
The Parliament of the Commonwealth of Australia

Report 446

Review of the Operations of the Parliamentary Budget Office

Joint Committee of Public Accounts and Audit

November 2014
Canberra

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ISBN 978-1-74366-232-8 (Printed version)

ISBN 978-1-74366-233-5 (HTML version)

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Foreword

This is the first report of the Joint Committee of Public Accounts and Audit on the operations of the Parliamentary Budget Office (PBO). The inquiry is part of the committee's statutory oversight role, which has enabled us to review the progress of the PBO after only two years of operation. The PBO is also subject to external audit by the Australian National Audit Office, which reported on the administration of the PBO in June 2014.

On behalf of the committee I commend Mr Phil Bowen PSM FCPA, the inaugural Parliamentary Budget Officer, for his leadership of this important new parliamentary body especially during this crucial establishment phase. The PBO commenced operations in July 2012 and has quickly gained the confidence of parliamentarians as an independent non-partisan source of expertise on the budget cycle, fiscal policy and policy costings. It is a significant achievement to build a new organisation from scratch and prepare for the 2013 general election, which included the preparation of a post-election report – a new function added to the PBO's mandate in 2013. While the main work of the PBO has been policy costings, the PBO has also launched a research program and released several papers on national budget trends.

The committee's review has been an early opportunity to examine the framework and operations of the PBO and consider the recommendations of the Australian National Audit Office, the National Commission of Audit and international principles of best practice. The PBO is one of 10 such bodies in the OECD and 29 such institutions around the world, all with varying mandates, powers and resources. While there is valuable experience to be drawn from other countries the Commonwealth model must reflect the unique characteristics of our own political culture and parliamentary system.

The success of the Australian PBO is due in no small measure to a clear legislative mandate; the provision of adequate resources, qualified staff and the co-operation built up between the Parliamentary Budget Officer and Executive agencies. Importantly, the PBO operates in a secure environment under a legal obligation to protect sensitive information at the request of Executive agencies. This has helped

to build confidence between the Executive and the PBO, and enables a greater sharing of information under a non-binding Memorandum of Understanding.

To build on this success we have made eight recommendations that fall into two main categories – access to information and the PBO’s mandate. The changes we propose will bring greater legal certainty to the information sharing relationship and ensure the PBO has comprehensive, timely and free access to all relevant data. In addition, the publication of medium term projections by the PBO will bring a more detailed and longer term view of government spending into the public arena. Extending the post-election report analysis beyond the 4 years to a 10 year medium term will apply the same rigour to the main parliamentary parties.

The PBO is an important addition to our democratic arrangements and has already made a significant contribution to transparency and accountability in the country’s finances. The changes proposed in this report build on that success, and will strengthen the role of the PBO as a respected source of expert analysis on the sustainability of the nation’s finances.

Dr Andrew Southcott MP
Chair



Membership of the Committee

Chair Dr Andrew Southcott MP

Deputy Chair Mr Pat Conroy MP

Members Ms Gai Brodtmann MP

Mrs Jane Prentice MP

Mr Craig Laundry MP

Mr Andrew Giles MP

Dr Peter Hendy MP

Mr Michael Sukkar MP

Mr Angus Taylor MP

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Senator Cory Bernardi

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Senator Dean Smith

Senator Chris Ketter

Senator Bridget McKenzie

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| | |
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Terms of reference

On 17 July 2014, the Committee resolved to inquire into and report on the operations of the Parliamentary Budget Office (PBO), with specific regard to:

- PBO statutory information gathering powers and access to information, including the Contingency Reserve
- PBO reporting of Government progress against a new set of fiscal rules, as recommended by the National Commission of Audit
- PBO reporting against medium-term projections of fiscal outlook beyond the forward estimates
- best practice for independent fiscal institutions as identified by the International Monetary Fund
- PBO implementation of the recommendation from Australian National Audit Office Report No. 36 (2013-14), and
- the need for any legislative change.



List of abbreviations

| | |
|------|---|
| AGA | Australian Government Actuary |
| ANAO | Australian National Audit Office |
| CBO | United States Congressional Budget Office |
| CPBO | Canadian Parliamentary Budget Officer |
| CEE | German Council of Economic Experts |
| CR | Contingency Reserve |
| IFIs | Independent Fiscal Institutions |
| IMF | International Monetary Fund |
| OBR | United Kingdom Office of Budget Responsibility |
| OECD | Organisation of Economic Co-operation and Development |
| PBO | Parliamentary Budget Office |
| MoU | Memorandum of Understanding between the Parliamentary Budget Officer and the Heads of Commonwealth Bodies in relation to the Provision of Information and Documents |
| NABO | Republic of Korea National Assembly Budget Office |
| NCA | National Commission of Audit |



List of recommendations

4 Access to Information

Recommendation 1

The committee recommends that the Government ensures that Commonwealth agencies meet the timelines in response to a request from the Parliamentary Budget Officer as specified in the Memorandum of Understanding.

Recommendation 2

The committee recommends that the legal authority of the Parliamentary Budget Officer should be strengthened by specifying the information gathering powers of the Parliamentary Budget Officer in the *Parliamentary Service Act 1999*. The Government should bring forward amendments to the *Parliamentary Service Act 1999* to express the intention of Parliament that the Parliamentary Budget Officer is entitled to free and timely access to all relevant information held by Executive agencies required to perform his or her functions, except where it is unlawful to do so.

Recommendation 3

The committee recommends that the Government release details of the individual components of the Contingency Reserve to the Parliamentary Budget Officer, subject to any non-disclosure requirements considered necessary.

Recommendation 4

The committee recommends the Government require that where a Commonwealth agency outsources the preparation of budget estimates and costing of policy proposals to a third party, the terms of the contract should enable the agency or the third party to provide all the relevant data, including the underlying calculations, models and methodology, to the Parliamentary Budget Officer under the MoU without charge.

Recommendation 5

The committee recommends that the Government review Commonwealth statutes and remove legislative barriers to the release of information to the Parliamentary Budget Officer, including those identified in this report.

Recommendation 6

The committee recommends that where it is appropriate to retain an administrative discretion, the Government should consider making special provision for the release of data to the Parliamentary Budget Officer and, if necessary, any additional protection for the Commonwealth decision maker.

5 The Parliamentary Budget Officer's mandate

Recommendation 7

The committee recommends that the Parliamentary Budget Officer should prepare and publish medium term projections on an annual basis. The Government should bring forward the necessary amendment to section 64E of the *Parliamentary Service Act 1999* to include the annual preparation of medium term projections as a core function of the Parliamentary Budget Officer.

The Parliamentary Budget Officer should be consulted, and if required, the Government should provide additional resources to enable the Parliamentary Budget Officer to carry out the new function.

Recommendation 8

The committee recommends that the Government bring forward amendments to the *Parliamentary Service Act 1999*, to extend the analysis in the post-election report beyond the period of 4 years (current financial year and 3 year forward estimates) to include, where possible, 10 year medium term projections of the budget impact of the election commitments of the designated parliamentary parties.

The committee recommends that the Government consult the Parliamentary Budget Officer about the timing and detail of the information required on which to base the analysis.

Introduction

- 1.1 Under the *Parliamentary Service Act 1999*, the Joint Committee of Public Accounts and Audit (the committee) has an oversight role in relation to the Parliamentary Budget Office (PBO). The committee has a duty to consider the operations and resources of the PBO, and report to the Parliament on any matters arising from that consideration, or any other matters relating the Parliamentary Budget Officer's functions and powers.¹ Following a Federal general election, the committee may also request the Parliamentary Budget Officer to initiate an independent review, which must be completed within 9 months of the end of the caretaker period.²
- 1.2 On 17 July 2014, the committee decided to commence its inquiry into the operations of the PBO to consider a number of performance and policy issues. The terms of reference take into account the findings and recommendations of a recent Australian National Audit Office (ANAO) performance audit, and the National Commission of Audit.³
- 1.3 The committee's inquiry was announced on 17 July 2014 and a media release was distributed to a wide range of media organisations and published on the committee's webpage. Submissions were invited from all Ministers of the Commonwealth Government, all members of the Commonwealth Parliament, the Leaders of each of the Federal political parties, the Parliamentary Budget Officer, the Auditor General and several external stakeholders.

1 Section 64S, *Parliamentary Service Act 1999*.

2 Section 64T, *Parliamentary Service Act 1999*.

3 ANAO, Performance Audit Report No.36 20-13-14: *The Administration of the Parliamentary Budget Office*, June 2014 (hereafter referred to as ANAO Report; See Chapter 5, *Approach to government and New Fiscal Rules*, in *Toward Responsible Government, Report of the National Commission of Audit*, National Commission of Audit, Commonwealth, 2014 (NCA Report).

- 1.4 The committee received seven submissions, and held one public hearing in Canberra on 28 August 2014.
- 1.5 A list of submitters and witnesses who appeared before the committee appear at Appendices A and B.
- 1.6 The report is divided into five chapters. Chapter 2 provides a short background to the establishment of the PBO and chapters 3, 4 and 5 address the substantive issues arising from the terms of reference.

The Parliamentary Budget Office

- 2.1 This chapter provides a short background to the establishment of the Parliamentary Budget Office (PBO), and comments on the general international trend toward Independent Financial Institutions and principles of best practice.
- 2.2 The question of whether the Parliamentary Budget Officer should have statutory information gathering powers, or whether the mandate of the Parliamentary Budget Officer should be expanded is considered in chapters 4 and 5.

Background

- 2.1 In Australia, the value of establishing an independent PBO has been raised periodically since the 1980s, and been a subject of serious debate since 2005.¹
- 2.2 The Commonwealth adopted the Charter of Budget Honesty in 1998 to provide a framework for fiscal policy, and govern arrangements for election policy costings during the caretaker period for Federal elections.² This reflected a broader trend in developed democracies, with New Zealand and the UK implementing similar legislation in the 1990s.³
- 2.3 In 2010, the Joint Select Committee on the Parliamentary Budget Office of the Commonwealth Parliament was established to examine a proposal

1 For a detailed history see the Joint Select Committee on the Parliamentary Budget Office, *Inquiry into the proposed Parliamentary Budget Office*, March 2011, p.1-2.

2 *Charter of Budget Honesty Act 1998*.

3 Miranda Stewart, Holly Jager, *The Australian Parliamentary Budget Office: Shedding light on the dark arts of budgeting*, (2013) 24 PLR 267.

arising from the *Agreement for a better Parliament* for a PBO to be created in the Parliamentary Library. The *Agreement* was part of the formation of the then minority Government following the 2010 Federal general election.⁴

- 2.4 The PBO was established in 2012, not within the Parliamentary Library, but as a separate Department of the Parliament and largely reflecting the recommendations of the Select Committee.⁵
- 2.5 The PBO is headed by the Parliamentary Budget Officer, Mr Phil Bowen PSM FCPA, who is an independent statutory office holder accountable to the Parliament. The purpose of the Parliamentary Budget Officer is to increase transparency and support informed public debate by providing independent and non-partisan analysis of the budget cycle,⁶ fiscal policy and the financial implications of proposals.⁷
- 2.6 The functions of the Parliamentary Budget Officer are to:
- provide policy costings and budget information and analysis on request to parliamentarians (outside caretaker period);
 - provide policy costings of publicly announced policies on request from leaders of the parliamentary parties and independents during the caretaker period for a general election;
 - report on election commitments of designated parliamentary parties after a general election;
 - conduct self-initiated research on and analysis of the budget and fiscal policy settings;
 - prepare submissions to inquiries of parliamentary committees on request by such committees.⁸
- 2.7 During the parliamentary cycle, policy costings and budget information provided to parliamentarians may be done on a confidential basis if so requested. However, once Parliament has been prorogued for a general election, costings may only be provided for publicly announced policies and must also be published.
- 2.8 In performing these functions, the Parliamentary Budget Officer must use the Government's economic forecasts, parameters and fiscal estimates, and is prevented from preparing independent economic forecasts, or
-

4 The Select Committee also considered the operation of the Charter of Budget Honesty.

5 *Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2011*.

6 The term 'budget cycle' means policies and proposals developed throughout the Budget year, as well as the evolution of estimates and the fiscal outlook publicly released during the year: Department of Finance, <http://www.finance.gov.au/publications/charter-of-budget-honesty/Part2.html>, accessed 17 September 2014.

