



CONTROLLER and AUDITOR-GENERAL

KEVIN BRADY

30 May 2003

My Ref: CG07-0043C

Rt Hon Jonathan Hunt
Speaker of the House of Representatives
Parliament Buildings
WELLINGTON

Mr Speaker

ACT PARLIAMENTARY PARTY WELLINGTON OUT-OF-PARLIAMENT OFFICES

This letter outlines for you, in your capacity as Speaker of the House of Representatives and Chair of the Parliamentary Service Commission (PSC), my decisions regarding recent requests that I conduct an inquiry into certain electorate and out-of-Parliament offices in Wellington, run by the ACT parliamentary party. This letter also serves to respond to your request that I review and consider a report prepared by the Parliamentary Service on the same matters. Beyond my preliminary inquiries, I have decided not to take the queries and allegations any further. I do however express concern around administrative arrangements.

Background

During the term of the 45th Parliament, Hon Richard Prebble CBE rented Wellington accommodation and was eligible for and claimed the Wellington accommodation allowance. Mr Prebble rented part of the same property as an electorate office, also paid by the Parliamentary Service in accordance with normal procedure.

During the term of the 46th Parliament, Mr Prebble rented part of another property (the second property) as Wellington accommodation – originally from the company that owned the property, and then from a subsequent company that purchased the property. This subsequent company is owned by Mr Prebble's family and Mr Prebble is a director of that company. Mr Prebble was eligible for and claimed the Wellington accommodation allowance in respect of the space he rented. Mr Prebble also rented part of this property as an out-of-Parliament office and, in accordance with normal procedure, the Parliamentary Service paid rental to the company.

Mr Prebble was entitled to engage staff to undertake out-of-Parliament duties. These staff (employed by the Parliamentary Service) were engaged on split contracts, to do out-of-Parliament duties / Parliamentary duties on either a 50/50 or 80/20 basis.

Allegations Made and Key Issues Arising

The Rt Hon Winston Peters MP, Donna Awatere-Huata MP and Rod Donald MP have each written to me seeking an inquiry into the circumstances surrounding the use of these two properties by the ACT parliamentary party. Mr Peters and Ms Awatere-Huata also approached the Serious Fraud Office (SFO), seeking its involvement. Three other people wishing to discuss the arrangements also approached my office. I do not intend to name those three individuals.

We have summarised these *allegations* as:

- the manner in which ACT parliamentary party out-of-Parliament offices in Wellington were established and managed was inconsistent with relevant guidance issued by the Parliamentary Service;
- the Prebble family, through its company, may have achieved an inappropriate financial advantage by receiving income for office space that Mr Prebble had not used; and
- the ACT parliamentary party may have achieved an inappropriate resourcing advantage in Parliament, through employing out-of-Parliament secretarial support staff in Parliament, to assist with ACT parliamentary party operations in Parliament itself. The entitlement to these staff arises from having an out-of-Parliament office, and it was alleged these staff may not have ever worked in the office concerned.

Our Preliminary Approach

My office has made preliminary investigations regarding the allegations. This process has involved:

- reviewing the Parliamentary Service report on the allegations;
- discussions with the former and current General Managers of the Parliamentary Service and senior management, reviewing appropriate documentation, and seeking further clarification of the circumstances surrounding occupation of the properties and the matters raised in the report;
- discussions with the SFO regarding the occupation of the two properties and associated financial arrangements; and
- discussions with Mr Prebble.

Findings from Preliminary Investigations

Establishment and Management of Offices

Two issues are of relevance here:

- the clarity of the rules surrounding use of out-of-Parliament resources; and
- the quality of administration of those rules by the Parliamentary Service.

In relation to the first issue, the Parliamentary Service issues guidance to members of Parliament about how resources can be used. This guidance is neither in the form of hard and fast rules, nor based on an agreed set of principles. Rather the guidance is based on the policy decisions of the Parliamentary Service Commission, and is contained in the “Members’ Handbook of Services” (the Handbook).

There is considerable scope for interpretation of the guidance in the Handbook. Issues that lack clarity include:

- the extent to which an out-of-Parliament office is to be occupied;
- the location of out-of-Parliament secretarial support staff (i.e. do they actually have to work in the out-of-Parliament office?);
- the difference between the work carried out in an out-of-Parliament office, and work carried out by staff working in Parliament; and
- what constitutes the “home” of a member of Parliament insofar as it affects Parliamentary resourcing decisions.

