⁶²
- 4.56 The extent to which the work of the PBO is published is another important consideration.⁶³ Some contributors to the inquiry argued for the publication of all of the products of the PBO to enhance transparency and

57 Public Policy Institute, Australian Catholic University, *Submission 13*, p. 5.

58 Australian National Audit Office, *Submission 15*, p. 2.

59 Section 37(1), *Auditor-General Act 1997 (Cwlth)*.

60 Departments of the Treasury and of Finance and Deregulation, *Submission 16*, p. 14.

61 Section 17, *Parliamentary Budget Officer Act 2010 (NSW)*.

62 Department of the Legislative Assembly, NSW Parliament, *Submission 19*, p. 6.

63 Australian National Audit Office, *Submission 15*, p. 2.

the public value of its work.⁶⁴ Whereas others considered that the provision of confidential material by the PBO would be of value to its clients.⁶⁵

4.57 There is a tension between providing confidential work to parliamentarians and publishing that work. According to Mr Stephen Bartos:

There is also a tension between provision of confidential advice to parliamentarians (which then may be used in political debate) and the desirability of putting work on fiscal issues into the public domain. In the event of a conflict, the best interests of Australia would be better served by giving primacy to the interest of transparency.⁶⁶

4.58 The Auditor-General advised that 'public reporting would enhance the overall transparency and accountability of the PBO'.⁶⁷

4.59 The Canadian Parliamentary Budget Officer suggested that PBO legislation enshrine 'the principle of transparency in the conduct and release of analysis.'⁶⁸ Enshrining this principle (in addition to other principles such as independence of office) in legislation would ensure a strong and clear foundation for a PBO.⁶⁹

4.60 The OECD recommended that the information provided by a PBO 'should be made available concurrently to all political parties and the public.' The PBO should ensure that it does not pre-empt Government reports and can do this by establishing report and analysis reporting dates.⁷⁰

4.61 The Parliamentary Library has a statutory requirement to provide confidential information, analysis and advice to its clients. The Parliamentary Librarian stated that a similar requirement for the confidentiality of client work would be appropriate to meet the needs of parliamentarians.⁷¹

4.62 The Joint Standing Committee on the Parliamentary Library considered that the confidential nature of the work of the Library, as well as

64 For example, Parliamentary Budget Officer, Canada, *Exhibit 1*; S Bartos, *Transcript of Evidence*, 1 February 2011, p. 2.

65 Office of the Parliamentary Librarian, *Submission 10*, p. 9.

66 Mr Stephen Bartos, *Submission 18*, p. 2.

67 Australian National Audit Office, *Submission 15*, p. 2.

68 Office of the Parliamentary Budget Officer, Canada, *Exhibit 1*, p. 12.

69 Office of the Parliamentary Budget Officer, Canada, *Exhibit 1*, p. 12.

70 OECD, *Submission 8*, p. 3.

71 Office of the Parliamentary Librarian, *Submission 10*, p. 9.

impartiality and timeliness, crucial to its success, and relevant to any parliamentary service, including the PBO. The Joint Standing Committee on the Parliamentary Library stated:

Core values of impartiality, timeliness and confidentiality are vital for the success of any parliamentary service. The Parliamentary Service Act mandates these values for the Parliamentary Librarian and these core values will be useful to the operations of a Parliamentary Budget Office. Without these core values the new service would struggle to find direction and may not meet the needs of senators and members.⁷²

4.63 The PPI commented that there are a number of protocols in place in the Parliamentary Library and research service, which could be applied to the PBO. The PPI stated:

There are already a number of protocols and practices within the Australian Parliament, including within the provenance of the Library and Research Service. Only occasionally do these protocols and practices give rise to controversies. They therefore furnish a known foundation for the new [organisation] to build upon.⁷³

4.64 Treasury and Finance stated that the protocol under which the Parliamentary Library publishes routine output allows 'the public to benefit from the routine research of the Library, but enables parliamentarians to seek confidential advice.' Under this protocol the Parliamentary Library publishes 'routine output [and] provides responses to non routine requests from parliamentarians on a confidential basis unless otherwise agreed.'⁷⁴

4.65 Related to the use of information within the PBO is the issue of how the confidential or public reports of the PBO are used by its clients. The NSW PBO legislation contains provisions to enable the Parliamentary Budget Officer to make a public statement where it is of the opinion that the material provided has been misrepresented in the public domain.⁷⁵

