



4 April 2006

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Mr Gerry Brownlee
Member of Parliament for Ilam
Parliament Buildings
Wellington

Dear Mr Brownlee

INQUIRY INTO FUNDING ARRANGEMENTS FOR GREEN PARTY LIAISON ROLES

This letter is to advise you of the outcome of our inquiry into the lawfulness of the funding arrangements for the Green Party "Ministerial liaison" roles. This is detailed in the attached report.

We initiated this inquiry following concerns raised by you about the lawfulness of the "Ministerial liaison" roles being incurred against the Vote: Ministerial Services appropriations.

Yours sincerely

Robert Buchanan
Assistant Auditor-General, Legal

Copied to: General Manager, Executive Government Support, Department of Internal Affairs
 General Manager, Parliamentary Service
 Jeanette Fitzsimons MP, Green Party co-leader
 Minister of Internal Affairs (as the Responsible Minister for the Department of Internal Affairs)
 The Speaker of the House (as the Responsible Minister for Parliamentary Service)
 State Services Commissioner
 Appointed Auditor of Department of Internal Affairs
 Appointed Auditor of Parliamentary Service



Inquiry into funding arrangements for Green Party liaison roles

This report sets out the outcome of our inquiry into the funding arrangements for the Green Party Ministerial liaison and relationship roles, specifically, for a Government Relationship Manager and 2 Ministerial Liaison – Senior Advisors. We refer to the 3 roles collectively as “the Liaison Roles” (see paragraphs 4.1-4.6).

The Auditor-General initiated the inquiry after concerns were raised about the lawfulness of funding the Liaison Roles under the Vote: Ministerial Services appropriations.

1 Background

- 1.1 As part of the formation of the Labour-led Government in October 2005, the Green Party agreed to provide stability to the Government by co-operating on agreed policies and initiatives and not opposing confidence or supply motions. These arrangements are detailed in the Labour-led Government Co-operation Agreement with the Green Party (the Co-operation Agreement).
- 1.2 Green Party Members of Parliament (MPs) Jeanette Fitzsimons and Sue Bradford have been named as Government spokespersons for specific Government programmes, respectively an enhanced energy efficiency programme including promotion of solar energy, and a “Buy Kiwi-Made” campaign. Neither MP holds a Ministerial position.
- 1.3 As with other political parties, the Green Party receives funding for its parliamentary office and operations under Vote: Parliamentary Service, according to the allocation formula based on the proportion of seats the party holds in the House.
- 1.4 Vote: Ministerial Services provides authority for additional, specific funding for support services to Ministers, including personnel.

2 Our inquiry

- 2.1 We decided to inquire into the lawfulness of the Liaison Roles under the Vote: Ministerial Services appropriations. This is in keeping with our mandate in section 18 of the Public Audit Act 2001, which empowers the Auditor-General to inquire into any matter concerning a public entity’s use of its resources. We reviewed the Co-operation Agreement and the job profiles for the Liaison Roles, and discussed the matter with individuals from the Executive Government Support unit within the Department of Internal Affairs (the Department).

2.2 In the rest of this report, we discuss:

- the Co-operation Agreement;
- the Liaison Roles;
- our views about the arrangement;
- our conclusion; and
- the Department's response to our views.

3 The Co-operation Agreement

3.1 The Co-operation Agreement is in 2 broad parts:

- (a) Under the heading "Consultation arrangements", there is provision for the Government to consult the Green Party on various matters of significance, including the legislative programme and major policy issues, and a list of various co-operation mechanisms including meetings between party leaders and briefings on significant policy issues.
- (b) Under the heading "Policy Programme", there is agreement that the Green Party will have involvement in the Government's policy development at 3 different levels, the categorisation of which is to be agreed between the Prime Minister and the Green Party leadership.

