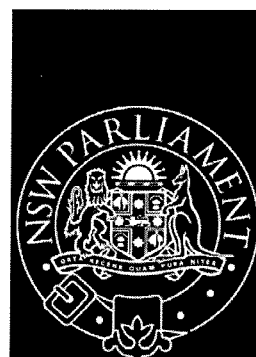


LEGISLATIVE ASSEMBLY



## Standing Committee on Parliamentary Privilege and Ethics

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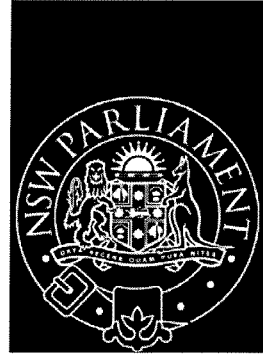
POST SEPARATION GUIDELINES – MEETING WITH THE  
PARLIAMENTARY ETHICS ADVISER, November 2006

November 2006

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LEGISLATIVE ASSEMBLY



## Standing Committee on Parliamentary Privilege and Ethics

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POST SEPARATION GUIDELINES – MEETING WITH THE  
PARLIAMENTARY ETHICS ADVISER, November 2006

**November 2006**

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## MEMBERSHIP AND STAFF

|                    |                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chairman           | <u>The Hon John Price MP, Member for Maitland</u>                                                                                                                                                                                                                                                                                                                             |
| Members            | <u>Mr John Mills MP, Vice-Chairman, Member for Wallsend</u><br><u>Ms Kristina Keneally MP, Member for Heffron</u><br><u>Ms Clover Moore MP, Member for Bligh</u><br><u>Mr Barry O'Farrell MP, Member for Ku-ring-gai</u><br><u>Mr Paul Pearce MP, Member for Coogee</u><br><u>Mr John Turner MP, Member for Myall Lakes</u><br><u>Hon Kim Yeadon MP, Member for Granville</u> |
| Staff              | <u>Ms Ronda Miller, Clerk to the Committee</u>                                                                                                                                                                                                                                                                                                                                |
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## **CHAIRMAN'S FOREWORD**

The Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics, in tabling this final report of the 53<sup>rd</sup> Parliament, concludes three years of work almost to the day since the original Standing Ethics Committee was re-established in late 2003 with an extended role and functions.

During that period the Committee has once again reviewed the Code of Conduct, by means of its report on the proposed amendments to the Code of Conduct and regulation on registration of Members' interests, as tabled by the Government earlier this year.

The Committee has also given continued focus to the orientation needs of new Members of Parliament, and the provision of improved information for all Members on ethics related matters. The Committee's report in response to the Independent Commission Against Corruption report on Regulation of secondary employment for Members of the Legislative Assembly made a number of recommendations on the need for improved documentation, information and training, and Committee members have drawn on their personal experience and knowledge to ensure that our recommendations, while encouraging the highest possible standards, are grounded in practical application.

This report, which concerns the power of the Parliamentary Ethics Adviser to give advice to Ministers about post-separation employment, is a further example of the Committee fulfilling its statutory function to carry out educative work in relation to ethical standards of Members of the Legislative Assembly. The House having resolved to empower the Parliamentary Ethics Adviser to advise Ministers with regard to post-separation employment, our Committee was interested in meeting with Mr Ian Dickson to discuss the scope of the resolution, with a view to ensuring that information would be available to assist Ministers to fulfil their obligations under the resolution. It is anticipated that this report will inform the development of useful documents and publications for Ministers in the near future.

The Committee is also hopeful that the recommendations made in our earlier reports will be adopted. Over the past three years recommendations have been made on such matters as s13B of the Constitution; the need for protection from subpoena of members' correspondence, documents and on-line files which relate to proceedings of the House and committees; the development of protocols for entry into Parliament House and electorate offices by investigative agencies; and especially the need for improved administrative processes for registration of Members' interests.

A welcome legacy of this Committee's work is the draft Handbook and suggestions for development of a more comprehensive ethics orientation session for new Members. This material, which was developed and considered by the Committee, has been forwarded to the Speaker to be available to new Members of the 54<sup>th</sup> Parliament.

As Chairman, on behalf of the Committee I would like to record our thanks to the Parliamentary Ethics Adviser, Mr Ian Dickson and the Clerk of the Legislative Assembly, Mr Russell Grove, both of whom have contributed to the work of the Committee in particular inquiries.