7 S.64B, *Parliamentary Service Act 1999*.

8 S.64E (1), *Parliamentary Service Act 1999*.

preparing independent budget estimates, whether whole of government, agency or program.⁹

- 2.9 The powers, resources and performance of the PBO are dealt with where relevant in the following chapters.

International trends

- 2.10 The PBO is part of a global trend toward establishing independent organisations to inform public debate on budget matters and fiscal policy. These organisations are variously known as Independent Fiscal Institutions (IFIs), fiscal councils, office for budget responsibility or parliamentary budget offices. They differ from the public audit institutions, which provide ex post assessment of financial integrity and performance of public sector organisations.¹⁰
- 2.11 The trend to establish IFIs, especially in Europe, has been driven by high levels of public debt and increasing pressure on the sustainability of national budgets following the global financial crisis. In turn, IFIs have been a way to strengthen institutional arrangements for sustainable public finances and build public confidence that the financial implications of proposals are informed by credible, expert and independent advice.¹¹
- 2.12 The International Monetary Fund (IMF) and the Organisation of Economic Co-operation and Development (OECD) have monitored the trends in IFIs, and provided research, analysis and support to parliamentary budget officials to identify 'lessons of good practice'.¹²
- 2.13 This work has culminated in the adoption of twenty three principles by the OECD Council on 13 February 2014.¹³ The OECD Council members (which include Australia as a full member) recommended that the principles be taken into account by countries that have established an IFI or are considering establishing an IFI. See Appendix C.
- 2.14 The OECD key principles include:
- independence and non-partisanship;

9 S.64E (2), (3), *Parliamentary Service Act 1999*.

10 Kopits, *Independent Fiscal Institutions: Development Good Practices*, OECD Journal on Budgeting, Vol.2011/1, p. 2.

11 Centre for Policy Development, *Submission 7*, p. 1; PBO, *Submission 1*, p.7.

12 PBO, *Submission 1*, p.8

13 PBO, *Submission 1*, *OECD Principles for Independent Fiscal Institutions*, p.30; Xavier Debrun et al, *The Functions and Impact of Fiscal Councils*, IMF Policy Paper, International Monetary Fund, Washington D.C, July 2013; George Kopits, (2011) *Independent Fiscal Institutions: Developing Good Practices*, OECD Journal of Budgeting, Vol.11/3.

- leadership selected on the basis of merit and technical competence and without political affiliation;
- a clear legislated mandate linked to the budget and scope to produce self-initiated reports and analysis;
- adequate resources and accountability to the legislature;
- a legislated guarantee of timely access to all relevant information;
- full transparency and free public access to reports and analysis;
- effective communications to promote public understanding and fiscal responsibility by government;
- periodic external evaluation.

2.15 The IMF has also tracked the development of the IFIs and provides useful comparative data on the functions, powers and resources of IFI's around the world.¹⁴ The IMF Fiscal Council dataset identifies 29 institutions in 27 countries, with more than half being formed since the global financial crisis.¹⁵ The IMF has also identified key enabling factors that support stronger institutional arrangements and informed debate on fiscal policy.¹⁶ However, these lessons of good practice do not negate the first principle that the institution must be 'home grown and home owned' and 'conform to the country's legal framework and political culture'.¹⁷

2.16 The PBO observed that the role, functions and institutional arrangements of IFI's vary significantly:

Nearly all fiscal councils have a legal right to information essential for the fiscal council's activity – although the form and extent of that obligation can vary significantly.

Around three quarters of fiscal councils prepare or assess macroeconomic forecasts and evaluate long-term fiscal sustainability.

Over half of fiscal councils monitor fiscal rules, with this task being notably more common among more recently formed institutions (around three quarters compared with one third of older institutions).

Costing of measures is also more common among newer institutions (just over half compared with one third of older

14 PBO, *Submission 1, Attachment B, IMF fiscal council dataset*, p.28-29.

15 PBO, *Submission 1*, p.7.

16 Xavier Debrun et al, *The Functions and Impact of Fiscal Councils*, IMF Policy Paper, International Monetary Fund, Washington D.C, July 2013, pp.41-50.

17 Kopits, *Independent Fiscal Institutions: Development Good Practices*, OECD Journal on Budgeting, Vol.2011/1, p. 15.

institutions); the oldest fiscal council (the Netherlands) is required to cost the election platforms of all parties prior to a general election.¹⁸

Committee comment

- 2.17 The increased focus on budget transparency and fiscal responsibility is not unique to Australia but part of a global trend to support informed public debate and promote the long term sustainability of national budgets. The current inquiry is taking place in the context of these broader trends, and the international policy and practice of IFIs.
- 2.18 The data reveals variations in the functions, powers and resources of IFIs and whether the body is accountable to the Parliament. The committee therefore agrees with the general observation made to this inquiry, that there is a need for caution in drawing conclusions for Australia.
- 2.19 The Commonwealth model is still evolving and must be shaped in response to the unique characteristics of our political culture and system of government. This includes the legitimate public expectation that once adopted such bodies form a settled part of our institutional arrangements. The PBO must have the legal safeguards necessary, and be equipped with the mandate, powers and resources to perform its role.

18 PBO, *Submission 1*, p.7.

The Parliamentary Budget Office's performance to date

Introduction

- 3.1 This chapter considers the findings of the Australian National Audit Office (ANAO) performance audit tabled in June 2014, and comments on the budget allocation of the Parliamentary Budget Office (PBO) and comparable overseas institutions.
- 3.2 Having commenced on 23 July 2012, the PBO has had only two years of operation in which to establish a performance record and reputation. Nonetheless, to date the PBO has quickly established itself as a credible, independent source of expertise that has strengthened parliamentary debate on budget and fiscal policy matters.

ANAO audit findings and recommendation

- 3.3 The ANAO was generally very positive about the PBO's performance to date. It concluded that:

...the PBO has effectively undertaken its statutory role and is already well regarded as an authoritative, trusted and independent source of budgetary and fiscal policy analysis. The PBO has made a significant contribution to levelling the playing field for all parliamentarians. Stakeholders consulted during the course of this audit all agreed that, for the first time, all parliamentarians have access to independent policy costing and information request services during all periods of the parliamentary cycle. In addition, parliamentary and peer group stakeholders viewed the costings prepared by the PBO as being of

high quality, and those involved in the costing process agreed that the PBO was professional to deal with. These stakeholders also agreed that the PBO's work has improved the transparency around election commitments, and facilitated a more informed public debate about budgetary matters that has the potential to increase as the PBO releases further information and the public becomes better educated about these topics.¹

3.4 Submissions to this inquiry generally support the ANAO's assessment. The Grattan Institute commented:

Since it was created in 2012, the PBO has established itself as an important institution making significant contributions to Australian policy debate and understanding. It is generally fulfilling its aims of providing independent and non-partisan analysis of the budget cycle, fiscal policy and financial implications of proposals. It has been effective and professional in discharging its remit to provide independent advice on fiscal policies to both political parties and the public.²

3.5 The Australian Greens also agreed:

Having been closely involved in the establishment of the Parliamentary Budget Office (PBO), the Australian Greens are highly satisfied with the quality of its work, the contribution to informed public debate that the PBO has made and the professionalism of the staff.³

The PBO is now a vital institution that has strengthened our democracy by bringing greater accountability and transparency to the policy costings process, particularly during elections.⁴

Pre-election period

3.6 The ANAO's analysis of PBO data also shows extensive utilisation of the PBO services by parliamentarians, with the then opposition Liberal-National Coalition (500 requests) and the Australian Greens (404 requests) making the most requests in the lead up to the election outside of the caretaker period. During the same time-frame, there were a further 12

1 ANAO, Performance Audit Report No.36 20-13-14: *The Administration of the Parliamentary Budget Office*, June 2014 (hereafter referred to as (ANAO Report))

2 The Grattan Institute, *Submission 2*, p. 2.

3 Senator Christine Milne, *Submission 4*, p. 1.

4 The Greens, *Submission 5*, p. 1.

requests made by individual parliamentarians (independent member or private members).⁵

Election period

- 3.7 A different set of protocols applies during the election period – also known as the caretaker period. This is the period preceding an election for the House of Representatives. It begins at the time the House of Representatives is dissolved – in this case, 5 August 2013 – and continues until the election result is clear or, if there is a change of government, until the new government is appointed.⁶
- 3.8 The 2013 election was the first for the PBO and, as a result of its work; it was also the first time that a minor party – the Australian Greens – was included in the caretaker costing process.⁷
- 3.9 During the caretaker period the PBO received 85 requests for costings, and all were completed before polling day – 7 September 2013 – in an average response time of 2.2 business days.⁸

Post-election period

- 3.10 The PBO also helped improve the transparency of budgetary and fiscal issues through its *Post-Election Report of Election Commitments* (the 'Post-Election Report'). This Post-Election Report was a significant achievement as it was the first time the effect of all major parties' election commitments on the budget had been publicly released. Stakeholders interviewed by the ANAO were generally positive about the report, but commented that the report had little publicity and this may have reduced the report's impact.⁹
- 3.11 Parliamentarians also considered the report to be a success, but feedback on the process was mixed. One political party was satisfied with the process, but another party reported concern about the compressed preparation time (the report has to be released 30 days after the end of the caretaker period), and the extensive detail that was given in the report to costing assumptions for individual policies.¹⁰

5 ANAO Report, p. 23.

6 This definition is provided through the ANAO Report, footnote 43, p. 35.

7 ANAO Report, p. 89.

8 ANAO Report, p. 86.

9 ANAO Report, p. 26.

10 ANAO Report, p. 26.

ANAO Recommendations

3.12 The ANAO made only one recommendation which was agreed to by the Parliamentary Budget Officer:

In the interests of greater transparency, the ANAO recommends that the Parliamentary Budget Office includes in all costings, estimates of administrative expenses, where significant.¹¹

Funding and resources

3.13 In 2011–12, the Budget allocation for the PBO was A\$24.9 million over four years, including \$500,000 to provide additional costing capability during the 2013 election. In 2012–13, the PBO had a departmental budget of A\$6.1 million and was allocated a special appropriation of A\$6 million (the prior year's unspent funding, as provision for costs related to the PBO's permanent accommodation and secure IT network project). An additional budget measure in 2013–14 provided the PBO with A\$4.5 million over five years to enhance capability and functions, and to produce the Post-Election Report. This also included \$500,000 for the 2015–16 election period.¹²

3.14 The Parliamentary Budget Officer is of the view that for the current mandate, the resources allocated to the organisation are adequate. However, if the mandate of the Parliamentary Budget Officer is expanded and functions added consideration would need to be given to legislative change and the appropriate level of resourcing.¹³ The work involved, and the resources required, to report on the Government's adherence to the fiscal strategy as proposed by the National Commission of Audit depends very much on the mandate and nature of the monitoring and reporting.¹⁴

3.15 The highest level of independent assurance would involve the PBO preparing independent economic and fiscal forecasts and projections based on government policies over the forward estimates and medium term. This approach would also be the most resource intensive. Indeed, the joint submission of the Departments of Finance and Treasury to the Joint Select Committee on the Parliamentary Budget Office provided detail

11 ANAO Report, p. 30.

12 ANAO Report, p. 53.

13 PBO, *Submission 1*, p. 21.

14 PBO, *Submission 1*, p. 21.

of the 'considerable resources' used to provide economic and fiscal forecasts.¹⁵

Other international financial institutions

3.16 International comparisons with IFI's¹⁶ established in other countries can be problematic as these institutions do not necessarily work under the same mandate, or are structured in the same way.¹⁷ For example, the United States has had an independent and well-staffed Congressional Budget Office while the UK Office for Budget Responsibility tends to have a relatively small number of permanent employees and 'out-sources' much of its work to individuals who are technically employed by other agencies. Germany has an appointed five person 'Council of Economic Experts' who are supported by research staff and issue a report once a year on economic conditions generally.¹⁸ Canada has a small team and like Australia, they are attached to the Canadian Parliament while South Korea's National Assembly Budget Office has a staff of over 100 and is also attached to the parliament.

USA

3.17 In the United States, the Congressional Budget Office was established in 1974 and has a staff of about 220. Most of those people are economists or public policy analysts with advanced degrees, but the agency also employs lawyers, information technology specialists, editors, and people with other areas of expertise that contribute to the agency's mission.¹⁹ The CBO's annual budget for financial year 2014 was US\$ 45.7 million (approx. A\$ 52.1 million)²⁰.

