



Inquiry report

How the
Department of
Internal Affairs
manages
spending that
could give
personal benefit
to Ministers

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How the Department of Internal Affairs manages spending that could give personal benefit to Ministers

Part 2 of the Auditor-General's inquiry into certain
types of expenditure in Vote Ministerial Services

This is an independent assurance
report about an inquiry carried out
under sections 16 and 18 of the
Public Audit Act 2001.

December 2010

ISBN 978-0-478-32682-6 (print)
ISBN 978-0-478-32683-3 (online)

Contents

Auditor-General's overview	5
What we found	5
What needs to change	7
Our recommendations	11
Part 1 – Introduction	13
The context for our inquiry	13
The three systems for parliamentary and ministerial funding and remuneration	14
Related work by us and others	15
The focus of our inquiry	19
The structure of this report	21
Part 2 – The support provided to Ministers	23
What is Ministerial Services?	23
What does a typical ministerial office look like?	24
Who is responsible for ministerial spending?	25
What are the rules for ministerial spending?	26
What are the financial management processes for ministerial spending?	28
Part 3 – Our expectations	31
Our approach to spending that can provide personal benefit	31
Our general expectations of public entities	32
The principles we used to assess the Ministerial Services system	33
Part 4 – How well do the three systems fit together?	35
Our previous findings	36
Our work in this inquiry	36
Relationship between the Ministerial Services and Remuneration Authority systems	37
Relationship between the Ministerial Services and Parliamentary Service systems	39
Our overall assessment of the fit between the three systems	41
Part 5 – Are the rules in the Executive Determination workable and fit for purpose?	43
The purpose and legal status of the Executive Determination	43
Links between the Executive Determination and the appropriations	46
The principles in the Executive Determination	48
Domestic travel entitlements	52
Operational resources	54
Our overall assessment of the rules in the Executive Determination	55
Part 6 – Do the financial management processes provide effective control?	57
The role of the Ministerial Office Handbook	57
Assessment against our general expectations for policies governing spending with the potential for personal benefit	59
How the policies and guidance are presented	63
Some comments on the detailed content	65
Approval processes	67
Our overall assessment of the policies and procedures	67

Part 7 – How well does the Ministerial Services system work in practice?	69
Aspects of financial management that are done well	69
The results of our testing of transactions	70
The effectiveness of the guidance material	74
Our impressions of the culture of Ministerial Services	79
Our overall assessment of what happens in practice	80
Part 8 – Directions for change	83
Our overall findings	83
International trend towards greater scrutiny	85
The changes that we recommend	86
The Department’s responsibility for the system and spending under it needs to be put beyond doubt	86
The system needs a clear and coherent legal basis	88
The Executive Determination should set out clear and workable rules	89
Administrative policies and procedures should help people to get it right	90
Financial records should show compliance with requirements	93
Appendices	
1 – Terms of reference for our inquiry	95
2 – Our report on the first part of our inquiry	97
3 – Summary of types of ministerial expenditure and relevant rules	117
Figures	
1 – The three systems for parliamentary and ministerial funding	15
2 – Our previous reports on parliamentary and ministerial matters	17
3 – Main roles of ministerial office staff	25
4 – Examples of what the senior private secretary can authorise	29
5 – Clauses 1.3, 1.5, and 1.6 of the Executive Determination	49

Auditor-General's overview

This is the ninth public report in 10 years by an Auditor-General about spending on parliamentary and ministerial support. This sort of public sector spending has many challenges and attracts a great deal of attention, both in New Zealand and internationally.

I agreed to carry out the inquiry I report on here, because of the ongoing concerns raised about whether spending by Ministers was appropriate. The political leaders of any country must be accountable for their actions, and their spending should be able to be scrutinised in the same way as any other use of public funds. Equally, Ministers should be supported by financial management processes that help them spend public funds reasonably and appropriately.

Much of the recent public discussion and debate on parliamentary and ministerial spending has been about the appropriateness of individual decisions – whether particular transactions were within the rules, unduly extravagant, or simply inappropriate. I make clear at the outset that this report is not about individual items of spending. It does not name any Ministers or single out individual and identifiable decisions for criticism.

The Ministerial Services unit within the Department of Internal Affairs (the Department) is responsible for the support that is provided to Ministers.

In this inquiry, our aim was to assess whether the Ministerial Services system for managing spending that could give personal benefit to Ministers operates coherently and effectively. We looked at whether that system is able to provide effective support for Ministers and their senior private secretaries and enable effective management of this part of Vote Ministerial Services. We were not looking for more examples of mistakes or questionable judgement. We were looking instead at whether the rules and financial management processes were likely to minimise the chances of mistakes happening, and catch and correct any that might occur.

What we found

Overall, we have concluded that the current system for providing support to Ministers has flaws at each of the levels we examined. The system functions but, cumulatively, the problems are significant.

The institutional and legal context in which Ministerial Services must operate is unhelpful:

- The overall support arrangements made up of the Ministerial Services, Parliamentary Service, and Remuneration Authority systems create some overlap and complexity.
- The legal status and purpose of the rules (which are set out in a document that we refer to as the Executive Determination) are confused and create ambiguity. The rules have a number of technical deficiencies, and the rule on travel expenses is unworkable in practice.

At an operational level, our testing of transactions did not show any pattern of major spending irregularities. We found only occasional examples of transactions that we considered were arguably or clearly outside the rules. We also concluded that the basic design of the financial management processes is sound, and the finance team within Ministerial Services is regarded as responsive and helpful.

Ministerial Services provides useful training and guidance for senior private secretaries, but there is scope to do more and target it better.

However, we found weaknesses in the underlying administrative policies, procedures, and practice:

- There is considerable scope to improve the guidance and information provided to senior private secretaries through the Ministerial Office Handbook and other mechanisms produced by Ministerial Services, and to streamline and simplify the content. In particular, we are concerned that the status of policies, requirements, and guidance is not clear, and at times the guidance leaves too much to individual judgement and contains conflicting advice.
- The documentation and explanations accompanying transactions were often poor, or the relevant information was not included in or referred to in the main financial records. Although the spending might have been appropriate, the audit trail to demonstrate that was too often inadequate.
- Procedural requirements were not always followed, or there was no evidence of them having been followed, and it was not clear from the guidance which requirements were significant.
- There is a risk that internal controls are not fully effective because staff can have different understandings of the various roles in the certification and approval processes.
- Senior private secretaries who are not applying spending rules or procedures properly can remain unaware that there is anything wrong with their practices because Ministerial Services may not always draw the problems to their attention.

We have concluded that the basic design of the procedures is reasonable but they need further development. The weaknesses we have identified in the financial controls expose Ministerial Services and Ministers to greater risk of inappropriate spending and criticism. More attention needs to be given to the basics of financial accountability.

Our overall conclusion is that, taken as a whole, the current Ministerial Services system for managing spending is an unsatisfactory basis for providing support to Ministers. There is an obvious risk that Ministers will be held to account for failures in the underlying system, which would unnecessarily damage public trust in our political leaders. As one commentator has recently written:

The good name of MPs is important to them, and to us. When administrative uncertainty creates an impression of opportunism nobody is well served. That administrative uncertainty comes from the complexity of the rules and the separation in the treatment of ministers and other MPs. That complexity can trap MPs and officials.¹

What needs to change

The move to greater disclosure of parliamentary and ministerial spending is part of an international trend. It is clear that the public expects to be able to scrutinise this use of taxpayer funds as much as any other.

It is important that the supporting system adapts to meet the challenges of regular scrutiny. It needs to be more transparent and rigorous, so that the public can be assured that appropriate financial controls are in place and operating effectively.

We have given considerable thought to what needs to change to address the problems we have identified. We set out our recommended directions for change in Part 8. Importantly:

- the Department's responsibility for the system, and all spending under it, needs to be put beyond doubt;
- the system needs a clear and coherent legal basis;
- the Executive Determination should set out clear and workable rules;
- administrative policies and procedures should help people to get it right; and
- financial records should show compliance with the main requirements.

The first of these is perhaps the most important. In my view, the system suffers because the Department sometimes appears uncertain about the scope of its responsibilities for administering this part of the Vote, and about the extent of its role in providing strategic and policy advice on developing the system and its

¹ Prebble, M (2010), *With Respect: Parliamentarians, officials, and judges too*, Institute of Policy Studies, page 200.

supporting administrative processes to meet future challenges. On occasion, Ministers have challenged the role of the Department's officials and whether they should be questioning Ministerial spending. In my view, the responsibility of the Department for the proper administration of Vote Ministerial Services needs to be put beyond doubt. This is an important first step, if major improvements are to be achieved.

Given the political context of the Department's work, this has the potential to be a fraught question. That is why I have taken the unusual step of making a recommendation directly to the responsible Minister, in this case the Minister responsible for Ministerial Services. I am recommending that the Minister formally confirm to the Department and all Ministers that he expects the Department to play this role, and that Ministers should support the Department's officials as they carry out their responsibilities. The end result should be a stronger system that better supports and protects Ministers, by enabling officials to catch and correct mistakes early and as a matter of routine.

My final comment is at the heart of what needs to change. The Speaker and the Prime Minister have taken steps to make the parliamentary and ministerial systems more open by directing that more information be regularly released. However, there is a difference between being open with information and having a system that is transparent.

In a transparent system, the rules, policies, and financial management processes are all clear and accessible and can be easily understood. The words that are more commonly applied to the parliamentary and ministerial systems are "complex" and "opaque". Personally, I have found the myriad rules, entitlements, and procedures puzzling.

We are recommending that the legal basis for the Ministerial Services system be revisited from first principles, because it is not appropriate for such a basic and central function of government to be based on legally ambiguous arrangements. If the Law Commission's review of the Civil List Act 1979 results in major reform of the overall support arrangements for members of Parliament and Ministers, the review that we are recommending should be done in conjunction with that work. If major reform does not eventuate, the review we recommend still needs to identify what scope there is to address the current legal problems within the current arrangements.

As that work is carried out, I encourage those doing it to put the principles of transparency and accountability at the heart of what they build. As we said in our 2009 report on ministerial accommodation:

The system needs to be able to be understood not only by those administering it, but also by those to whom service is being provided, and by the general public who fund it.²

In closing, I note again that, although we have found the overall system wanting, our limited sampling of transactions has not revealed any patterns of major wrongdoing. There may be occasional errors, or instances of poor judgement, but in our sample they were few and relatively minor in nature. I am heartened by this because it suggests a high degree of integrity among those working at this level in government. However, that is not a reason to be complacent or to continue with a flawed system. If we want to avoid problems in the future, the system needs to change.



Lyn Provost
Controller and Auditor-General

8 December 2010

² Auditor-General's decision on parliamentary and ministerial accommodation entitlements, October 2009.

Our recommendations

Part 8 sets out the directions for change that we consider are needed. It also gives more background information to explain why we have made these recommendations.

Formally confirm the Department’s responsibility for administering the system

1. We recommend that the Minister responsible for Ministerial Services formally confirm the role that the Department of Internal Affairs is expected to play in the system for providing support to Ministers, including its role in:
 - developing and enforcing procedural requirements to support proper financial accountability for all spending under Vote Ministerial Services;
 - monitoring developing practice and emerging issues, both in New Zealand and internationally, and regularly evaluating the effectiveness of the system; and
 - providing timely and informed advice to the responsible Minister on steps that can be taken to improve the system it administers.

Completely review the underlying rules

2. We recommend that the Department of Internal Affairs carry out a “first principles” review of the legislation underpinning the system it administers, including the relevant provisions of the Civil List Act 1979, the Executive Determination, and the appropriations in Vote Ministerial Services.

What this means in practice

In our view, the review needs to produce a clear and coherent legal framework to support the provision of services to Ministers that:

- integrates the legislation, Executive Determination, and appropriations;
- minimises overlap between the remuneration, parliamentary, and ministerial support systems; and
- creates rules and processes that are practical and capable of being effectively managed and monitored.

Rewrite the policies, procedures, and guidance

3. We recommend that Ministerial Services revise its administrative policies, procedures, and guidance on financial management to:
 - clarify the status of the various requirements, and in particular clarify which requirements are essential for financial accountability purposes and which can be waived if the circumstances require;

- clearly set out the roles and responsibilities of all those involved in the financial management processes;
- provide staff with clear and accessible information on legal and administrative requirements, including regular information on changes, guidance, and precedents;
- respond consistently when questions arise or documentation is inadequate, set out clear consequences when claims are not adequately supported, and have a standard and accepted process for resolving any disputes or questions; and
- provide staff with guidance and feedback to inform their judgements about what spending is reasonable in the ministerial context.

Strengthen the checking, approval, and monitoring functions

4. We recommend that the Department of Internal Affairs strengthen its checking, approval, and monitoring functions, and its documentation processes so that it is able to properly discharge its responsibility for demonstrating that all spending in Vote Ministerial Services is reasonable and appropriate.

Part 1

Introduction

- 1.1 In this Part, we explain:
- the context for our inquiry;
 - the three systems for parliamentary and ministerial funding and remuneration;
 - related work done by us and others;
 - the focus of our inquiry; and
 - the structure of this report about our inquiry.

The context for our inquiry

- 1.2 In recent years, there has been considerable international interest in spending by members of Parliament (MPs), prompted in part by disclosures about parliamentary spending in the United Kingdom. There have also been regular calls in New Zealand for greater disclosure of information about parliamentary spending and activity.
- 1.3 In July 2009, the Speaker and the Prime Minister announced that expenses claimed by MPs and Ministers would be disclosed every three months, and directed the release of detailed information on spending during the previous six months. The information covered spending on accommodation costs in and out of Wellington, air travel, and surface travel costs. The Speaker and the Prime Minister stated that the disclosure “reflects a commitment by members of Parliament to be open and accountable to the people of New Zealand”.
- 1.4 The information that has been released, in July 2009 and subsequently, has been closely scrutinised by the media and others. There has been much debate about the spending patterns revealed and about the nature of the entitlements that are provided. The debates have mainly been about the appropriate boundary between business and personal expenses and the reasonableness of some spending.
- 1.5 As a result of this information becoming publicly available, in September 2009 the Auditor-General was asked to inquire into the accommodation entitlements claimed by Hon Bill English. We published our conclusions in October 2009. We identified aspects of the rules and administrative support that were problematic, but decided that further inquiry by this Office was not warranted because the Prime Minister had already announced changes to the way accommodation support would be provided.
- 1.6 In early 2010, the release of further information led to public questioning about the line between personal and business spending in some ministerial offices. After separate requests from the Prime Minister, a Minister, and the Department of Internal Affairs (the Department), the Auditor-General agreed to carry out an

inquiry. On 2 March 2010, the Auditor-General released terms of reference for our formal inquiry into types of spending in Vote Ministerial Services that provide, or have the potential to provide, personal benefit to a Minister.

- 1.7 The purpose of our inquiry was to:
- audit the expenditure incurred by one ministerial office from November 2008 until February 2010;
 - review the rules, policies, and procedures to see whether they were appropriate and effective and identify any improvements that could be made; and
 - consider any other matters that the Auditor-General considered relate to, or arise from, the above.³
- 1.8 Our particular focus was on Ministerial Services, which is the business unit within the Department responsible for providing support to Ministers.
- 1.9 We published a report on the first term of reference on 30 March 2010. That report set out the general principles that apply to public spending where there could be personal benefit and our overall findings and conclusions, followed by detailed information about our audit of the ministerial office's spending. That report is included as Appendix 2.
- 1.10 This report addresses the remaining terms of reference. It contains our conclusions on whether the rules, policies, and procedures operated by Ministerial Services for ministerial spending are appropriate and effective. It also sets out our recommendations.
- 1.11 There have been other developments while we have been working on this inquiry. In particular, requests for official information have led to wide disclosures of information on credit card spending by Ministers of the Crown, chief executives of many government agencies, and local authority mayors and chief executives.
- 1.12 We have been asked several times to review or comment on some of this information, or the way in which individual organisations have managed the relevant spending. Therefore, we have included some general comments in this report on our expectations for managing spending with the potential to provide personal benefit (often called "sensitive expenditure") in the public sector.

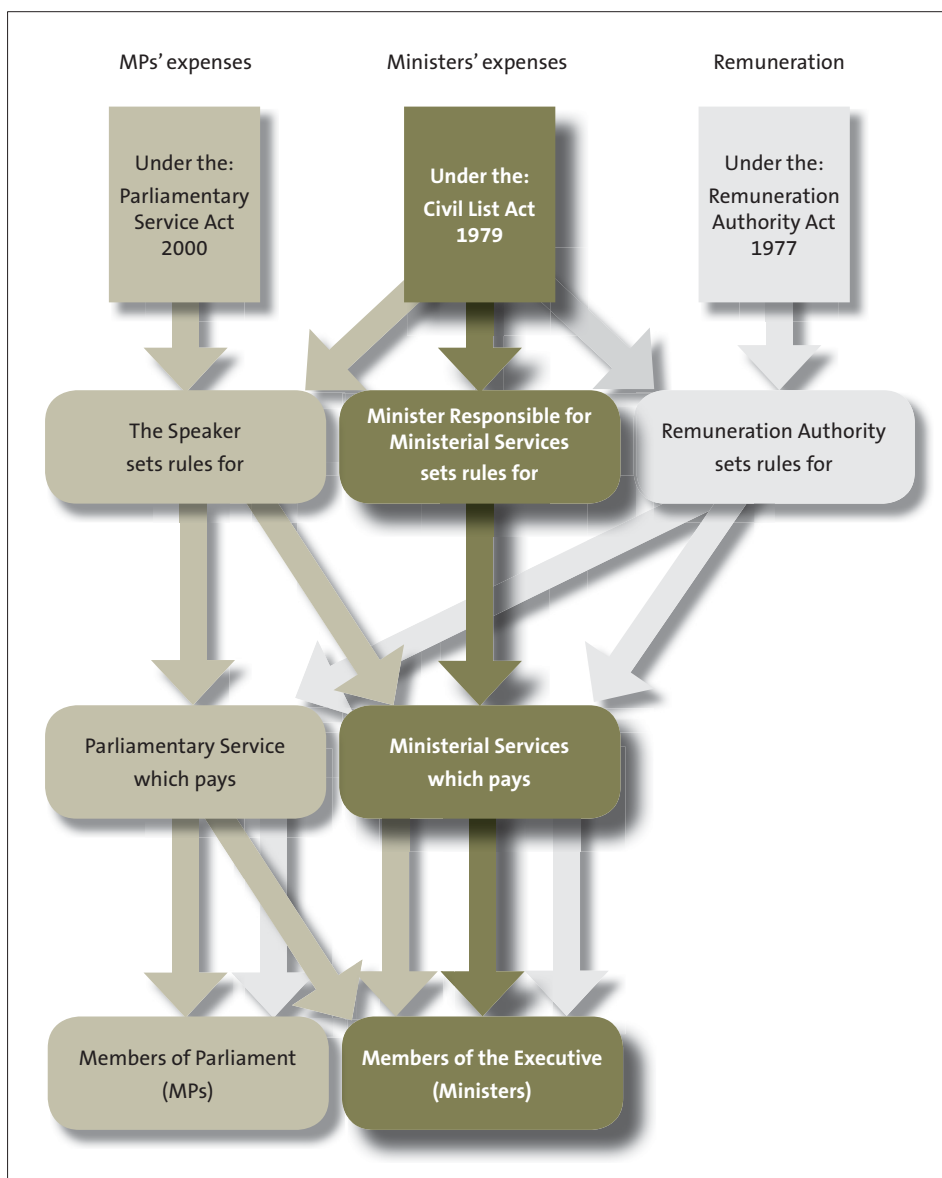
The three systems for parliamentary and ministerial funding and remuneration

- 1.13 There are three related systems that together make up the overall arrangements for providing remuneration, allowances, and other support to Ministers and to MPs. Figure 1 shows these overall arrangements, the current legislative, rule-setting, and administrative processes, and the relationship between the three

³ Appendix 1 sets out the full terms of reference for our inquiry.

systems. It shows that the three systems are closely intertwined and that the relationships between the different elements are complex.

Figure 1
The three systems for parliamentary and ministerial funding



- 1.14 In summary, the three systems are:
- **Remuneration:** The Remuneration Authority sets salaries and an allowance for all MPs. The allowance is designed to cover a range of miscellaneous business expenses.
 - **MPs' expenses:** The Parliamentary Service, under the authority of an official direction from the Speaker, administers a range of entitlements and support services for all MPs, including support provided to Ministers in their parliamentary capacity (for example, the costs of constituency offices). The entitlements are set out in a document that we refer to as the Parliamentary Determination.
 - **Ministers' expenses:** Ministerial Services provides a range of support for Ministers, including the additional entitlements and support services that are provided for in an official direction from the responsible Minister. The entitlements are set out in a document that we refer to as the Executive Determination.⁴
- 1.15 In this report, we use the term “overall support arrangements” to describe this combined picture. We refer to each of the three parts of the overall arrangements as the “systems” administered by the Parliamentary Service, Ministerial Services, and the Remuneration Authority. Within each of those systems, we use the term “financial management processes” to describe the administrative policies and procedures that the administering agency has put in place.

Related work by us and others

Our previous work on parliamentary and ministerial issues

- 1.16 This will be the ninth public report in 10 years by an Auditor-General about spending on parliamentary and ministerial support. Our previous reports are summarised in Figure 2.

⁴ The full name of the document is *Travel, accommodation, attendance and communications services available to members of the Executive*. The Executive Determination is available on the parliamentary website: www.parliament.nz/en-NZ/MPP/MPs/Pay/b/6/c/00FinanMPPPayExec1-MPs-entitlements-members-of-the-Executive.htm.

Figure 2 Our previous reports on parliamentary and ministerial matters

Members of Parliament: Accommodation Allowances for Living in Wellington: Interim report, March 2001, which examined the entitlements regime for members of Parliament and Ministers and the specific circumstances of two MPs (Ms Bunkle and Ms Hobbs). The main conclusions on the system were that responsibility across the different administering agencies was disjointed, the system was complex, unclear, and difficult to apply, communication was poor, and the internal control processes were inherently weak and relied on individual trust.

Parliamentary Salaries, Allowances and Other Entitlements: Final Report, July 2001, which built on the previous report and examined the overall regime for setting and administering salaries, allowances, and other entitlements for MPs and Ministers. It concluded that the arrangements at the time lacked transparency and involved too many parties and parallel regimes. In particular, they confused remuneration and expenses in a way that was inconsistent with normal practice.

ACT Parliamentary Party Wellington Out-of-Parliament Offices, May 2003, which looked at the rules and administrative approach on the resourcing and use of staff in out-of-Parliament offices, and the relationship between party, parliamentary, and personal interests. The report concluded that there were no clear rules or principles on the particular issue, and that the available administrative guidance was open to interpretation. The administrative approach that had been taken did not apply common sense and focused on the specific wording of the guidance rather than the substance of the arrangements.

Government and parliamentary publicity and advertising, June 2005, which looked at how different sources of funding were managed in government and parliamentary publicity and advertising. The report set out concerns that the arrangements and guidelines then in place were unclear and produced inconsistent results, did not support the development of best practice in procurement or communications techniques, and did not support transparency or accountability over the source and use of public funds.

Inquiry into Funding Arrangements for Green Party Liaison Roles, April 2006, which looked at the way in which liaison roles for a non-executive support party were funded through Vote Ministerial Services. The report discussed the complexity of funding staff positions that straddle the executive and parliamentary branches of government, given that each is funded by separate appropriations.

Advertising expenditure incurred by the Parliamentary Service in the three months before the 2005 General Election, October 2006, which looked at the way in which Vote Parliamentary Service funds had been used for advertising expenses before the general election. The inquiry found significant breaches of the appropriation, with funds used for advertising that amounted to electioneering. It concluded that the Service had been applying an incorrect interpretation of the scope of the appropriation, and that it had not been effectively discharging its responsibility for administering the Vote. It also commented that the accountability framework was confused and lacked transparency.

Auditor-General's decision on parliamentary and ministerial accommodation entitlements, October 2009, which looked at how parliamentary and ministerial accommodation entitlements were administered. It found that the parliamentary system for accommodation entitlements was opaque. It used confusing and potentially misleading language, the administrative and guidance documentation was unclear, and the checks in the system were not well understood. Similar comments could be made about the ministerial system, until it was changed while our work was under way. The report commented that the interface between the two systems was poorly explained and could create difficulties.