4.66 Where a public misinterpretation has been made about the work of the PBO, there may be a further need to contact the client, before issuing a public statement. This would ensure that the PBO and the client 'do not

72 Joint Standing Committee on the Parliamentary Library, *Submission 5*, p. 6.

73 Public Policy Institute, Australian Catholic University, *Submission 13*, p. 5.

74 Departments of Treasury and of Finance and Deregulation, *Submission 16*, p. 13.

75 Section 22(3), *Parliamentary Budget Officer Act 2010 (NSW)*.

end up in a war of words ... through the media about any misrepresentation.⁷⁶

Appointment, dismissal and remuneration arrangements

4.67 There are a range of appointment and dismissal arrangements that could be applied to the Australian PBO. A broad outline of international and domestic examples follows.

4.68 The OECD suggested that the Parliamentary Budget Officer should be appointed by the legislature and have full discretion in hiring staff.⁷⁷

4.69 The DPS made the link between accountability of the PBO and appointment and dismissal of the head of the PBO and suggested the appointment of the Parliamentary Budget Officer could be made on recommendation from an independent officer with similar dismissal provisions. DPS stated:

The first component of this accountability is that the leader of the PBO should be appointed by the Presiding Officers based on recommendations from an independent officer (such as the Parliamentary Service Commissioner). These arrangements are similar to the appointment provisions for my position or the Parliamentary Librarian. Dismissal provisions could also be similar.⁷⁸

4.70 Treasury and Finance commented that there is a need to avoid 'perceptions of a politicisation of the appointment process.' Treasury and Finance suggested the appointment of the head of the PBO could be determined by the Presiding Officers for a term of three years on recommendation by the Secretaries of Treasury and Finance.⁷⁹

4.71 Further, Treasury and Finance outlined grounds for termination for the head of the PBO and stated:

To enshrine the security of the position, the grounds for termination (for example, misbehaviour or physical or mental

76 Department of the Legislative Assembly, NSW Parliament, Submission 19, p. 6.

77 Organisation for Economic Co-operation and Development, *Submission 8*, p. 2.

78 Department of Parliamentary Services, *Submission 4.1*, p. 5.

79 Departments of the Treasury and of Finance and of Deregulation, *Submission 16*, p. 15.

incapacity) could also be subject to a decision by the Presiding Officers as is the case for the Parliamentary Librarian.⁸⁰

Examples from other jurisdictions

Canadian Parliamentary Budget Officer

4.72 The Canadian Parliamentary Budget Officer is a Governor-in-Council appointment (Governor-General acting on the advice of the Prime Minister and Cabinet) and holds office during pleasure⁸¹ for a renewable term of not more than five years.⁸² The appointment of the Canadian Parliamentary Budget Officer was intended to be an independent officer, but was not legislated as one. In terms of ensuring independence through appointment and dismissal arrangements the Canadian Parliamentary Budget Officer stated:

A true independent budget authority should be appointed by Parliament and dismissed for cause. It is problematic for a budget officer to provide analysis that may be used by members of Parliament to hold the government to account if that person works at pleasure and can be dismissed without cause by the Prime Minister.⁸³

Director of the United States of America, Congressional Budget Office

4.73 In regard to appointment of the Director of the Congressional Budget Office, under the *US Congressional Budget and Impoundment Control Act 1974*, the Speaker of the House and the President pro tempore of the Senate jointly appoint the Director on recommendation by the House and Senate Budget Committees. The Director is appointed for a renewal term of four years and can be removed by resolution from either Chamber.⁸⁴

Chief of the Korean National Assembly Budget Office

4.74 The Chief of the Korean National Assembly Budget Office (NABO) is appointed by the Speaker with the consent of the House Steering Committee. The House Steering Committee acts on advice from the 'Recommendation of the Chief of the National Assembly Budget Officer'

80 Departments of the Treasury and of Finance and of Deregulation, *Submission 16*, p. 15.

81 Office of the Parliamentary Budget Officer, Canada, *Exhibit 1*, p. 5.

82 Office of the Parliamentary Librarian, *Submission 10*, p. 31.

83 Office of the Parliamentary Budget Officer, Canada, *Exhibit 1*, p. 5.

84 Office of the Parliamentary Librarian, *Submission 10*, p. 19.

which comprises experts on the workings of NABO, who are not officials of NABO. The Chief is appointed on an ongoing basis with no fixed term, and 'can be removed by the Speaker with consent of the Steering Committee.'⁸⁵