This Committee has also benefited from a continuing and committed membership, who have contributed to inquiries in a constructive and non-partisan manner. As a consequence the recommendations in our reports truly carry the weight of a representative body of the House. I would like to thank the Members of the Committee for their active interest and input into the Committee's inquiries and reports, and also acknowledge the on-going and most valuable support of the Clerk-Assistant (Procedure) and Serjeant-at-Arms, Ronda Miller, who acts as secretary to the Committee.

John Price MP  
Deputy Speaker  
Committee Chairman



## **CHAPTER 1: The Parliamentary Ethics Adviser – Resolution to extend functions**

This report is intended to augment the resolution of the Legislative Assembly and Legislative Council that specifically empowers the Parliamentary Ethics Adviser to give written advice to Ministers in response to any request they may make about post-separation employment.

The Premier, the Hon Morris Iemma MP, foreshadowed the new provision in the House on 28 March 2006. As a consequence, the Legislative Assembly adopted a formal resolution on 25 May 2006, and the Legislative Council agreed to the resolution on 27 September 2006. A copy of the resolution forms Appendix 1 to this report.

The Standing Ethics Committee noted the extensive debate in the Legislative Council on the resolution to extend the functions of the Parliamentary Ethics Adviser to giving advice in relation to Minister's post-separation employment.

This Committee has a statutory function under s72E(1)(b) to carry out educative work relating to ethical standards applying to members of the Legislative Assembly, which empower it to meet with the Parliamentary Ethics Adviser. Following the agreement of the Legislative Council to the resolution amending the powers and functions of the Parliamentary Ethics Adviser, the Committee agreed at its meeting of 18 October 2006 to consider the scope of the resolution. As a preliminary, the Committee took note of the latest annual report of the UK Business Advisory Council, the body charged with approving the post-separation employment of Ministers and senior officers in the United Kingdom.

Following that meeting, the Committee also considered the updated NSW Ministerial Code of Conduct, which includes the guidelines on post-separation employment, which had been forwarded by the Premier to the Chairman on 17 October 2006 in response to a request from the Committee. The relevant excerpt from the Ministerial Code of Conduct forms Appendix 2 to this report.

The Committee met with the Parliamentary Ethics Adviser on 23 November 2006, at his request, to discuss the scope and basis for advice that the Adviser might wish to provide Ministers as a result of the resolution of the House. Chapter 3 of this report records the outcome of the discussions.



## CHAPTER 2: The British Model

The heart of the resolution of the House on post-separation employment concerns employment, engagements, or provision of services to third parties, which relate to a former Minister's former portfolio responsibilities, during the last two years in which the Minister held office.

The Ministerial Code of Conduct requires current serving Ministers, or former Ministers within the first 12 months of leaving Ministerial office, who are considering post-separation employment which is related to their portfolio responsibilities, to seek advice from the Parliamentary Ethics Adviser. The Adviser is required to give their opinion as to whether the proposed employment or engagement would give rise to a reasonable concern that:

*the former Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or*

*the former Minister might make improper use of confidential information to which he or she had access while in office.*

The Ministerial Code of Conduct gives background to the above resolution, stating at paragraph 7.2:

*Ministers need to be aware of the risks of conflicts of interest, or perceived conflicts of interest, which might arise when considering (either while in office or after leaving office) offers of employment or engagement to be accepted after the Minister leaves office. Similar issues arise in circumstances where a Minister proposes to establish a business to provide services to third parties.*

Prior to meeting with the Parliamentary Ethics Adviser, the Committee examined the "British model" referred to by the Premier in his speech to the House on 28 March 2006 (see Appendix 3 to this report). The aim of looking at the British model was to gain a better understanding of the nature or type of Ministerial conduct that might be considered to give rise to an perception that such conduct was influenced by the prospect of post-separation employment or provision of services.

The Committee at its meeting of 18 October 2006 considered the latest available Annual Report of the Advisory Committee on Business Appointments, (the Eighth Report 2005-2006).

