

## Submission to the Joint Select Committee on the Parliamentary Budget Office

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The establishment of a Parliamentary Budget Office (PBO) offers a rare and welcome opportunity to enhance the role of Parliament relating to public sector budgetary analysis and the provision of a rigorous, reliable and independent policy costing service to members of Parliament. The Australian Parliament has long been at a considerable disadvantage relative to the Executive Government on such matters and the proposed PBO should move a long way towards redressing this imbalance.

The establishment of a properly designed, well-functioning and sufficiently resourced PBO will complement the existing arrangements that service the Parliament which include Parliamentary Committees, the Australian National Audit Office (ANAO) and the Parliamentary Library.

The PBO's foreshadowed role in public education will support wider public debate on public policy issues, which in turn will provide broader support for Australia's system of parliamentary democracy.

Indeed, it would be appropriate for the Select Committee to envisage that over time the PBO would come to be seen as similar to the ANAO in terms of its value to Parliament, effectiveness and reputation. The Select Committee's work constitutes a significant part of the PBO's foundations and will be a major determinant of its success in both the short- and long-term.

### About the inquiry

The Australian Parliament has established a Joint Select Committee (the committee) to inquire into and report on:

- (a) the appropriate mandate for the Parliamentary Budget Office
- (b) the nature of information needed to assist the Parliament in its consideration of matters related to the budget
- (c) the role and adequacy of current institutions and processes in providing this information, and the areas in which additional support is required
- (d) the scope for a PBO to fulfil its mandate in a cost-effective manner
- (e) bearing in mind these considerations, the most appropriate structure, resourcing and protocols for a PBO, including but not limited to:
  - (i) the PBO's functions and lines of accountability and oversight;
  - (ii) the routine work expected of the PBO and the minimum reporting requirements;
  - (iii) the protocols for members of parliament requesting non-routine work of the PBO, including the types of work and the rules for prioritising and carrying out these requests
  - (iv) the protocols around access to and disclosure of the PBO's work and any confidentiality requirements
  - (v) the protocols around the PBO's relationships with other institutions and processes, including government departments and agencies
  - (vi) an appropriate level of staffing, appropriate qualifications for staff, and resources to allow the PBO to fulfil its mandate; and
- (f) in conducting its inquiry, the committee may choose to consider the operation and effectiveness of similar offices in other parliamentary democracies and their relevance to Australian circumstances.

The committee has already given a broad indication that the PBO will have the following dual roles:

1. Supporting the work of the Parliament by providing information and advice to all members of Parliament on Budget related matters, including financial analysis and policy costing. and



# Submission to the Joint Select Committee on the Parliamentary Budget Office

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2. Promoting a greater public awareness of key budget and fiscal policy issues.

This submission addresses many but not all of the matters covered in the committee's terms of reference.

## Mandate

In one sense the mandate required for the PBO will derive from the role and specific functions assigned to it. In turn, these will follow closely from the suite of services that members of Parliament want the PBO to provide. While members of the committee are best placed to determine these, one particular aspect for consideration will be the mix of published work as against work commissioned by individual clients on a confidential basis. Associated with this will be the issue of how the PBO prioritises each of these and allocates resources, especially if particular resources are prescribed in legislation.

There is no justification in the PBO simply duplicating the existing budget analysis and policy-costing resources of Executive Government. Even if such an approach were possible, the cost would be prohibitive.

However, the PBO will need sufficient resources to process and present relevant budget analysis and policy costing information obtained from Commonwealth agencies to the Australian Parliament and public. The authority to obtain such information in a timely fashion will be a key component of the PBO's mandate. Other significant elements of the PBO's mandate will include the capacity to generate its own outputs and engage external expertise as required.

To achieve maximum possible success, the PBO will need to be established under its own legislation, which details, inter alia, its functions and powers. The committee may wish to consider whether elements of the legislation covering the mandates of the ANAO and Productivity Commission provide a starting point for the PBO's mandate.