Director of the Central Planning Bureau of The Netherlands

4.75 The CPB is managed by a board of directors comprising one Director and two Deputy Directors who may be appointed, suspended and dismissed by the Minister of Economic Affairs in consultation with seven other senior Ministers whose portfolios are listed in the Act. The Director and the two deputies are employed on an ongoing basis, with no set term of office.⁸⁶

Auditor-General for Australia

4.76 Under the *Auditor-General Act 1997* (Cwlth), the Auditor-General is appointed by the Governor-General, on recommendation by the relevant Minister.⁸⁷ The Minister is also required to refer the recommendation for appointment to the Joint Committee of Public Accounts and Audit (JCPAA) for approval.⁸⁸ In addition, the appointment cannot be made unless the JCPAA has approved the appointment proposal.⁸⁹

4.77 The Auditor-General's term of office is for a period of ten years (non renewable) and remuneration is determined by the Remuneration Tribunal or by regulations if no determination of that remuneration by the Tribunal is in operation.⁹⁰

4.78 The Auditor-General may resign from office through a signed notice to the Governor-General. The Governor-General may remove the Auditor-General from office on the grounds of misbehaviour or physical or mental incapacity on request by the respective houses of Parliament in the same session. Additional grounds for removal from office are based on actions that would inhibit the Auditor-General's independence of office such as becoming bankrupt.⁹¹

85 Office of the Parliamentary Librarian, *Submission 10*, p. 24.

86 Office of the Parliamentary Librarian, *Submission 10*, p. 27; Departments of Treasury and of Finance and Deregulation, *Submission 16*, p. 23.

87 The *Auditor-General Act 1997* (Cwlth) specifies the Finance Minister as the relevant Minister.

88 Australian National Audit Office, *Submission 15*, Appendix.

89 Schedule 1, *Auditor-General Act 1997* (Cwlth).

90 Australian National Audit Office, *Submission 15*, Appendix.

91 Australian National Audit Office, *Submission 15*, Appendix.

New South Wales Parliamentary Budget Officer

- 4.79 The NSW Parliamentary Budget Officer is an independent officer of the Parliament. The NSW Parliamentary Budget Officer is appointed for a term of up to nine years, by the Presiding Officers on recommendation 'by a panel consisting of three senior independent public officials, the Ombudsman, the Information Commissioner and the Chair of the Independent Pricing and Regulatory Tribunal.' The NSW Parliamentary Budget Officer 'may only be removed from Office by the Presiding Officers on the grounds of misbehaviour, incapacity or incompetence.'⁹²
- 4.80 The situation has arisen in NSW where a Parliamentary Budget Officer has not been appointed and there is no provision to make an interim appointment under the Act. The Clerk of the NSW Legislative Assembly suggested that provision could be made to avoid such a situation arising in the Federal sphere.⁹³

Oversight and accountability

- 4.81 Oversight of the PBO could be through a parliamentary committee, such as the arrangement under the Auditor-General Act which enables the JCPAA to consider the draft budget estimates of the ANAO and make recommendations on them.⁹⁴
- 4.82 The Auditor-General commented that audit reports are presented to the Parliament which may be examined by the JCPAA through inquiry, to which the Auditor-General provides evidence. In addition, the Auditor-General's financial statements are subject to annual scrutiny by an independent auditor.⁹⁵
- 4.83 DPS was of the view that the Presiding Officers should have oversight of the PBO, but that during peak workload periods and in relation to prioritisation issues, oversight could be undertaken by a parliamentary committee, which would in turn provide advice to the Presiding Officers.⁹⁶