UK

3.18 The Office for Budget Responsibility was created in 2010 to provide independent and authoritative analysis of the UK's public finances. The OBR's Annual Report 2014 lists their Comprehensive Net Expenditure as

15 PBO, *Submission 1*, p. 21.

16 A list comprehensive list of IFI's is included on the UK Office for Budget Responsibility's website: <<http://budgetresponsibility.org.uk/links/#overseas>> accessed 2 October 2014.

17 Professor Miranda Stewart, *Submission 3*, p. 2. See also Attachment B of the Parliamentary Budget Office, *Submission 1*, pp. 28-29.

18 An English web-page can be found at: <<http://www.sachverstaendigenrat-wirtschaft.de/ziele.html?&L=1>> accessed 2 October 2014.

19 Congressional Budget Office website, <<http://www.cbo.gov/about/organization-and-people>> accessed 2 October 2014.

20 Congressional Budget Office website, 'Testimony on CBO's Appropriation Request for Fiscal Year 2015', <<http://www.cbo.gov/publication/45162>> accessed 2 October 2014.

£1.74 million²¹ (approx. A\$ 3.2 million) and the average number of full-time equivalent persons employed during the year was 15.8.²² In practice, OBR utilises staff resources and expertise in other departments and draws on approximately 125 full-time equivalent staff at different times of the year.²³

Canada

3.19 The Canadian Parliamentary Budget Officer was established in 2006 with a mandate to provide independent analysis to Parliament on the state of the Canada's finances, the government's estimates and trends in the Canadian economy; and upon request from a committee or parliamentarian, to estimate the financial cost of any proposal for matters over which the Canadian Parliament has jurisdiction. The CPBO had a staff of 16 and a budget of C\$ 2.8 million (approx. A\$ 2.9 million) for FY 2013-14.

Germany

3.20 Since 1963, the Federal Republic of Germany has had a five person Council of Economic Experts (CEE), which is supported by the twelve members Scientific Staff chaired by the secretary general. Members are government appointed but the Council enjoys complete independence with respect to its advisory activities.²⁴ The CEE's task is to assess Germany's macroeconomic development and aims to aid the general public and relevant institutions in making informed judgements about economic developments. The CEE appears to have no set budget, with administrative support being drawn from existing Federal and State institutions with individual CEE member's remuneration and allowances determined by two Federal Ministers.²⁵

21 Office for Budget Responsibility, *Annual Report and Accounts 2013-14*, <<http://budgetresponsibility.org.uk/wordpress/docs/Final-AR-web-version.pdf>>, p. 29, accessed 2 October 2014.

22 Office for Budget Responsibility, *Annual Report and Accounts 2013-14*, <<http://budgetresponsibility.org.uk/wordpress/docs/Final-AR-web-version.pdf>>, p. 35, accessed 2 October 2014.

23 *External Review of the Office of Budget Responsibility*, September 2014, <http://budgetresponsibility.org.uk/first-external-review-obr-published>, p. 32 accessed 10 October 2014.

24 An English web-page can be found here: <<http://www.sachverstaendigenrat-wirtschaft.de/ziele.html?&L=1>> accessed 2 October 2014.

25 Provisions are described under the establishment law: 'Act on the Appointment of a Council of Experts on Economic Development', <http://www.sachverstaendigenrat-wirtschaft.de/fileadmin/dateiablage/Sonstiges/act_council_of_economic_experts.pdf> accessed 2 October 2014.

South Korea

3.21 The Republic of Korea is served by the National Assembly Budget Office (NABO). Established in 2003, the NABO as a fiscal institution that supports the activities of the legislative body. It aims to enhance the National Assembly's efficiency keeping the government in check and monitoring its operation of national finances.²⁶ The NABO has a staff of 125 people²⁷ and, like Australia and Canada, the NABO is attached to the parliament. In 2009, the NABO had a budget of US\$ 10.6 million.²⁸

Committee comment

3.22 The committee acknowledges the Parliamentary Budget Officer's significant achievements in a short space of time. The PBO has, in only two years, developed into a well-regarded and credible professional parliamentary body that is providing high-quality advice in an impartial manner in accordance with its mandate.

3.23 However, the PBO's future role may yet develop and expand. With this in mind, it would be fruitful to continue to observe overseas IFIs as some of their activities may also strengthen transparency and fiscal responsibility in Australia if adopted. Should the Parliamentary Budget Officer's mandate grow, then the committee recognises that an increase in funding and resources would almost certainly be necessary.

3.24 Further discussion on the possible expansion of the Parliamentary Budget Officer's mandate to report against the government's adherence to fiscal rules and medium term projections is contained in chapter 5.

26 National Assembly Budget Office, 'Establishment and Objective', http://korea.nabo.go.kr/eng/01_about/establishment.page accessed 20 October 2014.

27 National Assembly Budget Office, 'FAQs', <http://korea.nabo.go.kr/eng/generalBBS.do?psStep=list&bbsCD=faqEng> accessed 20 October 2014.

28 See OECD presentation, 'Profile of the National Assembly Budget Office Profile', <<http://www.oecd.org/governance/budgeting/42466211.pdf>> accessed 20 October 2014.

Access to Information

- 4.1 This chapter outlines the current information sharing arrangements between the Parliamentary Budget Officer and Executive agencies and discusses access to information in practice. The question of whether legal guarantees of access to information should be adopted is considered.
- 4.2 Four specific aspects of access to information issues are also canvassed:
- the timeliness of agency responses;
 - access to the detail of individual components of the Contingency Reserve;
 - cost barriers where information is held by third parties within the public or private sector; and
 - legal barriers where statutes prevent disclosure of information and provisions that require an exercise of administrative discretion.

Background

- 4.3 As outlined in chapter 2, the Parliamentary Budget Office (PBO) is a permanent body that provides independent non-partisan information and analysis on a confidential basis on request to parliamentarians on budget, fiscal policy and the financial implications of proposals.¹
- 4.4 At the time of a general election the PBO shifts to a more public role. There is no mandatory requirement for Parliamentary parties or independents to cost their election commitments, however, under the *Charter of Budget Honesty 1998*, they may choose to have their publicly announced policies costed by the PBO or by the Department of the Treasury.²

1 S.64B *Parliamentary Service Act 1999*; PBO, *Submission 1*, p.9.

2 S.64J (2), (5) *Parliamentary Service Act 1999*.

- 4.5 Since 2013, the Parliamentary Budget Officer has also been required to publish an assessment of the individual costs and budget impact of the election commitments of the Parliamentary parties, within 30 days of the election.³
- 4.6 The mandate also includes a self-initiated program of research on budget and fiscal policy; and the provision of submissions to parliamentary inquiries if requested to do so.
- 4.7 In performing these functions the Parliamentary Budget Officer is required by law to use the Government's economic forecasts, parameters and fiscal estimates.⁴ It is crucial therefore, that PBO has timely access to information held by the Executive, and that information includes data of all kinds including models and methodologies.
- 4.8 In its current form, Part 7 Division 2 of the *Parliamentary Services Act 1999* contains no enforceable guarantees of access to information.⁵ During the 2011 inquiry, the then Select Committee considered various approaches and decided that, rather than adopting legal guarantees at the outset, the Commonwealth model should be based on non-binding arrangements that would be monitored and reviewed.⁶ It also chose not to situate the PBO within the framework of the *Freedom of Information Act 1982* (Cth) (FOI ACT). Rather, the intention was to foster a pro-disclosure culture built on co-operative relationships supported by appropriate levels of protection and confidentiality of sensitive information.⁷

Protocol on Engagement between Commonwealth bodies and PBO

- 4.9 A *Protocol to govern the engagement between Commonwealth bodies and the PBO* (the Protocol) was signed by the current Prime Minister, the Treasurer and the Minister for Finance in January 2014. The Protocol expresses the intention of current Government to support the work of the Parliamentary Budget Officer, and requires Commonwealth bodies to

3 *Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2013* inserted sections 64E (1) (da); 64MA, 64MAA, and 64MC.

4 S.64E (2) *Parliamentary Service Act 1999*.

5 Under s.64F the Parliamentary Budget Officer may enter into arrangements with heads of agencies to obtain information and documents, including provision for confidentiality of the information and documents.

6 PBO, *Submission 1*, p. 9; see also Report of the *Joint Select Committee of Inquiry into the Parliamentary Budget Office*, March 2011, pp.61-65; The Select Committee also considered the NSW model, and overseas examples, including Canada and the UK.

7 In NSW, agencies may decline to comply with a request from the PBO on the grounds provided under freedom of information law. During the 2011 inquiry this approach was criticised as placing the PBO in the same position as a member of the public.

adopt a pro-disclosure approach while having regard to other relevant legal frameworks.

- 4.10 The Department of Finance stated the aims of the Protocol are to:
- ensure that relevant information is provided to PBO;
 - outline the responsibilities of the Heads of Commonwealth bodies, and their staff, in engaging with the PBO;
 - establish procedures to ensure consistency and confidentiality of information provided to and by the PBO; and
 - ensure the integrity of the Government's official budget estimates is maintained.⁸

Memorandum of Understanding

- 4.11 In September 2012, the Parliamentary Budget Officer signed a Memorandum of Understanding (MoU) with the then Secretaries of the Departments of Finance and Treasury, and the heads of all other Commonwealth agencies in mid October 2012.⁹
- 4.12 The MoU sets out the roles and responsibilities of the parties and elaborates the operational arrangements in more detail. This includes:
- formal procedures for requesting information;
 - an obligation that agencies respond to urgent requests within 5 working days and routine requests within 10 working days;¹⁰
 - provision for agencies to negotiate confidentiality arrangements with the PBO; and
 - a requirement that the PBO only use the information for the purpose for which it is released, and protect information from unauthorised disclosure.¹¹
- 4.13 The *Parliamentary Service Act 1999*, the Protocol and the MoU encourage maximum disclosure to the PBO, rather than routinely relying on the FOI Act as the benchmark for release. Where it is not possible to release information, the Head of Agency must provide a written explanation outlining the reasons for the non or partial release.¹²

8 Department of Finance, *Submission 6*, p.1.

9 Section 64F enables the Officer to make 'an arrangement' with Heads of Agencies to obtain information and documents relevant to the Officer's function, including provision for confidentiality of the information and documents.

10 Clause 5.2 MoU.

11 Clause 6.2 MoU.

12 S. 64 V (4A), (5) *Parliamentary Service Act 1999*, and Clause 5.2 MoU.

Access to information in practice

- 4.14 The PBO reported that it has made extensive use of the MoU to obtain information, data and models from agencies to enable it to meet requests and build its capability to undertake budget analysis.¹³
- 4.15 From September 2012 to the end of June 2014, 728 responses from agencies were received in response to information requests.
- 4.16 The PBO has also developed standing agreements with agencies for 'over 50 information updates following each economic and fiscal update'. The updates cover information such as the 'economic parameters underpinning fiscal estimates, and models used to estimate program forward estimates'.¹⁴ This is intended to build PBO's capacity and self-sufficiency and reduce the number of requests being made to agencies.
- 4.17 The Australian National Audit Office (ANAO) audit report notes that a key contributor to PBO's success has been 'the good cooperation received from Commonwealth agencies, most notably the Departments of Treasury and Finance'.¹⁵ Of the 20 agencies interviewed for the audit, all agencies reported a general intent to adhere to the spirit of the Protocol, although some identified instances where the timeframe could not be met.¹⁶
- 4.18 An example of a standing agreement was provided by the Department of Finance:

Since 2013, Finance has had a standing agreement with the PBO. Finance provides regular information to the PBO after each economic update, including information and data from the Commonwealth Budget Management System. As the relationship has matured, the scope of this standing agreement has been broadened to accommodate the core data requirements for the PBO.¹⁷

Requests declined or not pursued

- 4.19 In response to a question on notice, the Parliamentary Budget Officer advised there have been 11 instances where requests for information have been declined:
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13 PBO, *Submission 1*, p.10.

14 PBO, *Submission 1*, p.10

15 PBO, *Submission 1*, p.3.

16 ANAO Report, p.70; the examples included instances where a request involved the extraction of historical data, where information needed to be obtained from multiple portfolios, competing priorities in the lead up to a Budget; or the need to deal with multiple requests from PBO.