An important element of the PBO's mandate, which the Committee is urged to consider, is what might be described as the 'analytical scope' of its work. It should be clearly determined and stated from the outset whether the PBO's activities will be largely confined to 'number-crunching' and associated reporting, or whether, as part of its advice-giving role, the PBO will be able to critique policies, debate and/or develop options and undertake program analysis and evaluation.

In terms of developing a robust, independent and neutral PBO, there is strong argument for the PBO's mandate to be quite limited regarding the latter set of activities, which will inevitably and appropriately potentially have a partisan tone. If the PBO operates as an effective information generator, it will add value to policy discussion and commentary undertaken by Parliamentarians and other stakeholders.

## Current arrangements

### Parliamentary library

The Parliamentary Library is one of the major resources currently available to provide the Australian Parliament with timely and independent budget analysis and policy costing. However, the Library's capacity to provide these services is significantly limited because the Library only deals in publicly available information or information the Executive Government chooses to release if requested.

This means that currently many requests made to the library can only be partially answered, or possibly not answered at all, because the necessary data is simply not available or cannot be obtained in a timely fashion.

The need for a PBO has arisen because of the Parliament's increased interest in budget analysis and policy costing and because of the shortcomings of the present arrangements. Had the Parliamentary



## Submission to the Joint Select Committee on the Parliamentary Budget Office

---

Library been equipped with an appropriate mandate and resources, it would already be filling the role of a PBO.

Instead, the Library's client service capacity has been weakened by the following developments:

1. The gradual decline in staff numbers.
2. The substitution of higher classified positions with lower ones, often resulting in staff being recruited to these positions who, inevitably and through no fault of their own, bring far less subject expertise and experience to offer clients.
3. The need for EL1 and EL2 level staff to spend a greater amount of their time providing supervision and training to junior staff, thereby reducing the time they can spend on client service. Furthermore, and based on casual observation, it appears there has been a higher rate of staff turnover in these junior positions, compounding the training and supervision effect.
4. The negligible level of funding available for training and development. The average allocation for Research Branch staff is \$1100 per person per annum. To demonstrate the inadequacy of this amount, the registration fee for the forthcoming 5th CPD Immigration Law Conference in Melbourne is \$695 (a moderately priced conference). Associated travel and accommodation costs easily take the total cost of attending past \$1100. Hence current funding does not usually permit every Research Branch staff member to attend a major conference each year.
5. The advent of the Department of Parliamentary Services (DPS) has seen the imposition of a public service management culture in the Library. The vastly increased demands on the time on the Library's EL2 staff to attend to corporate and administrative matters has been at the direct expense of their capacity to provide direct client services.
6. The failure of the creation of DPS to deliver the predicted savings has resulted in greater cuts to the Library's budget than would otherwise have happened.

The concerning state which the Library's service delivery capacity has reached is encapsulated in an incident late in 2010 when a client requested some research on what was an extremely topical issue yet the library was unable to provide any assistance on that occasion.

In addition to the forgoing 'supply side' issues the nature of requests made of the Library has undergone some change in recent years reflecting:

1. The continuous media cycle in which Members and Senators operate and their associated need to know about more topics more often.
2. Similarly, with technology facilitating increased communications between parliamentarians and their constituents and stakeholder groups (and vice versa), there is greater demand for the services of the library, both analytical and information, in parliamentarians undertaking their representational functions.
3. The greater number of Members and Senators who are independent or represent smaller parties has brought a greater number and more diverse ideas and interests into the Parliament's sphere of operations. The Library's assistance is often called upon as these are pursued in the forums of the Parliament and elsewhere.
4. The increased number and prominence of Private Members Bills. The Library is endeavouring to manage the provision of support for these from its existing resources.

These factors have also put pressure on the Library's service delivery capacity.



# Submission to the Joint Select Committee on the Parliamentary Budget Office

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## Committees

While parliamentary committees, especially Senate Estimates Committees, have a valuable role in reviewing budget analysis and policy costing, their role appears largely confined to dealing with documentation published by the government of the day and generally examining matters retrospectively. A PBO should greatly enhance the work of committees.