92 Department of the Legislative Assembly, NSW Parliament, *Submission 19*, p. 3.

93 Department of the Legislative Assembly, NSW Parliament, *Submission 19*, p. 1.

94 Australian National Audit Office, *Submission 15*, p. 2 and Appendix.

95 Mr Ian McPhee, Australian National Audit Office, *Transcript of Evidence*, 28 February 2011, p. 7.

96 Department of Parliamentary Services, *Submission 4*, pp 7 and 8.

- 4.84 The Clerk of the Senate suggested that each House could nominate an existing committee to supervise the operation of the office, similar to the arrangements for the NSW PBO.⁹⁷
- 4.85 In NSW, the reporting requirements and line of accountability of the PBO is contained in the Parliamentary Budget Officer Act. Under the Act, the Minister may review the PBO after five years. Parliamentary oversight is undertaken by two committees, one from each house of Parliament as nominated by the Presiding Officers. The Clerk of the NSW Legislative Assembly suggested that review of the Act could have also been undertaken by a joint parliamentary committee for efficiency purposes and, designated by the Parliament to ensure the independence of the PBO.⁹⁸
- 4.86 The Canadian Parliamentary Budget Officer reports to the Parliamentary Librarian of Canada (who then reports to the Presiding Officers). In turn, the Parliamentary Library is subject to oversight through the Standing Joint Committee on the Library of Parliament.⁹⁹
- 4.87 The CBO is subject to ongoing review by two statutory budget committees. In addition, the work of the CBO is assisted through review by two expert panels, the economics panel and the health panel. The economics panel meets biannually and comments and reviews CBO's preliminary economic forecasts. The economic panel comprises 'eminent economists', some of whom are previous CBO directors, who serve a two-year term. The health panel meets periodically 'to examine frontier research in health policy and to advise the agency on its analyses of health care issues. The health panel comprises 'acknowledged experts.'¹⁰⁰
- 4.88 In regard to reporting requirements, public agencies including the Auditor-General, must comply with the *Financial Management and Accountability Act 1997 (Cwlth)*, and the *Commonwealth Authorities and Companies Act 1997 (Cwlth)*. Such legislation would also be applied to the Parliamentary Budget Officer and the PBO.
- 4.89 The Financial Management and Accountability Act applies to agencies that are a financial part of the Commonwealth as a single legal entity. This includes the parliamentary departments.¹⁰¹ The Financial Management

97 Dr Rosemary Laing, Department of the Senate, *Transcript of Evidence*, 1 February 2011, p. 37.

98 Department of the Legislative Assembly, NSW Parliament, *Submission 19*, p. 3.

99 Mr Kevin Page, Office of the Parliamentary Budget Officer, Canada, *Transcript of Evidence*, 8 February 2011, p. 3.

100 Office of the Parliamentary Librarian, *Submission 10*, p. 19.

101 Department of Finance and Deregulation, www.finance.gov.au, viewed 8 March 2011.

and Accountability Act sets the financial management framework for agencies and requires production, auditing and reporting of annual financial statements. The Commonwealth Authorities and Companies Act requires responsible financial management and an annual report to be produced, and through the relevant Minister, tabled in the Parliament. Further the Commonwealth Authorities and Companies Act requires that an agency's annual report must include a financial report, director's report and the auditor's report.

- 4.90 Under the Parliamentary Service Act, the parliamentary departments are required to produce an annual report for the Presiding Officers who are then required to table these reports in the Parliament. In respect to the Departments of the House of Representatives and the Senate, the JCPAA is required to approve guidelines for the annual reports. There is no provision for this process to occur for the DPS under the Parliamentary Service Act.

Evaluation

- 4.91 The operational review of the PBO was put forward as a monitoring mechanism to ascertain whether the PBO was fulfilling its mandate and functions and where improvements could be considered.¹⁰²
- 4.92 The operations of the Canadian PBO were reviewed by the Canadian Parliament's Joint Committee of the Library of Parliament after a period of 12 months.¹⁰³
- 4.93 DPS stated 'that the new body may need to be refined and improved' which could be achieved through an independent post-implementation review after a period of three years.¹⁰⁴
- 4.94 Under the NSW Parliamentary Budget Officer Act, the Minister may review the PBO after five years.¹⁰⁵

102 Australian National Audit Office, *Submission 15*, p. 3.

103 This review focused on the funding level provided to the office. Office of the Parliamentary Budget Officer, Canada, *Exhibit 1*, p. 10.