The Advisory Committee is an independent non-departmental public body sponsored by the Cabinet Office, with 7 members appointed by the Prime Minister. They have a very broad remit to approve not only outside appointments taken up by Ministers, but also to apply rules that apply to the

most senior members of the Civil Service, the Armed forces and the Diplomatic Service. In considering the Advisory Committee's annual report, our Committee acknowledged that the framework of the British system is not immediately comparable with the NSW framework. However, the principle of establishing an accountability mechanism for avoidance of conflict is the foundation of both sets of provisions. This Committee therefore sought to draw from the Eighth Annual Report examples of the types of activities or involvements that the UK Advisory Committee took into consideration, when approving a former Minister taking up a particular appointment.

The UK Advisory Committee's Guidelines on the acceptance of appointments or employment outside Government by former Ministers of the Crown states:

*5. The Advisory Committee will consider each appointment on its merits, against specific tests relating to the following:*

- i. to what extent, if at all, has the former Minister been in a position which could lay him or her open to the suggestion that the appointment was in some way a reward for past favours?*
- ii. has the former Minister been in a position where he or she has had access to trade secrets of competitors or knowledge of unannounced Government policy which would give his or her company an unfair advantage?*

The Advisory Committee is required, as is the NSW Parliamentary Ethics Adviser, to balance any points under the above tests against the desirability of former Ministers being able to move into business or other areas of public life, or the need for them to be able to start a new career or resume a former one.

### **Factors considered in assessing applications for post-separation employment**

#### **c) Whether prospect of employment has influenced a Minister's conduct in office**

One of the factors evaluated by the Advisory Committee is the length of time which has elapsed between an individual's retirement or resignation and the taking up of proposed employment. The longer the period of time, the less likelihood that conduct in Ministerial office would have been influenced by the prospect of post-separation employment.

In considering the probability of whether offer of a particular post could constitute a "reward for past favours" (to use one example of a type of conduct by a Minister which would demonstrate influence of prospective employment), the Advisory Committee considers details of the appointment and any contact the former Minister or his or her former department has had with the prospective employer or with competitors. The Committee also seeks to obtain information about the nature of any contractual, regulatory or other

relationships with the department(s) have or have had with the prospective employer.

A further factor to be considered is to what degree the proposed appointment is connected with "Ministerial" knowledge that the former Minister might have, and whether considerations of improper advantage could apply. For example, where a former Minister is returning to a practice of profession (eg farming, medicine or teaching), and no considerations of improper advantage arise or apply, there would be no grounds which would give rise to a reasonable concern that the Member's resumption of such a position was influenced by that offer of employment or engagement, even though the new position could be said to "relate" to the Minister's former portfolio responsibilities (as would be the case, referring to the professions mentioned above, if the Minister had held portfolios in agriculture, health or education).

In determining whether a proposal to provide, say, consultancy services to third parties in an industry area which "relate to a Minister's portfolio responsibilities", the Advisory Committee considers the nature of any contractual, regulatory or other relationships arising from the Minister's portfolio in the preceding two years, and the extent of influence that the Minister may have exerted over the outcome of lucrative contractual or other dealings with the prospective employer. Close involvement of a recent and personal nature in making representations or entering into contracts which affect a company or industry sector's financial interests, such as advantageous decisions concerning regulation, planning, taxation or grants, might be particularly pertinent if a Minister was planning or considering, while in office, to take up a lobbying consultancy.

Consideration is also given to whether a proposed employer received subsidies, loans, guarantees or other forms of financial assistance from a department within the Minister's portfolio, and any apparent nexus between Ministerial influence and the allocation of those funds. As noted in the Advisory Committee report, senior departmental officers often wield far greater influence over allocation of contracts, tenders and grants than a Minister; however, every position is different and is to be considered on its particular merits and circumstances.

### **c) "Improper use of confidential information"**

The UK Advisory Committee notes:

*In the case of an applicant wishing to take up a salaried appointment with a firm of consultants, the "rewards for past favours" issue will relate almost exclusively to the nature of any previous dealings between the applicant and the firm he or she is seeking to join. Departments will, however, need to consider the "trade secrets" question both from the point of view of any competitors of the consultancy firm and then, more generally, from the point of view of the service which the applicant will be offering on behalf of the consultant. It may be necessary to impose conditions on the appointment to*

*protect the “trade secrets” of firms with which the Minister or portfolio department had dealings.*

Where a former Minister has knowledge of unannounced confidential Government policy which would confer financial benefits on an employer, knowledge of which might give that employer an improper advantage, a suspicion of impropriety might also arise. The UK Advisory Committee noted that it strived to be fair to all interested parties, whether they be companies dependent on fair competition for Government contracts, applicants who wished to find new employment, or the public at large who wish to be assured that those who have held Ministerial office do not misuse inside knowledge. The Advisory Committee noted that consideration of particular factors, such as those mentioned above, and the types of safeguards needed if confidence is to be maintained, are a matter of judgement in the circumstances of each case, rather than a matter of mechanical calculation by reference to rigid criteria.