17 Department of Finance, *Submission 6*, p.1.

- five related to third party holdings and were not pursued due to costs to PBO, such as the Australian Government Actuary, for access to their modelling;
- three on the grounds that the information requested was confidential because it was contained in the Contingency Reserve or related to a decision taken by not yet announced;
- one related to the Higher Education Loan Program and provisions of the *High Education Support Act 2003* prevented release;
- one relating to the Petroleum Resource Rent Tax was declined by the Department of Industry on the grounds of 'commercial-in-confidence'; and
- one involved Treasury forecasting models - no reasons were given in writing, but Treasury provided PBO with 'useful information on the methodology used to forecast revenue'.¹⁸

Timeliness

- 4.20 The ANAO audit found that timeliness was an issue, especially in the initial phase of PBO operations. In summary, the ANAO found:
- that between July 2012 and March 2014, of 653 requests 48% responded by the due date and 52% responded after the due date;¹⁹
 - PBO data also showed that 'there were 18 responses that took more than 51 business days to provide';
 - timeliness was an issue for agencies receiving the highest number of requests, but as requests involved more updates timeliness improved.²⁰
- 4.21 These findings must be balanced against the fact that PBO was established during a busy election period, information requests from parliamentarians peaked during the 2013 election and while the PBO was establishing its repository.²¹
- 4.22 The PBO confirmed that of the 728 responses received between September 2012 to 30 June 2014 half were received late, with the average response being four days late and the average response overall being 12 days.²²
- 4.23 Several factors were influencing agency responses:
- uncertainty about how to respond;

18 PBO, *Supplementary Submission 1.1*, pp.1-2.

19 ANAO Report, Table 3.1, p.66.

20 ANAO Report, p.67.

21 ANAO Report, pp.67-68.

22 PBO, *Submission 1*, p.11.

- lack of awareness of the MoU, especially lack of awareness that the MoU includes models involved in the generation of information;
- narrow interpretation of 'model' to sophisticated econometric analysis rather than simple calculations that underpin estimates in the budget;
- concern about providing models used in preparing material for Cabinet consideration, even where policy options need not be revealed; and
- internal agency clearance processes, especially where underlying calculations may not have been fully documented.²³

4.24 Importantly, PBO observed that:

...potential or perceived political sensitivity of the information has led some agencies to adopt a cautious and conservative approach to the information provided to PBO.²⁴

Committee comment

4.25 The committee is concerned that over the time period analysed by the ANAO, that 52% of responses to requests from the Parliamentary Budget Officer were received after the timelines prescribed by the MoU.

Recommendation 1

4.26 **The committee recommends that the Government ensures that Commonwealth agencies meet the timelines in response to a request from the Parliamentary Budget Officer as specified in the Memorandum of Understanding.**

Contingency Reserve

4.27 The Contingency Reserve (CR) is an accounting entry that appears in aggregate expenses in the Commonwealth's budget figures (Budget Paper 1). It is an allowance that reflects several components including e.g. decisions made but not yet announced; and the tendency for estimates to

23 PBO, *Submission 1*, p. 11.

24 PBO, *Submission 1*, p.11.

- be revised upward.²⁵ In addition, provision for individual measures identified in Budget Paper 2 may be included in the CR where details cannot be published due to commercial sensitivity, national security or where disclosure would disadvantage the Commonwealth.²⁶
- 4.28 In July 2013, the PBO made a general request to the then Department of Finance and Deregulation for access to all individual line items in the CR. The Secretary of the Department refused on the grounds that 'disclosure would be contrary to the public interest'.²⁷
- 4.29 Jane Halton PSM, Secretary of the Department of Finance stated:
- Given the commercial sensitivity of some information (and the potential harm to the Commonwealth interests) as well as to national security, Finance relies on exemptions that are available under the FOI Act to exempt such information from release or disclosure as appropriate.²⁸
- 4.30 The PBO also identified two occasions when a request was declined on the basis that it was confidential because it was contained in the CR, or related to a decision taken but not yet announced.²⁹ For example, 2013 Post Election Report costings for the Coalition and Australian Greens were affected because PBO was unable to 'verify the magnitude the provision made by the former Government for the operation the Regional Processing Centre in Nauru'.³⁰
- 4.31 The ANAO said that:
- While this only affected two policy costings during the preparation of the 2013 Post-Election Report, the likelihood remains that the PBO may not be able to determine the net budget impact of certain policies in the future because it does not have this information.³¹
- 4.32 The PBO argued that the reliability and credibility of its costings are reduced by not having access to the detail of the individual components of

25 The aggregate estimates for the CR are published in Statement 6 of Budget paper 1 in Table A1 and Table 17. A description of the items contained within the CR can be found in Appendix B to Statement 6, Department of Finance, *Submission 6*, p.2.

26 Department of Finance, *Submission 6*, p.3.

27 PBO, *Submission 1*, p.12.

28 Department of Finance, *Submission 6*, p.3.

29 *Supplementary Submission 1.1*, p.1. Specific requests were made to the then Departments of Immigration and Citizenship, and Infrastructure and Transport in relation to the costs of operation immigration detention facilities on Nauru and estimated spending on the then Liveable Cities program.

30 PBO, *Submission 1*, p.13.

31 ANAO Report, p.70.

the CR.³² Although only a small number of costings have been effected to date, this significantly understates the impact because:

- by their nature, policies provided for in the CR are more likely to relate to sensitive policy proposals; and
- the possibility there may be a provision in the CR that would be relevant to a policy costing, has an impact on the confidence of parliamentarians in policy costings generally.³³

4.33 There will also be circumstances where lack of access to detail affects the ability of the PBO to assess the actual feasibility of a proposal. The feasibility of the Coalition's policy to *Reduce the public sector headcount by 12,000 through natural attrition* could not be fully assessed because the impact of the efficiency dividend and other policies on agency staffing costs were included as a confidential provision in the CR. This meant that the PBO could not assess whether the reduction in public servants could be achieved without additional redundancy payments.³⁴

4.34 More recently, the *2013-14 Mid-year Economic and Fiscal Outlook* included a statement that the financial implications of a number of the Government's pre-election commitments had been included in the CR. The PBO explained that it has already released costings for the Government's pre-election commitments in the post-election report. In this case, PBO assumed the costings in the post-election report form the basis of the provision for the pre-election commitments.³⁵

4.35 The PBO submitted that:

While the lack of access to the Contingency Reserve has not prevented the PBO from responding to requests since the election, it has reduced the reliability of costings, as there is a risk that the provision in the budget is different to what the PBO has assumed. Moreover, the ability to continue to adopt this approach in the future is limited, particularly where substantive changes are mooted to the details of a policy proposal.³⁶

4.36 Senator Christine Milne, advocated an amendment to the *Parliamentary Service Act 1999* to provide access to the details of the CR:

The PBO already has access to confidential departmental material which it incorporates into its costings. Not once has the PBO revealed to the public or the MP who requested the costing,

32 PBO, *Submission 1*, p.13; *Committee Hansard*, 28 August 2014, p.14.

33 PBO, *Submission 1*, p.13.

34 PBO, *Submission 1*, p.13.

35 PBO, *Submission 1*, p.13.

36 PBO, *Submission 1*, p.13

classified contents or identifiable figures capable of being reverse engineered.³⁷

- 4.37 The PBO argued that agencies should have confidence that sensitive government information is protected from unauthorised disclosure:
- section 64V of the *Parliamentary Service Act* and the MoU require the PBO to protect the confidentiality of information provided by an agency if directed by the head of an agency;
 - the staff are subject to non-disclosure obligations and the hold high level security clearances;
 - the premises is secure and the IT system is a secure network separate to the parliament house system;
 - the PBO is exempt from the FOI Act and material provided by agencies in response to requests is also exempt from release under s.45A of the FOI Act.³⁸
- 4.38 During the hearing the Parliamentary Budget Officer maintained that, as a matter of principle, it is appropriate that he be given access to the detail and reaffirmed that:
- Under our Act we are required to protect any information that is of a confidential nature, whether it is national security related, commercial-in-confidence or cabinet in confidence. That information would purely be used for the purposes of our work, but the detail would not be disclosed.³⁹
- 4.39 The ANAO audit also found that none of the 20 agencies interviewed by the ANAO were concerned about the PBO's treatment of their confidential information.⁴⁰

Legal guarantees of access to information

- 4.40 The Auditor General, Mr Ian McPhee PSM, reaffirmed his view that a body such as the PBO should be supported by clear legal authority to access information. He noted that the lack of legal guarantees meant the existing legal framework, is not aligned with internationally agreed principles. In his view, the MoU arrangements should be supported by

37 Senator Milne, *Submission 4*, p.2.

38 PBO, *Submission 1*, p.14.

39 *Committee Hansard*, 28 August 2014, p.14.

40 ANAO Report, p.71.

legal provisions that make it clear what Parliament expects in terms of access to information.⁴¹

4.41 The Auditor General did not envisage a need for full coercive powers, such as those contained in the *Auditor General Act 1997*, which include taking evidence on oath from officials and ministers. Rather he proposed an umbrella statutory provision that requires Heads of Agencies to provide the Officer with access to all information relevant to performing his or her functions. He suggested the provision would require some elaboration, but that Parliament's intention should be clear.⁴²

4.42 While the MoU has worked well to date he argued that it is important that the PBO can perform effectively in periods of political tension:

I do not want a situation where the PBO could be slowed down by governments or individual ministers, or by particular agencies, in accessing information which is important⁴³

4.43 In his opinion, statutory powers provide the necessary authority that supports cooperative interactions regardless of the political climate. He submitted that, in practice it is not necessary to use them but he could not perform his role effectively without them.⁴⁴

4.44 The Parliamentary Budget Officer stated that while there is a sound argument in favour of having a legislative right to information, experience to date with the MoU, suggests that its absence is not having a significant adverse effect on PBO operations.⁴⁵ Nevertheless, the Parliamentary Budget Officer would not object to having statutory powers to collect information:

If you look at the experience internationally, many of the international organisations do have statutory information gathering powers. The OECD principles, to which the Australian government is a signatory, do suggest the importance of having statutory information gathering powers.⁴⁶

4.45 Senator Christine Milne, Leader of the Australian Greens, submitted that the Australian Greens are highly satisfied with the professionalism of the PBO. She argued that, rather than relying on a fragile MoU, statutory information powers would strengthen the PBO in the discharge of its

41 *Committee Hansard*, 28 August 2014, p.5.

42 *Committee Hansard*, 28 August 2014, p.6.

43 *Committee Hansard*, 28 August 2014, p.6.

44 *Committee Hansard*, 28 August 2014, p.6.

45 PBO, *Submission 1*, p.3.

46 *Committee Hansard*, p.13.

functions.⁴⁷ Including such powers are a principle of good public policy, and PBO's:

... functions should not be at risk in the future purely because of the political imperatives of the Ministers that those Departments are responsible to.⁴⁸

- 4.46 Professor Stewart, Director of the Australian Tax and Transfer Policy Institute, Australian National University, put a slightly different view, and suggested that as the MoU appeared to be working, that it should be kept under scrutiny and not changed at this time. In particular, she drew attention to the Canadian experience, where 'legislative authority seems not to have been sufficient to enable the PBO to obtain information in a timely fashion.'⁴⁹

Federal General Election – obligation to comply with a request

- 4.47 In 2013 the *Parliamentary Service Act 1999* was amended to expand the role of the Parliamentary Budget Officer at the time of a general election, to include a post-election report. The amendments included a power to request information, and an obligation for Heads of Agencies to cooperate with the Officer's requests.⁵⁰
- 4.48 Under sections 64KA and 64MB a Head of an Agency must comply with a request from Parliamentary Budget Officer relating to the:
- costing of publicly announced policies, or
 - the preparation of the post-election report.⁵¹
- 4.49 The Head of Agency must respond in time to allow the information to be taken into account⁵² unless:
- it is not practicable to do so;
 - it would be unlawful to do so;
 - it would require disclosure of confidential commercial information; or
 - it would require disclosure of information that could prejudice national security.⁵³

47 Senator Milne, *Submission 4*, p.p.1-3.

48 Senator Milne, *Submission 4*, p.2.

49 Professor Stewart, *Submission 3*, p.6.

50 *Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2013*; It is noteworthy that while the provisions appear to create a statutory obligation for Heads of Agencies to comply with a request for information, ss. 64KA(6) and 64MB(9) assert that the provisions do not create any rights or duties enforceable in judicial or other proceedings.

51 *Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2013*, s. 64KA, s. 64MB.