104 Department of Parliamentary Services, *Submission 4.1*, p. 3.

105 Department of the Legislative Assembly, NSW Parliament, *Submission 19*, p. 3.

Concluding comments

Authority

- 4.95 The committee was presented with a number of options in recommending the type of authority of the Parliamentary Budget Officer should have and as a result has broadened its consideration beyond the option suggested by the *Agreement for a Better Parliament* – which states the Parliamentary Budget Office (PBO) be based in the Parliamentary Library.
- 4.96 The majority of proponents for a PBO strongly supported establishing, through dedicated legislation, the office of the Parliamentary Budget Officer as an independent officer of the Parliament, similar to the Auditor-General.
- 4.97 Further, establishing the independence of the Parliamentary Budget Officer and their PBO through legislation would provide for an indisputable clarity of purpose and function for the PBO and establish the powers of the PBO in regard to information collection and publishing of information. More broadly, this approach would serve to strengthen the objectivity and credibility of the office of Parliamentary Budget Officer, as well as enhance transparency of PBO operations.
- 4.98 Ensuring independence of office through dedicated legislation would allow the Parliamentary Budget Officer to have control in setting the PBO's work program according to the allocated funding level and freedom in contracting-in additional expertise, if required. This, in turn, would also enable the Parliamentary Budget Officer to set the corporate direction of the PBO in line with the establishing legislation and in consideration of the financial scrutiny needs of the Parliament.
- 4.99 Providing for an independent Parliamentary Budget Officer would enable the PBO to make public comments, where necessary, in regard to its findings and recommendations. Importantly, this would enable the Parliamentary Budget Officer and their PBO to establish a public profile, in line with the majority of international PBOs which are also independent of Executive Government.

Access to information

- 4.100 It is clear to the committee that in order for the PBO to effectively fulfil its mandate and provide the level of service outlined, it will need special access to information and data held by Government departments.

- 4.101 Options considered by the committee included legislated powers to compel information, such as the powers of the Auditor-General, legislated provisions to request information, such as those of the NSW PBO, negotiated arrangements with agencies, and the use of freedom of information laws.
- 4.102 The concerns raised about providing strong powers to direct the production of information included the appropriateness of those powers for the PBO and the potential that those powers may harm the relationships the PBO has with Government agencies.
- 4.103 The committee considers that the PBO's relationships with Government agencies will be crucial to its success. Not only will the PBO require information and data held by Government agencies, it may also need the assistance of agencies in making the best use of that information and data.
- 4.104 Further, there may be instances where, by working together on the kinds of information required, the agencies can better understand the ongoing needs of the PBO. The relationships between the PBO and Government agencies might also evolve over time, possibly leading to greater efficiencies and enhanced products for Senators, Members and committees.
- 4.105 The committee is therefore of the view that the PBO should seek to negotiate and develop memoranda of understanding (MOU) or similar instruments (as their main formal mechanisms) with the Departments of the Treasury and of Finance and possible other departments, to share information and data.
- 4.106 In the event that particular information is not provided to the PBO in accordance with an MOU, and the PBO is not satisfied by the rationale of the departments for declining to disclose information, the PBO should be entitled to use the formal processes provided through the *Freedom of Information Act 1982 (Cwlth)*, without cost.
- 4.107 Should the PBO then fail in its attempt to secure departmental information through the Freedom of Information Act, it will have the further option to report the matter to the Joint Committee of Public Accounts and Audit (JCPAA), which may then choose to pursue the matter.
- 4.108 Access to information arrangements through a negotiated MOU and the practical application of the MOU could be closely monitored by the PBO's oversight committee, possibly addressed in the annual report of the PBO and included under the terms of reference for the evaluation of the PBO.

Confidentiality and disclosure of information and reports

- 4.109 Access to information is linked to the confidentiality provisions of the PBO. In order to strengthen the trust between the PBO and the Government agencies on which it relies to provide information, the PBO should keep sensitive information provided by departments confidential within the PBO, including withholding the release of that information to parliamentarians and committees.
- 4.110 In negotiating an MOU with departments, it is expected that the PBO will develop a framework for how certain information can be used appropriately. For example, the PBO may use confidential information in the form of raw data as part of its analysis, but publish only aggregate figures and results.
- 4.111 In dealing with specific requests for information held in confidence by the PBO, the PBO should take into consideration relevant provisions of the MOU through which the information was obtained, the Freedom of Information Act and the Privacy Act.
- 4.112 The intent of this confidentiality framework is that:
- all relevant departments should provide as much assistance as possible for the PBO to effectively fulfil its mandate and perform its functions in serving the Parliament
 - the strict confidentiality arrangements applicable to the PBO should encourage proactive information sharing from departments, and
 - this framework seeks to provide a balanced starting point which will be developed, reviewed and possibly revised over time.
- 4.113 The committee considers that wherever possible, in the interest of transparency and accountability, the work of the PBO should be made publicly available.
- 4.114 In regard to publication of PBO reports and analysis outside the caretaker period of general elections, where a client has specifically requested confidentiality, the committee saw a need for work undertaken to remain confidential.
- 4.115 Further, PBO-initiated reports should be published and include the underlying assumptions and information about any economic models used to support the conclusions made.
- 4.116 Where possible, and by agreement with clients, the material used for individual requests should be negotiated to be included in public reports of the PBO, while retaining the confidentiality of the related original

request. This would have the advantage of providing flexibility and efficiency of operations while maximising the public value of the work and enhancing transparency.