Auditor-General's inquiry into certain types of expenditure in Vote Ministerial Services: Part 1, March 2010, which set out detailed findings on our examination of spending in one ministerial office. The report concluded that some expenditure had been incurred that was outside the rules, because the Minister and his staff did not have a correct understanding of the rules. The problematic expenditure had all been approved without question, even when it was clear on the face of the documentation that the spending was outside the rules.

- 1.17 Alongside those major published reports, we have also dealt with an ongoing flow of other issues, both large and small, over many years. Most of the questions that commonly arise relate in some way to managing the boundaries between the different capacities in which MPs work and receive funding. The different systems at different times require MPs to distinguish between ministerial, parliamentary, party political, electioneering, and personal activity.
- 1.18 Major themes from this body of work over a decade have included concerns about:
- rules that have developed over time and in a piecemeal way, and are not clearly grounded in principle;
 - a lack of clarity about the interaction between the legislative rules, the appropriation requirements, and accountability under the Public Finance Act 1989;
 - rules that are not easy to understand or administer;
 - unclear and inadequate guidance and training for staff;
 - complex and weak internal control processes causing confusion in a difficult operating environment; and
 - accountability structures that lack transparency.

Recent changes in the administration of Vote Parliamentary Service

- 1.19 Our 2006 report on election advertising spending in Vote Parliamentary Service identified many problems with the rules and administrative processes used by the Parliamentary Service. This affected the way in which MPs and parliamentary parties were able to spend public funds.
- 1.20 The Speaker and the Parliamentary Service carried out two major projects in 2007 to put in place new rules, in the form of a new Speaker's official direction, and new policies and procedures to support the practical financial management of the Vote. We discussed various aspects of these changes with the Service as they were being developed. In July 2007, the then Auditor-General wrote to the Speaker and the Parliamentary Service Commission confirming that we regarded both reforms as improvements that should be implemented as soon as possible.
- 1.21 There had been some concern that the new procedures might create an excessive administrative burden or restrict the autonomy of MPs. Our conclusion at that time was that:
- The new procedures appear to strike a sensible balance in each area of spending to achieve suitable control without causing significant practical impediments to members of Parliament. In our view, the new procedures are a sensible and practical way of blending the responsibilities of the Service under the [Public Finance Act 1989] with appropriate recognition of the autonomy of members*

of Parliament, and the practical needs and risks attaching to different areas of spending.

- 1.22 Since then, we have had a number of opportunities to assess how well the new financial management processes are working, both in our annual audit work and when particular issues have arisen. We continue to regard the new processes operating in the Parliamentary Service as an improvement, and consider that they strike an appropriate balance between the administering agency's accountability for the use of the Vote it administers and the freedom of individual MPs to determine how they use their parliamentary resources.

Relevant reviews by others

- 1.23 Two other relevant reviews have been under way while we have been working on this inquiry:
- The Law Commission has been reviewing the Civil List Act 1979, which involves considering aspects of the overall framework and structures for setting and managing remuneration (salary and allowances) for MPs and Ministers.
 - The Committee carrying out the fourth Triennial Review of Parliamentary Appropriations (the Appropriations Review Committee) has been assessing the adequacy of the funding and associated systems for Vote Parliamentary Service in particular. The Committee published its report in June 2010.⁵ It recommended a range of changes, including several that were relevant to our inquiry. In particular, it recommended greater separation between remuneration and business expenses, changes to travel and accommodation entitlements, and greater collaboration between the agencies on the parliamentary campus on matters such as information and communications technology.
- 1.24 We met with the people working on these reviews several times to understand any areas of overlap or common interest.

The focus of our inquiry

- 1.25 Given the recent improvements in the rules and supporting procedures in the Parliamentary Service system, and that the two other reviews were considering the more general aspects of the overall support arrangements, we focused our inquiry on Vote Ministerial Services and the system for funding support for Ministers. Our particular focus was spending that had the potential to provide personal benefit.

⁵ *Report of the Fourth Triennial Parliamentary Appropriations Review*, (June 2010), New Zealand Parliament, Wellington.

What we assessed

- 1.26 We have assessed as a whole the system for managing ministerial spending that has the potential for personal benefit. Our assessment included considering four layers of that system:
- how the three systems fit together, and in particular how the Ministerial Services system interfaces with those administered by the Parliamentary Service and the Remuneration Authority;
 - whether the rules in the Executive Determination are workable and fit for purpose;
 - whether the financial management processes supporting the rules are effective and provide suitable control and accountability; and
 - how well the Ministerial Services system works in practice.

What we did

- 1.27 For the first part of our inquiry, when we examined spending in the office of a particular Minister, we identified the main categories of spending where there was scope for personal benefit and looked in detail at every transaction in those categories.⁶ We also reviewed the rules, administrative processes, and guidance supporting ministerial spending.
- 1.28 For this second part of our inquiry, we again concentrated on the categories of spending that have some scope for personal benefit. We looked at spending in those categories across all ministerial offices for three years, going back to 2007/08, to identify patterns and trends. We then requested complete lists of transactions from different offices for some specific categories and types of spending.
- 1.29 From those lists, we sampled 260 transactions in different categories to examine the supporting information in more detail. We also reviewed the credit card transactions and supporting documentation for all Ministers between 2003 and 2010, which the Department had publicly released.
- 1.30 We supplemented this documentary information with interviews with staff from Ministerial Services (who administer the financial management processes) and senior private secretaries from several ministerial offices. We also spoke with the Speaker and the Minister responsible for Ministerial Services, to understand their perspective on the systems they are responsible for.
- 1.31 We also spent some time reviewing the rules in the Executive and Parliamentary Determinations and their supporting guidance in the Ministerial Office Handbook (the Handbook) and other documents. We researched the history of the overall

⁶ These categories included expenditure for domestic and overseas travel, accommodation and other associated costs, entertainment, gifts, government hospitality, and other miscellaneous ministerial office expenditure.

support arrangements, and compared the way they work with those in several other jurisdictions.

- 1.32 We then analysed all this information and made a preliminary assessment of how well the Ministerial Services system was operating. We provided a draft report to Ministerial Services for it to comment on the factual accuracy of our findings and on the reasonableness of our analysis and comments. We also checked parts of the report with the Parliamentary Service and the Remuneration Authority.

The structure of this report

- 1.33 Because the Ministerial Services system is not well documented or publicly understood, this report begins with some background and descriptive information. Part 2 describes how support is provided to Ministers, and the relevant legal and administrative rules.
- 1.34 Part 3 summarises our general expectations about how public entities will manage spending that has the potential to give personal benefit, and our general expectations of financial management processes. It also describes how we tailored those expectations to the ministerial context.
- 1.35 The next two Parts set out our conclusions about the first two layers of the Ministerial Services system, which largely focus on the institutional arrangements and legal rules that govern Ministerial Services' work. Many of the issues identified in Parts 4 and 5 will need to be addressed through collaborative work between Ministerial Services and the other administering agencies and responsible departments:
- Part 4 looks at how well the three systems fit together (the Remuneration Authority, the Parliamentary Service, and Ministerial Services), and discusses some practical problems that arise from these overall support arrangements; and
 - Part 5 sets out the results of our analysis of the detail of the rules in the Executive Determination that govern the Ministerial Services spending.
- 1.36 The operational layers of the system are addressed in the next two Parts. They focus on the internal administrative policies and practice within Ministerial Services:
- Part 6 looks at the financial management processes and assesses their ability to provide effective support and control; and
 - Part 7 summarises our findings on what happens in practice.
- 1.37 The final part of this report, Part 8, draws together the detail of the previous discussions and summarises our overall findings. It then describes the changes that we consider are needed.

Part 2

The support provided to Ministers

- 2.1 In this Part, we provide some background information on the system for providing support to Ministers by answering the following questions:
- What is Ministerial Services?
 - What does a typical ministerial office look like?
 - Who is responsible for ministerial spending?
 - What are the rules for ministerial spending?
 - What are the financial management processes for ministerial spending?

What is Ministerial Services?

- 2.2 The Department of Internal Affairs (the Department) is the agency responsible for providing administrative and financial support to Ministers and their offices. For many years, the support was funded as part of the Department's general activities through Vote Internal Affairs. In practice, a senior Minister (often the Deputy Prime Minister) helped oversee the services that were provided to Ministers (for example, by helping to allocate residences and offices).
- 2.3 In the late 1980s, after a review by the State Services Commission, the Department created a separate internal business unit, Ministerial Services, to manage this part of its work. A distinct ministerial portfolio with its own Vote was created after the 1999 general election, and the Prime Minister took on the role of Minister responsible for Vote Ministerial Services.
- 2.4 The Department continues to administer the funding provided through Vote Ministerial Services, and reports to the Minister responsible for Vote Ministerial Services on these issues. The Ministerial Services unit is now part of the Executive Government Support group within the Department.
- 2.5 Ministerial Services provides the following support to Ministers:
- staff for ministerial offices;
 - office space, equipment, and related support services;
 - support for all administrative and financial matters, and information and communication technology.
- 2.6 Until late 2009, Ministerial Services also provided residential accommodation for Ministers. After concerns were raised about the way in which those services were provided, the Minister responsible for Ministerial Services (the Prime Minister) changed the entitlement to one that provided a standard financial contribution to accommodation costs. The Department had previously either owned or leased accommodation for use by Ministers. Most Ministers are now responsible for

arranging their own accommodation, and Ministerial Services is responsible only for the residences with heritage value (such as Premier House and Vogel House) and for some leases that have not yet been phased out.

- 2.7 Other parts of the Executive Government Support group:
- provide chauffeur-driven and self-drive vehicles (VIP Transport); and
 - facilitate visits to New Zealand by official guests of government, airport and reception services for Ministers and the Governor-General, and the management of commemorative events and state functions.
- 2.8 The 2010/11 budget provided the following funding:
- \$27.26 million for the direct support services to Ministers provided by Ministerial Services;
 - \$11.44 million for internal and external travel by Ministers; and
 - \$8.30 million for ministerial salaries and allowances.

What does a typical ministerial office look like?

- 2.9 The main support for a Minister will be provided by the government department or departments in the Minister's portfolio/s. The Minister's office is typically a small unit servicing the Minister's immediate and daily needs, including diary management, correspondence, media liaison, travel arrangements, interaction with the House of Representatives, Cabinet and its committees, and caucus, and managing the flow of departmental and other government business.
- 2.10 A Minister's office is usually extremely busy, and focused on the immediate and practical tasks that will enable the Minister to manage the full range of political and media issues arising in the course of a day. Managing the office spending is a small part of the work.
- 2.11 The number of staff in a ministerial office varies from about 6 to 12, depending on the size and complexity of the Minister's portfolio responsibilities. The main roles are described in Figure 3.

Figure 3
Main roles of ministerial office staff

Who works in a ministerial office?

The office is usually headed by a **senior private secretary**, who has overall management responsibility for the office and for the support provided to the Minister. The senior private secretary is usually responsible for the Minister's diary, including House, Cabinet, and electorate commitments, travel, and attendance at public and other events. A senior private secretary must have a close working relationship with the Minister. In practice, they will be helping the Minister prioritise and juggle a wide range of competing demands, including personal and family commitments.

The **portfolio private secretaries** are usually seconded into the office from the relevant government department to support the Minister on activities relating to that portfolio. They manage the flow of business between the Minister and the department, including correspondence, briefings, policy papers, Cabinet papers, and any other matters requiring follow-up or liaison.

A **ministerial adviser** provides general policy and political support to the Minister by maintaining a strategic overview of portfolio activities, providing advice on policy issues and options, liaising with other advisers, Ministers, and select committees, consulting with other political parties, groups, and individuals, and managing the flow of answers to written and oral parliamentary questions and Official Information Act requests.

The **press secretary** provides public relations, publicity, and information services for the Minister, including advice on public relations matters, preparing speeches and media releases, and liaison with media and other media advisers.

The office will also include a small number of **secretarial and administrative support staff**, who will be the first point of contact for people dealing with the office, manage travel bookings and office supplies, provide word processing, data, and information management services, and carry out a wide range of other administrative tasks.

Who is responsible for ministerial spending?

- 2.12 Under the Public Finance Act 1989, the Department administers the Vote. It must be able to account to the Vote Minister and to Parliament on the use of those funds, including providing assurance that all spending is within the terms of the appropriation and any other legal rules. To meet those responsibilities, the Department must have financial management and accountability processes in place that can provide assurance that spending is appropriate.
- 2.13 Although the Department formally incurs expenditure on behalf of the Crown, and must be able to account for the use of funds, Ministers and ministerial office staff are able to make decisions about spending and enter into contracts and binding commitments on behalf of the Department.
- 2.14 Staff in ministerial offices are employees of the Department and are directly accountable to the Department for their spending decisions. They must be able to demonstrate to those centrally overseeing the financial management processes that expenses they incur are within the rules.

- 2.15 Ministers are not accountable to the Department in the same way. However, they must provide information to the Department to enable it to assure itself that expenses are appropriately incurred under the Vote. For its part, the Department needs to have the ability to seek such supporting information to enable it to discharge its responsibilities.
- 2.16 All those involved in spending public money are accountable for their part in the use of those funds, whether they are the administering department, a staff member, or a Minister. The nature of that accountability will vary to match the type of decision and level of responsibility.

What are the rules for ministerial spending?

Legal rules

- 2.17 Historically, there have been no specific legal rules controlling the way in which the Department provides support to Ministers. It has simply been part of the administrative function of running a government. It does not need legislative backing. The primary legal constraint on what funds can be used for is provided by the appropriation system, because the appropriations set limits on the amount that can be spent and define the broad purposes for which money can be spent.
- 2.18 Aspects of the system changed in 2002 and 2003, as part of more general changes to the overall support arrangements for managing remuneration and allowances and support for MPs and Ministers. Until these changes, the Higher Salaries Commission (as the Remuneration Authority then was) set a range of allowances for public office holders that mixed business expenses and remuneration. The 2002 amendments to the Civil List Act 1979 and the Remuneration Authority Act 1977 created three different areas of responsibility:
- The Remuneration Authority was given responsibility for setting the salary and allowances for MPs and Ministers.
 - The Speaker was required to determine the travel, accommodation, attendance, and communications services to be provided to MPs (the Parliamentary Determination).
 - The Minister responsible for Ministerial Services was given authority to determine, for members of the Executive, any additional or alternative services for Executive travel, accommodation, attendance, and communications (the Executive Determination).
- 2.19 The first Executive Determination was made under the new Civil List Act provision on 1 November 2003. It set out the travel, accommodation, attendance, and communications services to be provided to Ministers and their families. It is not

a comprehensive description of the support that can be provided, because it sits on top of the pre-existing general ability of the Department to provide support to Ministers.

- 2.20 Ministerial Services reviewed the Executive Determination in 2008, and the responsible Minister issued an updated Executive Determination in May 2009. The main changes were the inclusion of contextual and purpose statements and guiding principles to match the equivalent Parliamentary Determination. Schedules giving examples of what would be paid for under “operational resources”, and making clear what services were provided with a ministerial residence, were also included.
- 2.21 A number of definitions were updated, and other aspects of the entitlements were clarified or modified in minor ways. As we noted in our report on the first part of this inquiry, the matters listed in the schedule on what is covered by “operational resources” are also included in the guidance provided by the Remuneration Authority on what the parliamentary allowance is designed to cover.
- 2.22 The Executive Determination was changed again in October 2009, to implement the decision to change the way in which accommodation support would be provided to Ministers.
- 2.23 Ministerial Services has told us that it intends to review the Executive Determination every three years from now on, to coincide with the general election cycle.

Administrative rules

- 2.24 The Handbook describes itself as the authoritative guide for Ministers and ministerial office staff on administrative and support services. A revised edition was produced in July 2008 and the Handbook was made available on the Ministerial Office intranet in 2009. The intention is that the Handbook will be updated electronically from time to time.
- 2.25 Among other things, the Handbook outlines financial policies and procedures for ministerial office spending. It describes the responsibilities of ministerial office staff involved in spending, the particular types of spending they can incur, the principles guiding them, and the available methods of payment. It also sets out procedures for arranging ministerial travel.
- 2.26 The Department’s financial delegations govern the spending under Vote Ministerial Services. Both the General Manager of the Executive Government Support group and the Assistant General Manager, Ministerial Services have

delegated authority to approve a wide range of spending up to specified limits. Senior private secretaries do not have delegated authority to approve spending, but are able to commit to and certify some types of spending, without prior approval, up to specified limits. For example, they can place a stationery order and send the documentation for that transaction to the Assistant General Manager for approval. These spending limits are set out in the Handbook.

- 2.27 The Department's general departmental policies also apply to much of the ordinary business of running a ministerial office. This includes the Department's Code of Conduct, as well as policies on employment matters, business spending, credit cards, probity, and koha.
- 2.28 In practice, there is also a steady stream of working-level decisions that create a substantial body of institutional knowledge, operating a little like an informal precedent system. Ministerial Services administrative staff build up a substantial body of knowledge, and individual senior private secretaries also accumulate their own experience and understanding of how the rules apply. Ministerial Services communicates new or significant decisions that apply broadly to office staff through formal meetings with all senior private secretaries, and through email correspondence.

What are the financial management processes for ministerial spending?

- 2.29 Spending by Ministers and their ministerial offices can occur in three ways:
- through the Department's invoice payment process (which can include reimbursing Ministers and their ministerial office staff for work-related expenditure);
 - by credit card (provided for Ministers and selected office staff); or
 - through an office imprest account (which can also include reimbursing people).
- 2.30 Ministerial Services provides each ministerial office with a cheque account called an imprest account (if requested), which is used when a payment needs to be made directly to a supplier rather than through the Department's standard processes. The Minister's senior private secretary is authorised to operate the account. The float balance of the imprest account is small – the Handbook says that it is about \$2,000. The senior private secretary must complete a reconciliation form documenting all the transactions before Ministerial Services will reimburse the account to maintain the float.

- 2.31 As noted above, a senior private secretary is able to commit to routine spending up to certain limits, as set out in the Handbook. Figure 4 sets out some examples of what a senior private secretary can authorise.

Figure 4
Examples of what the senior private secretary can authorise

Cost code	Description	Activity	A senior private secretary can certify...
5041	Internal travel and accommodation	Staff travelling without the Minister, and koha	short-notice travel, up to \$1,000.
5054	Printing and photocopying	Includes printing of stationery (for example, business cards, letterhead)	up to \$700 for each order.
5104	Entertainment	Covers non-allowance meal costs, office internal functions (for example, staff farewells), and non-portfolio related events	up to \$300 for each function, and alcohol purchases up to \$100.
5111	Gifts	All official gifts given within New Zealand. Overseas gifts are included in the travel authority for the trip	up to \$250 for each order.
5265	Government hospitality	Portfolio-related ministerial functions	up to \$1,000 for each function.

- 2.32 Anything above the specified approval levels or outside the approvals listed must be approved in advance by the Assistant General Manager. This is usually done by email.
- 2.33 The senior private secretary must certify that all spending is correct before forwarding it to Ministerial Services for checking, approval, and payment. This requires the senior private secretary to check that the spending is for a valid ministerial purpose and is within the rules, that there is appropriate support for the spending (usually a tax invoice or receipt and any other relevant documentation), that the correct signatures are there to show that the spending was properly incurred, and that personal cheques are attached for any personal spending.
- 2.34 Usually, the ministerial office will receive an invoice for the spending. The invoice, along with evidence of any pre-approval, will make up the supporting documentation. Sometimes there will not be an invoice. Koha is a common example. In these instances, the policy will generally require the person who spent the funds (usually the Minister) to certify that the payment was made and provide some supporting information (such as the date, location, and recipient).

- 2.35 The same applies for spending on credit cards, reimbursement claims, and reconciliations of travel expenses. The senior private secretary must collate all the relevant supporting documentation, check the purpose and authorisations, and ensure that it is all correct before forwarding it to Ministerial Services.
- 2.36 The Administration and Finance Team (the finance team) in Ministerial Services provides assistance to ministerial offices on spending matters, and is available to answer any questions that staff might have. The finance team is responsible for:
- assigning cost codes to invoices before forwarding them to the Assistant General Manager for approval and payment;
 - assessing any reconciliations and the adequacy of the supporting documentation, using the legal and administrative rules and the spending principles; and
 - questioning and seeking further information about any spending where they identify an issue or do not have adequate support for the expense.
- 2.37 As the person with the delegated authority to approve payments, the Assistant General Manager must then review each transaction and decide whether to approve it. The Assistant General Manager will question a transaction and seek further information if necessary. Once approved, the transaction is processed for payment.
- 2.38 The financial management processes are now largely electronic (with the exception of credit card transactions). Hard copy invoices and other documentation are scanned into electronic files that can then be easily circulated to the various offices for review and approval.

Part 3

Our expectations

- 3.1 All organisations have aspects of business spending that can be seen as providing some personal benefit. All organisations need financial management processes to manage the inherent risks in that type of spending.
- 3.2 In this Part, we summarise our general expectations about how public sector organisations will manage those risks. We discuss:
- our approach to spending that can provide personal benefit;
 - our general expectations of public entities; and
 - the principles we used to assess Ministerial Services' financial management processes.

Our approach to spending that can provide personal benefit

- 3.3 The public rightly expect all those who spend public money to recognise that it is public money. Any spending that provides or appears to provide personal benefit to an individual can be controversial. That has been amply demonstrated in the last year by the public debate that has followed from increased disclosure about spending by Ministers, mayors, and public sector chief executives.
- 3.4 Everyone who spends or administers public money needs to recognise this sensitivity: the questions asked by the public are legitimate.
- 3.5 That does not mean not spending the money, or not using a business credit card, just because there is some risk attached. It does mean taking extra care to ensure that the spending is reasonable and appropriate, and that the organisation's decisions and approval processes will stand up to public scrutiny.
- 3.6 It is important to consider carefully how an outside observer might regard the spending, and to be clear about why the spending is justified, both in terms of business purpose and amount. It is sensible to take a conservative approach in managing these boundaries. It is also useful to consider specifically how any risks are to be managed. Applying normal financial management and approval processes, and keeping good records, will usually be central to managing any risks.
- 3.7 Any suggestion of inappropriate spending of public money, no matter how small the amount, can undermine the public's trust in government and Parliament if it is not caught and corrected. It is important that public entities as organisations, and all individuals working in the public sector, guard carefully against this risk through their organisational policies and procedures and through their personal conduct.

Our general expectations of public entities

- 3.8 In February 2007, the then Auditor-General published a good practice guide, *Controlling sensitive expenditure: Guidelines for public entities*. That report includes guidance on the components of a strong management approach to spending that has the potential to give personal benefit. It outlines five basic elements:
- a principles-based approach;
 - leading proper and prudent practice by example;
 - approving and implementing suitable policies and procedures;
 - procedures that consistently support all staff to follow proper and prudent practices; and
 - appropriate training and monitoring of activities to ensure effective control.
- 3.9 To be effective, organisational policies and procedures need to:
- make clear what types of spending are and are not permitted;
 - outline clear approval processes that are specific about who approves what;
 - set spending limits or boundaries, including giving guidance or benchmarks, where possible, on what is “reasonable” when the limit is described as “actual and reasonable” costs;
 - allow a manager to grant an exception in exceptional circumstances;
 - specify the monitoring and reporting regime and, where applicable, any internal audit checks that may be applied; and
 - specify the process for amending the policies and procedures.
- 3.10 Our general expectations about approval processes are that:
- A person senior to the person who will or might benefit will give the approval, wherever possible (the “one-up” principle). Where this is not possible, an alternative approach needs to be found that achieves some distance between the person benefiting and the person who gives final approval.
 - The person approving the spending must satisfy themselves that the spending is within any relevant rules, has a justified business purpose, and that other principles are adequately met, including reasonableness.
 - Policies will require expenditure to be approved before it is incurred, wherever practical.
 - Approvals will be within the person’s delegated authority and the budget.
- 3.11 The claim that goes forward for approval should be submitted promptly after the expenditure is incurred. It should include:
- a clear statement of the business purpose of the spending – if that is not clear from the supplier documentation, the person claiming the expense should provide a brief written statement of the purpose;

- adequate original documentation to support the spending, such as a tax invoice or other validating documentation – an EFTPOS receipt is not adequate, nor is a credit card statement; and
 - some alternative documentation of the date, amount, description, and purpose of the spending, if receipts are not available (for example, for small amounts of cash).
- 3.12 The aim is to provide enough documentation or explanation for an independent person to be able to understand why the expense was incurred and to assess whether it was reasonable and appropriate. For example, a claim for a meal or entertainment function should state the number of people attending, who they were (at least in general terms), and the purpose of the event. This information lets someone assess at a glance whether the amount spent was reasonable. For example, in a list of transactions coded as “Business hospitality”:
- Entry A could simply state “Hospitality: meal” and the cost is \$500.
 - Entry B could state “Hospitality: Dinner, visit from chief executive of [overseas counterpart], 6 people”, and the cost is \$500.
- 3.13 Entry A raises more questions than it answers about the purpose and reasonableness of the expense. Entry B is self-explanatory, and would be likely to proceed through an approval process smoothly if the invoice were attached.
- 3.14 Our 2007 good practice guide provides advice on several aspects of sensitive expenditure. In particular, it encourages public entities to have policies that give clear guidance on buying alcohol for business functions, the use of minibars when travelling, the organisation’s approach to staff functions such as farewells and Christmas parties, and the giving of gifts. Clear rules or guidelines on appropriate amounts to spend in different situations help protect individual staff, because they require the organisation to have decided what it considers reasonable rather than leaving individuals to form their own judgements. The guide also encourages pre-approval for events such as major staff functions.