52 S.64KA (3) *Parliamentary Service Act 1999*.

53 S.64KA (3) (a) (d); s.64MB (4), (5) *Parliamentary Service Act 1999*.

- 4.50 Agencies may request that some or all of the information provided to the Parliamentary Budget Officer be kept confidential, invoking the confidentiality obligations under section 64V of the *Parliamentary Service Act 1999*.⁵⁴
- 4.51 The provisions reflect the information gathering process in section 32 of the *Charter for Budget Honesty Act 1998*, which apply between the Secretaries of the Treasury and Finance and other Commonwealth bodies.⁵⁵ At the time of the Bill, the Treasury said the justification for the provisions was simply that ‘it is appropriate that similar processes apply for similar tasks in similar circumstances’.⁵⁶
- 4.52 There are some important differences in that sections 64KA and 64MB:
- regulate the relationship between the Executive and an independent office holder with a statutory mandate to service the Parliament, (as distinct from cooperation within the Executive);⁵⁷
 - exclude information that is commercially confidential or that could prejudice national security if disclosed; and
 - enable Heads of Agencies to require that information be treated as confidential.

Committee comment

Legal guarantee of access to information

- 4.53 The 2011 Select Committee came to a considered view that, at least in the first instance, the PBO’s access to information should be based on non-binding arrangements and subject to review. The Protocol and the MoU provide the framework for day to day interactions and, by and large, the arrangements are working well. There is now an opportunity to build on

54 S.64KA (4) *Parliamentary Service Act 1999*.

55 Explanatory Memorandum, *Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2013*, p.14.

56 Daniel Weight, *Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2013*, Bills Digest No.119, 2012-13, p.9; Section 32 *Charter of Budget Honesty Act 1998* provides that:

(1) To help a responsible Secretary to prepare aspects of a policy costing for which he or she is responsible, he or she may request a Commonwealth body to provide information.

(2) A Commonwealth body is to comply with a request in time to allow the information to be taken into account in the preparation of the policy costing, unless it is not practicable for the body to do so. The body does not have to provide information if doing so would contravene another law of the Commonwealth

57 Although the Officer is a Secretary of a Parliamentary Department, under s.64P of the *Parliamentary Service Act 1999* the Officer performs functions under s. 64E (1) independent of the Presiding Officers.

that foundation and consider the wider public interest in securing the role of the PBO into the future.

- 4.54 In a democracy it is generally accepted that legal guarantees of access to information are an essential feature of an independent body established to increase transparency and scrutiny of government activity. In Australia, statutory rights, duties and powers underpin the authority of bodies such as the Auditor General and the Ombudsman. These legal guarantees bring certainty to the roles and responsibilities of the parties and inoculate the independent office from the risks of a changing political climate.
- 4.55 New sections 64KA and 64MB of the *Parliamentary Service Act 1999* provide some legal support to the role of the Parliamentary Budget Officer, but the provisions are limited in application and framed as not creating any rights or duties.
- 4.56 It would be a prudent and timely exercise in good government to strengthen the legal authority of the Parliamentary Budget Officer, by making clear the Parliament's intention that the Parliamentary Budget Officer is entitled to free and timely access to all relevant information. To this end, the information gathering powers of the Parliamentary Budget Officer should be specified in the *Parliamentary Service Act 1999*. The Act already contains legal guarantees for the protection of sensitive Executive information, which underpin the trust and cooperation between the parties. Amending the Act to include an express statutory right of access to information and a statutory duty to comply with a request within a certain timeframe would bring balance to the existing scheme.
- 4.57 The addition of such provisions would remove doubt and enable Heads of Agencies to act with confidence bringing greater symmetry to the relationship between the Executive and Legislature. It would also protect the public interest in ensuring that the PBO is able to perform its functions regardless of the prevailing political climate.

Recommendation 2

- 4.58 **The committee recommends that the legal authority of the Parliamentary Budget Officer should be strengthened by specifying the information gathering powers of the Parliamentary Budget Officer in the *Parliamentary Service Act 1999*. The Government should bring forward amendments to the *Parliamentary Service Act 1999* to express the intention of Parliament that the Parliamentary Budget Officer is entitled to free and timely access to all relevant information held by Executive agencies required to perform his or her functions, except where it is unlawful to do so.**

Contingency Reserve

- 4.59 As noted above, the *Parliamentary Service Act 1999* contemplates that some information can be provided to the PBO without being released to parliamentarians or the public. It appears that, in practice, much of the information provided to the PBO, especially in relation to models and calculations used for the preparation of budget estimates or the financial impact of budget measures is already provided on that basis.
- 4.60 The PBO also has measures in place to protect confidential or sensitive government information from unauthorised disclosure.
- 4.61 The committee is of the opinion that details of the individual components of the Contingency Reserve should be made available to the PBO subject to any requirement of non-disclosure to parliamentarians or the public considered necessary. This pro-disclosure approach is more consistent with the policy and intention of the Parliament in establishing the PBO, which already provides for the protection of Executive information.

Recommendation 3

- 4.62 **The committee recommends that the Government release details of the individual components of the Contingency Reserve to the Parliamentary Budget Officer, subject to any non-disclosure requirements considered necessary.**

Cost Barriers – Outsourcing and Third Party holdings

- 4.63 In some instances, the outsourcing of policy costing and/or the preparation of budget estimates has impeded PBO's access to information.⁵⁸ The Parliamentary Budget Officer identified five instances where access to information was not pursued due to the costs of accessing information held by a third party.⁵⁹ The third party might be a public sector agency, such as the Australian Government Actuary, or a private consultant.
- 4.64 The experience of the PBO to date is that third party providers charge the outsourcing agency with a 'significant additional fee' to provide information to PBO. Third parties have also been unwilling to provide the PBO, or the policy agency, with the model used to prepare the budget

58 PBO, *Submission 1*, p.14.

59 PBO, *Supplementary Submission 1.1*, p.1.

estimates or policy costings.⁶⁰ This has been the case, even where the third party is a government agency, namely the Australian Government Actuary, which is covered by the MoU.⁶¹

- 4.65 The PBO is not resourced to pay fees to third parties, and did not pursue Australian Government Actuary modelling due to the costs. In order to respond to requests from parliamentarians the PBO developed its own model and benchmarked it against official estimates. However, the PBO commented that this reduces the reliability of policy costings and increases the risk that PBO's costings will differ from official estimates.⁶²
- 4.66 The PBO also submitted that outsourcing budget estimates and policy costings can reduce the scope for PBO 'to work collaboratively with agencies in understanding the links between elements of the policy and its financial implications'.⁶³

Committee comment

- 4.67 The PBO is not resourced to pay fees to third parties, and, while it has found ways to respond to requests, the outsourcing of policy costing and budget estimates may significantly impact on PBO in the future.
- 4.68 The committee takes particular note of the situation with regard the Australian Government Actuary, which is covered by the MoU. Clause 5.4 of the MoU clearly states that no fees are payable by the Parliamentary Budget Officer or the PBO for the provision of, or access to, information under the MoU.
- 4.69 The committee supports the proposal by the PBO, that where agencies outsource the preparation of budget estimates and the costing of policy proposals, the terms of the contract should enable them to provide all relevant information, including the costing model to the PBO under the MoU without charge.

60 PBO, *Submission 1*, p.14.

61 The Australian Government Actuary is a 'fully self-funded unit' within The Treasury that provides a range of services, including modelling and assessment of long term financial liabilities and risks and analysis of Budget policy options. See <http://www.aga.gov.au/about/default.asp> accessed 7 October 2014.

62 PBO, *Submission 1*, p.14.

63 PBO, *Submission 1*, p.15.

Recommendation 4

4.70 The committee recommends the Government require that where a Commonwealth agency outsources the preparation of budget estimates and costing of policy proposals to a third party, the terms of the contract should enable the agency or the third party to provide all the relevant data, including the underlying calculations, models and methodology, to the Parliamentary Budget Officer under the MoU without charge.

Legislative barriers – prohibitions and discretions

4.71 The PBO submitted that there have been several instances where legislative provisions have either prevented or delayed the PBO's access to detailed (de-identified unit record) information and models.⁶⁴

4.72 These legislative provisions fall into three categories:

- prevents the agency from providing information to the PBO;
- requires an exercise of discretionary power by the agency to provide the information to the PBO; and
- legislation that has been amended to allow the agency to provide previously prohibited information to the PBO.

4.73 Where the release of the information requires the head of the agency to exercise a discretion the PBO's experience is that some agencies take a cautious and conservative approach. This has impacted on the timeliness of the release of data.

4.74 PBO suggested a conservative bias may stem from:

- a degree of ambiguity regarding whether the data can be released to PBO;
- the prospect of penalties and prosecution over the improper release of data; and/or
- concern that the PBO may not hold the data with the appropriate level of security.⁶⁵

4.75 The legislation that falls into this category is:

- *Paid Parental Leave Act 2010* (s.128(1));
- *Social Security (Administration) Act 1999* (s.208 (1));

64 PBO, *Submission 1*, p.15.

65 PBO, *Submission 1*, p.15.

- *A New Tax System (administration) Act 1999* (s.168(1));
 - *Student Assistance Act 1973* (s.355(1)); and
 - *Aged Care Act 1997* (s.86 (3)).
- 4.76 Provisions that prevent a Head of an Agency from releasing information to the PBO are:
- *Higher Education Support Act 2003* (s.180-10(1));
 - *National Health Act 1953* (s.135A);
 - *Dental Benefits Act 2008* (s.34(4),36(1));
 - *Private Health Insurance Act 2007* (s.321-1,s.323-20(1),(3)); and
 - *Health Insurance Act 1973* (s.130 (3A)).
- 4.77 There were amendments in 2013 to the *Taxation Administration Act 1953* to allow the PBO to access protected de-identified taxpayer information. The provision of de-identified tax unit record data was said to have enabled the PBO to:
- ... become more self-reliant, building modelling capacity to provide costings on a range of tax policy proposals. While the unit record data itself is not released by the PBO, used as an input to costing models it allows for more accurate and timely estimates of the financial implications of policy proposals.⁶⁶
- 4.78 In addition, following the exercise of administrative discretion of Agency Heads, the PBO also holds de-identified pension and child care data.
- 4.79 The PBO argued that removing legislative barriers to a broader range of de-identified unit record data would allow the PBO to extend its costing capacity though the development of more detailed and flexible models for government programs and payments.⁶⁷ However, the confidentiality and the protection of the privacy of individuals is a key concern when removing legislative barriers to PBO access to such data. On this point, PBO stressed that it holds de-identified data with 'appropriate security and confidentiality, including a secure IT network, physically secure offices (in addition to Parliament House perimeter security) and staff security clearances'.⁶⁸

66 PBO, *Submission 1*, p.15.

67 PBO, *Submission 1*, p.15.

68 PBO, *Submission 1*, p.16.

Committee comment

- 4.80 Legal barriers to the provision of information to PBO contained within specific statutes identified by the PBO should be amended to allow PBO access to de-identified unit data. This is an important piece of housekeeping to ensure there are no unintended barriers or limitations that undermine the PBO's capacity to build a self-reliant costing capacity.
- 4.81 The amendment to the *Tax Administration Act 1953* is a useful precedent. The committee also commends the Commonwealth's action in providing de-identified pension and child care data to PBO.
- 4.82 That said, individual privacy is a paramount consideration, and a Head of Agency is entitled to be satisfied that the PBO's arrangements to protect the security and confidentiality of sensitive data meets Commonwealth standards. It is also reasonable to consider what additional protection, if any, is required to provide assurance to Heads of Agencies that they are not at risk of prosecution for releasing such data to PBO. This might be especially applicable where an exercise of discretion is required.

Recommendation 5

- 4.83 **The committee recommends that the Government review Commonwealth statutes and remove legislative barriers to the release of information to the Parliamentary Budget Officer, including those identified in this report.**

Recommendation 6

- 4.84 **The committee recommends that where it is appropriate to retain an administrative discretion, the Government should consider making special provision for the release of data to the Parliamentary Budget Officer and, if necessary, any additional protection for the Commonwealth decision maker.**

The Parliamentary Budget Officer's mandate

Introduction

- 5.1 This chapter canvasses views on the possible expansion of the Parliamentary Budget Officer's role to include:
- reporting of Government progress against a new set of fiscal rules, as recommended by the National Commission of Audit (NCA);
 - reporting against medium-term projections of the fiscal outlook beyond the forward estimates; and
 - an extension of the post-election report analysis of the election commitments of designated parliamentary parties to include medium term projections.