- 4.117 The Parliamentary Budget Officer should be empowered to make public statements where they consider that the confidential or published material his/her office has prepared has been misrepresented in the public domain.

Appointment, dismissal and remuneration arrangements

- 4.118 Transparency and accountability of the position of the Parliamentary Budget Officer and the PBO could be ensured through the establishing legislation in regard to the inclusion of provisions dealing with the appointment, dismissal, term of office and remuneration of the Parliamentary Budget Officer.
- 4.119 The committee believes the appointment, dismissal and remuneration arrangements applied to the office of Auditor-General should as far as possible be applied to the office of the Parliamentary Budget Officer. The committee is of the view that the Auditor-General model for appointment, dismissal and remuneration has been proven to work well in practice in the Australian context. Further this model provides for parliamentary scrutiny of appointment through the Joint Committee of Public Accounts and Audit, and dismissal by the Parliament on grounds of misbehaviour or physical or mental incapacity.
- 4.120 The committee has also considered the application of the Auditor-General model in relation to the involvement of the Executive Government in the appointment and dismissal process for the Parliamentary Budget Officer and the possible implications this has for independence of office. The committee believes the Minister, through their department, has the expertise and resources to make selections of appropriate candidates. In addition, with parliamentary oversight for appointment provided by the JCPAA, and dismissal by the Parliament as outlined, the committee is satisfied that independence of office can be maintained.
- 4.121 In relation to the term of office for the Parliamentary Budget Officer, the committee has recommended that it be renewable and for a period of four years. The committee was of the view that the timeframe for the term of office include a parliamentary cycle to enable greater ease of corporate planning. The term of office as recommended by the committee is similar to that in place for the Director of the Congressional Budget Office of the United States of America.

Oversight and accountability

- 4.122 The committee believes that because of the established oversight role of the JCPAA over the operations of the Auditor-General, that it is an appropriate committee to undertake, on the behalf of the Parliament, the oversight role of the Parliamentary Budget Officer and their PBO.
- 4.123 In relation to reporting requirements, the committee understands the Auditor-General and the parliamentary departments must comply with legislation including the *Financial Management and Accountability Act 1997 (Cwlth)* and *Commonwealth Authorities and Companies Act 1997 (Cwlth)*. These acts require agencies to be responsible in their financial management and produce an annual report which includes audited financial statements to be tabled in the Parliament. The committee understands that the operations of the Parliamentary Budget Officer should also be subject to these legislative requirements. This would require the Parliamentary Budget Officer, through the appropriate mechanism to produce an annual report which includes its audited annual financial statements, a report of activities undertaken during the financial year and a Director's report.
- 4.124 In regard to oversight of workload and negotiating work priorities, the committee believes that the PBO should establish protocols which outline the priorities of meeting client requests and have these protocols subject to approval by the JCPAA.
- 4.125 In addition, the committee believes that it would be appropriate for the Parliamentary Budget Officer to formulate his/her work program after consultation with the JCPAA, other standing and statutory committees and individual Members and Senators. But to retain independence of office, final decision rights on the PBO's work program should be fashioned similarly to that which applies to the Auditor-General.

Evaluation

- 4.126 There were a number of proponents of evaluation of the PBO. The committee believes that ongoing operational evaluation by an independent external body is required to ensure that the PBO continues to meet its obligations under its mandate and meet the changing needs of the Parliament.
- 4.127 In addition, evaluation of the PBO completed within nine months after an election is held, should focus on the extent to which the PBO is meeting its requirements under its establishing legislation, in line with the level of funding it receives. Undertaking an operational evaluation of the PBO in

the specified period would allow sufficient time for the PBO to establish its operational and reporting routine.