### **c) Types of conditions imposed by the UK Advisory Committee**

Samples of the types of restrictions imposed by the UK Advisory Committee on former Ministers taking up employment in positions as varied as journalist, consultant, advisor, company director or vice-chancellor include:

- “he should not draw on any privileged information available to him as a Minister”
- “for 12 months after leaving Government, he should not be involved personally in lobbying Ministers (in the same portfolio as he previously held) or officials on behalf of his employer”
- “for 6 months, she should not be involved personally in lobbying Government Ministers or officials on behalf of her employer” *[where a former Minister applied for advice about a position 6 months after her retirement from Government]*
- “he can take up the position forthwith, but should stand aside from advising the employing company on any bids for future Government business, and from lobbying *[particular portfolio]* Ministers or officials on the company’s behalf”.

### **CHAPTER 3: Meeting with the Mr Ian Dickson, Parliamentary Ethics Adviser, November 2006.**

Following correspondence between Mr Ian Dickson, the current Parliamentary Ethics Adviser, and the Chairman of the Committee, a meeting of the committee was held on 22 November 2006 to discuss the resolution of 27 September and in particular, to confirm the scope and parameters of the Parliamentary Ethics Adviser's role pursuant to the resolution.

At the meeting Mr Dickson advised the Committee that he had also been invited to meet with Cabinet Officers regarding some aspects of the resolution outlining his role. There were a number of issues that the Ethics Adviser would need to consider when implementing the new function. For example, the resolution gave the Ethics Adviser the responsibility of imposing conditions, and then adjudicating them in practice, unlike the UK system where the Business Advisory Council discharges its duties on rules and guidelines given to it by the Government. A further matter that remained unclear is that the resolution was unspecific about the Adviser's powers to report to the House although it provided for forwarding a report to the Speaker.

Mr Dickson noted that the Ministerial Code of Conduct which had been tabled in the House, in section 7 which pertained to the requirement for Ministers seeking post-separation employment to seek advice from the Ethics Adviser, did not refer to conditions or restrictions which might be imposed. The Committee and Mr Dickson agreed that conditions could only be formulated by the Ethics Adviser in response to full consideration of each set of particular circumstances. There was also a question about how the obligations of former Ministers to seek advice of the Ethics Adviser might be enforced.

Mr Price noted that there was no equivalent restriction or rules applying to senior public servants, Directors-General or CEOs. It was further noted that post-employment lobbying had been the subject of a Premier's Department memorandum to Ministers, Ministerial staff and public officials (M2006-01), although it did not refer to post-separation employment.

In large, the current system relies on individuals to act ethically. To do this, they require an understanding and awareness of the resolution of the House. The Committee therefore has a role in raising standards of awareness amongst Ministers of the role of the Parliamentary Ethics Adviser.

The Committee and Mr Dickson then discussed the examples of activities, relevant positions, and conditions evident in the UK Business Advisory Council guidelines that had been mentioned by the Premier in the House on 25 May, 2006. Acknowledging that the resolution of the House was different in some aspects from the UK scheme, Mr Dickson advised the Committee that he was familiar with the UK guidelines and that, in similar circumstances in NSW, they would not be irrelevant.

For example, the Ethics Adviser might consider that in some instances it might be necessary to impose a waiting period of between 3 to 12 months. Other conditions might be that a Minister is to stand aside from certain activities of the proposed employer (eg submitting contracts, tenders) where competitors may have reasonable concerns of privileged information or a Minister has knowledge of unannounced Government policy, or that Minister not be personally involved on behalf of an employer in lobbying Government Ministers or officials.