## Charter of Budget Honesty

Despite what may have been the intentions of the Charter of Budget Honesty to provide non-government parties and members of Parliament with policy-costing services in the lead up to elections, it is obvious that the existing arrangements give an advantage to the government of the day.

The evaluation of the Government funded initiative to enhance the Library's capacity to assist non-Government develop policies in the lead up to the 2010 election confirmed that non-government parties and members of Parliament want access to a policy-costing service on a continuous basis. This would put them more on par with the government.

## Structure of the PBO

### Accountability

With the PBO is almost certain to have a greater public role in matters of budget analysis and policy costings than currently experienced by the Library, it is appropriate to consider a different set of accountability arrangements for the PBO.

If the PBO is established with a clearly legislated mandate, as appears to be international best practice, and sufficient resourcing to perform its functions, the responsibilities of the head of the PBO should include all day-to-day operational matters and associated strategic decisions with provision to consult the Presiding Officers as required.

While there may be some inclination to having a Library Committee-style equivalent for the PBO, some drawbacks of such an approach can be identified:

1. The low frequency of meetings impedes continuity of deliberations.
2. The business of the committee proceeds slowly and cautiously, which means that matters are not always considered in a timely fashion.
3. Unlike other committees of the Parliament, the Library Committee is not open to the public and does report on its proceedings making its operations neither transparent nor subject to external scrutiny.
4. The Library Committee has an advisory and reporting role only. Its Terms of Reference do not confer it with any decision making capacity or other powers.

Thus, while the Library Committee provides some oversight of Library matters this is not an accountability function in the standard sense.

With its significantly different powers and functions the PBO warrants a different accountability framework. As an alternative to a Library Committee approach, the committee may wish to consider whether the PBO's accountability might be assisted by bringing it under the purview of the JCPAA in a similar arrangement to that applying to the ANAO.

Section 8(1)(g) of the *Public Accounts and Audit Committee Act 1951* specifies that the JCPAA is to consider:

- (i) the operations of the Audit Office

## Submission to the Joint Select Committee on the Parliamentary Budget Office

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- (ii) the resources of the Audit Office, including funding, staff and information technology
- (iii) reports of the Independent Auditor on operations of the Audit Office.

Regardless of whether this suggestion is taken up, another accountability mechanism, which would be of considerable value, would be a regular ANAO performance evaluation of the PBO. The general terms of such an evaluation could be included in the PBO's legislation. An appropriate time frame would be every three to four years, with the timing to allow for any peaks of PBO activity associated with the parliamentary and/or electoral cycle to be taken into account.

### Staffing

#### *Head of the PBO*

Considering:

1. Expectations of members of Parliament about the function and status of the PBO and the services to be provided by it.
2. The organisational structure of departments such as Treasury; Finance and Deregulation; Health and Ageing; Defence and Families, Housing Community Services and Indigenous Affairs.
3. The qualifications and experience likely to be needed by whoever heads the PBO.
4. The need for the PBO to have 'clout' within the Australian Public Service.
5. The calibre and ranking of officers who appear at Senate Estimates to discuss budget and policy-costing issues,

the head of the PBO should at least be at SES Band 2 level.

To strengthen both the actual and perceived independence and neutrality of the PBO, its head needs to be a statutory appointment and specified in legislation as an officer of the Parliament as is the case with the Auditor-General.

An associated issue is the selection process for the head of the PBO, which should also be characterised by independence and neutrality. A method of selection the committee may wish to consider is a selection panel comprising one of the Clerks, the Auditor-General, chair of the JCPAA and the head of the Productivity Commission; this panel should make a recommendation to the Presiding Officers, who must both endorse the recommended candidate for appointment.

An issue for consideration by the committee is whether the head of the PBO should be appointed for a five-year term, as with the Parliamentary Librarian, or a ten-year term, similar to the Auditor General. A ten-year term would provide for significant continuity and stability.

Both the method of appointment of the head of the PBO and the term of appointment are potentially matters for inclusion in the enabling legislation.