The principles we used to assess the Ministerial Services system

- 3.15 The Ministerial Services system has to meet the needs of three distinct groups:
- the users of the system, who need effective support in busy and complex roles (Ministers and senior private secretaries);
 - those administering the financial management processes, who must account for the use of the funds (Ministerial Services); and
 - the public, who are entitled to assurance that public funds are managed properly.

- 3.16 Financial management processes that support spending by Ministers will need to differ from normal processes in some respects. Ministers are not employees. They have a high degree of autonomy and take personal and political responsibility for their actions. Their role is broad and responsive, the pace and amount of work is high, and they will often have high travel and hospitality costs. The financial management processes supporting them need to be similarly responsive and flexible.
- 3.17 The funding context is also complex, because some types of normal business spending that could have personal benefit are governed by legal rules and expressed as entitlements under the Parliamentary and Executive Determinations made under the Civil List Act 1979 by the Speaker and the Prime Minister. Under the current Determinations, there is no formal need to check the reasonableness of some spending because Ministers have a comprehensive entitlement.
- 3.18 We are familiar with these issues from our ongoing work in the parliamentary and ministerial sector, through our regular annual audit work and through the various inquiries we have carried out in the last 10 years. Many of our discussions since 2006 with the Parliamentary Service and the Speaker have centred on the equivalent issues in the parliamentary context. As noted in Part 2, we provided advice to the Parliamentary Service Commission in 2007 specifically on how the new processes developed for Parliament balanced the need to achieve suitable control with the autonomy of MPs.
- 3.19 For our inquiry, we used the following principles to assess the Ministerial Services system:
- **effective** – the system has to meet the needs of Ministers and their staff for support;
 - **principled and justifiable** – the type of support provided should be grounded in principle and have a clear rationale connected to business purpose;
 - **accountable** – the financial management processes should include appropriate and clear approval requirements and checks, and maintain full financial records;
 - **clear** – the rules and processes need to be easy to understand and apply;
 - **grounded in common sense** – the system needs to work in practice, and be able to provide sensible and practical answers to new problems;
 - **transparent** – clear information on the rules and the way they are administered, and the support that is provided, should all be publicly available and regularly reported;
 - **manifestly fair** – the support that the system provides needs to be consistent and fair to all those who use it, and it needs to be seen to be fair by observers; and
 - **cost-effective** – the way in which support is provided needs to be periodically assessed to ensure that value for money is being obtained.

Part 4

How well do the three systems fit together?

- 4.1 As outlined in Part 1, there are three related systems that provide remuneration and support to Ministers and MPs:
- The Remuneration Authority sets salaries and an allowance for all MPs. The allowance is designed to cover a range of miscellaneous business expenses.
 - The Parliamentary Service, under the authority of an official direction from the Speaker, administers a range of entitlements and support services for all MPs, including some aspects of support provided to Ministers in their parliamentary capacity (for example, the costs of constituency offices).
 - The Department, through Ministerial Services, administers some of the parliamentary entitlements for Ministers, and also provides Ministers with a range of additional or alternative support, including the entitlements and support services provided for in an official direction from the responsible Minister.
- 4.2 In this Part, we assess how well the Ministerial Services system fits with the other two systems that provide remuneration and support to Ministers in their other capacities. We discuss:
- our previous relevant findings;
 - the work we carried out for our inquiry;
 - the relationship between the Ministerial Services and the Remuneration Authority systems;
 - the relationship between the Ministerial Services and the Parliamentary Service systems; and
 - our overall assessment of the fit between the systems.
- 4.3 We have taken account of the fact that two other reviews have been taking place at the same time, which were both looking at aspects of these overall support arrangements. The *Report of the Fourth Triennial Parliamentary Appropriations Review* commented on some aspects of the current approach, including recommendations to simplify and remove some of the overlap between personal remuneration and business expenses. The Law Commission's review of the Civil List Act 1979 has also been looking directly, at a policy level, at the advantages and disadvantages of the current approach.
- 4.4 We have not duplicated their work. Our focus in this inquiry has been at the practical level, identifying where we see potential for unhelpful complexity or confusion for those working in the system.

Our previous findings

- 4.5 Figure 2 (following paragraph 1.16) summarised our previous reports on the parliamentary and ministerial funding systems, going back to 2001. The last two of those reports, in October 2009 and March 2010, identified some current problems with the relationship between the three systems.
- 4.6 When we examined the way in which accommodation assistance was provided to Ministers and MPs we said that the parliamentary and ministerial systems did not fit well together. The two sets of rules took quite different approaches for historical reasons and those differences made moving between the two systems complicated for both the individual MP and the administering agencies.
- 4.7 We found a similar issue when we examined the spending by one Ministerial office during this inquiry. There appears to be a clear overlap between the personal expense allowance given by the Remuneration Authority and the matters that the Department provides under the Executive Determination, under the heading of “operational resources”. Each agency produces a list as guidance – the Remuneration Authority on what the allowance is designed to cover and the Department on what can be paid for as operational resources. Both lists include:
- entertaining visitors, staff, and officials;
 - memberships, sponsorship, and fees;
 - koha;
 - gifts;
 - flowers (including wreaths);
 - passport photographs; and
 - briefcases and luggage.
- 4.8 The only way to reconcile the two lists is to infer that the allowance is for expenses that relate to parliamentary business while only ministerial expenses can be claimed as operational resources.

Our work in this inquiry

- 4.9 We reviewed the various legal documents that set out entitlements and support services in each system, as well as any associated background or explanatory material, to identify potential overlap or confusion. We also specifically asked about the practical interface between the systems in our interviews. As a result, we identified some problems with the way the systems fit together.
- 4.10 We discuss these problems in two groups, according to where they arise:
- the relationship between the Ministerial Services and the Remuneration Authority systems; and

- the relationship between the Ministerial Services and the Parliamentary Service systems.

Relationship between the Ministerial Services and Remuneration Authority systems

Transparency about the amount of personal benefit

- 4.11 The main issue with the relationship between the Ministerial Services system and the Remuneration Authority system is the blurring of the line between remuneration and business expenses. This issue primarily arises because of the comprehensive approach taken to travel entitlements in the Parliamentary Determination, some of which have traditionally had the potential for significant personal benefit. Ministerial Services meets the cost of some of these parliamentary entitlements for Ministers. Some of the additional entitlements in the Executive Determination also give some personal benefit (such as a self-drive car, and unlimited access to chauffeur-driven cars and taxis).
- 4.12 The merits of this approach to providing remuneration and meeting business expenses have been extensively discussed elsewhere, including by this Office in earlier reports.⁷ Therefore, we comment only on the issue of transparency.
- 4.13 In most workplaces, if a business expense or benefit provided to an employee has an element of personal benefit, that benefit is declared to the Inland Revenue Department (Inland Revenue) and quantified, and the employer pays fringe benefit tax on it. In addition, many workplaces operate a “total remuneration” system, where an employee can choose to take some of the value of their remuneration through other benefits, such as a car.
- 4.14 It is clear from the entitlements in the Parliamentary and Executive Determinations that MPs and Ministers are likely to get some personal benefit from them. The Civil List Act 1979 requires both the Speaker and the Responsible Minister to consult the Commissioner of Inland Revenue before making new Determinations, which enables the entitlements to be assessed for fringe benefit tax purposes.
- 4.15 There is no formal requirement to consult the Remuneration Authority in the same way, but we understand that this happens in practice. The Remuneration Authority takes account of some of the entitlements (mainly personal travel entitlements) in the Parliamentary Determination when it sets salaries. The main entitlement that it has regarded as providing a significant personal benefit has been the entitlement to a rebate on international air travel for MPs and their

⁷ New Zealand Parliament (2010), *Report of the Fourth Triennial Parliamentary Appropriations Review*; Office of the Auditor-General (2001), *Parliamentary Salaries, Allowances and Other Entitlements: Final Report*; and Prebble, M (2010), *With Respect: Parliamentarians, officials, and judges too*, Institute of Policy Studies, Wellington.

partners. In November 2010, the Speaker decided that this entitlement will be abolished in its current form.

- 4.16 Information on the adjustments that the Remuneration Authority makes is not publicised in the same way as the total remuneration. We have found only one published explanation of these adjustments, in a 2003 determination of the Remuneration Authority. It explained the value that had been put on the various entitlements, and used the example of a backbench MP to show that a gross remuneration of \$146,000 reduced to a salary of \$110,000 once the adjustments were made.
- 4.17 Therefore, the level of personal benefit arising from the parliamentary and executive entitlements is not as great as it appears. But between them the systems are not very transparent. The information that is publicly available tells only part of the story.
- 4.18 In our view, if these current arrangements that blur remuneration and business expenses continue, then the administering agencies need to make more information public on how they manage the apparent duplication of benefit. For Ministerial Services, this might simply involve making public the results of Inland Revenue's assessment of fringe benefit tax. For the Remuneration Authority, it would require more regular public disclosure of the extent to which the salary has been adjusted to take account of the personal benefit received through the other systems.

Overlapping allowance entitlements

- 4.19 Our other main concern with the relationship between the Ministerial Services and Remuneration Authority systems is the practical one discussed in paragraph 4.7, about the explicit overlap between the Remuneration Authority allowance and the expenses covered under operational resources in the Ministerial Services system. The only way to reconcile the two lists is to infer that the allowance is for expenses that relate to parliamentary business and that only ministerial expenses can be claimed as operational resources. Although this may be a meaningful distinction in some contexts (such as laying a wreath), it makes less sense in other contexts (such as purchasing luggage or passport photographs).
- 4.20 Ministerial Services told us that some of these types of spending are intended to relate to staff rather than Ministers. If that is the case, then that guidance should be in the Handbook rather than the Executive Determination. The Determination applies only to Ministers, not staff. Ministerial Services also told us that it expects Ministers and staff to be familiar with the distinction between ministerial and parliamentary business.

- 4.21 We consider it unhelpful for the Executive Determination to contain rules or guidance that appear to create a direct overlap with the allowance that Ministers receive as part of their remuneration.
- 4.22 In our view, the Department needs to consult the Remuneration Authority and clarify the Executive Determination and associated guidance to ensure that there is no overlap between the two, and that Ministers and their staff have clear guidance on what can and cannot be claimed as operational resources.

Relationship between the Ministerial Services and Parliamentary Service systems

- 4.23 The Ministerial Services and Parliamentary Service systems deal with a bigger range of practical matters, and are more closely intertwined. The Parliamentary Determination provides the base of the two systems because the parliamentary entitlements apply to all MPs, including Ministers. The Parliamentary Service administers most of these entitlements, but Ministerial Services administers and pays for some of them for Ministers. The Executive Determination creates other entitlements for Ministers that are either additional to or replace the parliamentary entitlements.
- 4.24 In total, Ministers receive:
- their salary and an expense allowance determined by the Remuneration Authority (which are administered and paid through Ministerial Services);
 - Parliamentary entitlements, which are administered and paid by the Parliamentary Service;
 - Parliamentary entitlements, which are administered and paid by Ministerial Services; and
 - Ministerial entitlements, which are administered and paid by Ministerial Services.
- 4.25 We identified several matters that we consider need attention.
- 4.26 The Executive Determination contains a specific section on the relationship between the entitlements under it and the equivalent Parliamentary Determination. It states:
- (1) *Members of the Executive are also members of Parliament and, as such, have all the entitlements to travel, accommodation, attendance, and communications services that the Speaker determines, under section 20A of the Civil List Act 1979, to be available to members of Parliament and their families ...*

(2) For the avoidance of doubt, the entitlements of members of the Executive set out in this document are either additional or alternative to the entitlements referred to in subclause (1), the applicable principle being that a member of the Executive is not entitled to receive duplicate entitlements.

- 4.27 In our view, this is not a particularly helpful explanation for Ministers and their staff. In practice, it is necessary to work through the different types of spending and work out in some detail what entitlements are covered by each set of rules and each Vote. Appendix 3 summarises our analysis of the categories of expenditure that we have examined. We consider it an overly complicated picture. For example:
- For a domestic trip where the Minister will be accompanied by their spouse, the ministerial system covers the Minister's air travel and the parliamentary system covers the spouse's air travel. The ministerial system will cover accommodation and meal costs, and will also cover the spouse's accommodation and meal costs if it is "necessary" for the spouse to attend an official function with the Minister.
 - To meet a routine business expense, such as entertaining visitors, the Minister has to decide between the personal expense allowance provided for incidental business costs of being an MP, the parliamentary funding of operational expenses as an MP (for example, electorate costs), and the operational resources available to Ministers.
- 4.28 Although these various distinctions may be logical in theory, we consider that they do not make it easy for the users of the systems. The complexity increases the risk of error by Ministers and senior private secretaries.
- 4.29 These distinctions, and the split between different appropriations and budgets, also impede transparency. In particular, the information that is publicly released on travel costs splits the information so that the travel costs of Ministers are reported under Vote Ministerial Services and the travel costs of their spouses and families – even if they are accompanying the Minister – are recorded under Vote Parliamentary Service. It is not readily apparent to readers that the costs may relate to the same trip and to ministerial business.
- 4.30 Another practical problem that has arisen in the past is that the strict demarcation between the parliamentary and ministerial support systems does not always fit the reality of political relationships and practical needs. Our 2006 report on the funding for liaison staff working in Green Party parliamentary offices, when two Green Party MPs were carrying out some Executive activities, is one illustration of this type of problem. Another is that senior private secretaries are sometimes managing both a ministerial budget and a parliamentary budget

for their Minister. We were told that in practice this situation is managed by the Parliamentary Service “co-employing” them, so that the person can hold a financial delegation as an employee of the Parliamentary Service. This solution may work in practice, but it is administratively cumbersome.

- 4.31 There are a range of other practical matters where there is scope to improve the service to the users of the systems by better integrating the ministerial and parliamentary systems:
- The Appropriations Review Committee has commented on the work being done to integrate a range of practical services, including cell phones and other information and communications technology services.
 - In our 2009 report on parliamentary and ministerial accommodation entitlements, we highlighted problems with the lack of connection between the two systems of accommodation entitlements. Those problems are now being addressed with the implementation of the new process of a simple payment to reimburse Ministers for their accommodation costs.

Our overall assessment of the fit between the systems

- 4.32 This first part of our analysis examined the overall support arrangements and asked how well the three systems fit together. Leaving to one side the larger policy questions about whether the overall support arrangements are appropriate, our assessment is that the practical overlap and the complexity built into the current arrangements is unhelpful, and is likely to make it harder for people to ensure that spending is reasonable and appropriate.
- 4.33 Officials from the Parliamentary Service and Ministerial Services have told us that those working in the system become familiar with it. Because almost all Ministers start off as MPs, they will usually have a reasonable understanding of the parliamentary entitlements and remuneration system before they become a Minister, including the scope of parliamentary business and the use of the allowance. We can see that officials from the two agencies can and do make it work in practice, and that they consult regularly with one another.
- 4.34 However, the current arrangements are far from ideal. They impede transparency and create an unhelpful degree of complexity. In our view, it would be better to clarify and simplify how the three systems fit together so that the overall support arrangements are more coherent.
- 4.35 This could extend to wholesale reform of the overall support arrangements, as has been proposed by others. Such a reform would not be a task for Ministerial Services alone, but would require broader input from the relevant administering and policy agencies.

- 4.36 Even if change does not extend to reform of the overall support arrangements, there would still be benefit in working to simplify and clarify some of the boundaries between the three systems. More modest changes to address the various issues that we have identified in this Part could be made by the administering agencies in the course of the regular review and updating processes for each of the Determinations.

Part 5

Are the rules in the Executive Determination workable and fit for purpose?

- 5.1 The previous Part looked at how well the overall support arrangements work. In this Part, we look at the next layer down – the detail of the rules in the Executive Determination. The Executive Determination is made by the Minister Responsible for Ministerial Services, with advice from Ministerial Services.
- 5.2 We look at whether the way the Executive Determination is written creates rules that are workable and fit for purpose. In particular, we discuss:
- the purpose and legal status of the Executive Determination;
 - links between the Executive Determination and the appropriations within Vote Ministerial Services;
 - the principles in the Executive Determination;
 - domestic travel entitlements;
 - operational resources; and
 - our overall assessment.
- 5.3 We discuss the relationship between the Executive and Parliamentary Determinations, because Ministers receive many entitlements under the Parliamentary Determination. The Executive Determination provides them with additional or alternative entitlements to support their needs as Ministers. The terms of the Executive Determination have been deliberately designed to mirror the parliamentary entitlements and processes.

The purpose and legal status of the Executive Determination

- 5.4 To assess whether the Executive Determination is workable and fit for purpose, we first had to establish what its purpose is. That proved to be surprisingly difficult.
- 5.5 The three systems in the overall support arrangements and the administering authorities have different legal foundations and history. The Remuneration Authority and the Parliamentary Service were both created by legislation, which prescribes their role and activities. They cannot properly act outside their legislative authority.
- 5.6 In the case of the Parliamentary Service, the Parliamentary Service Act 2000 links the description of the services to be provided with the official direction issued by the Speaker (that is, the Parliamentary Determination). Therefore, as a matter of law, the Parliamentary Determination is a comprehensive statement, or code, of what support can be provided. The appropriations that authorise spending also link to the Parliamentary Determination, and so reinforce this restriction.

- 5.7 The Ministerial Services situation is different. As explained in Part 2, Ministerial Services is part of the Department. The Department is part of the Crown and does not have or need legislative authority for most of its ordinary activity. Ministerial Services does not have (or need) specific legislation supporting its work or enabling it to fund the ordinary business expenses of Ministers and their staff.
- 5.8 When the overall support arrangements were amended in 2002, some parts of the previous allowance system that had been administered by the Higher Salaries Commission were moved to the Ministerial Services system. That change was achieved by creating a new mechanism that mirrored that being used in the parliamentary system – a determination by the responsible Minister setting out the entitlements and expenses to be paid.
- 5.9 We have already explained that, in the parliamentary system, the Parliamentary Determination provides a comprehensive legal statement of the support the Parliamentary Service will provide. It has no legal ability to do more than is set out in the Parliamentary Determination. However, this is not so in the ministerial system.
- 5.10 The Executive Determination sits on top of the Department's general legal capacity to provide support. It specifies some expenses that can or should be met from the public purse, but there is no legal constraint to stop the Department meeting other expenses as well.
- 5.11 From our research, it seems unlikely that this difference was fully appreciated at the time the change was made. In our view, the issue is important because the result is that aspects of the Ministerial Services system are legally confused. The Executive Determination appears to create rules and limits on spending, but there is no explicit prohibition on spending that falls outside those rules.
- 5.12 It is not clear how these apparent rules fit with the general capacity of the Department to provide support services for Ministers. The Determination covers some matters that are usefully specified, such as support for ministerial accommodation in Wellington, and some matters that are straightforward business expenses, such as the costs of travel on ministerial business. This ambiguity about the difference between general business expenses and matters that need to be separately specified for some reason is most apparent when considering the scope for the Department to provide general operational resources.
- 5.13 In our view, the Executive Determination has ended up as an uncomfortable hybrid of administrative guidance, rules, and personal entitlements. It is not clear what it is trying to define or specify, and why. For example, the provisions on international travel can be read as doing no more than stating the process

for getting international business trips approved. They are also written more as guidance than rules, and include discursive comments such as “overseas travel should usually be for 1 or more of the following purposes ...” Yet the provisions are in the context of a set of personal entitlements, set out in delegated legislation, and linked to the appropriation, so they actually state legal rules.

- 5.14 We consider that the ambiguous status of the document and its rules contributes to the conflict that can sometimes arise in the administration of these rules and entitlements. The ambiguity lets people hold differing views on what they are “entitled” to, and what capacity there is for officials to question whether spending is appropriate or reasonable, especially when it is expressed as a ministerial entitlement.
- 5.15 In our view, the confusion is particularly apparent in relation to the “operational resources” entitlements, set out in part 7 of the Executive Determination. This part purports to state the rules for funding general support services, but the content of the provisions does not really specify concrete rules. The main provision simply states that Ministers “are entitled to use operational resources for the purposes of undertaking ministerial business”. There is obvious overlap with the services that the Department has always just provided to Ministers as part of providing offices, staff, and general support with business activities and business expenses.
- 5.16 Many people told us that they find the associated Schedule useful, because it provides a clear list of things that can and cannot be paid for as operational resources. However, the effect of the more general provisions is not obvious.
- 5.17 In our view, Ministerial Services needs to address the problem of the legal status and purpose of the Executive Determination, and to consider from first principles which matters need to be specified in delegated legislation and which matters can be left to departmental policy and administrative discretion. A review of the Executive Determination needs to clarify:
- What is the purpose of the Executive Determination and its legal or administrative role?
 - Which rules, if any, create a personal entitlement?
 - Which rules, if any, create legal limits on what can be funded?
 - Who makes final judgements on the boundaries?
- 5.18 Any general legislative changes that result from the Law Commission’s review of the Civil List Act 1979 would provide a useful context for revisiting these questions about the legal status of the Executive Determination made under that Act. Even if more general reform does not eventuate, Ministerial Services should still clarify the status and purpose of the Executive Determination, as a first step in improving the system it administers.

Links between the Executive Determination and the appropriations

- 5.19 The rules in the Executive Determination link to other parts of the financial and administrative rules and processes in ways that are unusual.

The scope of the travel appropriation

- 5.20 The scope statement in the appropriation for Ministers' internal and external travel costs says that the appropriation is for "Payments for civil purposes for Members of the Executive's internal and external travel, *pursuant to section 20A of the Civil List Act 1979*." Section 20A is the provision that authorises the making of the Executive Determination, and so this statement effectively links the appropriation to the rules in the Executive Determination. The result is that any payments for domestic or international travel that are outside the rules in the Executive Determination are also outside the scope of the appropriation.
- 5.21 We question whether this link between the Executive Determination and the appropriations is helpful. We can see the potential for such a link to create unnecessary complexity and risk. This concern is given practical force by a point discussed in paragraphs 5.48-5.54: compliance with one of the rules in the Executive Determination on domestic travel costs cannot be checked in practice. There is no way of knowing whether spending on this type of travel expense breaches the legal rule or the appropriation.
- 5.22 In our view, the Department needs to review the terms of the relevant appropriation and the Executive Determination provisions to consider whether there are better ways of expressing these entitlements and the scope of the appropriation.