In the course of discussion, members of the Committee noted:

- Difficulties might arise due to the requirement in the resolution for the Ethics Adviser to give consideration to whether a “perception” might arise in any set of circumstances.
- The resolution would be very restrictive on a Premier, whose involvement in Cabinet would give rise to a wide range of knowledge of issues; does the resolution in fact effectively mean that a Premier is unable to take on a position within 12 months of leaving the Premiership?
- It is equally important for senior public servants, who are very closely involved in award of contracts or tenders, to have post-employment restrictions imposed; this is particularly the case since public servants are more likely to have the subject expertise sought by employers.
- On the other hand, former Cabinet Ministers have access and influence that public servants do not have.
- Is the resolution an enforceable proposition that no Minister is to work in a “related” field for 12 months post-resignation? This should also apply to Cabinet Secretaries and other senior public servants who are much more privy to confidential information of commercial value. It appears that while the current resolution reflects an ideal of propriety, there are insufficient resources committed to making it work, such as resourcing of the Ethics Adviser.

A further item raised was whether Mr Dickson’s current agreement of employment may need to be reviewed and amended to encompass the newly bestowed function, as his current power to advise Members upon request, had not to date been considered to extend to advising Ministers in relation to their portfolio or Ministerial activities. Further the present agreement does not include advising former Members of Parliament.

Mr Dickson advised the Committee that he proposed to discuss with Cabinet Officers the possibility of devising a formal advice request form, as was understood to be used in the UK, to obtain written information from Ministers seeking advice. It was also hoped that, if circumstances so required, Cabinet



Office might be able to verify with the Ethics Adviser the scope of a Minister's role and functions in relation to any envisaged employment proposal.

Mr Dickson also referred to the need to establish how the resolution might apply to Ministers who may have already commenced discussions about post-separation employment, the exact date of introduction of the post-separation employment provisions, and how far the requirement could have a retrospective impact, especially the effect on any former Ministers. A further issue concerned the confidentiality or accountability with regard to information obtained by the Ethics Adviser in relation to Ministers taking up positions in the public sector. While the resolution provides for the Ethics Adviser to report to the Speaker where a position has raised a conflict, it is silent as to what action the Speaker may take as a consequence.

**APPENDIX 1: Resolution as passed by the Legislative Assembly on 25 May 2006 and the Legislative Council on 27 September 2006.**

Parliamentary Ethics Adviser

That the functions of the Parliamentary Ethics Adviser as set out in the resolution of the House of 11 December 2002 shall be extended to include the provision of advice to Ministers or former Members, as per the following schedule:

1 The Parliamentary Ethics Adviser must on request by a Minister provide written advice to the Minister as to whether or not the Adviser is of the opinion that the Minister's:

- (i) acceptance of an offer of post-separation employment or engagement which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office); or
- (ii) decision to proceed, after the Minister leaves office, with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office),

would give rise to a reasonable concern that:

- (iii) the Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or
- (iv) the Minister might make improper use of confidential information to which he or she has access while in office.

2 The Adviser must on request by a person who has ceased to hold ministerial office within the previous 12 months ("the former Minister") provide written advice to the former Minister as to whether or not the Adviser is of the opinion that the former Minister's:

- (i) acceptance of an offer of employment or engagement which relates to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office; or
- (ii) decision to proceed with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relate to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office,

would give rise to a reasonable concern that:

- (iii) the former Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or
  - (iv) the former Minister might make improper use of confidential information to which he or she had access while in office.
- 3 If the Adviser is of the opinion that accepting the proposed employment or engagement or proceeding with the proposal to provide services might give rise to such a reasonable concern, but the concern would not arise if the employment or engagement or the provision of services were subject to certain conditions, then he or she must so advise and specify the necessary conditions.
- 4 The Adviser's advice must include:
  - (i) a general description of the position offered, including a description of the duties to be undertaken, or the services to be provided, based on material provided by the Minister or former Minister but excluding any information that the Minister or former Minister indicates is confidential; and
  - (ii) the Adviser's opinion as to whether or not the position may be accepted, or the services may be provided, either with or without conditions.
- 5 Where the Adviser becomes aware that a Minister or former Minister has accepted a position, or has commenced to provide services, in respect of which the Adviser has provided advice, the Adviser must provide a copy of that advice to the Presiding Officer of the House to which the Minister belongs or to which the former Minister belonged.