3.2 The energy efficiency and "Buy Kiwi Made" matters are identified as "level 1" issues. Arrangements for those issues are as follows:

1. *the Minister will set out in writing the scope of the agreed area of involvement and the arrangements for interaction with officials.*
2. *the agreed Green representative will have direct access to officials and will be able to request reports from officials.*
3. *budget documentation will specify the funding which is associated with the identified area.*
4. *the Green Party representative will report regularly to the Minister on progress on policy development or implementation in the area.*
5. *any cabinet committee papers arising from work in the area will be presented by the responsible Minister.*

6. *if such a paper is on a committee agenda the Green representative will be invited to the committee to take part in the discussion relation to the paper.*
7. *the responsible Minister will keep the Green representative briefed on other aspects of the portfolio which may impinge on the designated area.*
8. *the government will publicly acknowledge the area as being one of specific Green party influence and the Green party representative will be a designated spokesperson in the area.*

3.3 There are 3 “level 2” issues:

- environmental education;
- initiatives to improve nutrition; and
- community and voluntary sector.

3.4 Arrangements for these issues are more limited than for level 1. They include full participation by the Green Party in the policy development process and development of legislation, access to Ministers, access to relevant papers, and legislative support. However, access to officials will be through the Minister.

3.5 Arrangements for “level 3” issues are confined to consultation on the broad direction of policy, with the aim of achieving Green Party support.

4 The Liaison Roles

4.1 We considered 3 positions being staffed by the Department in its capacity as providers of Ministerial Services’ support staff – a Government Relationship Manager and 2 Ministerial Liaison – Senior Advisors (Advisors).

4.2 The job profile for the Government Relationship Manager stated the purpose of the role is to facilitate the progressing of matters specified in the Co-operation Agreement. The appointed individual is responsible (in an employment sense) to the Department’s Manager, Ministerial Staffing, which is a consistent practice for other Ministerial support staff employed by the Department. The key responsibilities outlined in the job profile included:

- acting as the key point of contact between, and liaising between, the Green Party and the Office of the Prime Minister;
- working closely with the Green Party as required, providing a variety of consultative support across a diversity of internal/external projects/issues; and

- overseeing the relationship between Green Party spokespeople and the Prime Minister's and relevant Ministers' offices on relevant support party consultation issues.

4.3 The job profile for the Advisors stated that these positions were to support the Government Relationship Manager in facilitating the progressing of matters specified in the Co-operation Agreement. The Advisors will be responsible on a day-to-day basis to the Government Relationship Manager.

4.4 The Department told us that all 3 Liaison Roles are “attached to the Prime Minister's office, working with the Greens, to give practical effect to the government support arrangement with the Green Party”. They work for the Office of the Prime Minister, with the key relationship being with the Prime Minister's Chief of Staff. The Department describes the roles as follows –

... we anticipate that the roles will assist relevant Ministers and Green Party MPs in the development of Government initiatives and that this will not be inconsistent with the spirit of the Co-operation Agreement or the basis of funding from Vote Ministerial Services. However we do see the role of the [Government Relationship Manager] as the key interface role with the Prime Minister's office for ultimate direction, with the two [Advisors] being directed by the [Government Relationship Manager] on day-to-day matters, including how and when policy advice is provided to relevant Ministers.

4.5 We were told by the Department that the individuals performing the Liaison Roles will be physically based in the Green Party's parliamentary office, and that appointments have been made for all 3 positions.

4.6 The Liaison Roles are to be funded by the Department under Vote: Ministerial Services, specifically, the output class entitled Support Services to Ministers.

5 Our views about the arrangement

Lawfulness of expenditure

5.1 It is a clear requirement in the Public Finance Act 1989 that the authority to incur expenses provided by an appropriation is limited to the scope of the appropriation and that expenses may not be incurred for any other purpose. Any expenditure that is not within the scope of the appropriation is unlawful.

5.2 To the extent that the activities undertaken in the Liaison Roles are to provide support services to the Prime Minister in giving effect to the Co-operation Agreement, and to other Ministers in the 2 “level 1” areas of government policy, we are satisfied that they

fall within the scope of the Vote: Ministerial Services appropriation for Support Services to Ministers. However, it is necessary to comment in some detail on the limits of those 2 categories of activity.