International travel on ministerial business

- 5.23 Clause 3.2 of the Executive Determination, on international travel, states that a Minister's international travel expenses will be paid if the travel is for ministerial business and the trip has been approved by the Prime Minister and Cabinet. The Minister may be accompanied by those authorised in the trip approval.
- 5.24 In some ways, this provision is unnecessary. If the travel is for business purposes, the Department would be able to pay for it without any further statutory authority, in the same way that it can pay for business travel for its own staff (so long as the travel was covered by an appropriation). It may be helpful for administrative purposes to set out a clear rule on how Ministers should go about getting approval for proposed travel, but it is not legally necessary.

- 5.25 Stating that the costs will be paid if the trip has been approved by Cabinet mirrors the equivalent provision in the Parliamentary Determination (which requires the approval of the Speaker and the relevant party leader). However, it also means that the Cabinet decision effectively defines the legal scope of what can be paid (for example, in relation to the total amount and the people whose costs will be paid). This is an unusual role for a Cabinet decision – these documents are usually administrative records rather than statements of the scope of legal authority.
- 5.26 The link to the Cabinet system creates a risk, because Cabinet or the Prime Minister can change the system at any time. For example, we understand that Cabinet has agreed that travel to Australia no longer requires Cabinet approval and is now approved by the Prime Minister alone. Changes of this kind could inadvertently result in unappropriated expenditure because of this link. In our view, this is an unnecessary risk.
- 5.27 In our view, the Department needs to review the Executive Determination as a whole. If this provision on international travel remains, the Department should consider whether there is a better way of defining what will and will not be paid for.

The range of appropriation authorities potentially available

- 5.28 We have also concluded that there is potential for confusion about the relationship between the various payments and the appropriation authorities for them. Much of this confusion stems from the Civil List Act 1979, which has four separate provisions dealing with appropriations for payments made under the Act. As the Law Commission has noted,⁸ none of these are particularly clear:
- Section 2 states that there is permanent legislative authority for all “grants for civil purposes” under the Act, but does not explain which payments fit within that description.
 - Section 20B(4)(a) says that all services provided for in a Determination under section 20A, where the Determination incorporates another document by reference, are payable out of money appropriated by Parliament (and so seem to require an ordinary appropriation).
 - Section 20B(4)(b) says that all other services included in a Determination have a permanent legislative authority.
 - Section 25 is headed “Appropriation of money for benefits and privileges” but does not contain an appropriation authority. Instead, it states that there is no need for any additional statutory authority to make payments, if Parliament appropriates money to provide benefits and privileges to the listed office holders.

⁸ Law Commission (July 2008), *Review of the Civil List Act 1979*, Issues Paper 8.

- 5.29 We reviewed the way in which the Department had referred to these provisions in the Estimates of Appropriation for Vote Ministerial Services, from 2000 to the present. That review did not clarify how these various Civil List Act provisions were being used in practice. The early budgets tended to invoke section 2, but section 25 was also sometimes cited.
- 5.30 The current appropriations for these parts of Vote Ministerial Services are ordinary appropriations and do not rely on any of the permanent legislative authorities. However, the Executive Determination, in clause 2.4, says that the Determination is a specification of some of the services to which section 25 applies. Given that the Determination is made under section 20A, there is probably no need to rely on section 25. We agree with the Law Commission that the provisions are unclear and need to be redrafted.

Our overall view on the appropriation issues

- 5.31 Overall, we concluded that the financial and legal authorities contained in the Civil List Act 1979, the Executive Determination, and the appropriations in Vote Ministerial Services are poorly aligned. Much of the difficulty stems from the unclear provisions in the Civil List Act.
- 5.32 In our view, it would be helpful if the legal and financial authorities created by the Civil List Act 1979 and the Executive Determination were clearer, and if these authorities were more directly aligned with the appropriations in the Vote. The Department can go some way towards addressing these concerns because it can advise on amendments to the wording in the appropriations and the Executive Determination. However, as previously noted, the main problems sit in the Civil List Act, which is not clear about what is covered by a permanent legislative authority and what requires an ordinary appropriation. Reform of this Act is a larger exercise that would require other agencies to be involved.

The principles in the Executive Determination

- 5.33 The ambiguity about the status of the entitlements or services provided, and about who is accountable for the use of funds, is also apparent in the guiding principles set out in the first part of the Executive Determination. We reproduce the three relevant clauses in Figure 5.

Figure 5
Clauses 1.3, 1.5, and 1.6 of the Executive Determination

1.3 What this document does

(1) The purpose of this document is to set out:

- (a) the travel, accommodation, attendance and communications services available to members of the Executive and their families;
- (b) [t]he principles to be applied by members of the Executive in their use of the publicly funded resources specified in this document.

1.5 Principles guiding interpretation and application of this document

This document must be interpreted and applied with the object of ensuring that the resource needs of members of the Executive in performing their roles and functions are met in the way that is most appropriate to circumstances as they arise while consistent with lawful authority and the principles set out in clause 1.6 (in particular the principles of value for money and cost-effectiveness).

1.6 Principles to be applied in use of publicly funded resources by members of the Executive

The following principles must be applied in the use of publicly funded resources by members of the Executive:

- (a) *The principle that expenditure must be reasonable for the circumstances and able to withstand tax-payers' scrutiny*

Ultimately, members of the Executive are personally responsible for the way they use the public resources entrusted to them.

This personal responsibility cannot be avoided, even though delegations may exist for others to incur costs on a member of the Executive's behalf.

Records about a member of the Executive's use of public resources should be kept to facilitate scrutiny if required.

- (b) *The principle that expenditure must be for official ministerial purposes only*

Expenditure must only be incurred in respect of ministerial business.

- (c) *The principle that expenditure must be properly documented and supported with tax invoices/receipts*

Members of the Executive must be open in the use of public resources and disclose any conflict of interest in utilising entitlements, whether that conflict is pecuniary, personal, familial, or as a result of any association.

- (d) *The principle that expenditure must be able to withstand audit scrutiny*

The reasons for, and the circumstances surrounding, the use of public resources by members of the Executive should be publicly available.

The process by which funds are expended should be publicly known.

- (e) *The principle of value for money*

When using public resources entrusted to them to perform their official duties, members of the Executive must seek the appropriate value for money in the circumstances.

- (f) *The cost-effectiveness principle*

Wherever reasonably practicable, members of the Executive should use the most cost-effective alternative available for utilising or accessing a particular entitlement. This needs to be balanced with the need for expediency.

- 5.34 Clause 1.3 describes the purpose of the document as being to set out:
- the various services available to members of the Executive and their families; and
 - the principles “to be applied by members of the Executive in their use of the publicly funded resources specified in this document”.
- 5.35 Clause 1.6 sets out six principles to be applied “in the use of publicly funded resources by members of the Executive”.
- 5.36 Clause 1.5 gives particular emphasis to two of those principles (value for money and cost-effectiveness) and adds two other concepts: consistency with lawful authority, and meeting needs in the way that is most appropriate to the circumstances.
- 5.37 For the sake of completeness, we note that there is another principle in clause 1.2, that a member of the Executive is not entitled to receive duplicate entitlements under this Determination and the Parliamentary Determination. There are nine separate principles in these various clauses.
- 5.38 In our view, the content of the principles, and their status and effect, are confusing.

The content of the principles

- 5.39 The content of the various principles and clauses is essentially the same as those in the Parliamentary Determination, but the headings are different. We agree that it is useful for the two documents to use consistent principles, but we find the changed headings confusing.
- 5.40 The headings and the content of these clauses also bring together a great many different concepts, in ways that are not particularly clear. For example, the heading to principle (c) in clause 1.6 talks about proper documentation and the need for invoices, but the text that follows discusses openness and the management of conflicts of interest. Principle (d) states that spending must be able to withstand audit scrutiny (which suggests that it is about proper documentation and appropriateness). Yet the text that follows is primarily about transparency in the reasons for individual transactions and the process for making and approving expenditure.
- 5.41 We also question whether principle (b) is helpful as it is currently written. It states that spending must be only for ministerial business, yet several of the entitlements in the rules that follow explicitly cover parliamentary business and personal activity as well as ministerial business.

- 5.42 We also consider it unhelpful in clause 1.5 to emphasise two principles as being more important. It suggests that there may be a hierarchy to the concepts in these two clauses. It is usually better to leave people to work out the balance between the various principles in the particular circumstances.
- 5.43 Overall, we consider that the content of clauses 1.5 and 1.6 is confusing. Given that these clauses are largely drawn from the Parliamentary Determination, Ministerial Services and the Parliamentary Service together need to review these principles to develop a more coherent set.

The status and effect of the principles

- 5.44 The relationship between the principles in the first part of the Executive Determination and the rules that follow is unclear. Normally, you would expect a set of principles of this kind to provide a coherent conceptual underpinning for the content of the document as a whole. That is, the rules would normally be a practical application of the principles to particular situations. That is not the case in the Executive Determination.
- 5.45 Rather, clause 1.3 says that the rules set out what is available to Ministers and the principles should guide how they use those entitlements and services. This suggests that the judgement of the individual members of the Executive (Ministers) will determine how the principles apply, as they make their daily decisions about when and how to use services available to them. Ministerial Services does sometimes question an item of ministerial spending on the grounds that it was unreasonable, or did not provide value for money, even if it was otherwise within the specific rules in the Determination. In our view, the Determination could make it clearer that the Department has this responsibility.

Making the administrative responsibilities clear

- 5.46 We note that the Parliamentary Determination includes a section on the processes for approving spending and the role of the administrators, as part of its statement of services and entitlements. That has been a useful development, because it has made explicit that the administrative responsibility for the Vote is a basic and necessary part of the arrangements. It has removed much of the debate about whether it is appropriate for officials to question the actions and judgements of MPs. It helps make clear that officials can and should apply their judgement to whether spending is reasonable, as well as checking whether it is within the rules.
- 5.47 In our view, the Department needs to consider whether an equivalent section on procedure and administrative responsibility should be included in the Executive

Determination, along with reworked principles. The aim would be to put beyond debate the respective responsibilities of Ministers, staff working in Ministerial offices, and the Department's financial and administrative staff.

Domestic travel entitlements

- 5.48 When we looked at one Minister's expenditure, in the first part of this inquiry, we identified some practical problems with the rule on domestic travel expenses. There are two main ways in which the rule is effectively unable to be enforced.

The daily spending limit cannot be checked

- 5.49 First, the daily limit on travel expenses cannot be checked or applied in practice. We are aware that, after we raised this concern in our report on the first part of this inquiry, Ministerial Services emphasised to senior private secretaries that it is their responsibility to monitor this rule. Ministerial Services also asked us to consider the issue further in this second part of the inquiry.
- 5.50 We cannot see how senior private secretaries can monitor this rule in practice. The rule sets a daily limit for accommodation, meals, and other incidental expenses. The information on these different types of expenses comes through several different processes and at different times. For example, accommodation costs are often booked through the travel office and are paid on invoice. Meals and other incidental costs can be paid for with a credit card. These different payment methods mean that the senior private secretary will not usually be able to put together all the relevant information to assess whether daily spending is within the limit.
- 5.51 We discussed this with senior private secretaries, who confirmed that they cannot and do not attempt to check on this limit in practice. Some had it in the back of their minds, but more as a general alert to be wary of costs that were higher than usual.
- 5.52 The finance team does not bring the information together in this way either, so it does not check compliance with this rule. Nor does the Assistant General Manager, who is formally responsible for approving the spending. Instead, he too uses his knowledge about normal costs for meals and accommodation to assess the reasonableness of the individual items. We have seen evidence that the accommodation and meal costs are checked for reasonableness, and are sometimes queried. However, the overall spending cap in the current rule cannot be applied in practice.
- 5.53 In our view, the Department needs to review this rule and find a different way of expressing the daily spending limits. The rule should be written in a way that

can be given administrative effect. Given the way the financial management processes and invoicing practices work, the simplest solution is likely to be to create separate rules for accommodation costs and other daily expenses. Each of those rules could still provide for actual and reasonable expenses to be met, up to a daily limit.

- 5.54 We note that an equivalent rule is in the Parliamentary Direction for the travel costs of the Speaker and the Leader of the Opposition. Although we have not looked at the Parliamentary Service system, it is possible that the same practical problem may arise. We encourage Ministerial Services and the Parliamentary Service to work together on this to develop new rules that can be applied in practice.

The rule on when a spouse’s daily travel costs will be paid

- 5.55 Secondly, the criteria for when the travel costs of a Minister’s spouse should be covered are unclear and cannot be readily checked by anyone reviewing the spending. The rule states that the daily limit will increase to cover the spouse’s cost:

If the occasion involves the attendance of the person entitled [the Minister] and the spouse or partner of the person entitled at an official function –

- (i) that the person entitled attends by reason of the duties of his or her office; and*
- (ii) that the person entitled is invited to attend, or is required to attend, primarily because of the office that the person entitled holds; and*
- (iii) that the spouse or partner of the person entitled necessarily attends.*

- 5.56 The language is obviously somewhat dated and opaque. It has been carried over from the earlier Higher Salaries Commission determinations without significant change. The same language has also been carried into the Parliamentary Determination for the travel expenses of the Speaker and Leader of the Opposition. Effectively, it requires the Minister to have attended an official function in a ministerial capacity and for it to have been “necessary” for the spouse or partner to attend.
- 5.57 The main difficulties are that it is hard to know what type of event amounts to an “official function”, the person reviewing the travel costs will often not have information about the reasons for the travel and what event the Minister was attending, and it is hard to know whose judgement applies to the question of whether the spouse or partner “necessarily attends”.

- 5.58 The information difficulties in connecting travel costs to the Minister's diary mean that the financial management processes rely on the senior private secretary as the primary check for this criterion. If the senior private secretary has certified the costs, they are likely to be approved because the Assistant General Manager has little ability to check the details. The question of whether it is necessary for the spouse to attend is effectively left to the judgement of the Minister (presumably in discussion with their spouse).
- 5.59 In our view, these difficulties and ambiguities mean that the rule cannot be easily or effectively administered. Ministerial Services needs to reconsider the rule and have a more realistic and practical way of describing when it will be appropriate to meet the travel costs of a spouse or partner. If the best approach is to rely on the Minister's judgement for when it is appropriate for a spouse or partner to travel with them, then the rule should say that the Minister decides this.
- 5.60 Again, given that the same wording is used in the Parliamentary Determination, any change to this rule should be developed in collaboration with the Parliamentary Service.
- 5.61 We also note that the appropriation for travel expenses links to the provisions in the Executive Determination, and so any travel expense that is outside the rules in the Executive Determination will also be a breach of appropriation. As long as that connection remains, it is important that the rules are clear and workable. At present, it is not obvious how the Department could manage the risk of unappropriated expenditure arising from domestic travel.

Operational resources

- 5.62 The last part of the Executive Determination is headed "operational resources". It states that the part sets out the rules for funding the support services that are required to enable ministerial business to be carried out, but the rest of the part contains very little guidance or explanation.
- 5.63 In our view, this part of the Executive Determination is a good example of the confusion about the purpose and legal status of the document. This part is probably not needed in legal or formal terms. It also explains very little.
- 5.64 The most useful provision in this part appears to be the schedule that sets out a list of the types of goods and services that can and cannot be paid for out of these funds. However, we have already noted that the list overlaps with the list of items covered by the general expenses allowance given as part of remuneration. The guidance in clause 7.4 on the restrictions on the use of operational resources,

which state that the resources cannot be used where provision has already been made elsewhere for those costs, does not help.

- 5.65 In our view, Ministerial Services needs to reconsider the purpose of this part and whether it is useful or legally necessary to attempt to specify the general operational resources available through the Executive Determination. It may be better simply to provide information and guidance for staff in the Handbook.

Our overall assessment of the rules in the Executive Determination

- 5.66 We have assessed whether the rules in the Executive Determination are workable and fit for purpose, having regard to the general principles we set out in Part 3.
- 5.67 In our view, there are problems with the document. In particular, the purpose and legal status of the various rules are unclear. One rule cannot be given administrative effect because it is not possible to assess spending against it in practice. The various statements of principles in the document are confusing rather than helpful. The rules also link in unhelpful ways to the Cabinet decision-making system and to the appropriations, which creates unintended legal risks.
- 5.68 We consider that the Executive Determination needs to be rewritten. Although the basic content of many of its provisions may be sound, the overall status and purpose of the document need to be made clear. Further thought needs to be given to which rules need to be stated in delegated legislation and which are better left to departmental policy and administrative discretion. The more detailed points we have identified also need to be addressed.
- 5.69 Ideally, this work would be done in conjunction with the development of changes to the Civil List Act 1979. These reforms need to be accompanied by a review of the relevant appropriations, so that there can be clear alignment between the different parliamentary authorities for this sort of spending.

Part 6

Do the financial management processes provide effective control?

- 6.1 Parts 4 and 5 looked at the institutional arrangements and legal rules that govern Ministerial Service's work. We now turn to the operational layers of the system.
- 6.2 In this Part, we discuss the financial management processes that Ministerial Services uses to administer the rules. In particular, we assess whether the administrative policies and procedures are effective and provide suitable control and accountability. Although our focus was on the types of spending that have the potential to give personal benefit, the relevant administrative policies and procedures apply to all types of spending. We discuss:
- the role of the Handbook;
 - our assessment against our general expectations for policies governing spending with the potential for personal benefit;
 - how the policies and guidance are presented;
 - some comments on the detailed content;
 - the approval processes; and
 - our overall assessment.
- 6.3 Part 7 discusses how these policies and procedures work in practice.

The role of the Ministerial Office Handbook

- 6.4 The Handbook is a mixture of a desk file, with many sources of useful reference material, and administrative policies, procedures, and guidance. The sections of it relevant to this inquiry set out rules, policies, and procedural guidance about spending, including the processes for making claims and having spending authorised. Some other general departmental financial policies and procedures, which are included in the Handbook, are also relevant, as are the departmental delegations that set out who has authority to decide on financial matters.
- 6.5 Since 2009, the Handbook has been available on the Ministerial Office intranet. The intention is for it to be updated from time to time, as needed.
- 6.6 The Handbook describes itself as "the authoritative guide" for staff, but does not purport to be the set of clear and definitive policies that most public sector organisations would have to manage the risks around spending that has the potential for personal benefit.
- 6.7 When we began our work, we assumed that the Handbook was the equivalent of departmental policies setting out binding rules and procedures for staff. We audited spending practice against its spending rules and procedures, in the same way as we would against departmental policies in other organisations.

- 6.8 Ministerial Services later explained to us that it does not regard the Handbook as having this status. We were told that the sections on financial management that we were considering state rules that the Assistant General Manager sets to help his financial management of the ministerial offices and his interaction with them. As a result, the Assistant General Manager also has the ability to waive or dispense with the requirements when he considers they are not necessary or important.
- 6.9 It was explained to us that Ministerial Services works closely with senior private secretaries in a fast-paced and practical environment. A considerable amount of shared understandings rapidly develop, and there is a great deal of regular and informal communication. In this context, Ministerial Services sees it as important to be practical in its application of the various procedural requirements, and to not insist on compliance when to do so would be unduly pedantic or bureaucratic.
- 6.10 We understand this practical context. However, we are concerned that the current approach reduces the usefulness of the Handbook and creates risk for the Department and Ministers.
- 6.11 The Handbook does not adequately explain its own status, because there is nothing on the face of the document to suggest that it states anything other than formal and binding administrative requirements, along with some general guidance. It is unclear which rules are important and will be strictly enforced, and which may be waived. It is not clear whose rules they are, what their status is, and who can decide to waive them or whether to enforce them.
- 6.12 We do not consider it satisfactory to have such a lack of clarity about the basic requirements in the financial policies and procedures. It must make it difficult for users to understand what they are expected to do. It also means that external accountability processes, such as public scrutiny, audit, and this inquiry have an unclear basis for holding the Department to account.
- 6.13 It also creates a risk that people will be seen as acting outside rules in the Handbook, when Ministerial Services may not regard those rules as significant or enforce them strictly. This type of risk eventuated when the information on credit card spending was released earlier this year, showing that many people had put personal spending on their office cards, despite the rule in the Handbook. Ministerial Services does not appear to have enforced this rule consistently or systematically whenever a breach occurred. It is hard to know whether the apparently firm rule in the Handbook on not using credit cards for personal spending was regarded as a rule that mattered.

- 6.14 This confusion about the status of the Handbook and the rules it states permeates many of our findings on operational issues, as often the significance of our findings depended on whether the requirements set out in the Handbook were regarded as important parts of the financial checking process.

Assessment against our general expectations for policies governing spending with the potential for personal benefit

- 6.15 In paragraph 3.9, we summarised our general expectations of organisational policies and procedures for spending that has the potential to give personal benefit. To reiterate, policies and procedures need to:
- make clear what types of spending are and are not permitted;
 - outline clear approval processes that are specific about who approves what;
 - set spending limits or boundaries, including explaining what is meant by “actual and reasonable” when these terms are used, and specifying dollar limits and defined boundaries, where practicable, of what is “reasonable”;
 - allow a manager to grant an exception in exceptional circumstances;
 - specify the monitoring and reporting regime and, where applicable, any internal audit checks that may be applied; and
 - specify the process for amending the policies and procedures.
- 6.16 As noted, we originally assumed that we could assess the Handbook against these expectations, and treat it as equivalent to the organisational policies and procedures governing sensitive expenditure. When it became clear that we could not, we instead assessed the overall body of rules, information, and guidance against these expectations, to see how the overall picture compared to our general expectations.

Are the policies clear on what is and is not permitted?

- 6.17 Our first expectation was that the policies would make clear what spending is and is not permitted when there is the potential for that spending to provide personal benefit. The Executive Determination includes clear statements on the types of transport that will be paid for, as well as a list of some matters that will and will not be paid for out of operational resources.
- 6.18 The Handbook sets out some clear policies on what will and will not be paid for when staff are travelling. For example, there are clear rules on minibar expenses and that alcohol for staff is a personal expense. However, most of the Handbook is not written in this way. It provides broad guidance, and some clear limits on the

amount that staff can certify on their own, but in most cases it does not set clear limits on what is permissible.

- 6.19 We appreciate that there is a risk if policies of this kind are too prescriptive, especially in an environment where flexibility and responsiveness is important. However, we consider that the information in the Handbook could be developed further to give more information to staff about where the boundaries lie. For example, we have seen email messages and meeting minutes where there has been discussion of the approach taken to matters such as Christmas cards and staff functions. This type of practical information could usefully be collated from time to time and incorporated into the Handbook. There will always be a need for flexibility, of course, to meet new or unexpected situations. But the basic or default expectations and responsibilities could be clearer.

Are the approval processes clear?

- 6.20 As noted, the Handbook contains some clear information on levels of authority to incur, certify, and approve spending, and the approval processes to be followed. We have summarised these in Part 2. There is also a clear table that sets out the amounts that senior private secretaries can incur without prior approval from the Assistant General Manager. In our interviews with senior private secretaries, several told us that this table was the main document they used.
- 6.21 However, as just discussed, in practice these requirements are not all seen as important and are not always complied with. In our view, the Department needs to provide clear information on which procedural steps are required and which are optional.

Does the policy set clear limits and explain what is meant by “reasonable” costs?

- 6.22 For accommodation and other incidental travel expenses, the rule in the Executive Determination states that actual and reasonable expenses will be met up to a specified limit. The Executive Determination also sets the different types of road transport (such as taxis and chauffeur-driven cars) that will be paid for or provided.
- 6.23 One of the main practical deficiencies we identified with the Handbook is that it does not often attempt to explain what is “reasonable”. It assumes that Ministers and senior private secretaries can and will make individual judgements, or will seek further clarification or guidance from Ministerial Services when they need it.
- 6.24 Our interviews with senior private secretaries confirmed this as problematic. In discussions with them, we were provided with very different views on what was

and was not reasonable for common types of spending, such as accommodation and meal costs, alcohol, entertaining, and gifts. Several senior private secretaries told us that they would welcome more explicit guidance, especially when they were new and working to set up a ministerial office. They had no basis for assessing what was a sensible amount to be spending, for example, on simple items like flowers for the office, art, or kitchen supplies. Ministerial Services provided us with many examples of email correspondence where they had provided advice in response to individual requests for advice. It is clear that advice is available if people ask. We consider it would be better for more of that practical guidance to be included in the Handbook or other sources, so that it is readily available to all senior private secretaries without them needing to ask.