#### *Other staffing*

Given the stated budget analysis and policy-costing roles for the PBO, it will need at least two groups of staff to undertake the associated functions. It would be appropriate for each of these to be headed by an SES Band 1 level staff member.

While the committee may wish to obtain more detailed advice from Treasury, it seems that the budget analysis work of the PBO would be similar to some of the work undertaken in Treasury's macroeconomic, budget and fiscal areas. It is difficult to see that the PBO could provide the likely required services for the Parliament with fewer than 20 professional staff in this area. The committee may wish to obtain information about the staffing arrangements for the likes of ANZ Economics and



## Submission to the Joint Select Committee on the Parliamentary Budget Office

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Access Economics in order to make some comparison with allowance made for the particular services to be provided by the PBO.

Furthermore, and advice from Treasury may assist the Committee here also, it is suggested that the expertise, experience and qualifications necessary for the PBO's budget analysis staff is unlikely to be found in people below the APS 6 level.

Determining the PBO's staffing requirement for the policy-costing function is more problematic because it will depend in large part on the extent to which its mandate provides for policy costing to be undertaken internally versus by simply putting requests to Executive agencies or commissioning work from external service providers on behalf of Parliament.

The PBO will need the capacity to respond to requests for policy costing covering all areas of government revenue and spending, from defence to natural resource management to social security to industry assistance to community services and so forth. The committee may wish to investigate whether arrangements in the Departments of Prime Minister and Cabinet and Finance and Deregulation offer some guidance on the staffing levels required for dealings with other agencies on policy costing. Assuming the PBO's mandate is somewhere in the middle of the range described in the previous paragraph, a reasonable staffing minimum would appear to be two PBO staff members for each of the current 18 portfolios. There should be no presumption that all such staff would be economists and accountants. The skills of portfolio specialists and program analysts may be equally valuable and necessary.

In the author's experience, the contacts in Executive agencies with the appropriate experience, knowledge and authority to respond to Library inquiries regarding policy costing matters are rarely below the EL1 level and quite often at the EL2 and above levels. Thus it would be appropriate for the professional staff of the policy-costing area of the PBO to be predominantly EL staff.

It is therefore suggested that an effectively functioning PBO would require a minimum of around 60 professional staff. This compares with, for example, the Senate Committee Office full-time equivalent staffing level in 2009–10 of 59; the House of Representatives Committee Office had 64 staff in that year.

It cannot be overemphasised to the committee how essential it is for the PBO to be equipped from the outset with the necessary critical mass of staff and expertise to undertake the functions required of it. Anything less risks the organisation being 'malnourished' from birth and becoming a runt of a resource for the Parliament.

### Positioning the PBO in the Parliament

The *Agreement for a Better Parliament* provides for a PBO '... to be established, based in the Parliamentary Library'; however, this is not reflected in the committee's terms of reference.

Prima facie there may be some appeal in having the PBO in the Library, but there are several reasons why it should be a separate entity to the Library; and for similar reasons, it should not be within DPS.

1. The resources and powers the PBO will require to perform its roles will not be available to the Library, making the two organisations unequal in mandate, powers and status. Further they are likely to be significantly different in their scope and operational approach. In sum they could well have more points of difference than in common.
2. Were the Parliamentary Librarian to have oversight in any fashion of the work of the PBO, there is potential for conflict of interest because the PBO is likely to deal with information provided to it that may otherwise not have been accessible by the Library. Likewise the client confidentiality arrangements under which the Library operates are at less risk of being breached if the PBO is structurally separate.