**APPENDIX 2: Code of Conduct for Ministers of the Crown, tabled by the Premier 17 October 2006 [Excerpt from the Ministerial Handbook]**

**Part 7. Employment or Engagement**

- 7.1 The full-time nature of Ministerial office effectively precludes Ministers from accepting any form of employment or engagement, or otherwise providing services to third parties, while they remain in office.
- 7.2 Ministers need to be aware of the risks of conflicts of interest, or perceived conflicts of interest, which might arise when considering (either while in office or after leaving office) offers of employment or engagement to be accepted after the Minister leaves office. Similar issues arise in circumstances where a Minister proposes to establish a business to provide services to third parties.
- 7.3 Ministers, while in office or following resignation or retirement, should take care in considering offers of post-separation employment or engagement, or when proposing to otherwise provide services to third parties after they leave office, to avoid a perception that:
- . the conduct of the Minister or former Minister while in office is or was influenced by the prospect of the employment or engagement or by the Minister or former Minister's intention to provide services to third parties; or
  - . the Minister or former Minister might make improper use of confidential information to which he or she has or had access while in office.
- 7.4 Ministers who, while in office, are considering an offer of post-separation employment or an engagement or who are proposing to provide services after they leave office to third parties (including establishing a business to provide such services) must obtain advice from the Parliamentary Ethics Adviser before accepting any employment or engagement or providing services to third parties which relates or relate to their portfolio responsibilities (including portfolio responsibilities held during the previous two years of Ministerial office).
- 7.5 Former Ministers must also obtain advice from the Parliamentary Ethics Adviser before accepting any employment or engagement or providing services to third parties (including establishing a business to provide such services) within the first 12 months of leaving Ministerial office, which relates or relate to their former portfolio responsibilities during the last two years in which they held Ministerial office. This requirement does not apply to any employment or engagement by the Government.
- 7.6 The requirements in Part 7 apply to Ministers and former Ministers in addition to any requirements that may apply to them in their capacity as a Member of Parliament.

**APPENDIX 3:**

EXCERPT FROM LEGISLATIVE ASSEMBLY HANSARD,  
28 MARCH 2006, Page: 21542

**MINISTERS AND MEMBERS POST-SEPARATION EMPLOYMENT  
GUIDELINES**

**Ms NOREEN HAY:** My question without notice is directed to the Premier. What is the latest information on changes to post-separation and secondary employment procedures for former Ministers and members of the New South Wales Parliament?

**Mr SPEAKER:** Order! I am sure that a number of people are interested in the Premier's reply.

**Mr MORRIS IEMMA:** In 2004 the Independent Commission Against Corruption [ICAC] identified a range of options to regulate the employment of Ministers once they leave office. The Government has carefully considered those options and, as a result, the ministerial code of conduct will be amended to impose new obligations on Ministers and former Ministers, balancing the risk of conflicts of interest and the right of former Ministers to earn a living after politics. The amendments to the ministerial code of conduct, which is based on the United Kingdom model, will provide that former Ministers must, during the first 12 months of leaving office, obtain written advice from the Parliamentary Ethics Adviser before accepting any employment or engagement, or providing services to third parties. This obligation will apply where the proposed employment relates to portfolio responsibilities held during the last two years of ministerial office. A similar obligation will apply to current Ministers who, while still in office, are planning post-separation employment or businesses.

The adviser will be required to express his view as to whether the acceptance of the position could give rise to a reasonable concern that the Minister's conduct while in office was influenced by the prospect of future employment or engagement, or that the Minister might make improper use of confidential information to which he or she had access. The ethics adviser may advise that a position should not be taken, or should be taken subject only to certain conditions. It will, of course, be a matter for former Ministers to decide whether or not they accept that advice, but if they accept the position regardless, the ethics adviser will forward his advice to the Presiding Officer of the relevant House.

A former Minister would be unlikely to run the risk of damaging his or her reputation by acting against the advice of the independent ethics adviser. Another key ICAC recommendation affecting public life in New South Wales concerns the secondary employment of members of Parliament. The ICAC was asked to advise on this issue after it was revealed that the former Leader

of the Opposition had a paid consultancy for PricewaterhouseCoopers while he was a member of Parliament. Accordingly, the Government will propose amendments to the Constitution (Disclosure by Members) Regulation to strengthen the disclosure obligations on members who hold outside employment or engagements. The regulations will require members of Parliament to describe the services and activities to be undertaken. Members will also, in certain circumstances, be required to disclose details of the clients to whom the services are to be provided.