- 6.25 There are many ways to provide more information and guidance without removing discretion or impairing autonomy. For example, some senior private secretaries suggested that it would be helpful to receive reports that showed them how their office spending compared to others, at the same time as they receive their own monthly financial reports. The Handbook could usefully include clearer policies and explicit guidance on standard types of spending, including normal spending ranges, benchmarks, and limits to what can be spent without special approval. This information could cover many more types of spending than the existing information on spending limits. We also note that, for common business expenses such as hotel accommodation, many public sector organisations negotiate a standard and discounted rate with providers in major centres. Although Ministers would always be able to stay elsewhere, this type of arrangement provides a simple default option, as well as clarity about reasonable costs.

Is there clear management discretion to grant exceptions?

- 6.26 The ability to grant exceptions or waive requirements is one of the issues that has led us to suggest that Ministerial Services needs to reconsider the way in which it uses the Determination and the Handbook to set rules.
- 6.27 There is no discretion to grant exemptions for matters or procedures stated in the Executive Determination, because the rule is stated in delegated legislation. It means that the Determination must be formally amended when exceptions are needed. For example, formal changes were needed to take account of the likely increase in Auckland accommodation costs during the Rugby World Cup in 2011.
- 6.28 We have already discussed that the Handbook does not make clear what authority its requirements have and how exemptions will be dealt with. In practice, Ministerial Services regards the Handbook as its own internal rules, which it is

able to waive or vary as needed. In practice, the decisions on whether to apply a rule rest with the Assistant General Manager, who holds the relevant financial delegation. We have already commented that we regard this approach as carrying some risk.

Are there clear financial monitoring, reporting, and checking processes?

- 6.29 The Handbook sets out the basic financial management processes for submitting claims for spending and having them checked and approved. It also explains the reporting that Ministerial Services provides back to each ministerial office. In this regard, it meets our expectations.
- 6.30 The Handbook does not go further and explain how the Ministerial Services processes fit with more general departmental processes for financial monitoring, reporting, and checking how the Vote is spent. Although the detail of how the broader processes work may not be needed, we consider there would be benefit in setting out this overall departmental context and accountability process, at least in outline. Doing so would help make clear to all those involved in the system that the Department must administer and account for spending in Ministerial offices in the same way as it does for all other spending in this and other Votes. This additional background could help to underline the relative responsibilities of the Department and Ministers for ensuring that spending is correct.

Is there a clear process for making amendments?

- 6.31 Ministerial Services updates the Handbook from time to time. The last major update to the Handbook was in 2008 and the entire Handbook was reissued. In addition, Ministerial Services makes minor changes from time to time and advises staff of the changes. Since 2009, the Handbook has been on the Ministerial Office intranet. The intention was for it to be easily and regularly updated electronically, but Ministerial Services staff told us that technical issues have so far prevented them from doing so.
- 6.32 The Handbook does not explain when or how it is amended, or who approves its content. In our view, it would be useful if it did explain this process, so that it is clear to staff that they need to ensure that they are working with up-to-date information. A clear statement of who sets the various requirements in the Handbook would also help give the contents of the Handbook clearer status for staff and others.
- 6.33 As well as the Handbook, the Department provides ongoing and more informal advice and information through a range of mechanisms. These include day-to-day

exchanges on specific issues that effectively build up a set of precedents, advice to all senior private secretaries through emails, and communication through monthly meetings with all senior private secretaries. These are all useful practices. The question is whether they can be developed further, to make up-to-date information readily available on an ongoing basis.

- 6.34 In our view, there is scope for Ministerial Services to improve its approach to communicating guidance and procedural requirements so that the information is clearer and more user-friendly. We have already said that Ministerial Services should develop the Handbook and associated guidance so that it is clear about the status of the different requirements and distinguishes between requirements and policy that are set by the Minister, by the Department, and by Ministerial Services. This will be more helpful for all those working in the system, and also better for external accountability purposes.
- 6.35 At the same time, it would be useful to institute more systematic and transparent processes for recording and communicating significant new information or changes to the policies and advice. This process could feed into the more regular and systematic updates of the Handbook that are envisaged, now that the Handbook is available on-line. There is the potential to develop the on-line version, and related material, into a much more useful resource.
- 6.36 We note that the Parliamentary Service now has a clear process to manage this aspect for the support it provides to parliamentary offices, which includes an annual revision of the detailed rules in the Parliamentary Determination. The Cabinet Office system of a Manual and occasional formal circulars recording new or subsidiary requirements provides another model. There are many other examples of similar systems, including the Treasury's circulars to the public sector on financial requirements and the Ministry of Education's circulars for schools.
- 6.37 We encourage Ministerial Services to look at these and other models that enable procedural guidance to be kept up to date and communicated effectively, to see whether there are techniques that it could adapt and use.

How the policies and guidance are presented

- 6.38 The Handbook fills a large ring binder. It covers a wide range of topics, from staffing and financial procedures to correspondence procedures, diary management, diplomatic protocols, and security. The information it contains is generally useful, but the size and format makes it unwieldy. In our interviews, we were told that people find it difficult to use and tend to rely day-to-day on extracts or other documents.

- 6.39 From our own review of the document, we noted that it contains a significant amount of background material, some of which is not directly relevant to the users. For example, the departmental delegations document in Appendix 3A is large and complex, and serves only to make clear that the General Manager and Assistant General Manager hold the financial delegations and ministerial office staff do not. The Handbook could simply state this without including the whole document.
- 6.40 Similarly, it would be more helpful for the users if the content of the general Departmental policies on business expenditure, credit cards, probity, and koha were integrated into the guidance given in the Handbook rather than simply reproduced as attachments. The current approach provides ministerial office staff with a great deal of general background material, but leaves them to work out the interaction between these policies and other ministerial rules and guidance, and their application to their own circumstance. It does not make it easy for them to know what to do.
- 6.41 In our view, it is important for Ministerial Services to recognise that ministerial offices work in a different context, and that general departmental policies on appropriate spending by staff may often not fit well with the needs of Ministers or the specific rules in the two Determinations. It would be better if Ministerial Services provided Ministers and senior private secretaries with a single and integrated set of tailored guidance on what spending is and is not appropriate in their particular context.
- 6.42 Similarly, we note that the Handbook reproduces in its entirety our good practice guide on sensitive expenditure. The primary purpose of our guide is to help managers in public sector organisations to write policies and procedures that build in the right sort of protections and principles in a way that suits their context. Ministerial Services told us that the content of our guide has been helpful on many occasions, and we are pleased that it has considered our guide in practice. We suggest that it would be even more helpful if Ministerial Services incorporated the principles and advice in the guide into clear policies tailored to the Ministerial Services context, rather than reproducing the full guide for staff to apply.
- 6.43 Under the heading “Probity”, paragraph 3.40 of the Handbook simply states that:
The Department’s probity policy is at Appendix 3D and should be read in conjunction with the Controller and Auditor’s General [sic] Good Practice Guide at Appendix 3F.
- 6.44 We do not consider this an adequate or helpful statement. In our interviews, senior private secretaries told us that it would be more helpful if they were given much more firm and practical guidance on what the Department considered

appropriate, for example, for staff farewells and gifts. In discussion with us, senior private secretaries were clear that they wanted to “do the right thing” and would welcome some simple and practical advice on what that was. They do not necessarily have time to reason through from first principle documents of this kind.

- 6.45 In our view, there is scope to streamline the Handbook considerably, and to make its content much more directly useful and accessible. We note that the Parliamentary Service has put considerable effort into its administrative processes and guidance for staff in recent years. Its guidance, available to staff electronically, would provide a good model for Ministerial Services to consider when it revises the Handbook.

Some comments on the detailed content

- 6.46 We also identified several more specific problems with the content of the Handbook, which we summarise here.

Conflicting advice on personal expenditure and reimbursement

- 6.47 In our view, the advice in the Handbook on the use of office payment processes for personal spending is inconsistent and probably impractical. For example, the advice is different depending on whether the payment is made through the office imprest account or by a credit card. For payments made through the imprest account, the senior private secretary is simply required, when submitting the claim, to ensure that a personal cheque is attached for any personal expenses. A later paragraph gives the following advice:

Personal expenses

The imprest account should not be used for personal expenditure except where the personal expenses are a component of a larger official expense – for example, personal phone calls on a hotel account. When the reimbursement claim for the official expenses is submitted to Ministerial Services, the staff member or Minister must attach a personal cheque for the personal expense made out to “Department of Internal Affairs”.

- 6.48 The advice on the same issue, but when payment is made with a credit card, is quite different. It states:

When an office makes application, Ministerial Services arranges for corporate credit cards to be issued to Ministers and selected staff for official expenditure. Unless an emergency, use of staff credit cards for other expenditure should not occur without prior approval of the [Assistant General Manager].

Use of a credit card for personal expenditure (regardless of the intent to reimburse) is not permitted.

- 6.49 At a later point, when discussing overseas travel, the Handbook's advice is that official funds should not be used for personal spending, except in extreme circumstances. Advice is then given on how to reimburse any personal expenses.
- 6.50 Our review of ministerial office spending practices and credit card spending shows that the approach set out for the imprest account has been applied more generally, and is often followed for credit card spending as well.
- 6.51 We note that the State Services Commissioner made the following comments when he released details of credit card spending by departmental chief executives:

There are some instances where chief executives have reimbursed purchases made on the card, and there are circumstances where this is a pragmatic and acceptable course of action. For example, it is not always practicable to separate personal from work related expenses when checking out from a hotel – in this case it is my expectation that the chief executive would reimburse the department immediately upon their return to work.

- 6.52 We agree with this approach. In our view, the rule in the Handbook for credit cards is probably too strict to be practical. We commented in our earlier report on this inquiry that:

... circumstances can arise from time to time where it may be sensible to put items of personal expenditure on credit cards when there is a clear intention to reimburse the costs. However, this should be done only when necessary and should be clearly documented.

- 6.53 Ministerial Services should consider whether the current policy in the Handbook is too strict, and whether the approach taken to personal spending through the imprest account may be more practical.

Conflicting advice on luggage

- 6.54 The guidance on paying for luggage is confusing. As previously noted, the personal allowance that all MPs receive explicitly includes briefcases and luggage as one of the costs it is designed to cover. The entitlement to "operational resources" in the Executive Determination also says that briefcases and luggage can be paid for with these funds. However, a paragraph in the Handbook states that:

Suitcases for the Minister, spouse and accompanying staff can be borrowed from Ministerial Services. Where a Minister is a frequent overseas traveller, Ministerial Services may approve a written request to purchase a suitable set of luggage for an office.

- 6.55 It is not clear who pays for ministerial luggage or what the approval process is for any such purchase. We note that many offices rely on the one-page list of what can and cannot be funded out of operational resources, and so would assume that they can pay for and authorise luggage purchases. As we described in our report on the first part of this inquiry, that is exactly what happened when a Minister purchased some replacement luggage.

Approval processes

- 6.56 In Part 3, we set out our general expectations about approval processes. We noted that they need to provide enough documentation or explanation for an independent person to be able to understand why the expense was incurred and to assess whether it was reasonable and appropriate.
- 6.57 We accept that the normal financial practices of the most senior person in a group paying, and of the spending then being reviewed and approved by a person senior to that person, cannot operate in the ministerial context. In many formal situations, the staff member is there to take care of administrative matters, including payment, so that the Minister is able to concentrate on the business of meeting dignitaries or hosting events. There is no more senior person in the office who could approve the spending by Ministers.
- 6.58 Ministerial Services' general procedures manage this problem by requiring the senior private secretary to certify all office spending, and giving the approval role to the Assistant General Manager. This person obviously has greater distance from the Ministers and senior private secretaries, and so should be able to form an independent view on appropriateness and reasonableness.
- 6.59 We have concluded that the financial approvals process, as it is designed and written, broadly meets our expectations.

Our overall assessment of the policies and procedures

- 6.60 This Part has focused on the third layer of the system, and our analysis of the administrative policies and procedures that Ministerial Services has in place to support the financial management processes. We looked at whether they were effective and provided suitable financial control and accountability.
- 6.61 We have concluded that the basic design of the financial management and approval processes is sound.
- 6.62 However, we have also concluded that there is considerable scope to improve the guidance and information provided to staff through the Handbook and other mechanisms, and to streamline and simplify the content. In particular, we are

concerned that the status of policies, requirements, and guidance is not always clear. It is unsatisfactory that it is not clear which requirements in the Handbook are important, and which can be dispensed with if circumstances require it.

- 6.63 The current guidance also leaves too much room at times for individual judgement about what is reasonable or appropriate. The Handbook also contains conflicting advice on several points, including the question of paying for personal items through office processes and then reimbursing the cost.
- 6.64 In our view, there is scope for Ministerial Services to improve the Handbook and associated guidance much more, to provide clearer and more user-friendly information for those working in the system and to support external accountability processes.

Part 7

How well does the Ministerial Services system work in practice?

- 7.1 The previous three Parts have analysed the different layers of the Ministerial Services system: how it fits with the other systems in the overall support arrangements for MPs and Ministers, the rules in the Executive Determination, and the financial management processes.
- 7.2 This Part discusses what happens in practice. It draws on our examination of transactions from one Minister's office, our sampling and testing of 260 transactions in the last three years from other ministerial offices, and our review of the documentation that was publicly released on eight years of credit card transactions for all ministerial offices.
- 7.3 We have also interviewed several senior private secretaries and Ministerial Services staff, and drawn on our findings from our work on ministerial accommodation in 2009.
- 7.4 This Part discusses:
- aspects of financial management that are done well;
 - the results of our testing of transactions;
 - the effectiveness of the guidance material;
 - our impressions of the culture of Ministerial Services; and
 - our overall assessment of what we saw happening in practice.

Aspects of financial management that are done well

- 7.5 We acknowledge, at the outset, that the financial management processes used by Ministerial Services deal with a large number of transactions in a demanding and complex environment. A few key individuals clearly hold a great deal of institutional knowledge and bring a substantial amount of practical experience to the task. This includes experience in finding solutions to difficult issues and in resolving disputes, as well as responsiveness when under pressure.
- 7.6 All those we spoke to appreciate the availability and helpfulness of the finance team within Ministerial Services. Users feel that they can ask questions and get help easily and quickly.
- 7.7 We also acknowledge that the financial management processes and guidance have been revised in recent years, to introduce greater discipline and clarity. There is now a more systematic approach to training and development for ministerial office staff, and especially for senior private secretaries. This includes induction processes, mentoring programmes, regular meetings, and periodic "off-site" development sessions.

- 7.8 We appreciate that there has been considerable effort in recent years to modernise and improve the financial management processes and procedures. However, our detailed scrutiny in this inquiry has identified some weaknesses and problems that still need to be addressed. We discuss these in this Part.

The results of our testing of transactions

- 7.9 In the first part of this inquiry, we examined all of the transactions in a Minister's office, to establish whether the spending was within the rules. In this second part of the inquiry, we tested a sample of 260 transactions across different Ministerial offices and different types of spending. We also reviewed the information on seven years of credit card spending that was publicly released.

Does inappropriate spending get approved?

- 7.10 We did not find any pattern of major spending irregularities. In about half of the transactions we tested in this second part of the inquiry, there was good evidence that the spending was appropriate and that processes had been properly followed.
- 7.11 In many others in our sample, we identified that, even though the spending was appropriate, procedural requirements in the Handbook may not have been properly followed. We discuss these procedural and documentation issues separately.
- 7.12 For the remainder of the transactions in our sample, the financial records did not contain enough information for us to be able to assess whether the spending was appropriate and reasonable.
- 7.13 In a small number of transactions, we identified spending that we considered was either outside the rules or marginal enough to require careful consideration and documentation of the reasons for approval:
- In our report on the first part of this inquiry, we identified a small number of items of inappropriate spending that were approved, even when it was apparent from the documentation that they were outside the rules.
 - We found one example of spending on a health care item that we considered was more in the nature of personal spending. The documentation in the financial records did not suggest that the transaction had been queried. We saw a separate email exchange that showed that the Minister's office had asked if the item could be provided, and that Ministerial Services had confirmed that it could. We did not see any consideration in that exchange or in the financial records of whether the item could be appropriately paid for. When we raised the matter with Ministerial Services, it confirmed that the item had been approved and that it regarded that decision as "an exception".

- We also saw that ministerial office funds had been used to pay for professional advice on a portfolio matter. In our view, this would usually be a departmental expense. When we raised this with Ministerial Services staff, they agreed that it was surprising but had not previously identified or considered the issue.
- 7.14 We leave to one side personal spending that is later reimbursed, because we discuss elsewhere that this has been a common practice, despite what the Handbook says about the use of credit cards.
- 7.15 We also saw and heard evidence of active checking and questioning of transactions by Ministerial Services staff when they were considering whether to approve the spending. Often this would be done by asking for more information in emails, or in direct conversations or telephone calls. This approach is appropriate for the close working relationships between the different groups of staff, and the fluid and responsive nature of the work. In most cases, the issue is likely to be that some information is missing, and it would not be necessary or helpful to raise these questions formally or in a confrontational way.
- 7.16 As we discuss shortly, the additional information gathered through these checking processes that enabled a transaction to be approved was not always recorded adequately or included or cross-referenced in the financial records. Although the transaction may have been properly approved in the end, there was not always an adequate audit trail.

Compliance with procedural requirements

- 7.17 In many other transactions in our sample, we identified that even though the spending was appropriate, procedural requirements in the Handbook may not have been properly followed. For example:
- We saw many examples where there was no evidence on file that pre-approval requirements had been complied with.
 - There was poor compliance with certification requirements. That is, the right people were not signing the right expense claims, or nobody was certifying that the spending had been incurred. For example, the Handbook requires that spending on domestic travel is to be certified by the person claiming the expense (that is, the person who travelled) and the senior private secretary. We often found that the person who had travelled was not the person who signed for the spending, and sometimes there was no signature at all.
 - The procedures for spending on koha were also not always followed. The policy in the Handbook is that the Minister should sign the claim for koha that the Minister has presented, and the senior private secretary should ensure that the date and receiving organisation are included in the accompanying explanation. This did not happen consistently in practice.

- We also saw instances where a senior private secretary had certified their own reimbursements.

- 7.18 When we raised the question of compliance with the Handbook's procedural requirements with Ministerial Services, it explained that it did not regard all of these requirements as significant, and did not see it as necessary to always document when requirements had been waived. For example, the requirement to seek pre-approval from the Assistant General Manager was not a requirement that was policed strictly. The Assistant General Manager could choose whether he would raise failure to seek pre-approval as a problem with a ministerial office, depending on the context. He would not do so when there was no real question about the transaction and he thought the insistence on process would be unreasonably pedantic or bureaucratic.
- 7.19 We have already commented in the previous Part on the status of the requirements in the Handbook. We understand the need for a practical approach to procedural requirements. However, we consider that Ministerial Services would be better served if the status of the various requirements that the Handbook sets out was clearer.
- 7.20 It would be better if the Handbook clearly stated what authority the different requirements have, who has set them, who has power to approve exemptions or waive particular requirements, and how the requirements are updated or amended. That approach would let Ministerial Services distinguish between requirements that are legal, ministerial, departmental, or internal to Ministerial Services. It would also help users know which rules and procedures were important.
- 7.21 For internal purposes, Ministerial Services may have a set of procedures and guidelines in place that enables the system to function. However, we encourage Ministerial Services to give more thought to the role that policies and procedures have for external accountability purposes, such as audits.

The quality of the documentation supporting spending

- 7.22 Adequate documentation is important because it enables the person who is approving the transaction, and any other observer (such as an auditor), to understand the spending and assess whether it was appropriate and reasonable. Good documentation provides strong protection for those spending public money because it makes clear that the spending was appropriate.
- 7.23 In this inquiry, we reviewed the documentation in the financial records to support transactions submitted for approval, to see whether that documentation was adequate. If it was not adequate, we did not attempt to investigate further to

form a view on whether the transaction was appropriate. Our primary interest was in whether the financial management processes were functioning effectively and recording what they needed to.

- 7.24 There were a number of examples where the documentation in the financial records did not include enough information or explanation for us to assess whether the spending was properly approved or appropriate.
- 7.25 Two common problems were that:
- We were not able to reconcile the amounts in statements with the documentation for individual transactions that were submitted with the statement.
 - Documentation was missing, inadequate, or illegible. In particular, it was clear that some people did not realise that an EFTPOS receipt is not an invoice and is not adequate evidence to support a transaction.
- 7.26 Descriptions accompanying the claim were also often poor and did not contain enough information to explain the transaction (such as explaining how many people attended a business meal or function). Practices varied widely, and appeared related to a person's length of time in the job. For example:
- There was usually no explanation of the purpose of domestic travel expenses, even though the entitlement is linked to travel for ministerial or parliamentary business so the person approving it needs to understand the purpose of the travel.
 - There was usually little or no explanation of the purpose or nature of office functions.
 - Government hospitality spending was often poorly explained.
 - Koha payments did not usually include any description of who it was for or the event, even though this is required in the Handbook, and it was often unclear how many events and koha payments were involved in a single reimbursement claim.
- 7.27 We understand that Ministerial Services staff will often get the additional information they need from a ministerial office, if it is not supplied with the claim. However, this additional information is not always properly documented, or not referred to in the main financial records accompanying the spending approval.
- 7.28 As previously stated, the purpose of financial records is to ensure that a third party is able to easily check that the spending was appropriately approved. Current approval and documentation practices in Ministerial Services do not always achieve this goal.

- 7.29 Another practical problem we found was that transactions were sometimes recorded against the wrong cost code and the wrong office. These errors happened more often than we would normally expect.
- 7.30 Sometimes reimbursements were coded to the wrong place, so that it became difficult to reconcile the reimbursement with the right receipts. For example:
- There are several examples of Ministers paying for minor personal items with their credit card, especially while travelling, with no record of later reimbursement. We cannot tell whether the item was reimbursed, and there is no record of that, or whether Ministerial Services met the cost of these items.
 - We identified a transaction where a staff member (a senior private secretary) had purchased a bottle of wine while staying at a hotel. The policy in the Handbook clearly states that alcohol should be regarded as a personal expense for staff who are travelling. As noted, credit cards are also not meant to be used for personal expenses. The invoice showed that the staff member had flagged the item as needing reimbursement, but the documentation we were given did not show whether this had occurred. We were later provided with evidence that it had been reimbursed. We saw no evidence that the staff member had been told that the item should not have been put on the credit card at all.

The effectiveness of the guidance material

Do people understand the rules?

- 7.31 The evidence that we gathered shows that some people do understand the rules well, and some people do not. Not surprisingly, longer-serving senior private secretaries are likely to have a better understanding than new senior private secretaries.
- 7.32 We found, in our earlier work for this inquiry, that a Minister and his senior private secretary had both misunderstood the rules about travel entitlements. We also stated, in our 2009 report on ministerial accommodation, that those rules were unclear.
- 7.33 These problems were confirmed in our interviews with other senior private secretaries. New people in particular stated that they were uncertain about some rules and relied heavily on the finance team within Ministerial Services and the Assistant General Manager to tell them if they made a mistake or did something wrong. If they did not get any feedback, then they assumed that what they had done was right. That practice then became their understanding of what the relevant “rule” was.

- 7.34 The problem with this approach is that the absence of feedback does not always mean that people are doing the right thing. The risk is that a misunderstanding of the rules becomes entrenched in practice. We found that this has happened. Several people asserted examples of “rules” that they thought they knew or practices that they thought were acceptable. Based on our reading of the legislation and appropriations, Executive Determination, and Handbook, some of these examples were wrong. People were, in good faith, applying a misunderstanding of the rules and later checks in the financial process were not correcting those misunderstandings. Given the nature of the spending and processes we were looking at, the individual examples were not particularly large or significant. But they did show a potential weakness in the system.
- 7.35 An obvious example is the amount of personal spending that was placed on ministerial or office credit cards, especially when overseas, which the individual would reimburse to Ministerial Services when they returned to Wellington and reconciled their expenses. The publicly released documentation shows that this has been a reasonably common and long-standing practice. There is only occasional evidence of Ministerial Services raising this issue as a problem, beyond the standard memorandum issued when the supporting documentation for credit card statements is late. We saw examples where this had been done and did not appear to have been questioned or corrected.
- 7.36 We have already noted that the credit card policy was stricter than the general policy for using the office imprest account, where reimbursement of personal hotel expenses was explicitly sanctioned. We infer that some senior private secretaries assumed that these credit card practices were acceptable, and so staff and Ministers continued with this practice for many years.
- 7.37 Ministerial Services staff provide guidance when requested by ministerial office staff. However, this relates to particular queries. If the office staff are not aware that their practice does not comply with the Handbook, they are unlikely to ask for advice. We identified a risk that such errors would not be identified or raised through later checks in the financial management processes. It was hard to tell whether a failure to comply would not be raised because Ministerial Services do not regard the requirement as important, or because checking had not identified the failure.