Giving effect to the Co-operation Agreement

- 5.3 Co-operation agreements between the Government and other parties represented in the House are not new. They have become a commonplace feature of the Mixed Member Proportional (MMP) electoral system environment, where minority governments depend on other parties for stability on matters of confidence and supply, typically in return for policy concessions.
- 5.4 We have no concerns about Ministerial advisors funded under Vote: Ministerial Services providing support to the Prime Minister and other Ministers in giving effect to co-operation agreements from the Government's perspective. Making an agreement succeed may be critical to a Minister's ability to develop policy and get legislation through the House. One of the key roles of Ministerial advisors under MMP has been to manage the Minister's relationships with other parties, including negotiations about specific policy or legislative initiatives. Importantly, that role also insulates the politically neutral public service from involvement in such matters.
- 5.5 However, management of the other Party's side of the agreement is another matter altogether. In our view, it is a matter of parliamentary business. Resources for the staff employed to assist the support party in managing its relationship and negotiations with the Government are available under the Vote: Parliamentary Service appropriations for Leaders' Offices and members' support. We see nothing in the Co-operation Agreement that would require a change to that practice.
- 5.6 The job profile for the Government Relationship Manager referred to a responsibility to "liaise between the office of the supporting party and the office of the Prime Minister". In our view, that description is not accurate if the costs of the role are to be incurred against the authority of the Vote: Ministerial Services appropriations.
- 5.7 Resources are only available from the Ministerial Support appropriation to assist the Office of the Prime Minister to liaise with the Green Party – not vice versa. Similarly, references in the job profile to acting as the point of contact, overseeing relationships, and liaising with Green Party committees place the emphasis on the Green Party, rather than the Office of the Prime Minister. The scope of the appropriation does not allow the Liaison Roles to be used to provide support to the Green Parliamentary Party in giving effect to the Co-operation Agreement in a general sense.
- 5.8 The scope of the job profiles would need to be changed to reflect these issues. In our view, the extent of the job profiles provided to us were wider than the authority provided

under the Vote: Ministerial Services appropriations, and included activities that would more correctly be funded through the Vote: Parliamentary Service appropriations.

Support for the “level 1” initiatives

- 5.9 The Co-operation Agreement describes the initiative on energy efficiency as “part of the Government’s broader programme on sustainable energy and climate change”. The “Buy Kiwi Made” campaign is not so directly linked to government policy, but there is reference in the Co-operation Agreement to a range of initiatives which, we assume, will be funded by government and, in respect of which, government policy will be developed. For both of these “level 1” issues, the agreed Green Party representative will have direct access to officials and will report regularly to the Minister on progress with policy development.
- 5.10 In our view, it is within the scope of the Ministerial Support appropriation for the Government Relationship Manager and the Advisors to provide assistance to the spokespersons in the development of government policy on these issues, and in carrying out the government spokesperson’s role. This contrasts with the “level 2” issues, for which (as we have noted) any access to officials must be through the responsible Minister. This provides a convenient point of distinction between contributions to policy work that have the characteristics of “support services to Ministers” and those which should more properly be categorised as part of a parliamentary party’s negotiations with the Government funded through its parliamentary operations.
- 5.11 However, there is also a limit to the “level 1” activities. For example, any legislation introduced to the House on either of those issues would be government business sponsored by the responsible Minister. The Green Party’s management of that legislation in the House, and its negotiations with the Government as the legislative process advanced, would more appropriately be funded under Vote: Parliamentary Service.

Other concerns

- 5.12 Clearly, we consider there is some risk that the performance of the Liaison Roles could, at times, result in activities being undertaken outside the scope of the Vote: Ministerial Services appropriations. In our view, it is important that there is sufficient awareness of these risks among all those involved, and that controls to guard against such risks are put in place at the outset of these arrangements and on an ongoing basis. We comment on specific concerns in paragraphs 5.13-5.24.