National Commission of Audit – Fiscal Rules

The NCA's recommendation

- 5.2 Under the *Charter of Budget Honesty 1998* each new Commonwealth Government is required to release a fiscal strategy at its first budget to inform future policy decisions.
- 5.3 The NCA was established by the Abbott Liberal-National coalition Government in October 2013 to:
- examine the scope and efficiency of the Commonwealth Government;
 - comment on the state of its finances; and
 - advise on steps to ensure Australia's long-term fiscal strategy is responsible and sustainable.

- 5.4 The NCA released its report in February 2014 and concluded that the high level fiscal strategy should have clear objectives and be based on principles of sound fiscal management and a sustainable medium term framework.¹ In order to achieve the high level strategy, the NCA also recommended that the Commonwealth adopt a set of fiscal rules.
- 5.5 The nature and scope of the fiscal rules recommended by the NCA is outside the scope of this inquiry. However, the NCA found that there is no extant official mechanism for reporting the government's progress against, and adherence to, fiscal strategy. Including such a mechanism would improve accountability and transparency of government's fiscal situation and direction.
- 5.6 In this regard, the NCA concluded that the Parliamentary Budget Office (PBO) could play a formal role in assessing fiscal policy and tracking the government's decisions against the fiscal rules. It recommended that the *Charter of Budget Honesty Act 1998* be amended to require the PBO to report progress against the government's medium-term fiscal strategy following the release of the Final Budget Outcome each year.²

Responses by other parties

- 5.7 In response, the PBO observed that the NCA's recommendation was consistent with international practice, with more than half of the IFIs having a mandate to monitor, assess and report on progress against fiscal rules. It is also consistent with empirical evidence that the effectiveness of fiscal rules is improved by their independent assessment by IFIs.
- 5.8 The PBO noted that any decision on whether to expand the PBO's mandate is a matter for the Government and, ultimately, the Parliament. The PBO maintained that if it is to monitor fiscal rules it should do so by relying on official economic forecasts and projections but prepare independent medium term fiscal projections.³
- 5.9 The Australian National Audit Office (ANAO) observed that of the seventeen IFIs in OECD countries, six have no role in monitoring compliance with fiscal rules (Australia, Canada, Korea, Mexico, the Netherlands and the United States).⁴ If fiscal rules are to be adopted the

1 National Commission of Audit Report, pp. 58-59.

2 National Commission of Audit Report, pp. 58-59.

3 PBO, *Submission 1*, p. 20.

4 ANAO Audit Report 36, 2013-14, 'Audit Report Summary' <<http://www.anao.gov.au/Publications/Audit-Reports/2013-2014/The-Administration-of-the-Parliamentary-Budget-Office/Audit-summary>> accessed 23 September 2014.

ANAO suggested the Government should report against its own progress.⁵

5.10 The Grattan Institute supported the NCA's recommendation and noted that it would be consistent with the role of many overseas IFIs. The Grattan Institute cited International Monetary Fund (IMF) reports that more than 75 per cent of the 'new generation' fiscal councils (i.e. post 2004) have an explicit role in monitoring fiscal policy rules and that the IMF nominates this function as one of the features of an effective fiscal council.⁶

5.11 Professor Miranda Stewart supported the existing arrangement and was critical of changes to the PBO's mandate. Professor Stewart argued that:

Fiscal rules are political in nature and cannot be enforced through legal or "independent" political mechanisms. A better approach is to establish guidelines, procedures and institutions that can educate, cost and publish fiscal policies and outcomes with a prudent and longer term framework and as transparently as possible. This is a reason why IFIs have become increasingly recommended in recent years, as it is recognised that institutional and procedural approaches are needed to ensure fiscal prudence. The Australian approach of a flexible and transparent fiscal framework is sensible. A risk is that the short-term timeframe of our political process will undermine medium and long term goals of fiscal sustainability. There is a role for the PBO in publicising the medium term consequences, not just immediate fiscal consequences, of policies.⁷

5.12 Senator Christine Milne, Leader of The Greens in the Parliament and The Greens party itself both made submissions to the inquiry but did not comment on this aspect of the PBO's operations.⁸ The Department of Finance similarly declined to comment in this issue,⁹ while Matthew Jensen from the Centre for Policy Development's submission implicitly rejected the concept of tighter fiscal rules.¹⁰

The Government's response

5.13 The Abbott Government has yet to respond to the NCA's recommendation on the adoption of fiscal rules, or the role of the Parliamentary Budget

5 ANAO, *Committee Hansard*, 28 August 2014, p. 7.

6 The Grattan Institute, *Submission 2*, p. 6.

7 Professor Miranda Stewart, *Submission 3*, p. 3.

8 Senator Christine Milne, *Submission 4*; and The Greens, *Submission 5*.

9 Department of Finance, *Submission 6*.

10 Mathew Jensen, Centre for Policy Development, *Submission 7*, p.7.

Officer in monitoring and reporting on Government adherence to fiscal strategy.

Reporting against medium-term projections

- 5.14 In its submission to the committee, the PBO made a number of observations about medium-term fiscal projections. First, the time period over which fiscal estimates are published has important implications for the ability of the parliament and the public to assess the sustainability of the budget as a whole, and the financial implications of policy proposals.¹¹
- 5.15 Australia's budget papers include detailed estimates of the components of revenue and expenditure over the so-called 'forward estimates' period - the current (budget) fiscal year and the following three years. This reflects an assumption that the ongoing financial implications of most measures adopted in the budget would reach maturity within that four-year period.¹²
- 5.16 The PBO noted that over time there have been a number of instances where the financial impact of policy measures is significantly different beyond the forward estimates period.¹³ The period covered by medium term projections is generally accepted to be ten years, and medium term fiscal projections have taken on a more prominent role.
- 5.17 The PBO observed, however, that while
- The increasingly prominent role of aggregate medium term fiscal projections has seen the level of detailed modelling underpinning medium-term fiscal projections increase over time. However there has not been a commensurate increase in the level of detail published. While projections of medium-term tax receipts are prepared by revenue head, only total receipts are published. Similarly, medium-term expenditure projections are based on modelling of major demographic spending areas and interest payments on Commonwealth Government Securities, but only total payments are published.¹⁴
- 5.18 The PBO concluded that the publication of detailed figures underpinning the aggregate medium-term fiscal projections would improve the

11 PBO, *Submission 1*, p.17.

12 PBO, *Submission 1*, p. 17.

13 PBO, *Submission 1*, p. 18.

14 PBO, *Submission 1*, p. 18.

transparency and accountability of the budget and ultimately contribute to achieving and maintaining fiscal sustainability.¹⁵

- 5.19 The PBO itself has been developing the technical capability to produce and assess detailed estimates of the medium-term fiscal position and expects to be publishing reports on the structural drivers of government expenditure over the medium term and the sensitivity of medium-term projections to economic shocks in the near future.¹⁶
- 5.20 Ideally, the PBO argued that the Government should expand its current medium-term projections in the annual budget papers to also publish the more detailed estimates of revenue and expenditure that underpin these projections. The PBO also argued that there would also be value in the budget papers providing commentary on the underlying drivers of revenue and expenditure over the medium term, including the key assumptions made in their derivation.¹⁷

Committee comment

Fiscal rules

- 5.21 With regard to fiscal rules, the existing practice is for governments to outline their fiscal strategy in the Budget Papers at the time of its first Budget. The current Abbott Government has not yet responded to the National Commission of Audit recommendation that Australia adopt more prescriptive fiscal rules to underpin the high level fiscal strategy. In the absence of a clear government policy on fiscal rules, the committee refrains from making a recommendation about the possible role, if any, that the PBO might play in that regard.
- 5.22 The committee endorses the view that PBO's purpose and role is both to increase transparency, and enable neutral analysis of the long term sustainability of government spending. PBO's corporate strategy includes a program of research and analysis as a means of investigating these broader issues, including the underlying methodologies.
- 5.23 In May 2013, the PBO published estimates of the Australian Government's Structural Budget Balance for the period 2001-02 to 2016-17.¹⁸ The PBO

15 PBO, *Submission 1*, p. 18.

16 Parliamentary Budget Office, *Submission 1*, p. 19.

17 Parliamentary Budget Office, *Submission 1*, p. 19.

18 Parliamentary Budget Office, 'Estimates of the structural budget balance of the Australian Government: 2001-02 to 2016-17', available at:

also plans to research and analyse the effectiveness of fiscal responsibility frameworks –including fiscal rules, and their effectiveness in supporting fiscal discipline’.¹⁹

Medium term projections

- 5.24 In relation to publishing medium term projections of the fiscal outlook, the committee acknowledges the PBO’s concern about the lack of detail provided in the Budget Papers and notes the PBO’s observation that this is primarily a government responsibility and should be a part of the Budget process.
- 5.25 The committee supports the PBO’s commitment to publish analysis on longer term issues and trends. In August, the PBO published *Projections of Government spending over the medium term*, which provides a detailed assessment of twenty-one programs that account for three-quarters of projected growth in spending over the medium term.²⁰ The paper is a welcome example of the high quality analysis that PBO can contribute to on the sustainability of spending over the medium term.²¹
- 5.26 The research program of the PBO for 2014-15 also includes:
- an analysis of the sensitivity of the budget estimates over the medium term to changes in key economic parameters; and
 - projections of Government revenue by major revenue head over the medium term and key economic drivers of these projections.²²
- 5.27 The committee agrees that more detailed medium term fiscal projections would make a valuable contribution to informed public debate and promote fiscal responsibility. The medium term projections should

<<http://www.aph.gov.au/~media/05%20About%20Parliament/54%20Parliamentary%20Depts/548%20Parliamentary%20Budget%20Office/Parliamentary%20Budget%20Office%20Structural%20Budget%20Balance.pdf>> accessed 24 September 2014.

19 Parliamentary Budget Office, ‘PBO Work Plan 2013-14’, available at: <<http://www.aph.gov.au/~media/05%20About%20Parliament/54%20Parliamentary%20Depts/548%20Parliamentary%20Budget%20Office/2013-14%20Work%20Plan/131218%20PBO%202013-14%20Work%20Plan.pdf>> accessed 24 September 2014.

20 *Projections of Government spending over the medium term*, Parliamentary Budget Officer, August, 2014.

21 Parliamentary Budget Office, ‘Projections of Government spending over the medium term’, available at: <http://www.aph.gov.au/~media/05%20About%20Parliament/54%20Parliamentary%20Depts/548%20Parliamentary%20Budget%20Office/Reports/02-2014%20Projections%20of%20Government%20spending%20over%20the%20medium%20term/Report%2002_2014%20Projections%20of%20Australian%20Government%20spending%20over%20the%20medium%20term.pdf> accessed 24 September 2014.

22 PBO, *Workplan 2014-15*, Commonwealth of Australia, 2014, p.3.

- include analysis that examines the sensitivity of major expenditure and revenue items to varying economic, fiscal and demographic factors.
- 5.28 The annual preparation and publication of medium term projections would fill a gap that currently exists by providing a link between the higher level fiscal strategy, the forward estimates and the longer term intergenerational reporting.
- 5.29 The committee believes this would a worthwhile and cost effective extension of the functions of the Parliamentary Budget Officer. However, it is important that the PBO is properly resourced to ensure that the professional standards of quality and timeliness established in the first two years of operation are maintained. Accordingly, there will need to be consideration of whether a small amount of additional dedicated resources are required.

Recommendation 7

- 5.30 **The committee recommends that the Parliamentary Budget Officer should prepare and publish medium term projections on an annual basis. The Government should bring forward the necessary amendment to section 64E of the *Parliamentary Service Act 1999* to include the annual preparation of medium term projections as a core function of the Parliamentary Budget Officer.**

The Parliamentary Budget Officer should be consulted, and if required, the Government should provide additional resources to enable the Parliamentary Budget Officer to carry out the new function.

Post-election report – medium term projections

- 5.31 During the caretaker period for a general election the Government, the Opposition and minor parties (with at least 5 members in the Parliament) may obtain a costing of their publicly announced election commitments from the Parliamentary Budget Officer or the Secretaries of the Treasury or the Department of Finance and Deregulation.²³ Other parliamentary parties or sitting independents seeking re-election may use the services of the Parliamentary Budget Officer for this purpose.