How do the responsibilities for checking work in practice?

- 7.38 We found that there were different understandings about who has primary responsibility for checking that spending is appropriate and reasonable.

- 7.39 Ministerial Services staff told us that the senior private secretaries are pivotal to the financial management process, because they are the only people who have all the information about the purpose of travel and the reasons for spending. Ministerial Services staff told us that they regard the certification by the senior private secretary as evidence that a transaction is appropriate and within the rules. They rely on this certification as showing that the spending has been incurred, that it has been reviewed for reasonableness and appropriateness, and that it was for ministerial business. Ministerial Services staff complete the final checking and approval on this basis.
- 7.40 As we explained in Part 2, the senior private secretary has a broad role. Responsibility for financial management is a small part of their work. When we met people we were struck by their commitment to acting properly and ensuring that the ministerial office operated properly. However, some senior private secretaries told us that they were sometimes uncertain about what was allowed or appropriate. They said they would certify the transaction and put it through to Ministerial Services, on the basis that Ministerial Services staff would check the spending before approving it. These people assumed that if this check showed that they were doing something wrong, they would be told.
- 7.41 We found a range of views on what the senior private secretary's certification means. Some understood that they were certifying that they had checked the appropriateness of the transaction in all respects. Others thought they just certified that the spending was incurred by the Minister, and sometimes also that it was for ministerial business. They all had a clear expectation that Ministerial Services staff were carrying out a substantive check, because those staff were the final and formal approval point.
- 7.42 Therefore, we identified a risk that in some cases a loop could operate so that nobody performed a full check of the spending. Ministerial Services could regard a transaction as appropriate if a senior private secretary had certified it, and the senior private secretary could have been uncertain as they certified it, but conclude it was appropriate because Ministerial Services had not raised a concern.
- 7.43 In our view, the person with the formal authority to approve the spending is the person who is ultimately accountable for that spending. They must use their own judgement about whether the spending is reasonable and appropriate. When the prior certification and other financial checks by staff have been done properly, all the documentation will be there and this final approval is straightforward. But if there are gaps in the information or errors in the certification process, it becomes more difficult.

- 7.44 It is reasonable for senior private secretaries to act on the basis that Ministerial Services will carry out a substantive check of all spending and tell them if there is a problem, but it does require them to provide proper descriptions and supporting information. The person exercising delegated authority from the chief executive (in this case, the Assistant General Manager) cannot rely on judgements made by others that have not been clearly documented.
- 7.45 We understand that Ministerial Services has now ensured that all senior private secretaries understand that they are expected to perform the initial check on whether spending is reasonable and appropriate as they certify the transaction, and to provide the supporting information for their judgement.
- 7.46 Given the weaknesses we were identifying, we raised with Ministerial Services whether it was reasonable to require one person to approve all the transactions arising from ministerial offices. The volume is very large, and we were concerned that it could be impracticable for a single person to give them all proper consideration. Ministerial Services tells us that most transactions are straightforward and appropriately documented, and can proceed through the process quickly. Only a few transactions require more time and attention. On this basis, it regards the current arrangements as reasonable, and notes that this is a simple way of ensuring consistency.
- 7.47 We understand that perspective. However, we have identified weaknesses in the way the process is working at present. In our view, Ministerial Services needs to consider the way in which the checking and approval function is resourced, as part of considering how it can improve the effectiveness and reliability of these processes.
- 7.48 We also noted one instance where the senior private secretary was a close family member of the Minister. From a financial management perspective, this situation weakens the major financial control in the system. Ministerial Services' ability to rely on the senior private secretary's assessment of appropriateness is reduced. Ministerial Services staff told us that they had sought advice before making the appointment, they had monitored the office more closely to mitigate the financial control weakness, and they had not identified any concerns in practice. Nonetheless, we regard this as an undesirable precedent.

Is the Handbook seen as useful?

- 7.49 Senior private secretaries told us that they did not often use the Handbook. It tends to sit on the top shelf. Many commented that it was too big and not well structured, so they could not find the guidance they needed in a hurry. Instead, they tend to use the table of specific spending authorities and the list of items that are and are not covered by operational resources. Senior private secretaries

found simple and clear rules and check lists of this kind much more effective. Beyond those documents, they would use their judgement (and wait to see whether they got any feedback), talk to colleagues, or ask Ministerial Services.

How effective is the training?

- 7.50 Ministerial Services provides a certain amount of training and support for senior private secretaries. Several people confirmed to us that the training is more developed and systematic than it used to be. However, we consider there is scope to improve it further.
- 7.51 Ministerial Services described the initial meeting it has with each senior private secretary as an important initial training session. However, some senior private secretaries did not realise that this was more than an initial discussion; they did not recognise it as training.
- 7.52 Some people we interviewed were also dubious about the mentoring programme that is run for new senior private secretaries. They agreed that the concept was a good one but were uncertain that the current approach was particularly effective.
- 7.53 One suggestion from those we talked to was that the training could be staggered during the first year. They said they needed immediate and short-term training to get them through the first three or four months, when the main task was to get the office set up with staff and basic processes in place. There were many practical questions in those first few months where they thought it would be possible to give more guidance and training. Once these matters were in hand, people said it would be useful to move into deeper and more thorough training on day-to-day issues, such as overseas travel. They reflected the general theme that training is most effective when you can see its relevance and are encountering the issues in practice. Ministerial Services has confirmed that it will review the training it gives to senior private secretaries.
- 7.54 People thought that the various meetings and discussion opportunities were useful, but suggested that more could be done with these sessions. We also noted that in coalition and multi-party governments, Ministerial Services needs to make a particular effort to ensure that senior private secretaries in minor party offices are given appropriate support. It is inevitable that party dynamics may mean that these senior private secretaries will not necessarily be part of the informal support networks between the ministerial offices of the dominant party in government. Ministerial Services has told us that it is aware that the senior private secretaries in minor party offices can need additional assistance.

Our impressions of the culture of Ministerial Services

- 7.55 The culture in ministerial offices, and in Ministerial Services, is an important factor. We saw a very strong focus on the need to support Ministers effectively, to help make their workload manageable, and ensure that their time was used effectively. That is commendable.
- 7.56 Supporting Ministers well also means providing clear rules and guidance and letting the ministerial office know if it is doing something wrong. Most senior private secretaries that we spoke with agreed that they could and should tell a Minister if that Minister had spent money inappropriately or broken a rule. They saw doing so as their role, and said that the Minister would expect and welcome it. It was part and parcel of keeping their Minister safe and providing effective support. When we spoke with the Minister responsible for Vote Ministerial Services, he confirmed that he expected the Department, through Ministerial Services and senior private secretaries, to play this role.
- 7.57 We have found that Ministerial Services does scrutinise transactions, and ask questions or challenge judgements when it has concerns. This is an important responsibility. But it can be difficult to discharge if those being challenged do not understand or accept that the Department has this role and is ultimately accountable for the spending. There are anecdotes about Ministers who have, over the years, objected to this type of feedback or overruled the Department's staff. We are concerned that this type of environment makes it harder for the Department to carry out its responsibilities in a straightforward fashion, for example, because the checking and questioning process may be seen as creating risk rather than as protecting Ministers from risk.
- 7.58 We understand that there are times when a Minister will not welcome having their judgement questioned. However, in our view, this type of attitude is able to endure only when Ministers do not appreciate the Department's responsibility for ensuring that it can account for the proper use of public funds, and there is a lack of clarity about the rules. Effective checking and financial accountability processes will generally protect those spending money because they will mean that any errors are detected and corrected promptly, and as a matter of routine.
- 7.59 We note that the Parliamentary Service and the Parliamentary Service Commission worked through similar issues in 2007, when the new parliamentary rules and processes were prepared. There was some debate in that context about the balance of responsibility between MPs and officials for spending. For the parliamentary system, it is now accepted that the Parliamentary Service has to account for the funds and has an important role in checking transactions and

ensuring that any errors or inappropriate judgements are identified and corrected at the outset.

- 7.60 We consider that the responsibility of the administering department also needs to be put beyond doubt in the ministerial system. Ministers need to understand that the Department is responsible for ensuring that spending is not only within the rules, but also reasonable. They and their staff are then more likely to help the Department to discharge this responsibility rather than object to it.
- 7.61 In our view, the role of Ministerial Services in checking spending, including questioning whether Ministers have certified spending correctly, needs to be made explicit in either the Executive Determination or the Handbook. In particular, we consider that the Minister responsible for Ministerial Services needs to formally endorse this role and record that he expects Ministerial Services to develop and enforce the procedural requirements needed to support proper financial accountability.

Our overall assessment of what happens in practice

- 7.62 As previously stated, the basic design of the financial approval system is sound. Many straightforward transactions are processed each week and each year so that Ministers can function effectively. The finance team is regarded as helpful and approachable.
- 7.63 Our testing did not show any pattern of major spending irregularities. We identified a small number of transactions that we considered were either outside the rules or marginal, but these were isolated examples.
- 7.64 Our more common concern was that the documentation and explanations accompanying transactions were often poor, or the relevant information was not included in or referred to in the main financial records. Although the spending might have been appropriate, the audit trail to demonstrate that was too often inadequate. We also found a number of transactions where the documentation was not sufficient for us to assess whether the spending was appropriate and reasonable at all.
- 7.65 We also identified that the procedural requirements were not always followed, or there was no evidence of them having been followed. Ministerial Services told us that it did not regard all of these requirements as significant, and in practice it would decide whether a failure to comply in any particular transaction warranted follow-up or any corrective action. We have already commented on the risks in this approach.

- 7.66 There is also a risk that internal controls are not fully effective because senior private secretaries and Ministerial Services have different understandings of their roles in the certification and approval processes. Senior private secretaries with problematic interpretations of rules or spending can remain unaware that there is anything wrong with their practices if Ministerial Services does not draw this to their attention. These weaknesses in the financial controls expose Ministerial Services and Ministers to greater risk of inappropriate spending.
- 7.67 The training and guidance that Ministerial Services provides is useful, and senior private secretaries appreciate it. They told us that there is scope to do more, and to target the training better so that people are given information when they need it.

Part 8

Directions for change

- 8.1 In this Part, we set out:
- our overall findings, from the detailed analysis set out in the previous Parts of this report;
 - a brief description of relevant international and domestic trends and pressures; and
 - the changes that we recommend be made to improve the Ministerial Services system.

Our overall findings

- 8.2 We have assessed as a whole the system for managing Ministerial spending that has the potential for personal benefit. Our assessment included considering four layers of that system:
- how the three systems fit together, and in particular how the Ministerial Services system interfaces with those administered by the Parliamentary Service and the Remuneration Authority;
 - whether the rules in the Executive Determination are workable and fit for purpose;
 - whether the financial management processes supporting the rules are effective and provide suitable control and accountability; and
 - how well the Ministerial Services system works in practice.
- 8.3 In summary, we found that the institutional and legal context in which Ministerial Services must operate is unhelpful:
- The overall support arrangements made up of the Ministerial Services, Parliamentary Service, and Remuneration Authority systems create some overlap and complexity.
 - The legal status and purpose of the rules in the Executive Determination are confused and create ambiguity, the rules have a number of technical deficiencies, and the rule on travel expenses is unworkable in practice.
- 8.4 At an operational level, we found that:
- The basic design of the financial management processes is sound, and staff are regarded as responsive and helpful.
 - Ministerial Services provides useful training and guidance for ministerial office staff, but there is scope to do more and target it better.
 - There is considerable scope to improve the guidance and information provided to staff through the Handbook and other mechanisms, and to streamline and simplify the content. In particular, we are concerned that the status of policies,

requirements and guidance is not always clear, and at times the guidance leaves too much to individual judgement, and contains conflicting advice.

- The documentation and explanations accompanying transactions were often poor, or the relevant information was not included in or referred to in the main financial records. Although the spending might have been appropriate, the audit trail to demonstrate that was too often inadequate.
- Procedural requirements were not always followed, or there was no evidence of them having been followed, and it was not clear from the guidance which requirements were important.
- There is a risk that internal controls are not fully effective because staff can have different understandings of the various roles in the certification and approval processes.
- Senior private secretaries who are not applying spending rules or procedures properly can remain unaware that there is anything wrong with their practices because Ministerial Services may not systematically draw the problems to their attention.

- 8.5 Our conclusion at the operational level is that the basic design of the financial procedures is reasonable, but that they need further development. The weaknesses we have identified in the financial controls expose Ministerial Services and Ministers to greater risk of inappropriate spending and criticism.
- 8.6 Putting more effort into the development of clearer and stronger administrative policies, procedures and guidance, and into systematically enforcing the key requirements, would reduce those risks and enable the system to provide better protection for Ministers. In particular, more effort needs to be put into ensuring that transactions are properly documented. As we explained in Part 3, this does not have to be onerous. The information in the financial record simply has to be enough to enable others to see that the spending was within the rules and reasonable.
- 8.7 Our testing of transactions did not show any pattern of major spending irregularities. We found only occasional examples of transactions that we thought were outside the rules or were close to a line.
- 8.8 Overall, we have concluded that the Ministerial Services system as it stands is an unsatisfactory basis for providing support to Ministers. In our view, the system needs improvements at all four of the layers set out in paragraph 8.2. The operational matters can be directly addressed by the Department, as can some of the problems with the Executive Determination. The problems that relate to the relationship with other parts of the overall support arrangements, and the Civil List Act 1979, will need to involve several administering and policy agencies.

International trend towards greater scrutiny

- 8.9 In the last few years, there has been an international trend towards greater scrutiny of parliamentary and ministerial spending. Several countries are developing, or have developed, new systems for setting salaries and entitlements and organising support services, as well as mechanisms for greater oversight and public disclosure of spending.
- 8.10 Different countries have different models for how that support is provided. For example, Australia provides both parliamentary and ministerial support through a single organisation, which is part of the Department of Finance and Deregulation. Towards the end of 2009, Australia decided to develop a complete reporting regime for all Department of Finance and Deregulation spending on entitlements for, or connected with, MPs, including Ministers. The first comprehensive report of this kind, and all the supporting documentation, was released in June 2010.⁹
- 8.11 Ministerial office support in Canada is funded through the relevant department, and all spending is expected to be subject to the normal departmental financial management processes, including separation between the person spending and the person approving payment, and internal audit. All spending is regularly and publicly released.
- 8.12 In the United Kingdom, recent changes to the payment and support systems for MPs have been well publicised. They result from the release of large amounts of information under the Freedom of Information Act, which disclosed significant failings in the system. The new systems incorporate a strong focus on independence and scrutiny.
- 8.13 The move to greater disclosure of spending in New Zealand is part of this international trend. It was introduced by the Speaker and the Prime Minister in direct response to public disquiet about parliamentary spending in the United Kingdom. Here too, the wholesale and regular disclosure of this type of information for the first time is revealing inadequacies in the underlying rules and processes.
- 8.14 In our view, a significant change is taking place. The notion that spending by MPs or Ministers is in some way different from other parts of the public sector, and should be any less controlled or accountable, is no longer tenable. It is clear that the public expects to be able to scrutinise this use of taxpayer funds as much as – if not more than – any other. Individual Ministers and MPs are being held to account for their spending.

⁹ See Australian Government, Department of Finance and Deregulation, *Parliamentarians' Expenditure On Entitlements Paid By The Department Of Finance And Deregulation: July to December 2009*, available at www.finance.gov.au/publications.

- 8.15 It is important that the supporting systems adapt to meet the challenges of regular scrutiny. In New Zealand, as elsewhere, they need to become transparent and rigorous, so that the public can be assured that appropriate financial controls are in place and operating.

The changes that we recommend

- 8.16 It is not our role to redesign the system for the Department, but we can indicate the direction that we consider needs to be taken and identify specific points that we consider need to be addressed. The remainder of this Part sets out the changes we are recommending, under five main headings:
- the Department's responsibility for the system and spending under it needs to be put beyond doubt;
 - the system needs a clear and coherent legal basis;
 - the Executive Determination should set out clear and workable rules;
 - administrative policies and procedures should help people to get it right; and
 - financial records should show compliance with requirements.

The Department's responsibility for the system and spending under it needs to be put beyond doubt

- 8.17 In our view, one of the most important steps that needs to be taken is to clarify the role of the administering department. Everybody working in the system needs to understand that the Department is accountable for these funds in the same way as it is for other public funds, and that at times this role will require officials to question or challenge the spending decisions that Ministers make. It also requires the Department to give ongoing consideration to whether the system is operating properly and whether changes are needed to operational or legislative requirements.
- 8.18 We would like to see the Department strengthen its strategic and policy development capability for its Ministerial Services responsibilities. As with any part of the public sector, the Department needs to be able to keep the arrangements it administers under constant review, so that it is ready to provide advice on how to improve it over time and ensure that it is ready to meet new challenges.
- 8.19 In our view, there is a risk that in such a busy environment, the role of the Department will largely be to administer a system in which the rules and entitlements have been developed over the years by others (mainly politicians). In this situation, changes tend to be made in response to specific problems rather than as a result of ongoing self-review and development work. In our view,

the Department can and should be able to take a more strategic approach, and be prepared to recommend changes, to help modernise the arrangements. For example, it should be able to identify when a rule cannot be given administrative effect and to provide advice on how to address the problem.

- 8.20 We would also like to see the Department take a stronger role in developing simple and clear administrative requirements, and enforcing them consistently and openly. Any procedural rules must be tied into the basic requirements for financial accountability and should not be onerous. But when the requirements are important, the Department should enforce them and Ministers should support it in that role.
- 8.21 In our discussions, we have heard cynicism about whether Ministers would endorse departmental officials having such a prominent role in advising on such matters and in determining levels of support and scrutinising spending. We doubt that this cynicism is justified. Most Ministers are more likely to welcome than resent clear advice and checks that will detect and resolve problems promptly. No Minister wants financial housekeeping matters to become a matter of political embarrassment. We do not expect that Ministers will object to the Department carrying out its strategic, policy, and financial management responsibilities for this area of spending in the same way as it does in others.
- 8.22 In our view, the simplest and most effective way of confirming that the Department should have this role in the system is for the Minister responsible for Ministerial Services to formally confirm the role and communicate it to all Ministers. This could be done in a foreword to the Handbook, for example, by including statements on the administrative process in the Executive Determination, or other means.

Recommendation 1

We recommend that the Minister responsible for Ministerial Services formally confirm the role that the Department of Internal Affairs is expected to play in the system for providing support to Ministers, including its role in:

- developing and enforcing procedural requirements to support proper financial accountability for all spending under Vote Ministerial Services;
 - monitoring developing practice and emerging issues, both in New Zealand and internationally, and regularly evaluating the effectiveness of the system; and
 - providing timely and informed advice to the responsible Minister on steps that can be taken to improve the system it administers.
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The system needs a clear and coherent legal basis

- 8.23 In our view, it is unsatisfactory that the Ministerial Services system operates in such a legally ambiguous environment. There are three main uncertainties in the basic construction of the Ministerial Services system that need to be clarified.
- 8.24 First, the legal basis for the system, and the legal capacity and constraints on the Department, need to be reviewed and clarified. Some basic principles need to be established that anchor the system properly, and the rules need to be developed from there. This work needs to happen alongside any changes that result from the Law Commission's review of the Civil List Act 1979. That is the appropriate context for clarifying the legal status and effect of the Executive Determination.
- 8.25 In our view, it is important to clarify:
- What is the purpose of the Executive Determination and its legal or administrative role?
 - Which rules, if any, create a personal entitlement?
 - Which rules, if any, create legal limits on what can be funded?
 - Which matters belong in the Executive Determination and which can be left to departmental policy and administrative discretion?
- 8.26 Secondly, the Department needs to clarify the relationship between the permanent legislative authorities contained in the Civil List Act 1979 and the appropriations in Vote Ministerial Services. It should also be clear how both sets of authorities relate to the expenses and services covered in the Executive Determination.
- 8.27 Thirdly, the Department needs to work with the Remuneration Authority and the Parliamentary Service to resolve the interface issues that we have identified and to provide a better public explanation of the way in which the three systems interact.
- 8.28 In particular, we consider that:
- the public information on salaries and entitlements should make it clear how parliamentary and ministerial salaries are reduced to take account of the level of personal benefit inherent in some of the current entitlements;
 - the Department needs to review the Executive Determination and associated guidance, in consultation with the Remuneration Authority, to ensure that there is no overlap between what can be claimed as operational resources and items that the allowance paid by the Remuneration Authority is intended to cover; and
 - the Department needs to continue to work with the Parliamentary Service to simplify the relationship between the ministerial and parliamentary systems.

The Executive Determination should set out clear and workable rules

- 8.29 The current Executive Determination is a collection of rules, entitlements, and exhortation that have been inherited from other systems, or developed and adapted as particular problems have arisen. Writing a fresh set of rules from scratch would enable the rules to be properly grounded in principles and to be written simply and with a clear purpose. That type of approach provides much greater guidance for people when they come across new situations, because they are able to apply explicit principles and purposes to develop coherent responses.
- 8.30 A review of the Executive Determination should also consider the more detailed issues we identified in Part 5, including:
- whether it is appropriate to refer to Cabinet decisions in a document of this kind, so that the Cabinet minute effectively provides the boundaries of an entitlement; and
 - whether there is a better way to manage the relationship between the Executive Determination and the appropriations.
- 8.31 We explained in Part 5 that we found the principles in the current Executive Determination confusing and unhelpful. Given that their content is largely drawn from the Parliamentary Determination, we recommend that Ministerial Services and the Parliamentary Service review them together, to prepare a set of principles that provide more substantive guidance and are more closely related to the content of the rules.
- 8.32 The rules that set limits on a Minister's daily spending when travelling, and rules about when the costs of an accompanying spouse will be met, also need to be reviewed. The current rules are unworkable in practice:
- Given the way the financial and administration systems and invoicing practices work, Ministerial Services may need to consider setting separate rules on accommodation costs and other daily expenses.
 - On the travel costs for spouses, if in practice there is no better approach than relying on the Minister's judgement for when it is appropriate for a spouse or partner to travel with them, then the rule should reflect that this is where the judgement rests.
- 8.33 We have queried whether the part of the Executive Determination that deals with operational resources is necessary. This question needs to be considered in the context of the work we have already recommended be done to clarify the legal status of the Executive Determination. It also needs to clarify the relationship between the Executive Determination and the Department's general capacity to provide support services.

- 8.34 Finally, we have suggested that the Department consider whether there would be benefit in including a section in the Executive Determination on the administrative and financial processes that accompany spending. The Parliamentary Determination includes a section on the approval processes administered by the Parliamentary Service. Our impression is that this has been useful in making clear that officials have overall responsibility for the spending, and has removed much of the argument that sometimes accompanies this role.
- 8.35 In our view, the review needs to produce a clear and coherent legal framework to support the provision of services to Ministers that:
- integrates the legislation, Executive Determination, and appropriations;
 - minimises overlap between the three support systems; and
 - creates rules and processes that are practical and capable of being effectively managed and monitored.
- 8.36 If comprehensive reform of the overall support arrangements results from the Law Commission’s review of the Civil List Act 1979, the review we are recommending should be done in conjunction with that work. If major reform is not initiated, the Department will still need to work with other administering and policy agencies to address the legal problems that can be fixed within the current overall arrangements.

Recommendation 2

We recommend that the Department of Internal Affairs carry out a “first principles” review of the legislation underpinning the system it administers, including the relevant provisions of the Civil List Act 1979, the Executive Determination, and the appropriations in Vote Ministerial Services.