- 4.128 The committee believes there is a role for the JCPAA in ensuring that there is parliamentary oversight in the process to engage an independent organisation, to undertake the formal evaluation. This could be done by requiring through legislation, that the Parliamentary Budget Officer consult with the JCPAA in regard to the engagement of an independent organisation undertaking the evaluation. The final evaluation report could then be tabled in the Parliament and referred to the JCPAA for possible review.

Recommendation 10

- 4.129 **The committee recommends that the position of Parliamentary Budget Officer be established as an independent officer of the Parliament through dedicated legislation.**

Recommendation 11

- 4.130 **The committee recommends that the legislation establishing the Parliamentary Budget Officer include provisions to establish the Parliamentary Budget Office to support the work of the Officer.**

Recommendation 12

- 4.131 **The committee recommends that the legislation establishing the office of Parliamentary Budget Officer include the Officer's: mandate, functions, maintaining confidentiality of information provisions, parliamentary oversight, reporting requirements, appointment, dismissal, remuneration determination arrangements, and term of office.**

Recommendation 13

- 4.132 The committee recommends that the Parliamentary Budget Officer access information from Government departments through a negotiated memorandum of understanding with the Departments of the Treasury and of Finance and Deregulation and other departments or organisations as necessary.

Recommendation 14

- 4.133 The committee recommends that the Parliamentary Budget Officer be empowered to use the formal processes provided through the *Freedom of Information Act 1982* (Cwlth) without cost to the Parliamentary Budget Officer, in the event that particular information is not provided by a Government department in accordance with any established memorandum of understanding, and the PBO is not satisfied by the rationale of the department for declining to disclose information.

Recommendation 15

- 4.134 The committee recommends that the legislation establishing the office of Parliamentary Budget Officer include specific provisions to maintain the confidentiality of the sensitive information held within the Parliamentary Budget Office.

Recommendation 16

- 4.135 The committee recommends that wherever possible, in the interest of transparency and accountability the work of the Parliamentary Budget Office be made publicly available.

Recommendation 17

- 4.136 The committee recommends that responses by the Parliamentary Budget Office to requests from individual parliamentarians, outside the caretaker period for general elections, be provided in confidence, where it has been specifically directed by the client to do so.

Recommendation 18

- 4.137 The committee recommends that where possible, the work that has gone into the preparation of a response to a client request be made available to be included in the public reports of the Parliamentary Budget Officer. This may involve negotiating, with relevant Senators and Members for the public release of work prepared on their behalf, while withholding information about the original request, such as the identity of the parliamentarian and other substantive information requested, to remain in confidence.

Recommendation 19

- 4.138 The committee recommends that the Parliamentary Budget Officer be empowered to make public statements, in particular where they consider that their work has been misrepresented in the public domain.

Recommendation 20

- 4.139 The committee recommends that the reporting provisions under the establishing legislation require the Parliamentary Budget Officer to formulate an annual work program, draft budget estimates and an annual report in line with the *Financial Management and Accountability Act 1997* (Cwlth) and the *Commonwealth Authorities and Companies Act 1997* (Cwlth).

Recommendation 21

- 4.140 The committee recommends that, with the exception of term of office provisions, the appointment, dismissal and remuneration determination processes of the Parliamentary Budget Officer be in line with similar provisions contained in the *Auditor-General Act 1997 (Cwlth)*.

Recommendation 22

- 4.141 The committee recommends that the term of office of the Parliamentary Budget Officer be for a period of four years, with the option of renewing the appointment.

Recommendation 23

- 4.142 The committee recommends that the Joint Committee of Public Accounts and Audit (JCPAA) have oversight of the Parliamentary Budget Officer and their office in regard to the annual work program, draft budget estimates, and annual report, in line with similar provisions in the *Auditor-General Act 1997 (Cwlth)*. This includes a formal role for the JCPAA in endorsing the workload protocols applicable to the Parliamentary Budget Office.

Recommendation 24

- 4.143 The committee recommends that an independent body be engaged to undertake an operational evaluation of the Parliamentary Budget Office, completed within nine months after the result of a Federal election is notified. On completion, the evaluation report should be tabled in the Parliament and referred to the Joint Committee of Public Accounts and Audit for possible review.

Recommendation 25

- 4.144 **The committee recommends that the proposal to engage an independent body for the purpose of undertaking the operational evaluation of the Parliamentary Budget Office be referred to the Joint Committee of Public Accounts and Audit for consideration and endorsement.**