23 Requests for costings of an election commitment are made under either s.64J *Parliamentary Service Act 1999* or clause 29 Schedule 1 *Charter of Budget Honesty Act 1998*. The Secretary to the Treasury is responsible for costing policies affecting taxation revenue and taxation expenditure; while the Secretary of the Department of Finance and Deregulation is responsible for costing policies that affect outlays and expenses and non-taxation revenue.

- 5.32 There is no compulsion on any party or independent to announce or have their election commitments costed. However, costings of publicly announced election commitments are made public as part of promoting greater transparency during election campaigns.²⁴
- 5.33 As noted in chapter 4, in 2013 the role of the Parliamentary Budget Officer at election time was expanded to include the preparation of a post-election report.²⁵ Section 65MA (1)(a)(b) of the *Parliamentary Service Act 1999* requires that the post-election report sets out:
- the costings of all election commitments of each ‘designated parliamentary party’ the Parliamentary Budget Officer reasonably believes would have a material impact on the Commonwealth budget and fiscal estimates for the current financial year and the following 3 years;²⁶ and
 - the total combined impact of those election commitments on the Commonwealth budget and the fiscal estimates for the current financial year and the following 3 financial years.
- 5.34 The objective is to ensure the electorate is better informed about the budget implications of the election commitments of the Government, the Opposition and significant minor parties. Consequently, each ‘designated parliamentary party’ is legally required to submit a list of its publicly announced election commitments by 5 pm on polling day to the Parliamentary Budget Officer.²⁷ The Parliamentary Budget Officer has the discretion to include both the listed policies and those he or she has identified from public announcements made by the party before or during the caretaker period.²⁸
- 5.35 The post-election report includes the costings prepared by the Parliamentary Budget Officer under the provisions of the *Parliamentary*

24 Section 64L, 64LA *Parliamentary Service Act 1999*, clauses 31, 31A Schedule 1, *Charter of Budget Honesty Act 1998*.

25 Sections 64MA (1), 64MC (1) *Parliamentary Service Act 1999* requires the report to be published within 30 days of the end of the caretaker period

26 A ‘designated parliamentary party’ means a political party with at least five members who were members of the Parliament of the Commonwealth immediately before the caretaker period, as defined in section 7 of the *Parliamentary Service Act 1999*.

27 Section 64MA (3) *Parliamentary Service Act 1999*.

28 Sections 63MA (3)-(8) set out the requirements of the designated Parliamentary parties to submit a list of election commitments to the Parliamentary Budget Officer, and for the Parliamentary Budget Officer to provide an opportunity for those parties to comment on his or her final selection of policies for analysis.

Service Act 1999, and/or by the Secretary to the Treasury and the Secretary to Finance under the *Charter of Budget Honesty Act 1998*.²⁹

- 5.36 The Pre-Election Economic and Fiscal Outlook (PEFO) released by the Secretaries of Treasury and Finance within 10 days of the issue of a writ for a general election provide the baseline of the analysis.³⁰ The Parliamentary Budget Officer's costings are also prepared in accordance with the Charter of Budget Honesty Policy Costing Guidelines issued by the Secretary to the Treasury and the Secretary of Finance.³¹
- 5.37 During the public hearing, the question was raised whether medium term projections could be produced in relation to the policies of the non-government parliamentary parties. Although, it would be difficult to produce comparative projections during the parliamentary cycle, the Parliamentary Budget Officer agreed that at the time of the post-election report the PBO has virtually the same information from government and the main non-government parties about their election platforms.
- 5.38 The Parliamentary Budget Officer stated:

In the post-election report, we have in fact produced that analysis and aggregated the impact of election commitments on the budget for all of the major parties.

...

That analysis, as required by our legislation, is a partial analysis in the sense that we are not reviewing the entire budget but we are aggregating the impact of election commitments by these parties and their impact on the budget. Legislation requires us to do it over the budget and forward estimates but, in addition to that, we have identified in the report where there would be significant divergences from those estimates in the out years.³²

29 *Post-election report of election commitments: 2013 general election*, Commonwealth of Australia, 2013, p.2.

30 In performing the functions of the PBO, the Parliamentary Budget Officer must use the economic forecasts and parameter and fiscal estimates contained in the most recent report released under Part 5, 6 and 7 of Schedule 1 to the *Charter of Budget Honesty Act 1998*; the PEFO is prepared under Clause 22, Part 7, Schedule 1 *Charter of Budget Honesty Act 1998*.

31 Under section 64G the Parliamentary Budget Officer must prepare policy costings using approaches and costing conventions recommended in the most recent guidelines issued under the Charter of Budget Honesty. The Parliamentary Budget Officer may, with the agreement of the responsible Secretaries, publish his own written principles. No separate or alternative principles have been published by the Parliamentary Budget Officer, who is therefore required to follow The Policy Costing Guidelines issued under clause 30, Part 8, Schedule 1 of Charter of Budget Honesty Available at: <http://www.finance.gov.au/publications/charter-of-budget-honesty/>, accessed 3 November 2014.

32 Mr Phil Bowen, PSM FCPA, Parliamentary Budget Officer, *Committee Hansard*, 28 August, 2014, p.11.

5.39 This approach is consistent with the Policy Costing Guidelines, which state that:

Costing estimates will be provided for the current financial year plus the following three years. Where a revenue/expense cost is likely to be significantly different beyond this forward estimates period – for example, because the measure is not scheduled to commence or reach ‘maturity’ until after the forward estimates period – it may be necessary to include a statement about the financial impact of the policy in the relevant years beyond the forward estimates. For instance, where a measure is terminating after the four forward estimates years (for example, after a 10 year period), the Secretaries will endeavour to provide their best estimate of the cost of the policy in the relevant years beyond the forward estimates.³³

Committee comment

5.40 The budget impacts of policies are often not felt until beyond the forward estimates and it is important therefore that, wherever possible, the more detailed analysis of the longer term implications of policies is available.

5.41 Under the existing Policy Costing Guideline, the statements on the longer term impacts of election commitments are a valuable addition to the analysis of budget impacts over the forward estimates. However, these statements are general in nature.

5.42 While it is not practicable to broaden the scope of the proposed annual medium term projection to include a comparison between the major parties, there is one point in the electoral cycle when the Parliamentary Budget Officer has access to reasonably equivalent information to form the basis of those projections. We consider that, where possible, medium term projections can provide a more complete picture of the real impacts of election commitments and promote fiscal responsibility across the political spectrum.

5.43 The *Parliamentary Service Act 1999* already requires ‘designated parliamentary parties’ to provide a list of publically announced policies to the Parliamentary Budget Officer by 5 pm on polling day. Some further consideration about the timing and detail of information provided to the Parliamentary Budget Officer may be necessary, to ensure he or she has all the relevant information on which to base the analysis of the longer term impact of election commitments.

33 *Charter of Budget Honesty: Policy Costing Guidelines*, Commonwealth of Australia, 2012, p.12.

Recommendation 8

5.44 **The committee recommends that the Government bring forward amendments to the *Parliamentary Service Act 1999*, to extend the analysis in the post-election report beyond the period of 4 years (current financial year and 3 year forward estimates) to include, where possible, 10 year medium term projections of the budget impact of the election commitments of the designated parliamentary parties.**

The committee recommends that the Government consult the Parliamentary Budget Officer about the timing and detail of the information required on which to base the analysis.

Conclusion

5.45 The PBO has quickly established itself as credible and expert source of information and analysis, but this does not mean its roles and responsibilities are permanently fixed. Several comparable institutions overseas perform a range of additional roles, including monitoring the fiscal performance of government. Whether it is appropriate for the mandate of the Parliamentary Budget Officer to be expanded to report against the government adherence to fiscal rules would require more detailed examination if and when Australia adopts fiscal rules.

5.46 Over time the self-initiated research program will provide deeper analysis on a range of issues including fiscal frameworks, and medium term projections. However, the preparation of independent medium term projections would fill an existing and significant gap in the framework of analysis and encourage informed debate and fiscal responsibility. The committee has concluded therefore that the mandate of the Parliamentary Budget Officer should be expanded to include the annual preparation of detailed medium term projections, which include sensitivity analysis.

5.47 The post-election report also affords an opportunity to provide medium term projections of the budget impact of the election commitments of the designated parliamentary parties. This extension of the post-election report will more fully inform the public debate on the financial implications of the electoral platforms of the main parties.

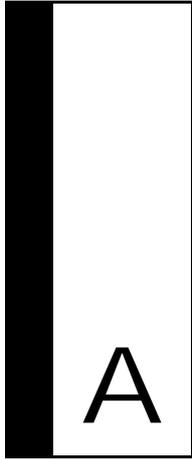
5.48 The committee has also made six recommendations in relation to access to information. These issues are explored in detail in chapter 4.

5.49 There is scope for strengthening the legal authority of Parliamentary Budget Officer by amending the *Parliamentary Service Act 1999* to include a

statutory right of access to information, and an obligation for Heads of Agencies to provide all relevant information in a timely manner and free of charge to the PBO.

- 5.50 The tightening of the legal framework would underpin the MoU and codify existing practice into law without imposing further burdens on Executive agencies. The MoU was negotiated in good faith and with the intention of fostering speedy, informal and efficient cooperative relationships. That approach should be maintained and has benefits to both parties. The committee also encourages Executive agencies to adopt standing agreements that provide routine updates of information. This will build PBO's capacity and reduce the number of information requests.
- 5.51 Importantly, the MoU contains reasonable timeframes designed to enable the PBO to respond in a timely way to the requests of parliamentarians. The committee reminds all Executive Agencies that the Commonwealth has an obligation to fulfil its responsibilities under the MoU and Part 7 Division 2 of the *Parliamentary Service Act 1999*, which are now part of the governance arrangements of the Commonwealth. The Government should reiterate its commitment to the MoU and ensure that Commonwealth bodies respond to requests from the Parliamentary Budget Officer within the agreed time frames.
- 5.52 The committee has also recommended that the PBO have access to the detail of individual components of the Contingency Reserve; and, access to information and data held by third parties where an agency has outsourced policy costing and budget estimates work.
- 5.53 The Commonwealth should also review the statute book and remove legislative barriers to maximise the release of data to PBO. The policy of releasing information and data to the Parliamentary Budget Officer should also be reflected in the Legislation Handbook.
- 5.54 Finally, the PBO is a permanent and indispensable part of the architecture of good government, contributing to transparency and accountability in fiscal policy, policy costings and the budget. It is making information and analysis available to all parliamentarians and strengthening informed public debate. The committee will continue to monitor and support the PBO as it consolidates its operations, practice and procedures and evolves to meet the expectations of the Parliament and the public.

Dr Andrew Southcott MP
Chair



Appendix A - Submissions

1. Parliamentary Budget Office
- 1.1 Parliamentary Budget Office
2. Grattan Institute
3. Professor Miranda Stewart, Australian Tax and Transfer Policy Institute
4. Senator Christine Milne, Leader of the Australian Greens
5. Ms Penny Allman-Payne, Australian Greens
6. Department of Finance
7. Mathew Jensen, Centre for Policy Development



Appendix B - Public Hearings

Canberra, 28 August 2014

Parliamentary Budget Office

Mr Phil Bowen, Parliamentary Budget Officer

Mr Colin Brown, First Assistant Parliamentary Budget Officer, Budget Analysis Division

Mr Tim Pyne, First Assistant Parliamentary Budget Officer, Fiscal Policy Analysis Division

Mr Tony McDonald, Assistant Parliamentary Budget Officer, Revenue Analysis Branch

Ms Karen Williams, Assistant Parliamentary Budget Officer, Corporate Strategy Branch

Mr Gareth Tunks, Assistant Parliamentary Budget Officer, Program Analysis Branch

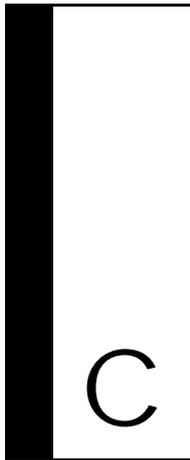
Australian National Audit Office

Mr Ian McPhee, Auditor-General

Mr Tom Clarke, Executive Director, Performance Auditor Services Group

Ms Alison Roach, Senior Director, Performance Audit Services Group

Professor Miranda Stewart



Appendix C - OECD Principles for Independent Fiscal Institutions

PRINCIPLES FOR INDEPENDENT FISCAL INSTITUTIONS (IFIs)

The twenty-two Principles for Independent Fiscal Institutions (fiscal councils and independent parliamentary budget offices) proposed below are grouped under nine broad headings: (1) local ownership; (2) independence and non-partisanship; (3) mandate; (4) resources; (5) relationship with the legislature; (6) access to information; (7) transparency; (8) communication; and (9) external evaluation.