Administrative policies and procedures should help people to get it right

- 8.37 The finance team in Ministerial Services is helpful and available, and the administrative systems are flexible and responsive to ensure that ministerial business is effectively supported.
- 8.38 However, we consider that it is possible for this level of support to be provided in a way that provides greater protection for Ministers and staff. The general and low-key nature of the guidance and requirements in the Handbook gives a great deal of flexibility, as does the pragmatic approach to procedural requirements. But it also carries risk, because the result is that it is not clear which checks and requirements are important and when failure to comply should be seen as

significant. Senior private secretaries are often working out for themselves what to do because the documented guidance is not specific enough, and they do not always get any reaction or feedback if they have made the wrong choice.

- 8.39 There are many changes that Ministerial Services could implement to make financial management seamless and easy for ministerial offices. Senior private secretaries told us that financial management of the office is a small part of their role, and that when they are dealing with pressing issues they want this to be a straightforward housekeeping matter.
- 8.40 When Ministerial Services reviews the Executive Determination and the policies and procedures set out in the Handbook, it needs to focus on the users of the financial management processes and what will make this simple for those users. We encourage Ministerial Services to consult with senior private secretaries to identify where it is important that they have scope to make their own choices and where a simple rule or some clear benchmark would be better.
- 8.41 We also encourage Ministerial Services to develop the Handbook and associated guidance so that the status of the different requirements is clear, along with the level at which decisions can be made to approve exceptions, and how failures to comply will be treated. Being much clearer on how important the different requirements are will help senior private secretaries understand what they need to do and what flexibility there is, and will also help focus external accountability on the important requirements.
- 8.42 In particular, we emphasise that the Department must now strengthen the Ministerial Services financial management processes to help people appropriately and sensibly manage spending that could give personal benefit to a Minister.
- 8.43 For example, we are aware that many people are now reluctant to use office credit cards, even though credit cards are often a sensible, transparent, and efficient way of spending. Some people are now using their personal cards for business expenses and then seeking reimbursement, because they see the office credit card as too risky. Some people may be avoiding the risk altogether, by paying personally for what are legitimate business expenses.
- 8.44 We would be disappointed if this kind of attitude was left to take hold. As we have said before, credit cards are convenient and appropriate. In our view, the current rule in the Handbook is probably too strict to be practical and is not consistent with the state sector norm. The Department needs to reconsider it.
- 8.45 We also encourage the Department to review how it resources the financial checking and approval function, to ensure that it is able to properly scrutinise transactions from ministerial offices.

- 8.46 There is scope to improve the training that Ministerial Services provides to senior private secretaries, and the general level of communication and systematic guidance. Senior private secretaries gave us a range of practical suggestions, such as giving them regular information on how their office spending compares with others, staggering the training when a new government takes office so that the initial focus is simply on how to establish an office properly, and many other ideas. We encourage Ministerial Services to talk openly with senior private secretaries about what they would find helpful.
- 8.47 Ministerial Services should also consider whether to institute a more formal and transparent process for recording and communicating new information or changes to the policies and advice. This process could feed into more regular and systematic updates of the Handbook, so that significant information and precedents are systematically captured and shared.

Recommendation 3

We recommend that Ministerial Services revise its administrative policies, procedures, and guidance on financial management to:

- clarify the status of the various requirements, and in particular clarify which requirements are essential for financial accountability purposes and which can be waived if the circumstances require;
 - clearly set out the roles and responsibilities of all those involved in the financial management processes;
 - provide staff with clear and accessible information on legal and administrative requirements, including regular information on changes, guidance, and precedents;
 - respond consistently when questions arise or documentation is inadequate, set out clear consequences when claims are not adequately supported, and have a standard and accepted process for resolving any disputes or questions; and
 - provide staff with guidance and feedback to inform their judgements about what spending is reasonable in the ministerial context.
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Financial records should show compliance with requirements

- 8.48 The financial records do not provide an audit trail that enables the Department to easily demonstrate that all spending is within the rules and reasonable. Documentation practices are patchy, and sometimes the explanations of transactions are missing or poor.
- 8.49 We have been given evidence that spending is scrutinised, and that Ministerial Services regularly asks questions before approving transactions. However, the documentation of these checks, and the information that results, is not always well documented. Much of it sits in emails or other files that are not cross-referenced in the financial records. It is also not clear from the Handbook or the records which requirements are regarded as important and must be followed, and which are seen more as guidance than can be waived when necessary.
- 8.50 Although this open approach enables the support to be flexible and responsive, it also creates risk. The basics of financial accountability are not always in place, in the form of simple and clear requirements and records to demonstrate compliance with those requirements.
- 8.51 In our view, the basic financial review and approval functions need to be reviewed to ensure that they operate more effectively. That should include considering how the function is organised and resourced, and which procedural and substantive requirements are important and need rigorous enforcement, and which are better regarded as guidance.
- 8.52 We have identified the need to clarify and confirm that the Department should carry out this review and approval role for Ministers, because the Department must be able to account to Parliament for all spending in the Vote. It needs to become a matter of routine for Ministerial Services to question and turn back claims that are not accompanied by proper documentation or explanation. We accept that gaps in documentation are often addressed informally, through discussions and emails, but the results need to be documented in the financial system.
- 8.53 We have noted that the Department maintains an internal audit function that is capable of looking at Ministerial Services but has not done so in recent years. We understand that it has not been identified as a risk for the Department. That may be so from a financial perspective, because the budget for Ministerial Services is a small part of the Department's overall budget. But it is obviously a high political risk.

- 8.54 The Parliamentary Service has recently introduced an internal audit element into its management of spending by parliamentary offices. We recommend that Ministerial Services does the same. It would be useful for Ministerial Services to arrange for regular checks by internal audit, to help it identify problems early, and more generally to help it maintain and improve the quality of its processes.
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Recommendation 4

We recommend that the Department of Internal Affairs strengthen its checking, approval, and monitoring functions, and its documentation processes so that it is able to properly discharge its responsibility for demonstrating that all spending in Vote Ministerial Services is reasonable and appropriate.

Appendix 1

Terms of reference for our inquiry

Inquiry into certain types of expenditure in Vote Ministerial Services

2 March 2010

The Auditor-General will conduct an inquiry into certain types of expenditure in Vote Ministerial Services, which is administered by the Department of Internal Affairs. The inquiry will look at expenses charged to credit cards, expense claims, and other related expenditure that provides or has the potential to provide private benefit to a Minister.

The inquiry is being carried out at the request of the Prime Minister, Mr Phil Heatley, and the Department of Internal Affairs.

The inquiry will:

1. Audit the relevant expenditure incurred by Mr Heatley's Ministerial office under Vote Ministerial Services from when he became a Minister in November 2008 to 25 February 2010. This will include examining whether the expenditure was incurred in accordance with the relevant rules, policies, and procedures.
2. Review the policies and procedures that control these types of expenditure incurred under Vote Ministerial Services to see if they are appropriate and effective. This will include looking at some other examples of Ministerial expenditure to test these policies and procedures. It will also include identifying improvements that can be made.
3. Consider any other matters that the Auditor-General considers relate to, or arise from, the above.

The inquiry will be conducted under sections 16(1) and 18 of the Public Audit Act 2001.

The Auditor-General will decide how to report during the course of the inquiry. She may choose to report her findings in stages.

Appendix 2

Our report on the first part of our inquiry

On 2 March 2010, the Auditor-General, Lyn Provost, released terms of reference for an inquiry into certain types of expenditure in Vote Ministerial Services that provide or have the potential to provide private benefit to a Minister. The inquiry was initiated by the Auditor-General after separate requests from the Prime Minister, Mr Phil Heatley MP, and the Department of Internal Affairs.

The purpose of the inquiry was to:

- audit the expenditure incurred by Mr Heatley's ministerial office from when he became a Minister in November 2008 until he resigned from his ministerial portfolios for Housing and Fisheries on 25 February 2010;
- review the rules, policies, and procedures to see whether they are appropriate and effective, and identify any improvements that can be made; and
- consider any other matters that the Auditor-General considers relate to, or arise from, the above.¹

This report addresses the first part of our inquiry's terms of reference. We summarise the general principles that apply to public expenditure where there could be private benefit and our overall findings and conclusions, followed by a detailed report about our audit of Mr Heatley's ministerial office's expenditure. We intend to report separately on the remaining parts of our terms of reference.

General principles: public expenditure where there could be private benefit

The public rightly expect all those who spend public money to recognise that it is public money. There is heightened sensitivity when public money is spent on items that have the potential or can be seen to give private benefit to a person. There is even greater sensitivity for Ministers and members of Parliament, who must manage the line between ministerial, parliamentary, party political, and personal spending.

The expenditure needs to be reasonable and managed with extra care so that it can withstand public scrutiny. That means considering how an outside observer may reasonably perceive the expenditure. It is sensible to take a conservative approach in managing these boundaries and to apply careful judgement.

It is also important that the rules and administrative processes supporting the rules are clear, practical, and align with common sense.

Although the sums of money involved in such issues and discussed in this report are often small, the principles involved are important and the consequences of mistakes can be significant.

¹ Our full terms of reference can be found on our website, www.oag.govt.nz.

Overall findings and conclusions

Mr Heatley's overall ministerial office expenditure was reasonable compared to expenditure incurred by other ministerial offices for the period we looked at. We found that a total of \$1,402 of Mr Heatley's expenditure – \$608 in Vote Ministerial Services and \$794 in Vote Parliamentary Service – was outside the rules. In all cases, Mr Heatley thought that the expenditure was within the rules, but he did not understand the rules correctly. In the case of the expenditure in Vote Parliamentary Service, the Parliamentary Service was also administering a rule incorrectly for members of Parliament, and Mr Heatley is not the only member who will have been affected.

We found that Mr Heatley generally took care to account for his expenditure appropriately. His Senior Private Secretary took her responsibilities seriously in managing the ministerial office expenditure. On occasion, Mr Heatley's ministerial office received a reminder from Ministerial Services to submit a late reconciliation of his expenses or invoices or receipts; these were standard reminders that are sent by Ministerial Services to many ministerial offices. The problematic expenditure that we discuss in this report was approved by the relevant officials and was never queried with Mr Heatley or his Senior Private Secretary. For some items of expenditure, it was not clear from the supporting documentation provided that it was outside the rules, but it was for others.

We accept that the expenditure outside the rules was not deliberate on the part of Mr Heatley or his ministerial office, and that he had repaid a sum of money before we started our inquiry. He has also personally paid for expenses that are allowed under the rules.

Mr Heatley's incorrect understanding of the rules suggests that the rules may not be clear or clearly understood by those who incur expenditure. We intend to explore this matter further in the remaining parts of our inquiry. We note that the expenditure that was outside the rules was for relatively small amounts. However, small amounts add up, and even mistakes involving small sums can have major consequences. The rules need to be clear and the way they are administered needs to support Ministers to make good judgements about expenditure.

Notwithstanding deficiencies in rules or the systems for administering them, everyone spending public money – in this case Mr Heatley – has a personal responsibility to manage their expenditure appropriately with good judgement. In our view, even though Mr Heatley was sometimes operating under an incorrect understanding of the rules – for example, when his wife and family accompanied him on ministerial business – a more conservative approach that took greater account of how others might perceive his use of public money would have served him better.

Appropriation issues

All public spending must be authorised by Parliament through an appropriation. In the particular circumstances of the Vote Ministerial Services and Vote Parliamentary Service appropriations, any breach of the rules results in unappropriated expenditure. The expenditure outside the rules is unlawful and requires remedial processes to correct the problem and validate the expenditure.

Some lessons from our inquiry

Our inquiry highlights the need for careful decision-making and good judgement when public money is spent on items that have the potential or can be seen to give private benefit to a person.

The boundaries between business and personal expenditure need to be well understood and managed. For Ministers and members of Parliament, the boundaries between parliamentary, ministerial, party political, and personal expenditure may be difficult to manage in practice. This places an even greater responsibility on Ministers and members of Parliament to manage their expenditure with care and appropriately. Any accusation of inappropriate spending by a Minister or member of Parliament, no matter how small the amount, can undermine the public's trust in the integrity of government and Parliament.

From the work we have done in the first part of our inquiry, we consider that there are some general lessons to be learned by the administering agencies about how the knowledge and understanding of rules and policies, and their implementation in practice, can be improved.

As we have said in our previous reports on parliamentary and ministerial entitlements, in our view, the rules are not simple to understand or administer. The rules need to be able to be understood not only by those administering the system and receiving entitlements, but also by the public who fund the entitlements. The rules also have to be able to work in practice, and to align with common sense. We will explore these matters further when we address the remaining parts of our terms of reference.

Acknowledgements

We acknowledge the co-operation we received from Mr Heatley and his Senior Private Secretary and the openness with which they responded to our enquiries. We would also like to thank Ministerial Services and the Parliamentary Service for the information and assistance they provided.

We will not be commenting further publicly until we publish our report on the remaining parts of our terms of reference.

Detailed findings and conclusions

1. We set out in this part of our report:
 - principles that apply to public expenditure that provides or has the potential to provide private benefit;
 - the arrangements for support services for Ministers;
 - how we carried out our inquiry, including the expenditure that we examined;
 - findings and conclusions from our audit of Mr Heatley's ministerial office's expenditure from November 2008 to 25 February 2010; and
 - our views on appropriation and other issues.

Principles that apply to public expenditure that can provide private benefit

2. The public rightly expect all those who spend public money to recognise that it is public money. Any such spending that provides or can be seen to provide private benefit to an individual can be controversial. Although the spending may be justified, the potential for sensitivity means that careful decision-making and judgement is needed to manage the expenditure appropriately.
3. Everyone who spends or administers public money needs to recognise this sensitivity and to take extra care to ensure that the expenditure is reasonable and able to stand up to public scrutiny. That means considering how an outside observer may reasonably perceive the expenditure. Individuals making decisions about such expenditure need to be guided by the concepts of integrity, honesty, transparency, impartiality, and openness.
4. It is also important that the rules and administrative processes supporting them are clear, practical, and align with common sense.
5. The amounts of money involved could be small, but any spending outside the rules can have a damaging effect if left unchecked. Any suggestion of inappropriate spending of public money on matters that give private benefit to a person, no matter how small the amount, can undermine the public's trust in government and Parliament, and should therefore be carefully guarded against.
6. Everyone spending public money needs to appropriately manage the boundaries between business and personal expenditure. It is sensible to take a conservative approach in managing these boundaries and to apply careful judgement.

The arrangements for support services for Ministers

The rules for entitlements and allowances

7. Ministers of the Crown are entitled to financial resources and support services to fulfil their responsibilities as Ministers. Their entitlement to these resources and support services is specified in the *Executive Travel, Accommodation, Attendance and Communications Services Determination (No 2) 2009* (the Executive Determination). The Executive Determination is made by the Minister responsible for Ministerial Services² under section 20A of the Civil List Act 1979 and is administered by the Department of Internal Affairs (DIA). Parliament authorises appropriations for these resources and services in Vote Ministerial Services, which is administered by the DIA.
8. A Minister is also eligible for entitlements as a member of Parliament. These entitlements are available to members under the *Parliamentary Travel, Accommodation, Attendance and Communications Services Determination 2008* (the Parliamentary Determination). The Parliamentary Determination is made by the Speaker under the Civil List Act and the Parliamentary Service Act 2000, and is administered by the Parliamentary Service. Parliament authorises appropriations for these resources and services in Vote Parliamentary Service, which is administered by the Parliamentary Service.
9. The entitlements that a Minister receives under the Executive Determination “are either additional or alternative to” their entitlements as a member of Parliament. A Minister is not entitled to receive duplicate entitlements.
10. The Executive and Parliamentary Determinations both contain guiding principles to be used in the interpretation and practical application of the determinations.
11. The Executive Determination includes principles about expenditure. For example, the determination says that expenditure needs to be:
 - reasonable for the circumstances and able to withstand taxpayer scrutiny;
 - for official ministerial purposes;
 - cost-effective; and
 - value for money.
12. The Parliamentary Determination also includes principles about cost-effectiveness and value for money, as well as principles of accountability, appropriateness, openness, and transparency.
13. The inclusion of these principles highlights that judgement is needed in making decisions about expenditure, recognising that some of the provisions in the

² Ministerial Services is a business unit within the Executive Government Support Group of the Department of Internal Affairs that provides Ministers with a range of support services. It is responsible for employing all staff in ministerial offices.

determinations are defined quite broadly and that some entitlements have no restriction on purpose.

14. The Remuneration Authority also makes determinations about the salaries and allowances payable to Ministers and members of Parliament. The current one is the *Parliamentary Salaries and Allowances Determination 2009* (the Remuneration Authority Determination). Under the Remuneration Authority Determination, all members of Parliament get an expense allowance (currently \$14,800 each year) to reimburse them for “expenses that arise from the recipient’s official and parliamentary duties” that are not covered under the other determinations. This is intended to cover out-of-pocket expenses for parliamentary business, such as “entertainment of visitors, staff, constituents and officials, memberships, sponsorships and fees, donations and raffle tickets”.
15. In this report, we refer to these three determinations – the Executive Determination, the Parliamentary Determination, and the Remuneration Authority Determination – as “the rules”.

Administrative and support services for Ministers and ministerial offices

16. The Ministerial Office Handbook is an administrative guide issued by Ministerial Services to Ministers and ministerial office staff. It sets out guidance on the administrative and support services available to them, including the financial policies and procedures for ministerial office expenditure.
17. The Assistant General Manager, Ministerial Services, is responsible for, among other things, the financial management of ministerial offices. This includes responsibility for compliance with the relevant legislation, rules, and policies.
18. Each ministerial office has a Senior Private Secretary who assists in managing the ministerial office expenditure.

Expenditure processes for Ministers and ministerial offices

19. Expenditure by Ministers and their ministerial offices can be paid in three ways – through the DIA’s invoice payment system, by credit card, or through payments made from an imprest account.³ All expenditure is certified as correct by a Minister’s Senior Private Secretary and is approved for payment by the Assistant General Manager, Ministerial Services. In the case of credit cards, reimbursements, and travel reconciliations, the cardholder, claimant, or traveller also certifies the expenditure.

³ Ministerial Services provides each ministerial office with a cheque account called an imprest account, which is to be used when the payment needs to be made directly to a supplier rather than through Ministerial Services. The Minister’s Senior Private Secretary is authorised to operate the account. The float balance of the imprest account is small.

How we carried out our inquiry

20. We obtained a list of all expenditure incurred by Mr Heatley's ministerial office from when he became a Minister in November 2008 until he resigned from his ministerial portfolios on 25 February 2010.
21. We selected for detailed examination expenditure that provides or has the potential to provide a Minister or ministerial office staff with private benefit. This included domestic and overseas travel,⁴ accommodation and other associated costs, entertainment, hospitality, and other miscellaneous ministerial office expenditure.
22. We examined all transactions paid by credit card (by Mr Heatley and by his Senior Private Secretary) and from the ministerial office's imprest account.
23. For each item of expenditure, we examined whether it was in keeping with the rules and relevant policy guidance. We also looked at whether the expenditure was:
 - for official ministerial business (where relevant);
 - reasonable;
 - properly documented (with tax invoices or receipts); and
 - certified and approved in keeping with the policies.
24. We did not look at the costs of the chauffeur-driven VIP Transport Service that is charged to ministerial offices because there is no restriction on the use of VIP transport. A Minister, and his or her spouse or partner, are entitled to use VIP transport at any time and for any purpose at the Minister's discretion. We also did not look at Wellington accommodation payments for Ministers because a new system was introduced last year. Under the new system, Ministers make their own accommodation arrangements and are paid a fixed sum to cover this.
25. We interviewed Mr Heatley, his Senior Private Secretary, and staff from Ministerial Services.
26. We also talked to staff from the Parliamentary Service and obtained some information about the related travel costs met by Vote Parliamentary Service.

⁴ Under the Parliamentary Determination, all members of Parliament (including Ministers) are entitled to travel anywhere in New Zealand with no restriction on purpose. Therefore, we reviewed travel expenditure mainly to confirm the related travelling expenses.

Findings and conclusions from our audit of Mr Heatley's ministerial office expenditure

27. The total expenditure incurred by Mr Heatley's ministerial office in the period from November 2008 to February 2010 was \$645,448. The major cost was for the salaries (\$389,926)⁵ of ministerial office staff, and the second highest amount was for VIP transport (\$81,174).
28. Mr Heatley's overall ministerial office expenditure was reasonable compared to expenditure incurred by other ministerial offices. In fact, he was the fifth lowest spending Minister for the period we looked at.
29. After excluding expenditure by Mr Heatley and his ministerial office that did not provide or have the potential to provide the Minister or his ministerial office staff with private benefit, we audited 173 transactions totalling \$107,566. Table 1 shows the breakdown of the expenditure we audited by expenditure type.

Table 1
Expenditure incurred by Mr Heatley's ministerial office from November 2008 to 25 February 2010 and the amount of the transactions we audited

Expenditure type	Total expenditure (GST excl)	Amount of audited transactions (GST excl)
Personnel costs of ministerial office staff, including salaries	\$416,295	–
Ministerial office operating costs	\$46,551	\$6,822
Travel costs: Minister, and staff accompanying the Minister	\$182,602	\$100,744
Total expenditure	\$645,448	\$107,566

30. We concluded that expenditure totalling \$107,026 (GST-exclusive) that we examined in Vote Ministerial Services was within the rules. We concluded that expenditure totalling \$608 (GST-inclusive) in Vote Ministerial Services was outside the rules.
31. We also concluded that expenditure of \$794 (GST-inclusive) in Vote Parliamentary Service was outside the rules.
32. In all instances, Mr Heatley and his Senior Private Secretary thought that this expenditure was allowed. In the case of the Vote Parliamentary Service expenditure, the Parliamentary Service was also administering a rule incorrectly for all members of Parliament.

⁵ The remuneration paid to Ministers is not included in ministerial office costs – they are charged to a different cost centre.

33. Before we started our inquiry, Mr Heatley had already repaid some costs when concerns arose. Only some of the expenditure he repaid had been outside the rules. We have identified some other expenditure that was outside the rules.
34. We summarise these transactions in Table 2 and discuss them further in this report.

Table 2
Relevant expenditure incurred by Mr Heatley's ministerial office from November 2008 to 25 February 2010*

Description	Total expenditure (GST-incl)	Expenditure outside the rules (GST-incl)	Costs reimbursed by Mr Heatley, when concerns arose (GST-incl)
Vote Ministerial Services			
Travel, accommodation, and meal costs when Mr Heatley's family accompanied him on ministerial business			
• two visits to Auckland and one to Queenstown	\$929	\$287	-
• a visit to Picton and Kaikoura	\$2,677	\$251	\$2,677
National Party conference			
• wine	\$70	\$70	\$70
• accommodation	\$201	-	-
• meals	\$154	-	\$105
Total (Vote Ministerial Services)	\$4,031	\$608	\$2,852
Vote Parliamentary Service			
Air travel costs for one child between Wellington and Queenstown	\$692	\$692	-
Rail and ferry travel costs for one child between Wellington and Kaikoura	\$102	\$102	-
Total (Vote Parliamentary Service)	\$794	\$794	-
Total	\$4,825	\$1,402	\$2,852

* Figures are rounded to the nearest dollar.

Domestic travel where Mr Heatley was accompanied by his wife

35. Under the Parliamentary Determination, all members of Parliament (including Ministers) are entitled to travel anywhere in New Zealand (by air, rail, ferry, and non-urban bus) with no restriction on purpose. A member's spouse or partner has the same travel entitlement with one restriction – air travel cannot be for private business purposes. The costs of a Minister's travel (for any purpose) are met from Vote Ministerial Services, and costs for their spouse or partner are met from Vote Parliamentary Service.