Physical location

- 5.13 In our view, there is a risk arising out of the 3 individuals being based in the Green Party's parliamentary office, and the resulting close day-to-day working relationship with the Green Party. On a practical basis, the 3 individuals may be drawn into activities outside the scope of the Vote: Ministerial Services appropriations.
- 5.14 There may be some tension between activities exclusive to the "level 1" issues for which the Green Party representatives will have direct responsibilities for government policy development, and other activities performed by the same or other staff for the Green Party as part of its parliamentary operations. For example, tension may arise from negotiations with Ministers over "level 2" issues, or management of the Green Party's relationship with the Government generally under the Co-operation Agreement.

Costs

- 5.15 As the Liaison Roles will be located in the Green Party's parliamentary office, which is funded by the Parliamentary Service under Vote: Parliamentary Service, sufficient arrangements need to be made with the Parliamentary Service to reallocate office costs specific to these individuals and their Ministerial Support roles to Vote: Ministerial Services.
- 5.16 The Department has provided us with a copy of a draft agreement between it and the Parliamentary Service. This includes an agreement for reimbursements to be made from Ministerial Services to the Green Party Leader's Budget, to recognise support costs (such as, stationery, photocopying, tea/coffee, postage, and courier services) that may be incurred by the individuals in the Liaison Roles. This reimbursement is subject to an annual monetary cap, which will also need to be monitored by the Department.
- 5.17 We understand that the general cost of providing offices for MPs and Ministers is incurred against the Vote: Parliamentary Service appropriations, such as building security and electricity charges. We were told that the Department will fund cell phones, photocopying, and other costs specific to the Liaison Roles.

The Government Relationship Manager's dual roles

- 5.18 Concerns about physical location and appropriate allocation of costs are heightened in respect of the Government Relationship Manager, because of the dual roles of the individual who has been appointed.
- 5.19 We understand that the person whom the Department has employed as Government Relationship Manager formerly held positions in the Green Party parliamentary office, including liaison with the Government under previous co-operation agreements.

- 5.20 Under the new arrangement, the individual will be seconded to the Parliamentary Service to perform a part-time position in the Green Party parliamentary office. We were told that 30% of the individual's time has been allocated to the Parliamentary Service role, with the remaining 70% to the Government Relationship Manager role.
- 5.21 Complications increase in relation to performance of activities and the allocation of costs when one individual holds 2 roles, one under Vote: Ministerial Services and the other under Vote: Parliamentary Service. There is a high risk of "blurring" of resources, which needs to be appropriately managed. In our view, splitting the Government Relationship Manager's time on a 70:30 basis may not be practicable. However, we understand that dual roles and secondments are not new in the public sector.
- 5.22 The Department has provided us with a draft of the agreement that has been prepared to account for the Government Relationship Manager's dual roles. It provides for a reimbursement to be paid to Ministerial Services from the Green Party Leader's Budget to recognise the 30% of the individual's time spent on Green Party activities. We would also expect the Department to have the ability to charge the cost of any resources that may be incurred against Vote: Ministerial Services to the Vote: Parliamentary Service appropriations if they have been used for Parliamentary Service purposes.
- 5.23 More significantly, it is possible that, in performing the respective duties under the 2 roles, the Government Relationship Manager may come across a matter that causes a conflict between the 2 roles. In our view, this may cause problems, in particular, when the individual is acting as the point of contact between, and liaising between, the Government and the Green Party in respect of the Co-operation Agreement generally. As we have noted earlier, this role can only be performed using Vote: Ministerial Services funds to the extent that it involves providing support to Ministers on the relationship.
- 5.24 We would expect the Department to be aware of the possibility of conflicts of interest, and to have a procedure in place for dealing with any that may arise.

Documentation

- 5.25 We would expect the nature of the arrangements as they have been described to us by the Department to be clearly and accurately reflected in the documentation implementing this arrangement, such as the job profiles and the secondment agreement in respect of the Government Relationship Manager role. It is important for transparency that the documentation is consistent with the substance of the arrangement as described to us.
- 5.26 The job profiles for all 3 positions need to clearly reflect that the individuals performing the Liaison Roles are providing support services to the Prime Minister.