**Mr SPEAKER:** Order! The Deputy Leader of the Opposition will come to order.

**Mr MORRIS IEMMA:** In addition, members of Parliament will be required to update the register of members' interests every six months instead of every year. The Government will also introduce motions in each House to amend the members' code of conduct, requiring members to disclose at the start of a parliamentary debate the identity of any person by whom they are employed or engaged. It will also require disclosure of the identity of any client of any such person or any former client who benefited from a member's services within the previous two years.

This disclosure obligation will not apply if a member simply votes on a matter; it will apply only when he or she participates in a debate. If the member has already disclosed the information in the member's entry in the register of members' interests, he or she will not be required to make a further disclosure during the proceedings. The Government will also propose amendments to the members' codes of conduct to strengthen the prohibition on bribery in response to recommendations made by the former Legislative Assembly Standing Ethics Committee.

This will make it clear that bribery can occur when a member knowingly or improperly agrees to take action in Parliament in return for payment to a party. A third party might include a family member, a business associate, or a person with whom the member has a financial relationship. Amendments to the codes will also ensure that the ICAC is entitled to investigate any breach of the prohibition on bribery. These reforms will bring in a new standard of probity to public life in this State. They are not a judgment on the past. After all, Ministers and members from both sides of politics have operated under the current system for 150 years. Rather, this is a line in the sand—an appropriate new direction for this Parliament to take in the 150th anniversary of its existence, reinforcing, as it does, the confidence of the people who put us here in the first place.

**APPENDIX 4: EXCERPTS FROM MINUTES OF MEETINGS OF THE LEGISLATIVE ASSEMBLY STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS**

**Minutes of Proceedings of the Standing Committee on Parliamentary Privilege and Ethics**

Wednesday 29 March 2006 at 12.30pm  
Waratah Room, Parliament House

**Members Present**

Mr Price (Chairman), Mr Mills, Ms Keneally, Ms Moore, Mr O'Farrell, Mr Pearce, Mr J.H. Turner and Mr Yeadon.

**Minutes of the meeting held 9 June 2005.**

The Minutes of the meeting held on 9 June 2005, previously circulated, were adopted on the motion of Mr Mills, seconded Ms Keneally.

**Business Arising from the Minutes**

.....

The Committee noted that the Premier had announced proposed changes to post-separation and secondary employment procedures for former Ministers and members of the New South Wales Parliament. The Clerk circulated Hansard extracts, and Members noted the five proposed changes to pecuniary interests and the Code of Conduct.

The Committee agreed, on the suggestion of Mr O'Farrell, that the Committee request by letter a copy of the current, amended Ministerial Code, to update the copy earlier tabled with the Committee by Mr Ken Cripps.

The Chairman noted that the proposed change to bribery in the Code was in response to recommendations made by the former Legislative Assembly Standing Ethics Committee. The Clerk undertook to prepare a briefing note on each of the proposals, in readiness for receipt of more formal advice of the exact changes proposed.

**Correspondence**

Letter from the Chairman of the LC Privileges Committee, the Hon Peter Primrose MLC, dated 28 February 2006, forwarding to the Chairman Report 33 on a Protocol for execution of search warrants on members' offices. The Committee noted the correspondence, which submits the protocol for consideration by our Committee. The Chairman is to acknowledge receipt and advise of substantive response shortly.

Letter received from Judge Satyanand, NZ Registrar of Pecuniary Interests of Members, enclosing the first set of pecuniary interest declaration forms and explanatory notes developed for NZ members, acknowledging assistance received in course of his visit with our committee in September 2005. Copies to be circulated to Committee Members for information.

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The committee adjourned at 1.15pm, sine die.

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## **Minutes of Proceedings of the Standing Committee on Parliamentary Privilege and Ethics**

Wednesday 18 October 2006 at 1.00pm

Room 1108, Parliament House

### **Members Present**

Mr Price (Chairman), Mr Mills (Vice-Chairman), Mr O'Farrell, Mr Pearce, and Mr Yeadon.

### **Apologies**

Ms Keneally, Ms Moore, and Mr J.H. Turner.

### **Minutes of the meeting held**

The Minutes of the meeting held on 30 August 2006, previously circulated, were adopted on the motion of Mr Yeadon, seconded Mr Mills.