36. Under the Executive Determination, a Minister is entitled to have their accommodation, meals, and incidental expenses paid when they are travelling in New Zealand on ministerial or parliamentary business away from Wellington and more than 80km from their primary place of residence. Actual and reasonable costs are paid up to a daily maximum of \$350 for all these expenses when the Minister is travelling alone, and up to \$500 if the travel involves the Minister attending an official function and it is necessary for their spouse or partner to attend the function.
37. Mr Heatley's wife travelled with him on occasion when he was on ministerial or parliamentary business. Her travel costs were met from Vote Parliamentary Service, and her accommodation and meal costs were met from Vote Ministerial Services.
38. Mr Heatley told us that he was aware of the daily limit on expenditure when his wife travelled with him but was not aware that the Executive Determination specified that her accommodation and meal costs would be met only if it was necessary for her to attend an official function. He believed that she could travel with him whenever he was out of Wellington and away from his electorate in Whangarei on ministerial business, and that her accommodation and meal costs would be met. In practice, this did not happen often.
39. Ministerial Services staff told us that they approve the costs for a spouse or partner based on the Minister's judgement that it was necessary for their spouse or partner to accompany them, along with the certification from the Senior Private Secretary that the expenditure is correct.
40. It was clear from our discussions with Mr Heatley's Senior Private Secretary that she was not aware of the requirement that his wife's accommodation and meal costs would be paid only where it was necessary for his wife to attend an official function. At one of their regular training and development days, Senior Private Secretaries were told that it was one of their responsibilities to enable Ministers to maintain a good work-family life balance where possible because of the work pressures that Ministers face. Mr Heatley's Senior Private Secretary actively managed his diary to aim for this balance.
41. In considering whether Mrs Heatley's travel costs when she accompanied Mr Heatley were reasonable, we interpreted the rule to mean that it would be reasonable for her accommodation and meal costs to be met from Vote Ministerial Services when she attended an official function and/or meeting with him. In other words, the principle we applied was that, if a Minister wished for their spouse or partner to join them for personal reasons when they were out of Wellington, then the Minister should pay for these costs personally.

42. Mrs Heatley accompanied Mr Heatley when he was on ministerial or parliamentary business on eight occasions during the 15-month period we looked at. For four of these trips, we concluded that it was reasonable for Mrs Heatley's accommodation and meal costs to be met because she attended meetings and/or functions with him. For example, on one occasion, in October 2009, she attended the sod-turning ceremony at a new housing development in Hobsonville with Mr Heatley.
43. On another occasion, in November 2009, Mrs Heatley travelled with Mr Heatley on a visit to the Chatham Islands as part of his fisheries portfolio responsibilities. Mr Heatley paid personally for his wife's return air travel costs from Christchurch to the Chatham Islands even though these costs were allowed to be met from Vote Parliamentary Service. Mr Heatley told us that he paid these costs because the travel costs were not insubstantial and he took into account the difficult economic environment. He informed the Prime Minister that he would be taking this approach. We concluded that it was reasonable for Mrs Heatley's accommodation and meal costs to be met from Vote Ministerial Services for this trip because she attended various functions and meetings with Mr Heatley.
44. However, we concluded that on four other occasions Mrs Heatley's accommodation and meal costs should not have been met from Vote Ministerial Services. On these occasions, Mr Heatley was joined by his wife and children while he was on ministerial business. Mrs Heatley did not attend any official functions or meetings. Therefore, we concluded that her accommodation and meal costs should not have been met from Vote Ministerial Services. We discuss these occasions below.
45. It is important that the rules and supporting administrative guidance for spouse or partner travel give sufficient guidance to ensure that they are consistently understood and implemented. The rules and the way they are administered need to support Ministers making good judgements about the boundary between business and personal expenditure. We will explore these issues further when we address the remaining parts of our terms of reference.

National party conference expenses

46. Mrs Heatley accompanied Mr Heatley to the National Party annual conference in August 2009.
47. We concluded that Mr and Mrs Heatley's accommodation and meal costs could be met from Vote Ministerial Services. The Executive Determination allows the accommodation and meal costs of a Minister travelling on parliamentary business (rather than ministerial business) to be met. The determination defines parliamentary business to include attending party meetings, which we interpreted to include party conferences.

48. Mr Heatley reimbursed Ministerial Services for the meal costs for himself and his wife when the matter arose in the public domain – even though these costs are allowed for under the rules.
49. Mr Heatley also reimbursed the \$70 cost of two bottles of wine that he purchased at the conference.
50. Mr Heatley told us that he bought the wine for the table of eight to ten people where he was sitting at dinner. He believed at the time that it was reasonable for him to do so, because he saw himself attending the conference as a Minister of the Crown, and the costs were therefore for ministerial business.
51. He later wrote “food and beverage” on the eftpos receipt. This was his usual practice when it was not lunch or dinner – it was not necessarily a payment for food and beverage; merely his way of categorising food and beverage-related costs that were not technically lunch or dinner. His Senior Private Secretary assumed that the costs were for dinner and wrote “Minister and spouse – dinner” on the credit card reconciliation form. Mr Heatley certified this form as the card-holder. His Senior Private Secretary told us that there was no intention to misrepresent the situation on the reconciliation form – she had assumed that it was for dinner from what he had written and she did not check it with him. Mr Heatley told us that he did not read the form carefully before he signed it and that it was a careless rather than dishonest act.
52. When the matter arose in the public domain, Mr Heatley initially reimbursed the expenditure and later offered his resignation to the Prime Minister. He noted in his resignation statement that he accepted that his description of the expense could be viewed as inaccurate because the purchase did not include food and that “this was one step too far”.
53. From our review of Mr Heatley’s expenditure documentation, we can confirm his practice of categorising expenditure on his receipts as “food and beverage” when they were only for beverages such as coffee. However, in our view, Mr Heatley should have taken greater care in ensuring that the description of his expenditure was accurate.
54. We carefully considered whether it was reasonable for the costs of the wine to have been met from Vote Ministerial Services. Our focus was on how the costs should have been met in these circumstances, not on whether the wine should have been purchased. Mr Heatley considered that he was attending as a Minister of the Crown and that this was an incidental travel cost of ministerial business. However, in our view, he was on parliamentary business when he was attending a party conference.

55. We have already outlined that all members of Parliament get an expense allowance of \$14,800 each year under the Remuneration Authority Determination to reimburse them for “expenses that arise from the recipient’s official and parliamentary duties” that are not covered under the other determinations. The explanatory notes say it is intended to cover out-of-pocket expenses from parliamentary business, such as “entertainment of visitors, staff, constituents and officials”.
56. In our view, the two bottles of wine that Mr Heatley purchased for his table were more in the nature of entertainment costs incurred in the course of parliamentary business. We therefore concluded that the cost of the wine should not have been charged to Vote Ministerial Services. It would have been better to regard it as covered by the expense allowance.
57. The amount of expenditure in this instance may seem trivial but, in our view, it highlights some important principles. There is always heightened sensitivity when public money is spent on items that have the potential or can be seen to give private benefit to a person. The expenditure needs to be managed with extra care because the expenditure must be able to withstand public scrutiny.
58. For Ministers and members of Parliament, the sensitivity about expenditure is even greater because they must manage the boundaries between ministerial, parliamentary, party political, and personal business. This can be challenging in practice because the roles blur into one another and activities will often have multiple purposes. This places an even greater responsibility on Ministers and members of Parliament to manage their expenditure with care and appropriately, because any accusation of inappropriate spending by a Minister or member of Parliament can undermine the public’s trust in the integrity of government and Parliament. It also carries personal risk for the individual.
59. We make some further observations about the expense allowance later in this report.

Family travel costs

60. Under the current Parliamentary determination, children of a member of Parliament may make up to four return trips between the primary place of residence⁶ and Wellington to be with the member when the member is on parliamentary business. There is no limit to the number of trips between a primary place of residence and Wellington for members’ children under five years. Until 2007, the costs of any travel within New Zealand were met for members’ children under five.

6 The Speaker approves a member’s declaration of their children’s primary place of residence, a similar process to the Speaker’s approval of a member’s declaration about their own primary place of residence. We discuss issues relating to the primary place of residence in our report *Auditor-General’s Decision on Parliamentary and Ministerial accommodation entitlements* in October 2009, available on our website (www.oag.govt.nz).

61. The Speaker may approve travel elsewhere for a member's child if it costs the same or less than travel between Wellington and the primary place of residence.
62. The costs are met from Vote Parliamentary Service. The accommodation and meal costs of children travelling with a Minister or a member of Parliament are not covered by the determinations (the member is to pay for these costs personally).
63. Mr Heatley told us that he understood the rule about the costs of family travel as follows:
 - his child aged under five could travel anywhere in New Zealand with no limit on the number of trips or the places travelled – he gained this understanding from his time as a member of Parliament;
 - any additional accommodation costs for his children would be met from Vote Ministerial Services as long as it did not exceed the \$500 daily limit for him and his wife; and
 - he was personally responsible for all other travel costs for his children; that is, meal costs for all of his children and the travel costs for his children older than five years when they were not travelling between the primary place of residence and Wellington (he was aware of the restriction on the number of trips).
64. As noted earlier, Mr Heatley's Senior Private Secretary actively managed his diary to aim for a balance between his work and family life and to make the best use of his time. She would normally discuss with Mr Heatley whether his wife or family would accompany him on any trips and he would make the final decision. She was operating under the same understanding of the rules as Mr Heatley.
65. Mr Heatley's family stayed with him on four occasions when he was on ministerial business. On three occasions, it was at the start or at the end of a family holiday (two visits to Auckland and one to Queenstown).
66. The fourth occasion was a visit to Picton and Kaikoura during a weekend in March 2009. Mr Heatley told us that he had been invited to attend a fisheries conference in Waikawa on the Saturday morning. He had previously been invited to go on a whale-watching trip by a fishing company director with interests in a tourist whale-watching operation in Kaikoura. He considered this to be ministerial business associated with his fisheries portfolio responsibilities. His family had also been invited on the whale-watching trip.

67. Mr Heatley's wife and family travelled from Wellington to Picton by ferry with Mr Heatley's "self-drive" car.⁷ Mr Heatley had initially planned to travel with them but had to fly to Blenheim to join them because of some unexpected business. Mr Heatley used the VIP Transport Service for his travel between Blenheim, Picton, and Waikawa. After the conference, he and his family travelled by train to Kaikoura. VIP Transport Service provided a driver to drive Mr Heatley's car to Kaikoura. A VIP Transport Service car was also sent to Kaikoura to provide return transport for the driver of Mr Heatley's car.

Correction

Shortly after this report was published on 30 March 2010, Ministerial Services provided further information to us which showed that the last sentence in paragraph 67 was not correct. We have confirmed this information and are satisfied that no additional VIP Transport Service car was sent to Kaikoura to provide return transport for the driver of Mr Heatley's car.

68. For practical reasons, the ferry and rail costs for two of Mr Heatley's children were initially paid as part of his ministerial booking, but he appropriately reimbursed those costs immediately after the trip. When the matter was raised in the public domain, he reimbursed Ministerial Services for all the other costs of the visit to Picton and Kaikoura, including his own.
69. On all four occasions when his family joined him, Mr Heatley personally paid for the meal costs of his children. He also paid for the travel costs of his two children who were older than five years. Based on his understanding of the rules, he charged his wife's meal costs and the additional accommodation costs associated with his children to Vote Ministerial Services.
70. In our view, he was entitled to have his own travel costs met from Vote Ministerial Services because the visit was on ministerial business. His wife's travel costs were also appropriately met by Vote Parliamentary Service. However, we concluded that the additional accommodation costs arising from his wife and children accompanying him and his wife's meal costs should not have been met from Vote Ministerial Services because they are not allowed under the rules.
71. We do not read the rules as extending to cover the accommodation costs of children, no matter how small the additional charge. Ministerial Services also agrees that any additional costs are not met from Vote Ministerial Services, and, for the instances where the additional costs were apparent from the supporting documentation, the approval of the costs was an oversight. We also regarded his wife's presence on the trip as being for personal reasons rather than because she

⁷ Under the Executive Determination, a Minister is entitled to a self-drive car up to an agreed maximum value for use at their discretion.

was attending an official function with him. Therefore, her accommodation and meal costs were personal.

72. Notwithstanding deficiencies in rules or the systems for administering them, everyone spending public money – in this case, Mr Heatley – has a personal responsibility to manage their expenditure appropriately with good judgement. In our view, even though Mr Heatley was operating under an incorrect understanding of the rules when his wife and family accompanied him on ministerial business, a more conservative approach that took greater account of how others might perceive his use of public money would have served him better.

The Parliamentary Service: payments for travel costs for members' children

73. We also reviewed the travel expenditure met by Vote Parliamentary Service for Mr Heatley's family.
74. We found that the Parliamentary Service had paid for the air travel costs of one of his children (who was aged under five years) from Wellington to Queenstown, and the rail and ferry costs for the trip to Kaikoura. The rules allow only for travel between the child's primary place of residence (in this case Whangarei) and Wellington unless the Speaker approves the other travel. The Speaker did not approve this travel and therefore, in our view, these costs should not have been met.
75. When we questioned this expenditure with Parliamentary Service staff, they agreed that it was not covered but said that in practice it has paid for travel for members' children under five between any locations in New Zealand. This has been a long-standing practice and was allowed under previous rules. The current narrower rule in the Parliamentary Determination has been in place since December 2007 but it has not been properly implemented.
76. The Parliamentary Service told us it has been providing incorrect advice since 2007 to members of Parliament that their children under five have unlimited travel between any locations in New Zealand. Mr Heatley is not the only member affected by this incorrect advice from the Parliamentary Service. The Parliamentary Service has advised us that there are 16 members in this current Parliament who have children under the age of five who could be affected.
77. We understand that the Speaker started a process in February 2010 to make changes to the entitlements in the Parliamentary Determination, including changes to travel entitlements for members' children. The proposed changes will remove the restrictions on travel for members' children between the primary place of residence and Wellington. The changes were expected to come into effect from 1 July 2010. We understand that, now that this anomaly between the rule and the

operating practice has been identified, the Speaker intends to make the change to the travel entitlement for members' children before 1 July 2010.

78. The Parliamentary Service has taken steps to ensure that no further inappropriate expenditure on children's travel is incurred and will put in place temporary arrangements until the rules are changed.
79. The Parliamentary Service has also told us it is starting a process to identify whether there are any other anomalies between operational practice and the rules. In our view, this review is essential.

Expense allowance for members of Parliament

80. As we discussed earlier, all members of Parliament receive a fixed expense allowance each year to reimburse them for certain expected costs. The allowance is paid to them as part of their salaries.
81. Under the Executive Determination, Ministers are provided "operational resources" to assist them to carry out ministerial business, including operating a ministerial office.
82. Operational resources cannot be used, among other things, if the cost is already covered by the Remuneration Authority Determination or another part of the Executive Determination.
83. The list of incidental expenses covered under operational resources overlaps with the list in the Remuneration Authority Determination. It therefore is to be interpreted as covering additional costs arising as a Minister. We consider that the overlapping nature of the entitlements under the expense allowance and operational resources is difficult to understand and would not be simple to administer. There is often no clear distinction between parliamentary and ministerial activities. This point is recognised in other parts of the rules but not in relation to these costs.
84. We use the following example from Mr Heatley's expenditure to illustrate how difficult it can be to distinguish between and administer the two entitlements.
85. When Mr Heatley was travelling in Hamilton in November 2009, his briefcase, laptop, wallet, and a small toiletries bag were stolen from his rental car. When he arrived back in Wellington, his Senior Private Secretary told him that under the rules he was allowed to purchase luggage for ministerial purposes. He bought some luggage to replace what had been stolen. He paid for all the items on his ministerial credit card, including the wallet, which he intended to reimburse later (which he did) because he considered the wallet to be an item of personal expenditure. His Senior Private Secretary's advice was correct because the

Executive Determination lists “briefcases and luggage for ministerial use” as an example of expenditure allowed as “operational resources”. We note that the expense allowance provided to all members of Parliament also covers expenditure on “briefcases and luggage”.

Personal expenditure on credit cards

86. Another area we looked at in our inquiry was whether Ministerial Services’ credit cards were used for personal expenditure. The two credit card holders in Mr Heatley’s ministerial office were Mr Heatley and his Senior Private Secretary.
87. The Ministerial Office Handbook is clear that the credit cards are to be used for official expenditure and that use of a credit card for personal expenditure (regardless of the intent to reimburse) is not permitted. However, the credit card agreement between DIA and the cardholder allows personal use of the credit card in emergencies, with the costs required to be reimbursed.
88. We found six items of personal expenditure paid using Mr Heatley’s and his Senior Private Secretary’s credit card (this does not include his wife and family’s travel-related costs that we discuss above; he used his credit card to pay for those costs on his understanding that the expenditure was permitted). One of these occasions was an oversight on Mr Heatley’s part when he inadvertently used the wrong credit card for a visit to the movies with his family. He reimbursed the costs the next day.
89. On four other occasions (including the wallet purchase that we discuss above) the personal expenditure items were put on the credit card generally for practical reasons with the intention of reimbursement later, which happened. The final item was the cost of a lunch with his wife and his Senior Private Secretary to discuss how to achieve a balance between his work and family life. His Senior Private Secretary later asked Ministerial Services whether this expenditure was allowed and was told that it was not permitted. Mr Heatley repaid the costs.
90. In our view, circumstances can arise from time to time where it may be sensible to put items of personal expenditure on credit cards when there is a clear intention to reimburse the costs. However, this should be done only when necessary and should be clearly documented.
91. There has been some public comment since this matter arose that suggests that the use of credit cards is not wise. In our view, used correctly, credit cards are an effective and transparent way of paying business costs. However, the use of credit cards needs to be properly managed, with clear rules and policies that are enforced.

Appropriation issues

92. All public spending must be authorised by Parliament, through an appropriation. Usually appropriations authorise spending in a general area or for a broadly defined purpose. However, the appropriations in Vote Parliamentary Service, and some of the relevant appropriations in Vote Ministerial Services, are more specific. They link directly to the rules that set out what spending is and is not allowed. The result is that any expenditure that is outside the rules is automatically unappropriated. That is, it does not have proper lawful authority.
93. In the case of Vote Parliamentary Service, the Parliamentary Service had already identified that the incorrect way it has been administering travel entitlements for children under five years will have resulted in unappropriated expenditure. It is taking immediate steps to determine the amount of expenditure involved, to validate that spending, to change the rules to avoid the problem recurring, and to ensure that there is no more unappropriated expenditure in the meantime.
94. We are pleased with the Parliamentary Service's swift response and note that it is checking to see whether the changes in 2007 have resulted in similar problems elsewhere. This review is essential.
95. For Vote Ministerial Services, we note that the expenditure by Ministers on the accommodation and meal costs of spouses or partners will be unappropriated if it is outside the rules. We will work with Ministerial Services during the remaining parts of our inquiry to determine whether there is a widespread problem resulting from the way the particular rule is written, and its application in practice, before considering what remedial action may be needed.

Other issues

96. We identified a range of other issues from our audit, such as inadequate supporting documentation (tax invoices or receipts) for some expenditure, and other system and internal control matters, which we intend to follow up as part of our work on the remaining parts of the terms of reference for our inquiry.

Appendix 3

Summary of types of ministerial expenditure and relevant rules

Scope/restrictions	Source of authority	Vote	Comment
Type of expenditure: International travel			
<i>For ministerial purposes: Minister, spouse, staff</i>			
For any ministerial business if approved by the PM and by Cabinet. May be accompanied by those authorised in the trip approval (including spouse and officials). Approval covers all costs of travel.	Executive Determination paragraph 3.2	Ministerial Services	Informal but public expectation that spouses will be paid for personally at present (from PM, as a response to the recession).
<i>For parliamentary purposes: MP (Minister) and spouse</i>			
For any parliamentary purpose if approved by party leader and the Speaker. Spouse only needs approval of the Speaker. Covers travel and accommodation costs, but not expenses.	Parliamentary Determination, paragraph 3.10 and 3.11	Parliamentary Service, leadership funding allocation	
<i>For private purposes: Minister and spouse</i>			
Entitled to a rebate of a percentage of the airfare. Size of rebate depends on time served as an MP. Does not include accommodation or expenses. Spousal travel cannot be for private business purposes.	Parliamentary Determination, paragraph 3.13	Parliamentary Service	
Type of expenditure: Domestic travel			
<i>Airfares: Minister</i>			
Full domestic air travel, with no restriction on purpose of travel (i.e. ministerial, parliamentary, personal).	Parliamentary Determination, paragraph 3.7	Ministerial Services while a Minister	Implicit limit that not to be used for private business purposes. This is explicit for spouses.
<i>Airfares: spouse</i>			
Full domestic air travel, but not if the travel is for private business purposes.	Parliamentary Determination, paragraph 3.8	Parliamentary Service	

Scope/restrictions	Source of authority	Vote	Comment
<i>Rail, road, and ferries</i>			
<p>A member and spouse can travel by rail, ferry (including a car), and non-urban bus throughout NZ.</p> <p>No limit on purpose.</p> <p>Does not include travel by children.</p>	Parliamentary Determination, paragraph 3.20	<p>Ministerial Services while a Minister</p> <p>Parliamentary Service for a spouse.</p>	
<i>Travel by children under 18</i>			
<p>Children of an MP may make up to four return trips between the primary place of residence and Wellington to be with the MP when on parliamentary business.</p> <p>There is no limit on the number of trips for a child under 5.</p> <p>The Speaker may approve travel elsewhere for a child if it costs the same or less than travel between Wellington and the primary place of residence.</p>	Parliamentary Determination, paragraph 3.28	Parliamentary Service	It is implicit that for a child under 5 the travel must also be between the primary place of residence and Wellington, unless the Speaker approves other travel.
<i>Domestic travel: expenses (accommodation, meals, and incidental expenses)</i>			
<p>Travel must be for parliamentary or ministerial business, that takes the Minister away from Wellington and more than 80km from the primary place of residence.</p> <p>Covers actual and reasonable costs up to a daily maximum for all expenses including accommodation.</p> <p>Daily limit is \$350 for Minister alone.</p> <p>Limit rises to \$500 if the travel involves attending an official function and it is necessary for the spouse to attend.</p>	Executive Determination, paragraph 3.3	Ministerial Services	

Scope/restrictions	Source of authority	Vote	Comment
Type of expenditure: General expenses			
<i>Incidental expenses as an MP</i>			
<p>All MPs get an allowance of \$14,800 to reimburse them for “expenses that arise from the recipient’s official and parliamentary duties” that are not covered elsewhere. It cannot be used for things covered by the Executive Determination.</p> <p>Explanatory note says it is intended to cover out-of-pocket expenses from parliamentary business, such as entertainment, koha, donations and raffle tickets, flowers, luggage</p>	<p>Remuneration Authority Determination, clause 6 and explanatory note</p>	<p>Parliamentary Service</p>	
<i>Operational activities as an MP</i>			
<p>Each MP receives an annual allocation of funding to provide services and resources to help them discharge their responsibilities as legislators and elected representatives, to research and develop policy, to communicate with constituents, and to meet operational needs.</p> <p>Funding must be used for a parliamentary purpose. It cannot be used for ministerial business, or for anything that is already provided for through the Remuneration Authority Determination or the Executive Determination.</p>	<p>Parliamentary Determination, paragraph 4.12</p>	<p>Parliamentary Service</p>	

Scope/restrictions	Source of authority	Vote	Comment
<i>General expenses as a Minister</i>			
<p>Operational resources are provided to assist Ministers to carry out ministerial business, including operating a ministerial office.</p> <p>Operational resources cannot be used for personal or private benefit, electioneering, or for work directly related to running a political party.</p> <p>Also cannot be used if the cost is already covered by the Remuneration Authority Determination or another part of the Executive Determination.</p>	<p>Executive Determination, paragraphs 7.3 and 7.4, and schedule 2</p>	<p>Ministerial Services</p>	<p>The list of incidental expenses covered overlaps with the list in the Remuneration Authority Determination. It should be interpreted as covering additional costs arising as a Minister, as the general costs from being an MP are already covered by the allowance.</p>

Sources:

Parliamentary Service Act 2000.

Civil List Act 1979.

Parliamentary Salaries and Allowances Determination 2009 (the Remuneration Authority Determination) – made under section 16 of Civil List Act.

Executive Travel, Accommodation, Attendance and Communications Services Determination (No 2) 2009 (the Executive Determination) – made under section 20A of the Civil List Act.

Directions and Specifications for Services and Funding Entitlements for the House of Representatives, its Members, Former Members, and Certain Electoral Candidates 2008 (the Parliamentary Determination) – made under section 20A of the Civil List Act and the Parliamentary Service Act.

Appropriations (Vote Ministerial Services and Vote Parliamentary Service).

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