1. Local ownership

- 1.1 To be effective and enduring, an IFI requires broad national ownership, commitment, and consensus across the political spectrum. While a country seeking to establish an IFI will benefit from the study of existing models and experiences in other countries, models from abroad should not be artificially copied or imposed. Regional or international authorities may provide valuable support and protection.
- 1.2 Local needs and the local institutional environment should determine options for the role and structure of the IFI. Design choices may also have to take into account capacity constraints, particularly in smaller countries[1]. The basic characteristics of an IFI, including specific protections, should be informed by the country's legal framework, political system, and culture. Its functions should be determined by the country's fiscal framework and specific issues that need to be addressed.

2. Independence and non-partisanship

- 2.1 Non-partisanship[2] and independence are pre-requisites for a successful IFI. A truly non-partisan body does not present its analysis from a political perspective; it always strives to demonstrate objectivity and professional excellence, and serves all parties. This favours that IFIs should be precluded

from any normative policy-making responsibilities to avoid even the perception of partisanship.

- 2.2 The leadership[3] of an IFI should be selected on the basis of merit and technical competence, without reference to political affiliation. The qualifications should be made explicit – including professional standing and relevant government or academic experience. Qualifications should include proven competence in economics and public finances and familiarity with the budget process.
- 2.3 Term lengths and the number of terms that the leadership of the IFI may serve should be clearly specified in legislation as should be the criteria and process for dismissal for cause. The leadership's term should optimally be independent of the electoral cycle. Independence may be enhanced by defining the term span beyond the electoral cycle.
- 2.4 The position of head of the IFI should be a remunerated and preferably full-time position[4]. Strict conflict-of-interest standards, particularly for institutions with council members employed on a part-time basis, should be applied equally vis-à-vis other employment in the public or private sector.
- 2.5 The leadership of the IFI should have full freedom to hire and dismiss staff in accordance with applicable labour laws.
- 2.6 Staff should be selected through open competition based on merit and technical competence and without reference to political affiliation. Conditions of employment should be along the lines of that of the civil (or parliamentary) service[5].

3. Mandate

- 3.1 The mandate of IFIs should be clearly defined in higher-level legislation, including the general types of reports and analysis they are to produce, who may request reports and analysis, and, if appropriate, associated timelines for their release.
- 3.2 IFIs should have the scope to produce reports and analysis at their own initiative, provided that these are consistent with their mandate. Similarly, they should have the autonomy to determine their own work programme within the bounds of their mandate.
- 3.3 Clear links to the budget process should be established within the mandate. Typical tasks carried out by IFIs might include (but are not limited to): economic and fiscal projections (with a short- to medium-term horizon, or long-term scenarios); baseline projections (assuming unchanged policies); analysis of the executive's budget proposals; monitoring compliance with fiscal rules or official targets; costing of major legislative proposals; and analytical studies on selected issues[6].

4. Resources

- 4.1 The resources allocated to IFIs must be commensurate with their mandate in order for them to fulfil it in a credible manner. This includes the resources for remuneration of all staff and, where applicable, council members. The appropriations for IFIs should be published and treated in the same manner as the budgets of other independent bodies, such as audit offices, in order to ensure their independence. Multiannual funding commitments may further enhance IFIs independence and provide additional protection from political pressure.

5. Relationship with the legislature

- 5.1 Legislatures perform critical accountability functions in country budget processes and the budgetary calendar should allow sufficient time for the IFI to carry out analysis necessary for parliamentary work. Regardless whether an independent fiscal institution is under the statutory authority of the legislative or the executive branch, mechanisms should be put in place to encourage appropriate accountability to the legislature. These may include (but are not limited to): (1) submission of IFI reports to parliament in time to contribute to relevant legislative debate; (2) appearance of IFI leadership or senior staff before the budget committee (or equivalent) to provide responses to parliamentary questions; (3) parliamentary scrutiny of the IFI budget; and (4) a role for parliament's budget committee (or equivalent) in IFI leadership appointments and dismissals.
- 5.2 The role of the IFI vis-à-vis parliament's budget committee (or equivalent), other committees, and individual members in terms of requests for analysis should be clearly established in legislation. Preferably, the IFI should consider requests from committees and sub-committees rather than individual members or political parties. This is particularly relevant for those IFIs established under the jurisdiction of the legislature.

6. Access to information

- 6.1 There is often asymmetry of information between the government and the IFI - no matter how well an IFI is resourced. This creates a special duty to guarantee in legislation - and if necessary to reaffirm through protocols or memoranda of understanding - that the IFI has full access to all relevant information in a timely manner, including methodology and assumptions underlying the budget and other fiscal proposals. Information should be provided at no cost or, if appropriate, sufficient resources should be provided in the IFI budget to cover analysis obtained through government actuarial services.
- 6.2 Any restrictions on access to government information should also be clearly defined in legislation. Appropriate safeguards may be put in place^[7] as

regards protection of privacy (for example, taxpayer confidentiality) and of sensitive information in the areas of national defence and security.

7. Transparency

- 7.1 Given that promoting transparency in public finances is a key goal of IFIs, they have a special duty to act as transparently as possible. Full transparency in their work and operations provides the greatest protection of IFI independence and allows them to build credibility with the public.
- 7.2 IFI reports and analysis (including a full account of the underlying data and methodology) should be published and made freely available to all. As noted in 5.1, all IFI reports and analysis should be sent to parliament in time for legislative debate[8] and the leadership of the IFI should be given the opportunity to testify before parliamentary committees.
- 7.3 The release dates of major reports and analysis should be formally established, especially in order to co-ordinate them with the release of relevant government reports and analysis[9].
- 7.4 IFIs should release their reports and analysis, on matters relating to their core on-going mandate on economic and fiscal issues, in their own name.

8. Communications

- 8.1 IFIs should develop effective communication channels from the outset, especially with the media, civil society, and other stakeholders. Given that the influence of IFIs in fiscal policy making is persuasive (rather than coercive by means of legal sanctions or other punitive measures), media coverage of their work assists in fostering informed constituencies that may then exercise timely pressure on the government to behave transparently and responsibly in fiscal matters.

9. External evaluation

- 9.1 IFIs should develop a mechanism for external evaluation of their work – to be conducted by local or international experts. This may take several forms: review of selected pieces of work; annual evaluation of the quality of analysis; a permanent advisory panel or board; or peer review by an IFI in another country.

Relevant body: Public Governance Committee

[1] Several countries (e.g. Ireland, Portugal, and Sweden) allow for non-nationals to serve as council members, thus increasing the pool of qualified candidates and reducing the risk of “groupthink”. As such, this design choice may also serve to bolster independence.

[2] Non-partisanship should not be confused with bi-partisanship. Whereas bi-partisanship suggests a balance between political parties, non-partisanship necessitates an absence of political influence.

[3] The title may differ – director, president, or chair – depending on its design. The institution may be under individual or collective (council) leadership.

[4] There are exceptional cases in which a part-time position may be considered sufficient, for example if the IFI has a strictly defined and limited work programme or if another institution provides complementary functions which impact on the workload of the IFI. In Sweden, the Fiscal Policy Council can use the macro-fiscal forecasts prepared by another well-established independent agency, the National Institute of Economic Research.

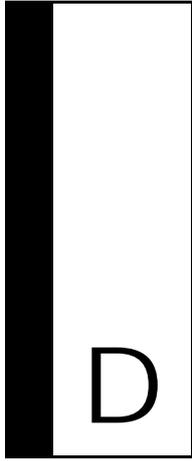
[5] Given the small size of the majority of IFIs, staff may be provided with career mobility within the broader civil service. However, care should be taken to avoid conflict of interest.

[6] Other functions are carried out by well-established IFIs, such as costing of election platforms by the Netherlands Bureau for Economic Policy Analysis, or programme evaluation by the Korean National Assembly Budget Office.

[7] For example, security clearance for IFI staff.

[8] There may be cases where an IFI provides confidential estimates as part of the legislative process. For example, the U.S. Congressional Budget Office provides estimates early in the legislative process – kept confidential only until the legislative proposal becomes public – in order to help craft legislative proposals.

[9] Care must be taken to avoid the perception that the timing of the release of the IFI reports favours the government or the opposition parties.



Appendix D - IMF fiscal council dataset

IMF fiscal council dataset

| Country | Fiscal council | Long term sustainability | Forecast preparation or assessment | Monitoring of fiscal rules | Costing of measures | Legal/operational independence | Access to information ¹ |
|-----------|------------------------------------|--------------------------|------------------------------------|----------------------------|---------------------|--------------------------------|------------------------------------|
| Australia | Parliamentary Budget Office | Yes | No | No | Yes | Yes | Yes ² |
| Austria | Government Debt Committee | Yes | No | Yes | No | Yes | Yes |
| Belgium | High Council of Finance | Yes | No | Yes | No | Yes | Yes |
| Belgium | Federal Planning Bureau | Yes | Yes | No | No | Yes | Yes |
| Canada | Parliamentary Budget Office | Yes | Yes | No | Yes | Yes | Yes |
| Croatia | Fiscal Policy Council | Yes | Yes | Yes | No | Yes | N/A |
| Denmark | Danish Economic Council | Yes | Yes | Yes | No | Yes | Yes |
| Finland | National Audit Office of Finland | Yes | Yes | Yes | No | Yes | Yes |
| France | High Council of Public Finance | No | Yes | Yes | No | Yes | Yes |
| Georgia | Parliamentary Budget Office | No | Yes | No | No | No | Yes |
| Germany | German Council of Economic Experts | Yes | Yes | No | No | Yes | Yes |
| Hungary | Fiscal Council | No | Yes | Yes | No | Yes | Yes |
| Ireland | Irish Fiscal Advisory Council | Yes | Yes | Yes | Yes | Yes | Yes |
| Italy | Parliamentary Budget Office | Yes | Yes | Yes | Yes | Yes | Yes |

¹ The IMF defines access to information as a “legal obligation to share information essential for the fiscal council’s activity”.

² Agencies are required to comply with the information requests in relation to either a costing in the caretaker period or for the preparation of the post-election report on election commitments on a timely basis unless doing so is not practicable, unlawful, or would disclose information that was commercially confidential or could prejudice national security.

| Country | Fiscal council | Long term sustainability | Forecast preparation or assessment | Monitoring of fiscal rules | Costing of measures | Legal/operational independence | Access to information |
|-----------------|---|--------------------------|------------------------------------|----------------------------|---------------------|--------------------------------|-----------------------|
| Japan | Fiscal System Council | No | No | No | No | No | Yes |
| Kenya | Parliamentary Budget Office | N/A | Yes | N/A | N/A | N/A | Yes |
| Mexico | Center for Public Finance Studies | No | Yes | No | Yes | No | Yes |
| Netherlands | Netherlands Bureau for Economic Policy Analysis | Yes | Yes | Yes | Yes | Yes | Yes |
| Portugal | Portuguese Public Finance Council | Yes | Yes | Yes | No | Yes | Yes |
| Romania | Fiscal Council | Yes | Yes | Yes | Yes | Yes | Yes |
| Serbia | Fiscal Council | Yes | Yes | Yes | Yes | Yes | Yes |
| Slovak Republic | Council for Budget Responsibility | Yes | No | Yes | Yes | Yes | Yes |
| Slovenia | Institute of Macroeconomic Analysis & Development | Yes | Yes | No | No | Yes | Yes |
| Slovenia | Fiscal Council | Yes | No | Yes | No | Yes | Yes |
| South Africa | Parliamentary Budget Office | N/A | No | No | Yes | N/A | Yes |
| South Korea | National Assembly Budget Office | Yes | Yes | No | Yes | Yes | Yes |
| Sweden | Swedish Fiscal Policy Council | Yes | No | Yes | No | Yes | Yes |
| United Kingdom | Office for Budget Responsibility | Yes | Yes | Yes | Yes | Yes | Yes |
| United States | Congressional Budget Office | Yes | Yes | No | Yes | Yes | Yes |

Source: IMF Fiscal Dataset, Debrun et al, 2013, Debrun and Kinda (2014); PBO.