## Submission to the Joint Select Committee on the Parliamentary Budget Office

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3. Having two completely separate organisations will assist members of Parliament and other parliamentary clients to more readily make the necessary distinction between the services provided by each.
4. There will be less potential for confusion by government agencies and other organisations approached by the PBO and the Library with requests for information.
5. Presuming the head of the PBO is to be a statutory officer (see the earlier section on staffing), organisational and reporting difficulties are likely to arise if one small office is located within another but disparate small organisation, especially if both statutory officers are similarly ranked.
6. The Public Service Act does not create or establish the Parliamentary but rather states at Section 38A (2) "The Parliamentary Librarian and the employees of the joint Department assisting the Parliamentary Librarian may be **known** as the Parliamentary Library" (emphasis added). The committee may thus wish to consider whether the Library is an organisation with a sufficiently robust legislative foundation to be the 'home' of the PBO.
7. Both the PBO and the Library need to be, and need to be seen to be, independent organisations. Unfortunately, and as described elsewhere in this submission, the Library does not operate independently of DPS. Locating the PBO within the Library means it would be subject to some degree to both the Library and DPS.
8. International experience appears to suggest the most successful PBOs are those with the greatest independence and a charter or similar set out in legislation.
9. Although the Library has a Resource Agreement with DPS this has not protected the Library's resources from ongoing budget cuts.

It may be suggested to the Committee that the experience of the Pre-Election Policy Unit (PEPU) that the Library established in 2010 to administer the pre-election initiative mentioned earlier offers a successful template for basing the PBO in the Library. The following considerations render this a debateable proposition:

1. PEPU operated over such a short timescale and with such a small level of resourcing and limited scale of activities that it bore little resemblance to what a fully functioning and empowered PBO is likely to be.
2. Compared to what is generally expected to be the situation with the PBO, the PEPU had no additional resources and/or powers to obtain non-published information from Executive agencies. In a fully fledged PBO, this capacity and the resultant services to Parliament will be a cornerstone and large component of its operations.
3. PEPU's primary outputs were pieces of commissioned research from external providers. These activities and/or services were akin to previous occurrences where the Library's Research Branch commissioned research from consultants and academics. Hence these activities of PEPU could have been adequately managed, although not funded from, within existing Library resources and administrative arrangements.
4. There was no attempt to identify the less formal 'business as usual' policy costing and budget analysis requested of the Library during the pre-election period, nor was an assessment undertaken of the value of these services to Library clients.
5. PEPU's activities did not involve any expenditure on building capacity or expertise within the Library as will be required in a PBO.



# Submission to the Joint Select Committee on the Parliamentary Budget Office

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## Overseas PBOs

While consideration of the operation and effectiveness of other PBOs may be instructive, the committee needs to ensure it designs a PBO that meets the unique requirements and situation of the Australian Parliament. Importing features of other PBOs that appear to work well for other parliaments is no guarantee of their suitability or success in Australia.

## Implications for the Parliamentary Library

### Research Branch

The establishment of the PBO will have significant impacts on the Research Branch of the Parliamentary Library. Some of these will be positive — for example, information generated by the PBO will be able to be used by the Research Branch in both its responses to individual client requests and publications. There will also be some adverse consequences, including current budget analysis and policy-costing work being 'lost' to the PBO. Consequently the Research Branch is likely to no longer offer clients the current integrated multidisciplinary service.

The committee is advised that it is not possible to quantify the amount of budget analysis and policy costing work currently undertaken by the Research Branch. The Library's client request and activity recording system does not classify requests received and publications produced, and there is no obvious reason why it should. In any case, a policy costing is often only one element of a client request, which might also include a history of previous measures, implementation options, identification of winners and losers, international experience, stakeholder views and so on.

The extent of the PBO's impact on the Research Branch will be partly influenced by the analytical scope of the PBO's mandate as discussed earlier. If the PBO is confined to that of an information generator and explainer, this will see less of the work currently undertaken by the Research Branch shift to the PBO. Should the PBO have a much broader scope and provide discussion of budget policies and elements of policy proposals in addition to costings, then that would cover more of the Research Branch's current work.

Regardless of the PBO's mandate, its outputs will provide a considerable amount of information that will fairly certainly form the basis, both directly and indirectly, of other requests to the Research Branch from members of Parliament. There is no way of predicting the quantum of work these new requests might entail, but it is likely to increase over time as the Library, the PBO and members of Parliament settle into the new arrangements. Similarly, it is not possible to predict the extent to which the additional demand for Research Branch services triggered by the PBO might offset any Research Branch work 'lost' to the PBO.