In relation to the second issue, I would expect the Parliamentary Service to take a commonsense approach to the administration of the guidance in the Handbook – particularly where the guidance is vague. However, it is clear that the Parliamentary Service has felt restricted in its ability to step aside from the specific wording of the Handbook, to consider the substance of arrangements.

The situation with the second property is a case in point. The Handbook states that rent may not be claimed for an office established in the home of a member of Parliament (although PSC may consider exemptions on a case by case basis). The property is zoned for mixed use (commercial and residential) and Mr Prebble’s family company leases offices in the building to a number of tenants. Mr Prebble has an apartment in the residential portion of the building which he occupies when in Wellington. While the manner in which the arrangements were entered into could have been consistent with the Handbook, and valuations were obtained from registered valuers to ensure all leases were at fair market rents, reference of the proposal to the PSC would have been desirable.

I will comment further on the guidance for members of Parliament, and how its interpretation can be assisted, in my concluding comments.

Inappropriate Financial Advantage

In relation to the issue of rental for the space occupied by the ACT parliamentary party, the SFO decided not to investigate. As outlined above, the guidance surrounding the use of such offices does not define the extent of use expected. In addition, we would be unable to conclusively establish the extent to which the offices had been used. Mr Prebble has assured me that both he and the ACT parliamentary party have used the offices.

Inappropriate Resourcing Advantage for the ACT Parliamentary Party in Parliament

Out-of-Parliament secretarial staff are an entitlement of members of Parliament, provided by the Parliamentary Service, and their costs are met through *Output Class D1 – Services to Members of Vote Parliamentary Service*. Funding for parliamentary parties' Leaders' offices, research operations and so on in Parliament is allocated on a transparent basis, relative to the extent to which each parliamentary party represents the public in Parliament. The funding is provided by appropriation through Vote Parliamentary Service as "Other Expenses to be incurred by the Crown". In the case of the ACT parliamentary party, the appropriation is titled *Party and Member Support – ACT*.

Using out-of-Parliament secretarial staff for purposes that should be funded through the appropriation for ACT parliamentary party and Member Support would give the ACT parliamentary party a resourcing advantage in Parliament.

Confirming whether such a resourcing advantage was achieved would rely on the differences between out-of-Parliament work and work in Parliament to do with research, supporting the ACT parliamentary party leader etc being clearly defined. As outlined above, no such definition exists. It would therefore be impractical for my office to investigate this matter and draw definitive conclusions.

Out-of-Parliament secretarial staff did spend considerable time at Parliament. However, that fact does not of itself prove that resources were used inappropriately.

Conclusion

On the basis of my preliminary inquiries, I have decided not to take the matter further. I make that decision on the basis that:

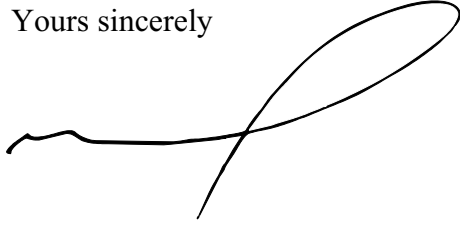
- the guidance provided to members of Parliament about the use of Parliamentary resources for out-of-Parliament offices is open to interpretation; and
- I would be unable to draw definitive or reasonable conclusions regarding the use of the offices and their associated resources.

However, I remain concerned that the interpretation and application of the Members' Handbook of Services by the Parliamentary Service has again surfaced as problematic. That said, it is clear that the guidance provided to members of Parliament, as discussed above, has not assisted in that administration, and requires immediate attention.

A principle-based review of the existing guidance should be undertaken, in order that a codified set of overarching principles, guidelines for members of Parliament as to resource use, and rules for staff are established. Under such an approach, the overarching principles would inform the decisions of the Parliamentary Service, particularly where proposals for resource use arose which were unusual. I would urge the Parliamentary Service to develop options for improvements to the current guidance, for your consideration as Speaker and Chair of the PSC.

I understand you will be referring this letter to PSC members. Given the range of interested parties on this issue, we expect this letter will be made public following their consideration of it. I am happy to discuss any aspects of this letter should you wish.

Yours sincerely

A handwritten signature in black ink, consisting of a horizontal line that curves upwards and loops back to the left, ending in a small hook.

Kevin Brady