6 Our conclusion

- 6.1 The Liaison Roles are intended to give practical effect to the support arrangement between the Government and the Green Party, as explained in the Co-operation Agreement. Co-operation agreements now seem to be a common feature of the MMP environment and we do not see anything in the current arrangement that should change the usual practice relating to Ministerial advisers.
- 6.2 We have no concerns about advisers funded under Vote: Ministerial Services providing support to Ministers in giving effect to co-operation agreements from the Government's perspective. However, management of the supporting party's side of the agreement is a matter of parliamentary business, and resources for the staff employed to assist in managing this relationship are those available under the Vote: Parliamentary Service appropriations.
- 6.3 In our view, it is lawful for expenses in respect of the Liaison Roles to be incurred against the output class entitled Support Services to Ministers within the Vote: Ministerial Services appropriations, provided the activities in question are ultimately for:
- the objective of providing support to the Prime Minister in giving effect to the Co-Operation Agreement; or
 - providing advice to the Prime Minister and other Ministers on the 2 policy areas for which Green Party MPs have government spokesperson roles (for matters described as "level 1" in the Co-Operation Agreement).
- 6.4 However, as we have identified above, the extent of the job profiles provided to us by the Department were wider than this, and included activities that would more correctly be funded through the Vote: Parliamentary Service appropriations.
- 6.5 We consider that, even if the scope of the Liaison Roles were narrower, there is still some risk that some activities performed within these roles may fall outside the scope of the Vote: Ministerial Services appropriation. To avoid this happening, it is important that:
- the arrangements for the roles are transparent at the outset and clearly documented;
 - ongoing controls are in place to guard against any risks; and
 - all those involved in the arrangements are well aware of the issues.

7 The Department's response

- 7.1 We consulted with the Department in the course of our inquiry, and gave it an opportunity to comment on a draft of this report.
- 7.2 In response, the Department told us that the scope of the Liaison Roles will be changed to ensure that they fall wholly within the scope of the Vote: Ministerial Services appropriations. The job profiles for the Liaison Roles will be amended to reflect the emphasis on supporting Ministers (rather than the Green Party), and the limitation of the Vote: Ministerial Services appropriation to "Ministerial" support. The roles will also be limited to supporting "level 1" initiatives under the Co-Operation Agreement.
- 7.3 The Department agreed that careful management is required to ensure that expenditure for the Liaison Roles does not fall outside the scope of the Vote: Ministerial Services appropriations. The Department told us that monthly meetings will be held between Department staff and the individuals appointed to the Liaison Roles to:
- ensure that the management relationship and responsibilities of Ministerial Services to the individuals is neither lost nor misunderstood;
 - manage "boundary issues"; and
 - ensure that the individuals continue to work within the scope of the appropriation.
- 7.4 We have recommended to the Department that these management meetings are reviewed from time to time, at least at the outset of the arrangement, to determine whether they are providing a sufficient level of control and management, and to keep an eye on the types of issues being raised.
- 7.5 The Department told us that its staff will highlight for particular monitoring the potential risk for Ministerial Services staff (with the exception of the Government Relationship Manager under the terms of the secondment) to be drawn into Green Party parliamentary operations. The Department also told us that it has been made clear to those concerned that the 2 Advisors do not have dual roles the same as the Government Relationship Manager, and are not permitted to undertake any Green Party parliamentary activities.
- 7.6 The Department is of the view that any conflict of interest that may arise in connection with the dual roles held by the Government Relationship Manager can generally be managed. It will use the monthly management meetings, discussed above, to monitor any potential conflicts of interest.

- 7.7 The Department told us that the Government Relationship Manager will be responsible for ensuring that correct cost allocations are made, and that this will be monitored by the Department.
- 7.8 We note that individuals have been appointed to the Liaison Roles and have begun performing these roles. However, we think it would be very difficult, if not impossible, to review the performance of these roles to date to determine where the expenses incurred should correctly fall. Accordingly, we do not think any further steps are necessary beyond those the Department has agreed to take.

4 April 2006