Sorting out the relationship between the Research Branch and the PBO will be a significant operational issue for both organisations including aspects illustrated by the following questions.

- If a client makes a request of the Library which turns out to involve budget analysis or policy costing will the client have to redirect that portion of their request to the PBO themselves or could Research Branch do it on their behalf?
- If, the interests of rigour and quality standards, the PBO adopts, and not unreasonably, a formalised and hierarchical approach to direct client requests leading it to produce less timely responses than clients currently receive from the Research Branch will clients be able to approach the Research Branch for initial 'back of the envelope' style figuring?
- Will the Research Branch be able to make requests of the PBO for budget analysis and policy costing that might be used in Bills Digests and other publications?



# Submission to the Joint Select Committee on the Parliamentary Budget Office

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## Information Access Branch

The Library's Information Access Branch, which is responsible for the Library's collections and the provision of access to information resources, is well placed to supply the information resources required by the PBO. However, it would be reasonable to assume that the Library's collections in subject areas relevant to the PBO will need strengthening, and that additional resources should be provided to Information Access Branch accordingly.

## Transition issues

The following are suggested as transitional issues for the committee's consideration.

### Establishment period

The PBO would benefit considerably having a start up period prior to commencing the provision of services. During this time recruitment and training, including parliamentary acclimatisation, would be undertaken; operating procedures and protocols established; templates for the PBO's services developed and tested; service agreements for corporate support implemented; accommodation arranged; accountability and oversight mechanisms established.

It is suggested that the forgoing activities may require three months or so from the appointment of the Head of the PBO however more informed view may be available from those with appropriate expertise in public sector administration. Establishment of the PBO will be a 'green fields' exercise and unless there is to be some phase-in for PBO services it needs to be fully equipped prior to opening for business.

### Continuity of library services

The prospect of a PBO has already had some unsettling effects on the Research Branch. The decision not to substantively fill the position of Director of Economics pending the PBO arrangements has caused a degree of disquiet among staff. Regardless of the outcome of the committee's work and subsequent decisions about the PBO, the Library needs a properly resourced Economics section including the certainty and leadership that comes from having an EL 2 appointed on a permanent basis.

With the Parliament about to commence a full year's work program including all the issues on the economic policy agenda it is reasonable for parliamentarians to expect the Library to offer the maximum possible resources for the delivery of services. A fully functioning and resourced Economics section is just as vital to Research Branch's service capacity as a Law and Bills Digest section, a Social Policy section and so on.

An associated concern is the informal discussion within the Library that the PBO could be given a kick start by taking on a portion of the Research Branch staff either on secondment or direct transfer. With the Research Branch already struggling to maintain the critical mass of staff needed to produce Bills Digests and respond to all direct client requests received, any sudden and substantial reduction in staff numbers would severely restrict the Research Branch's capacity to fulfil its role. Research Branch staff are well aware that Members and Senators who have an unsatisfactory experience of Library service are at high risk of reducing their use of the Library. It can take a considerable period to rebuild damaged client relationships.

It is of critical importance that activity relating to the PBO's establishment and operation does not in any way disrupt library services.

### Client education

One measure of the success of the transition to a PBO will be how rapidly and effectively all parliamentary clients adapt to the new environment which offers two parliamentary based



## Submission to the Joint Select Committee on the Parliamentary Budget Office

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independent policy research organisations to support their parliamentary and representational functions. To this end, both the Library and the PBO would benefit from the provision of resources for a short term communications strategy promoting client awareness of the distinctions between the two organisations and how best to utilise the services on offer.

A particular aspect of this dual organisation is whether Members and Senators will have direct access to the PBO staff member directly responsible for handling their request as is the case with the Library. If not, and hence the PBO is to operate in a more hierarchical and formalised manner as per the public service with clients only having contact with senior staff, then access arrangements for the will need to be a focus of any education program.