### **Business Arising from the Minutes**

The Clerk reported that the Report on the Inquiry on amendments to the Code of Conduct and the Consultation Draft Regulation had been completed, in accordance with the agreement by the Committee on circulated amendments, and tabled with the Clerk on 1 September 2006.

The Privileges Committee of the Legislative Council had also tabled its report on the Code of Conduct and the Consultation Draft Regulation on 3 October 2006, and that copies of the report had been available in the week commencing 10 October, with copies circulated to members with a briefing note on 16 October.

A table setting out the major changes and amendments, together with the LC and LA committee responses was circulated at the meeting.

Discussion ensued.



The Committee agreed that the Clerk to the Committee draft a second report, formally setting out the areas of agreement and disagreement, for the information of members and the Cabinet Office. The follow up report was to note that this committee, considered and discussed the Legislative Council recommendation to adopt a Parliamentary Privilege Act, and supported this recommendation.

## **General Business**

### **Parliamentary Ethics Adviser – Ministerial post-separation employment advice**

The Clerk informed the committee that the Legislative Council had agreed to the resolution of the Assembly to extend the functions of the Parliamentary Ethics Adviser to giving advice in relation to Minister's post-separation employment. It was anticipated that the PEA would seek advice and comment from the Committee to assist in his preparation of information for Ministers. A briefing note on the UK Business Advisory Council was circulated for the information of members.

The Committee agreed that the Clerk should draft a letter to the PEA, to be circulated to members for consideration and comment back to the Clerk, prior to signature by the Chairman.

### **Orientation material for new members of Parliament**

The Chairman advised that he had addressed incoming members of the 53<sup>rd</sup> Parliament at their orientation on the Code of Conduct, and planning for orientation post the 2007 election had commenced with a view to providing increased information for new members.

The Committee resolved, on the motion of Mr O'Farrell, seconded Mr Mills, that the Chairman of the Committee forward the training material, comments by the Committee members, and information previously considered, to the Speaker for use in orientation programs post-March 2007.

### **Vote of thanks**

In recognition that the meeting may be the last of the 53<sup>rd</sup> Parliament, the committee passed a vote of thanks to the Vice-Chairman, Mr John Mills, and the Hon Kim Yeadon, for their service and contribution to the work of the Committee.

The committee adjourned at 1.50pm, sine die.

## **Minutes of Proceedings of the Standing Committee on Parliamentary Privilege and Ethics**

Wednesday 22 November 2006 at 1.00pm  
Waratah Room, Parliament House

### **Members Present**

Mr Price (Chairman), Ms Keneally, Ms Moore, Mr Pearce, and Mr Yeadon.

### **Apologies**

Mr Mills, Mr O'Farrell and Mr J.H. Turner.

**In attendance** Mr Ian Dickson, Parliamentary Ethics Adviser

### **Minutes of the meeting held 18 October 2006**

The Minutes of the meeting held on 18 October 2006, previously circulated, were adopted on the motion of Mr Yeadon, seconded Mr Mills.

### **Parliamentary Ethics Adviser – Ministerial post-separation employment advice**

The Chairman welcomed Mr Dickson to the meeting and referred to the background document which had been prepared by the Clerk and circulated prior to the meeting. The document set out the motion and Hansard debate on the motion extending the role and function of the Parliamentary Ethics Adviser with regard to giving advice to ministers about proposed employment.

The Committee considered the steps required of ministers and the PEA in dealing with a request.

The Chairman invited Committee members to discuss the examples of types of employment, and conditions of employment, which were set out in the UK Advisory Committee report.

Discussion ensued. Notes of the discussion are appended below as Appendix A. The Clerk undertook to prepare a draft chapter for insertion in the draft outline report, previously circulated, and to forward a copy to Mr Dickson for confirmation of his comments to the Committee.

The committee considered the draft report, chapters 1 –2 and appendices, as previously circulated. The draft report outline was adopted on the motion of Mr Yeadon, seconded by Ms Moore. Draft Chapter 3 would be circulated, for comment, and tabling by the Chairman with the Clerk once approved by the Committee.

### **Vote of thanks**

On a motion previously submitted by Mr O'Farrell, seconded by Mr Yeadon, the committee unanimously passed a vote of thanks to the Chairman, the Hon John Price, and recorded formal recognition of his record length of service and contribution to the work of the Committee.

The committee adjourned at 1.55pm, sine die.

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Chairman

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Clerk to the Committee

